Porcelain-on-Steel Cooking Ware From China and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan

Investigation Nos. 701-TA-267 and 268 (Second Review)
and 731-TA-298, 299, 304, and 305 (Second Review)

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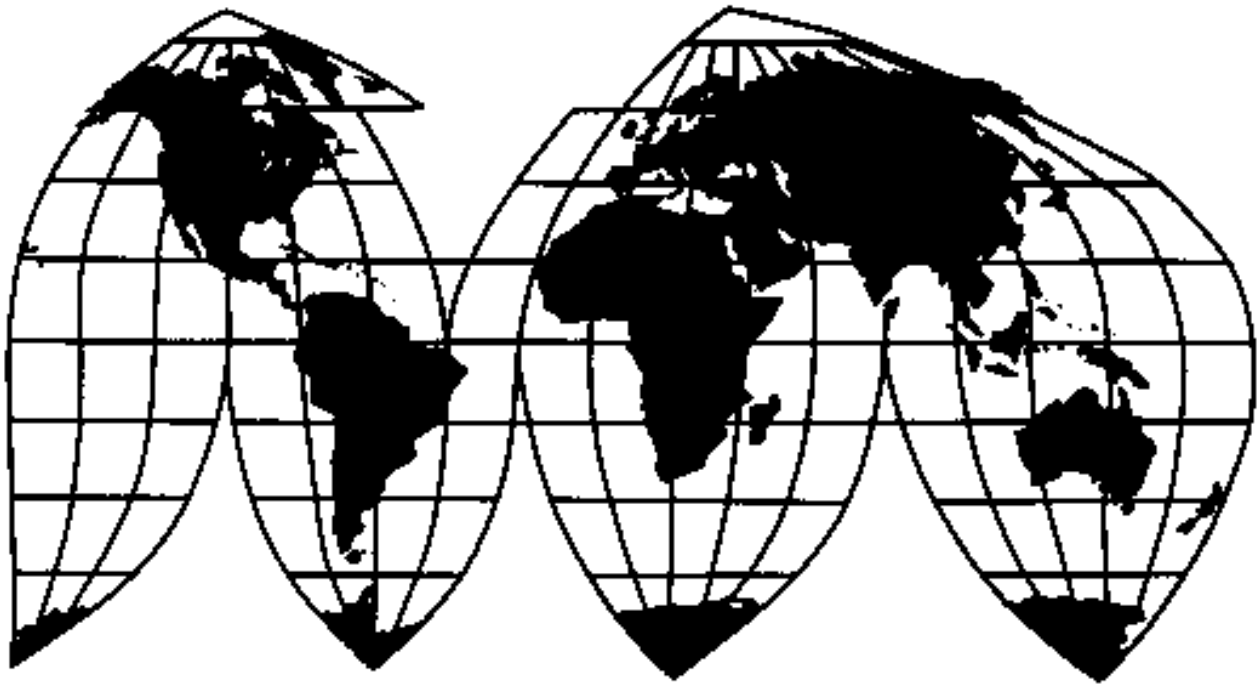

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CONTENTS

	Page
Determinations	1
Views of the Commission	3
Dissenting views of Vice Chairman Deanna Tanner Okun, Commissioner Charlotte R. Lane, and Commissioner Daniel R. Pearson	33
Information obtained in the second reviews	I-1
Introduction	I-3
The original investigations and first five-year reviews	I-4
POS cookware	I-4
TOS stainless cookware	I-5
Commerce's administrative reviews	I-6
POS cookware	I-6
TOS stainless cookware	I-7
Commerce's final results of expedited sunset reviews	I-8
Distribution of Continued Dumping and Subsidy Offset Act funds to affected domestic producers	I-10
The subject products	I-11
Scope	I-11
U.S. tariff treatment	I-12
The domestic like product	I-14
The industry in the United States	I-17
U.S. producers	I-17
U.S. producers' trade, employment, and financial data	I-19
U.S. producers' raw material costs	I-19
U.S. imports and consumption	I-21
U.S. imports	I-21
Apparent U.S. consumption and market shares	I-30
The industries in China, Korea, and Taiwan	I-35
POS cookware	I-35
TOS stainless cookware	I-37
Dumping in third-country markets	I-39

Appendices

A. *Federal Register* notices	A-1
B. Statement on adequacy	B-1

Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Porcelain-on-Steel Cooking Ware From China and Taiwan
(Investigations Nos. 731-TA-298 and 299 (Second Review));
Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan
(Investigations Nos. 701-TA-267 and 268 and 731-TA-304 and 305 (Second Review))

DETERMINATIONS

On the basis of the record[1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty orders on porcelain-on-steel cooking ware from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission also determines that revocation of the antidumping and countervailing duty orders on top-of-the-stove stainless steel cooking ware from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time,[2] and that revocation of the antidumping and countervailing duty orders on top-of-the-stove stainless steel cooking ware from Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on March 1, 2005 (70 F.R. 9974) and determined on June 6, 2005 that it would conduct expedited reviews (70 F.R. 35708, June 21, 2005).

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Vice Chairman Deanna Tanner Okun, Commissioner Charlotte R. Lane, and Commissioner Daniel R. Pearson dissenting.

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] that revocation of the antidumping duty orders covering porcelain-on-steel cooking ware ("POS cooking ware") from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. We also determine that revocation of the antidumping and countervailing duty orders covering top-of-the-stove stainless steel cooking ware ("TOS stainless steel cooking ware") from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2] We further determine that revocation of the antidumping and countervailing duty orders covering TOS stainless steel cooking ware from Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

On March 1, 2005, the Commission instituted these reviews pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty orders on POS cooking ware from China and Taiwan and the antidumping and countervailing duty orders on TOS stainless steel cooking ware from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to the domestic industries.[3] On June 6, 2005, the Commission determined to conduct expedited reviews with respect to all of the subject imports pursuant to section 751(c)(3) of the Act.[4] The Commission based its decision to conduct expedited views on its findings that, although the domestic interested party group responses were adequate, the respondent interested party group responses to the notice of institution were inadequate with respect to each of the antidumping and countervailing duty orders and other circumstances did not warrant conducting full reviews.[5]

I. BACKGROUND

A. Original Determinations

In November 1986 the Commission determined that an industry in the United States was being materially injured by reason of less than fair value ("LTFV") imports of POS cooking ware from China,

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[1] 19 U.S.C. § 1675(c).

[2] Vice Chairman Okun, and Commissioners Lane and Pearson dissenting. See Dissenting Views of Vice Chairman Deanna Tanner Okun, and Commissioners Charlotte R. Lane and Daniel R. Pearson.

[3] 70 Fed. Reg. 9974 (March 1, 2005).

[4] 70 Fed. Reg. 35708 (June 21, 2005) (Vice Chairman Okun and Commissioner Pearson dissenting); see also Explanation of Determination on Adequacy, Confidential Staff Report, INV-CC-099 (July 1, 2005) ("CR") and Public Staff Report ("PR") at Appendix B.

[5] 70 Fed. Reg. 35708 (June 21, 2005) (Vice Chairman Okun and Commissioner Pearson dissenting); see also Explanation of Determination on Adequacy, CR/PR at Appendix B. The Commission determined that the response to the notice it received from the Taipei Economic and Cultural Representative Office in the United States ("TECRO"), Economic Division, with respect to TOS stainless steel cooking ware from Taiwan, was an adequate individual interested party response. However, because the Commission did not receive any responses from Taiwanese producers/exporters or U.S. importers of that merchandise, and nothing in TECRO's response indicated that it would be able to provide the type of information collected in full reviews, the Commission determined that the respondent interested party group response with respect to TOS stainless steel cooking ware from Taiwan was inadequate. Id.

Mexico, and Taiwan, and by reason of subsidized imports from Mexico.[6] Commerce issued antidumping duty orders and a countervailing duty order with respect to POS cooking ware from the three countries the next month.[7]

In January 1987 the Commission determined that an industry in the United States was being materially injured by reason of both LTFV and subsidized imports of TOS stainless steel cooking ware from Korea and Taiwan.[8] Commerce issued antidumping and countervailing duty orders with respect to TOS stainless steel cooking ware from the two countries that same month.[9]

B. First Five-Year Reviews

Original First Five-Year Review Determinations. On February 1, 1999, the Commission instituted reviews pursuant to section 751(c) of the Act to determine whether revocation of the various antidumping and countervailing duty orders on POS cooking ware from China, Mexico, and Taiwan and on TOS stainless steel cooking ware from Korea and Taiwan would likely lead to continuation or recurrence of material injury.[10] On May 7, 1999, the Commission determined that it would conduct full five-year reviews for each of the eight orders in the group based on adequate domestic industry group responses and adequate respondent group responses with respect to POS cooking ware from Mexico and TOS stainless steel cooking ware from Korea.[11] On January 4, 2000, Commerce published its negative determination of the likelihood of the continuation or recurrence of a countervailable subsidy in the review of the countervailing duty order on POS cooking ware from Mexico.[12] The Commission terminated its five-year review of that order on January 7, 2000.[13] In March of 2000, the Commission determined that revocation of each of the remaining seven orders would be likely to lead to continuation

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[6] Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, Inv. Nos. 701-TA-265, 731-TA-297-299 (Final), USITC Pub. 1911 (Nov. 1986).

[7] See Porcelain-on-Steel Cooking Ware from the People's Republic of China, 51 Fed. Reg. 43414 (Dec. 2, 1986) (antidumping duty order); Porcelain-on-Steel Cooking Ware from Taiwan, 51 Fed. Reg. 43416 (Dec. 2, 1986) (antidumping duty order); Porcelain-on-Steel Cooking Ware from Mexico, 51 Fed. Reg. 43415 (Dec. 2, 1986) (antidumping duty order); and Porcelain-on-Steel Cooking Ware from Mexico, 51 Fed. Reg. 44827 (Dec. 12, 1986) (countervailing duty order).

[8] Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos.701-TA-267-268, 731-TA-304-305 (Final), USITC Pub. 1936 (Jan. 1987).

[9] See Certain Stainless Steel Cooking Ware from the Republic of Korea, 52 Fed. Reg. 2140 (Jan. 20, 1987) (countervailing duty order); Certain Stainless Steel Cooking Ware from the Republic of Korea, 52 Fed. Reg. 2139 (Jan. 20, 1987) (antidumping duty order); Certain Stainless Steel Cooking Ware from the Republic of Taiwan, 52 Fed. Reg. 2138 (Jan. 20, 1987) (antidumping duty order); Certain Stainless Steel Cooking Ware from the Republic of Taiwan, 52 Fed. Reg. 2141 (Jan. 20, 1987) (countervailing duty order).

[10] 64 Fed. Reg. 4896 (Feb. 1, 1999).

[11] 64 Fed. Reg. 38471 (July 16, 1999).

[12] 65 Fed. Reg. 284 (Jan. 4, 2000).

[13] 65 Fed. Reg. 2430 (Jan. 14, 2000). While the investigation as to the countervailing duty order on porcelain-on-steel cooking ware from Mexico was terminated prior to the first five-year reviews, the investigation as to the antidumping duty order on porcelain-on-steel cooking ware from Mexico was not terminated prior to that review. As noted below, the antidumping duty order on POS cooking ware from Mexico was terminated subsequently, in April of 2002.

or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[14] [15]

Remand Review Determinations On TOS Stainless Steel Cooking Ware from Korea. In an action brought by respondent interested parties contesting the Commission's five-year review determinations (countervailing and antidumping) involving TOS stainless steel cooking ware from Korea, the U.S. Court of International Trade ("CIT") remanded the action to the Commission to reconsider its determination to cumulate subject TOS stainless steel cooking ware from Korea and Taiwan.[16]

On remand, the Commission reopened the record to gather additional information and found that, whereas subject imports from Korea and the domestic like product were largely high-end merchandise, the new evidence did not indicate that a significant share of subject imports from Taiwan would be of high-end merchandise. In the absence of such evidence to support a finding that there would likely be a reasonable overlap of competition of subject imports from Taiwan with the domestic like product and subject imports from Korea if the orders were revoked, the Commission found the likely competition requirement for cumulation was not met.[17]

Considering subject imports from Korea on a non-cumulated basis, the Commission again determined that revocation of the antidumping duty and countervailing duty orders on TOS stainless steel cooking ware from Korea would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.[18] The CIT affirmed the Commission's remand determinations.[19]

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[14] Porcelain-on-Steel Cooking Ware from China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Inv. Nos. 701-TA-267 and 268 (Review) and 731-TA-297-299, 304 and 305 (Review), USITC Pub. 3286 ("First Review Det.") at 1 (March 2000).

[15] Vice Chairman Okun and Commissioners Askey and Bragg dissented with respect to the orders on TOS stainless steel cooking ware from Korea and Taiwan. USITC Pub. 3286 at 1 n.3. Commissioner Askey also dissented with respect to the antidumping duty orders on POS cooking ware from China, Mexico, and Taiwan. First Review Det. at 1 n.2.

[16] Chefline Corp. v. United States, 170 F.Supp.2d 1320 (Ct. Int'l Trade 2001). The CIT also affirmed the Commission's determination regarding the definitions of the domestic like products. Id., 170 F.Supp.2d at 1330. The Stainless Steel Cookware Committee ("the Committee") contends that the decision in Chefline regarding cumulation was erroneous, and that evidence on the record preceding the Commission determinations on remand in the first five-year reviews could have supported the Commission's initial finding regarding the segments of the U.S. market in which the Taiwan merchandise would likely compete in the event of revocation. The Committee's Response to Notice of Institution at 13-14. The Commission notes, however, that it supplemented the record on remand and was not able to determine that the Taiwan merchandise in fact competed in the high-end segment of the U.S. market in which the domestic industry and Korean merchandise competed. Because the remand determinations related only to the subject imports from Korea, the current reviews are the first instance since the initial determinations in the first five-year reviews that the orders on TOS stainless steel imports from Taiwan have been reviewed by the Commission. The Commission also notes that its determinations on remand were affirmed by the Court, and that it is the Commission's function to determine the weight to be given record evidence.

[17] Top-of-the-Stove Stainless Steel Cooking Ware from Korea, Inv. Nos. 701-TA-267 and 731-TA-304 (Review) (Remand), USITC Pub. 3485 at 5.

[18] USITC Pub. 3485 at 15. Vice Chairman Okun and Commissioner Bragg dissented. Id. at 15 n.83.

[19] Chefline Corp. v. United States, 219 F.Supp.2d 1303, 1306, 1316 (Ct. Int'l Trade 2002).

C. Subsequent Events and Current Five-Year Reviews

In April of 2002, Commerce revoked the antidumping duty order on subject POS cooking ware imports from Mexico, pursuant to a changed circumstances review.[20]

As explained above, the Commission instituted the present reviews as to the six remaining orders on March 1, 2005,[21] and determined to conduct expedited reviews on June 6, 2005 given the lack of a response to our notice of institution by any respondent interested parties.[22]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[23]

A. Domestic Like Product

The Act defines the "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[24]

In the final results of its expedited sunset reviews, Commerce defined the imported merchandise within the scope of the antidumping duty order on POS cooking ware from China as follows:

> porcelain-on-steel cooking ware from the PRC, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses.[25]

Commerce defined the imported merchandise within the scope of the antidumping duty order on POS cooking ware from Taiwan as follows:

> porcelain-on-steel cooking ware from Taiwan that do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses.[26]

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[20] 67 Fed. Reg. 19553 (April 22, 2002).

[21] 70 Fed. Reg. 9974 (March 1, 2005). The remaining six orders are:
- POS cooking ware – China (AD), Taiwan (AD);
- TOS stainless steel cooking ware – Korea (CVD, AD); Taiwan (CVD, AD).

[22] 70 Fed. Reg. 35708 (June 21, 2005) (Vice Chairman Okun and Commissioner Pearson dissenting); see also Explanation of Determination on Adequacy, CR/PR at Appendix B.

[23] 19 U.S.C. §§ 1677(4)(A) & 1677(10).

[24] 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[25] 70 Fed. Reg. 58187 (Oct. 5, 2005).

[26] Id.

Thus, the scope definitions in the two POS cooking ware reviews are generally the same, except that the Taiwan order does not include tea kettles.[27] The subject POS imports are currently classifiable under subheading 7323.94.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").[28]

In the final results of its expedited sunset reviews, Commerce defined the imported TOS stainless steel merchandise within the scope of the orders as follows:

> top-of-the-stove stainless steel cooking ware from Korea and Taiwan. The subject merchandise is all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers.[29]

The TOS merchandise is currently classifiable under HTSUS item numbers 7323.93.00 and 9604.00.00.[30]

The starting point of the Commission's like product analysis in a five-year review is the like product definition in the Commission's original determination.[31] In the original investigations, the Commission defined the like product for imported POS cooking ware to be all domestically produced POS cooking ware,[32] and the like product for imported TOS stainless steel cooking ware to be all domestically produced TOS stainless steel cooking ware.[33] The Commission adopted those two domestic like product definitions also in the first five-year reviews of these orders.[34]

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[27] The scope definition in the review concerning China does not specifically exclude kitchenware, but does state that certain mixing bowls "are properly considered kitchen ware and are therefore, outside the scope of the order." Porcelain-on-Steel Cooking Ware From the People's Republic of China, 64 Fed. Reg. 50271 (Sept. 16, 1999). Commerce has issued numerous clarifications or scope rulings identifying articles that are tableware rather than cooking ware or that are otherwise not within the scope of the orders on POS cooking ware from China and Taiwan. See CR at I-12 nn.31, 33; PR at I-11 - I-12 nn.31, 33.

[28] Id.

[29] 70 Fed. Reg. 56443 (Sept. 27, 2005) (reviews of antidumping duty orders on Korea and Taiwan); accord 70 Fed. Reg. 57856 (review of countervailing duty order on Korea; and review of countervailing duty order on Taiwan).

[30] Id.

[31] In the like product analysis for an investigation, the Commission generally considers a number of factors, including (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer or producer perceptions; and, where appropriate, (6) price. See The Timken Co. v. United States, 913 F. Supp. 580, 584 (CIT 1996). No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. *See, e.g.*, S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Torrington, 747 F. Supp. at 748-49.

[32] Pub. 1911 at 4-7. Commissioner Rohr dissented and found two like products, POS teakettles and other POS cooking ware. Id. at 19-20, n.5.

[33] Pub. 1936 at 5, n.7.

[34] USITC Pub. 3485 at 5-10. The Commission rejected a domestic like product definition proposed by one respondent party to combine into a single like product POS cooking ware and all other metallic cooking ware and ovenware (e.g., stainless steel and aluminum), and another respondent party's proposal that stainless steel be combined with all other metallic top-of-the-stove cooking ware for purposes of the like product definition related to

(continued...)

In these second five-year reviews, the domestic interested parties, Columbian Home Products, LLC ("Columbian") and the Committee agree that the Commission should continue to define the domestic like products as it did in the prior determinations. No party has expressed disagreement with those domestic like product definitions,[35] and no new information suggests that they should be revisited. Therefore, for the reasons stated in the original determinations and the first five-year reviews, we continue to define the domestic like products as domestically produced POS cooking ware and domestically produced TOS stainless steel cooking ware.[36]

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[37] We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[38]

In the original investigations and the first five-year reviews, the Commission defined the domestic industries as the domestic producers of POS cooking ware and domestic producers of TOS

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[34] (...continued)
TOS stainless steel cooking ware. The CIT affirmed the Commission's determinations in the first five-year reviews regarding the definition of the TOS stainless steel cooking ware domestic like product. Chefline Corp. v. United States, 170 F.Supp.2d at 1330.

[35] TECRO took no position on the definition of the domestic like product.

[36] Our domestic like product definition for POS cooking ware continues to include tea kettles, which are subject merchandise for the order on China but not for the order on Taiwan.

[37] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[38] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-1332 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993); Allied Mineral Products, Inc. v. United States, Slip. Op. 04-139 at 4 (Ct. Int'l Trade Nov. 12, 2004). The Commission also has considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14 n.81.

stainless steel cooking ware.[39] No party disagrees with these definitions of the domestic industry, and no new facts have been presented to warrant different definitions. As in the original investigations, we do not exclude any domestic producer from either domestic industry under the statute's related-party provision.[40] Therefore, in accordance with our domestic like product determinations, we determine that the domestic industry for the reviews of POS cooking ware consists of the domestic producer of POS cooking ware, Columbian. We further determine that the domestic industry for the reviews concerning TOS stainless steel cooking ware consists of all domestic producers of TOS stainless steel cooking ware: All-Clad Metalcrafters; New Era, Inc.; Regal Ware Inc.; and Vita Craft.[41]

III. REVOCATION OF THE ANTIDUMPING DUTY ORDERS ON POS COOKING WARE FROM CHINA AND TAIWAN WOULD BE LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Cumulation

1. Framework

Section 752(a) of the Act provides that:

> the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.[42]

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.[43] We note that neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action

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[39] USITC Pub. 3485 at 10.

[40] No producer was excluded from either domestic industry in the original investigations or in the first five-year reviews. USITC Pub. 1911 at 5, 7; USITC Pub. 1936 at 5 n.8; USITC Pub. 3286 at 10. In the current five-year reviews, no domestic producer of POS cooking ware or TOS stainless steel cooking ware has imported subject merchandise or is otherwise identified as a related party. CR at I-26, PR at I-21 (no importer of subject POS cooking ware identified as a domestic producer), CR at I-30, PR at I-24 (no importer of subject TOS stainless steel cooking ware identified as a domestic producer); Columbian response to the Commission's notice of institution (April 20, 2005) ("Columbian's response") at 20; Committee 's response to the Commission's notice of institution (April 20, 2005) ("the Committee's response") at 27.

[41] See CR/PR at Table I-7.

[42] 19 U.S.C. § 1675a(a)(7).

[43] 19 U.S.C. § 1675a(a)(7).

("SAA") provides specific guidance on what factors the Commission is to consider in determining that imports "are likely to have no discernible adverse impact" on the domestic industry.[44] With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.[45]

In these reviews, the statutory requirement that the POS cooking ware reviews be initiated on the same day is satisfied because Commerce initiated both reviews on March 1, 2005.[46] Moreover, no party has asserted that the no discernible adverse impact exception to cumulation applies, and the record does not otherwise suggest that this is an issue.[47]

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.[48] Only a "reasonable overlap" of competition is required.[49] In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission's traditional competition factors, but also other significant conditions of competition that are likely to prevail if the orders are revoked.

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[44] SAA, H.R. Rep. No. 103-316, vol. I (1994).

[45] For a discussion of the analytical framework of Chairman Koplan and Commissioner Hillman regarding the application of the "no discernible adverse impact" provision, see Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review) USITC Pub. 3274 (Feb. 2000). For a further discussion of Chairman Koplan's analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review); 701-TA-249 (Review); and 731-TA-262, 263, and 265 (Review) USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplan Regarding Cumulation).

[46] 70 Fed. Reg. 9919 (March 1, 2005).

[47] We do not find that subject imports from either China or Taiwan are likely to have no discernible adverse impact on the domestic industry if the orders are revoked. No facts on the record would warrant departure from the Commission's findings regarding no discernible adverse impact in the first reviews. See USITC Pub. 3286 at 13. We discuss below our affirmative likely material injury determinations with respect to POS cooking ware from China and Taiwan if the orders are revoked. While the determinations are based on cumulated imports, the record in these five-year reviews includes data and analysis of such individual country factors as the high production capacity in each country, likely import volumes of subject imports from each country, and the substitutability of POS cooking ware from China, Taiwan, and the United States.

[48] The four factors generally considered by the Commission in assessing whether subject imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (CIT 1989).

[49] See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); United States Steel Group v. United States, 873 F. Supp. 673, 685 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), aff'd sub nom, Ranchers-Cattleman Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

2. Reasonable Overlap of Competition

In the original investigations, the Commission cumulated subject POS cooking ware (which then included imports from Mexico) after finding a high degree of substitution between domestically produced POS cooking ware and the subject imports, common channels of distribution for imports from each of the countries, and that the imports were marketed throughout the United States.[50]

In the first five-year reviews, the Commission found that the record provided no reason to depart from its cumulation finding in the original investigations. The Commission found that there was a moderate degree of substitutability among the domestic like product and subject imports from China and Taiwan.[51] The Commission observed that *** the subject POS cooking ware imports reportedly were sold nationwide, that subject merchandise from China and Taiwan (and Mexico) entered the United States throughout the first review period, and that the domestic merchandise and imports from the three subject countries were sold through the same channels of distribution – large retailers, mail order houses, and distributors that sell to small retailers. The Commission concluded, therefore, that the subject and domestic merchandise had been and likely would be sold in the same or similar markets if the orders were revoked and that there likely would be a reasonable overlap of competition between subject imports and the domestic like product and among the subject imports if the orders were revoked. The Commission exercised its discretion to cumulate, finding that subject imports would likely compete in the U.S. market under similar conditions of competition if the orders were revoked.[52]

No party has argued in the present reviews that the Commission find no likely overlap of competition. Based on the determinations in the original investigations and in the first reviews, and given the absence of information on this record indicating any changes in the likely overlap of competition, we find that if the orders were revoked there would likely be a reasonable overlap of competition among the subject POS cooking ware imports from China and Taiwan, and between the domestic like product and subject imports from each of these countries. For these reasons, and because there is no indication of other likely significant differences in the conditions of competition between the subject imports from China and Taiwan if the orders were revoked, we conclude that it is appropriate to exercise our discretion to cumulate POS cooking ware from China and Taiwan.

B. Legal Standard In a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping order "would be likely to lead to continuation or recurrence of material

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[50] USITC Pub. 1911 at 10-12.

[51] Whereas the Commission found a high degree of substitution between subject imports and the domestic like product in the original investigations, when the domestic like product and the subject imports from China and Taiwan included both light- and heavy-gauge POS cooking ware, the Commission found a moderate degree of substitution in the first five-year reviews because the successor domestic producer had ceased production of the heavy-gauge product. See USITC Pub. 3287 at 13, 17; see also discussion of conditions of competition in the POS cooking ware market, infra. Based on that prior finding and the limited record in this five-year reviews, we again find a moderate degree of substitutability between subject imports and the domestic like product.

[52] USITC Pub. 1911 at 13-14.

injury within a reasonably foreseeable time."[53] The SAA states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[54] Thus, the likelihood standard is prospective in nature.[55]

The CIT has found that "likely," as used in the sunset review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[56] [57] [58] [59] [60] [61]

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[53] 19 U.S.C. § 1675a(a).

[54] SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." Id. at 883.

[55] While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[56] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd without opinion, 05-1019 (Fed. Cir. August 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int'l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int'l Trade Dec. 20, 2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int'l Trade July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[57] Chairman Koplan agrees with the Court that "'likely' means 'likely'. . . ." Usinor Industeel, S.A. et al v. United States, No. 01-00006, Slip. Op. 02-39 at 13 (Ct. Int'l Trade April 29, 2002). Because Chairman Koplan also agrees that the term "likely" as used in the statute is not ambiguous, he does not believe that the Commission need supply a synonym for it. Nevertheless, were Chairman Koplan to select a synonym for "likely," he would accept the Court's conclusion that "likely" is best equated with "probable," and that it does not mean "possible." If some event is likely to happen, under common usage of the term, it probably will happen. If one considers the term "probably" to be tantamount to "more likely than not," then in the context of a sunset review such as this one, upon revocation of the respective orders either injury probably will continue or recur (more likely than not) or it probably will not continue or recur.

[58] Vice Chairman Okun notes that consistent with her dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade's interpretation of "likely" to mean "probable" See Usinor Industeel, S.A. et al v. United States, No. 01-00006, Slip. Op. 02-39 at 13 (Ct. Int'l Trade April 29, 2002). However, she will apply the Court's standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue. Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 731-TA-707-709 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

[59] Commissioner Hillman interprets the statute as setting out a standard of whether it is "more likely than not" that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of "probable" that the Court intended when the Court concluded that "likely" means "probable". See Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term "Likely," in Certain Carbon Steel

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The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[62] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' time frame applicable in a threat of injury analysis [in antidumping investigations]."[63] [64]

Although the standard in a five-year review is not the same as the standard applied in an original antidumping investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[65] It directs the Commission to take into account its prior injury determinations, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[66]

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[59] (...continued)
Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

[60] Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade's interpretation of "likely," but she will apply the Court's standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

[61] While, for purposes of these reviews, Commissioner Pearson does not take a position on the correct interpretation of "likely," he notes that he would have made the same determination under any interpretation of "likely" other than equating "likely" with merely "possible." See Commissioner Pearson's dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004).

[62] 19 U.S.C. § 1675a(a)(5).

[63] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." Id.

[64] In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan examines all the current and likely conditions of competition in the relevant industry. He defines "reasonably foreseeable time" as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define "reasonably foreseeable time" by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

[65] 19 U.S.C. § 1675a(a)(1).

[66] 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption determinations with respect to the subject antidumping duty findings. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's
(continued...)

C. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[67]

While apparent domestic consumption of POS cooking ware was in a similar range during the original investigation period and the first five-year review period,[68] apparent domestic consumption was significantly lower in 2004.[69]

The Commission explained in the first five-year reviews that, since the original investigations, there had been one domestic producer of POS cooking ware: first General Housewares Corp. ("GHC") and then its successor, Columbian. Whereas GHC had produced both heavy- and light-gauge POS cooking ware, Columbian ceased production of heavy-gauge POS cooking ware. In the first five-year reviews, Columbian's U.S. shipments and market share in terms of both volume and value were *** lower than the levels reported by GHC in the 1983-86 period.[70]

The market share of subject imports from China and Taiwan declined significantly in the first five-year reviews period compared with the original period of investigation, from *** percent on a quantity basis in 1985 to *** percent on that basis in 1998, and from *** percent on a value basis in 1985 to *** percent on that basis in 1998. In 2004, however, the market share of those subject imports' had grown to *** percent on a quantity basis and *** percent on a value basis.[71]

Based on quantity, the domestic producer's market share has declined from *** percent in 1985 to *** percent in 1998, and then increased to *** percent in 2004. Based on value, the domestic producer's market share declined from *** percent in 1985 to *** percent in 1998, then increased to *** percent in 2004.[72] Because of the reduction in apparent U.S. consumption, the domestic producer's increased market share in 2004 relative to 1998 occurred notwithstanding decreased domestic producer shipments in 2004.[73]

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[66] (...continued)
determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[67] 19 U.S.C. § 1675a(a)(4).

[68] USITC Pub. 1911 at 3286 at 16.

[69] CR/PR at Table I-13. Apparent U.S. consumption was *** units and $*** in 1985 (original investigations); *** units and $*** in 1998 (first reviews); and *** units and $*** in 2004 (second reviews). Id. In the first five-year review, most importers and purchasers identified other types of cooking ware, including stainless steel, aluminum, and glass, as substitutes for POS cooking ware. USITC Pub. 3286 at 17.

[70] USITC Pub. 3286 at 16. This was at least in part because Columbian had ceased production of heavy-gauge POS cooking ware.

[71] CR/PR at Table I-13.

[72] Id.

[73] The domestic producer's shipments decreased in the first five-year reviews from *** units in 1985 to *** units in 1998, then declined further in 2004 to *** units. CR/PR at Table I-13. On a value basis, domestic producer shipments decreased from $*** in 1985 to $*** in 1998, then declined further to $*** in 2004. Id. In the first five-year reviews, the Commission attributed reduced domestic producer's shipments to discontinuation of domestic production of heavy-gauge POS cooking ware.

Nonsubject imports of POS cooking ware accounted for the majority of sales in the United States during the first five-year review period, rising from *** percent of the volume of apparent domestic consumption in 1997 to *** percent in 1998.[74]

POS cooking ware is characterized in terms of the thickness of the underlying metal. The domestic industry currently produces only light-gauge POS cooking ware and producers in both China and Taiwan produce both light- and heavy-gauge POS cooking ware. Thus, although the Commission found a high degree of substitutability between subject imports and the domestic like product in the original investigations when the domestic like product and subject imports from China and Taiwan included both gauges, the Commission found a moderate degree of substitutability in the first five-year reviews, by which time the domestic producer had ceased production of the heavy-gauge articles.[75] Based on the finding in the prior five-year reviews, we again find a moderate degree of substitution between subject imports and the domestic like product.

Based on the record evidence, we find that conditions of competition in the POS cooking ware market are as discussed above and that the POS cooking ware market is not likely to change significantly in the reasonably foreseeable future. Accordingly, in these expedited reviews, we find that current conditions in those markets provide us with a reasonable basis on which to assess the likely effects of revocation of the orders in the reasonably foreseeable future.

D. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to production or consumption in the United States.[76] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[77]

In the original investigations, the cumulated volume of imports from China, Mexico, Taiwan, and Spain[78] rose by 52 percent in terms of units and 25 percent in terms of value over the investigation

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[74] USITC Pub. 3286 at 17. See also CR/PR at Table I-13. Nonsubject imports, other than those from Mexico, were *** percent of apparent domestic consumption on a quantity basis in 1997 and *** percent in 1998; on a value basis, those nonsubject imports accounted for *** percent of the market in 1997 and *** percent in 1998. In 2004, nonsubject imports other than those from Mexico accounted for *** percent of the market on a volume basis and *** percent of the market on a value basis. Including imports from Mexico, nonsubject imports' market share on a volume basis declined from *** percent in 1998 to *** percent in 2004, and declined on a value basis from *** percent in 1998 to *** percent in 2004. CR/PR at Table I-13.

[75] USITC Pub. 3286 at 17.

[76] 19 U.S.C. § 1675a(a)(2).

[77] 19 U.S.C. § 1675(a)(2)(A)-(D).

[78] At the time of the original determinations, POS cooking ware from Spain was subject to a preliminary investigation by the Commission. USITC Pub. 1911 at 9, n.20. The investigation with regard to Spain was terminated after GHC withdrew the antidumping petition. See 52 Fed. Reg. 4394 (Feb. 11, 1987).

period.[79] Considered separately from the other POS cooking ware imports that were cumulated in the original investigations, the subject imports from China and Taiwan increased 39 percent in quantity terms during the period of investigation from 6.24 million units in 1983 to 8.67 million units in 1985, and increased four percent in terms of value, from $21.84 million in 1983 to $22.82 million in 1985.[80]

In the first five-year reviews, the Commission observed that the volume of cumulated subject imports from China, Mexico, and Taiwan had declined since the original investigations as a result of the orders, but that those imports nonetheless remained substantial and accounted for up to *** percent of the market during the first five-year review period. Considered separately from the other POS cooking ware imports, the subject imports from China and Taiwan declined from 8.67 million units in 1985 to 2.98 million units in 1998, and declined in terms of value from $22.82 million in 1985 to $6.79 million in 1998.[81]

Since the first five-year reviews, cumulated subject imports from China and Taiwan have increased from 2.98 million units in 1998 to 3.94 million units in 2004. On a value basis, they increased from $6.79 million in 1998 to $9.67 million in 2004.[82]

The Commission observed in the first five-year reviews that each of the subject countries appeared to have a substantial volume of underutilized capacity. The Commission noted that the total output of the POS cooking ware industry in China dwarfed domestic production, as did the total volume of POS cooking ware exports from China. The Commission also observed that the limited information available on Taiwan indicated that Taiwan producers' production capacity was *** greater than that of the domestic industry, and that the Taiwan producers had *** of excess capacity. The Commission concluded that the subject producers had the ability to realize a substantial increase in their shipments to the United States if the orders were revoked.[83] The Commission also noted in the first five-year reviews that Mexico had imposed an antidumping duty order on imports of POS cooking ware from Taiwan .[84]

In response to the notice of institution, Columbian refers to its research indicating that POS cooking ware producers in China have enough capacity to supply the United States market *** over.[85]

The high U.S. market share that the cumulated subject imports attained prior to the imposition of the antidumping duty orders on POS cooking ware, and their retention of a significant market share, suggest that subject producers will likely substantially increase their exports to the United States upon revocation of the antidumping duty orders.[86] Their likely high capacity levels and excess capacity indicate that they would be able to achieve such increases. Consequently, based on the record in these

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[79] USITC Pub. 1911 at 13. We note that the data in those investigations show that aggregate imports from Mexico, China, and Taiwan increased by 43 percent in terms of value and 8 percent in terms of units. See Porcelain-on-Steel Cooking Ware From Mexico, The People's Republic of China, and Taiwan, Final Report to the Commission, Table 10.

[80] USITC Pub. 1911 at A-17 - A-18 (Table 10); see also CR/PR at Table I-10.

[81] CR/PR at Table I-10.

[82] Id.

[83] USITC Pub. 3286 at 19. In the first five-year reviews the Commission also discussed the significance of inventories of the subject merchandise on the likely volume of subject imports. Id. at 19-20. However, that discussion was focused on subject merchandise from Mexico, which is no longer a subject merchandise, and, therefore, the inventory discussion is not a focus here.

[84] USITC Pub. 3286 at 19, n.128.

[85] Id. at 15-16.

[86] In the first five-year reviews the Commission cited a report that one Taiwan cooking ware producer would not resume exports to the United States unless the antidumping duty is removed. USITC Pub. 3286 at 20, n.130.

reviews, we conclude that the volume of cumulated subject imports would likely increase to a significant level and that subject imports would regain significant U.S. market share if the orders are revoked.

E. Likely Price Effects

In evaluating the likely price effects of subject imports if the antidumping orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[87]

In the original investigations, the Commission noted that purchasers had identified instances of price undercutting by the subject imports and that the domestic producer had been unable to raise prices enough to cover increases in its costs.[88]

In the first five-year reviews, the Commission obtained price comparison data for more specifically defined products than it had obtained in the original investigations. The subject import prices were only for POS cooking ware from Mexico.[89]

The Commission went on to note in its determinations in the first five-year reviews that it had received no specific pricing information for subject imports from China or from Taiwan in those reviews. The Commission explained, however, that the domestic like product and the subject merchandise were quite similar or indistinguishable, price is a critical factor in purchasing decisions, and domestically produced cooking ware is likely to be highly sensitive to price-based competition. Accordingly, the Commission noted that, in order to gain a greater share of the POS cooking ware market, subject imports from China and Taiwan would have to be priced aggressively. The Commission found that underselling would likely be significant in the event of revocation of the antidumping duty orders given subject producers' pricing behavior during the original investigations, the importance of price, the substitutability of the products, and the fact that increased volumes for this product would likely be achieved through lower prices. Accordingly, the Commission found that revocation of the antidumping duty orders would be likely to lead to significant underselling by the cumulated subject imports of the domestic like product, as well as significant price depression and suppression, within a reasonably foreseeable time.[90]

There is no new product-specific pricing information on the record in these reviews. However, as noted above, we find that China and Taiwan are likely to significantly increase exports to the United States in the reasonably foreseeable future if the antidumping duty orders were revoked. Based on information available in these reviews, including the determinations in the original investigations and the first five-year reviews, we find that the market for POS cooking ware is price competitive. Therefore, subject imports would likely have to undersell the domestic like product in order to regain market share if the orders were revoked. The volume of subject imports at those prices, in turn, would be likely to have significant depressing and suppressing effects on prices of the domestic like product. Accordingly, we find that the likely volume of imports from China and Taiwan resulting from revocation of the

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[87] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[88] USITC Pub. 1911 at 14. The Commission noted, however, that pricing data it had obtained in the investigations were difficult to assess because producers changed POS cooking ware styles over the course of the investigation period and because the pricing categories encompassed products of different gauges and colors.

[89] USITC Pub. 3286 at 20.

[90] USITC Pub. 3286 at 20-21.

antidumping duty order would be likely to have significant adverse effects on domestic prices of POS cooking ware.

F. Likely Impact

In evaluating the likely impact of imports of subject merchandise if the orders are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[91] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[92] As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.[93]

In the original investigations, the Commission found that the domestic industry was materially injured, noting that production and capacity utilization declined over the course of the investigation period, as did domestic shipments, the number of workers, and the hours worked. The Commission also observed that all of the measures of the domestic industry's profitability declined from 1983 to 1985.[94]

In the first five-year reviews, the Commission observed that the domestic industry's operating margins were somewhat lower in the review period than in the original investigation period, while its production volume, number of production and related workers, hours worked, and market share were *** lower. The Commission noted that, although there was not a significant increase in domestic POS cooking ware shipments in 1987, the industry's condition did stabilize following issuance of the orders in 1996. Prior to the imposition of the orders, the domestic producer's shipment volume had decreased by an average of *** percent each year. Although a small increase in shipment volume in 1987 was followed by further decreases in domestic shipments in the first five-year review period, the rate of decline was much lower. Furthermore, the Commission noted, the steep increase in the volume of subject imports, which rose by an average of 18.2 percent each year from 1983 through 1986, also stopped after

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[91] 19 U.S.C. § 1675a(a)(4).

[92] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review investigation. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year review investigations as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In its reviews, Commerce found that revocation of the antidumping duty orders on POS cooking ware would be likely to lead to continuation or recurrence of dumping at the following margins: 66.65 percent for all merchandise from China; and 1.99 to 23.12 percent for certain named producers in Taiwan, with 6.82 percent for all others. 70 Fed. Reg. at 58188 (Oct. 5, 2005).

[93] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[94] USITC Pub. 1911 at 7-8.

imposition of the orders. Cumulated subject imports increased by only 7.5 percent in 1987 and decreased in almost every subsequent year, decreasing by 42.5 percent between 1987 and 1997.[95]

The Commission found that the industry's recent *** operating performance in the first five-year review period did not support a finding that the industry was vulnerable at that time. However, the Commission noted that the condition of the domestic industry revealed several signs of weakness. Columbian had experienced *** as recently as 1997. It achieved its then current levels of *** in part by stopping sales of inventory at low closeout prices, and by reducing selling, general and administrative expenses. Since the volume of Columbian's domestic shipments increased ***, the new inventory management strategy had led to a *** in the company's inventories, both in absolute terms and in relation to U.S. shipments. The Commission noted that those figures suggested that in the future, Columbian would have to ***.[96]

The Commission referred to its findings discussed above that revocation of the antidumping duty orders would likely lead to significant increases in the volume of cumulated subject imports at prices that would undersell the domestic like product and significantly depress U.S. prices. The Commission observed that, with demand for POS cooking ware essentially stagnant and nonsubject imports consisting primarily of heavy-gauge cooking ware, the increase in subject imports was likely to cause a decrease in the volume of Columbian's domestic shipments. In addition, the Commission noted that the volume and price effects of the cumulated subject imports would have a significant adverse impact on the domestic industry and would likely cause the domestic industry to lose market share.[97]

In its determinations in the first five-year reviews the Commission also noted that the price and volume declines would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. A reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, the Commission found it likely that revocation of the orders would result in commensurate employment declines for Columbian.[98]

Accordingly, based on the record in those reviews, the Commission concluded that, if the antidumping duty orders were revoked, subject imports from China, Mexico, and Taiwan would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.[99]

We do not have sufficient information on the record in these five-year reviews to determine whether or not the domestic industry is currently vulnerable to the continuation or recurrence of material injury in the event of revocation of the orders on POS cooking ware from China and Taiwan. However, as noted above, domestic production of POS cooking ware has decreased since issuance of the orders from *** units in 1985 to *** units in 2004. Domestic producer shipments have declined from *** units in 1985 to *** units in 2004. In terms of value, domestic producer shipments declined from $*** in 1985 to $*** in 2004.[100] Based on quantity, the domestic producer's market share has declined from *** percent in 1985 to *** percent in 2004, while the share held by subject imports has declined from *** percent in 1985 to *** percent in 2004. Based on value, the domestic producer's market share has

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[95] USITC Pub. 3286 at 22.

[96] USITC Pub. 3286 at 22-23.

[97] USITC Pub. 3286 at 23.

[98] Id.

[99] Id.

[100] CR/PR at Table I-8.

declined from *** percent in 1985 to *** percent in 2004, while the share held by subject imports has declined from *** percent in 1985 to *** percent in 2004.[101]

Within the limits of the data available in these reviews, and with reference in particular to the determinations and data in the original investigations and the first five-year reviews, we find that the volume and price effects of the subject imports would likely have a significant adverse impact on the industry's production, sales, and revenue levels and would have a direct adverse impact on the industry's profitability and employment levels as well as its ability to raise capital and make and maintain necessary capital investments.

Accordingly, we conclude that if the antidumping duty orders on POS cooking ware from China and Taiwan were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

G. Conclusion

On the basis of the above, we determine that revocation of the antidumping duty orders on POS cooking ware from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

IV. WHETHER REVOCATION OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS ON TOP-OF-THE-STOVE STAINLESS STEEL COOKING WARE FROM KOREA OR TAIWAN WOULD BE LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Cumulation

1. Framework

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Korea and Taiwan, we adopt the discussion of the framework for cumulation contained above in section III.A.1.

In these reviews, the statutory requirement that all of the TOS stainless steel cooking ware reviews be initiated on the same day is satisfied.

2. Reasonable Overlap of Competition

In the original investigations, the Commission found that imports from Korea and Taiwan competed with each other and with the domestic like product, in part because they were imported by many of the same parties, had similar configurations, and were available at a wide range of price points.[102]

In its determinations in the first five-year reviews, the Commission identified as a notable change in conditions of competition since the original investigations that the industry in the United States no longer produced low- and medium-grade TOS stainless steel cooking ware; i.e., domestic production, which had included all three grades in the original investigations, included only high-end TOS stainless steel cooking ware at the time of the first five-year reviews. There was a question, however, as to whether Taiwan production and exports to the United States likely would include the high-end

[101] CR/PR at Table 1-7.

[102] USITC Pub. 1934 at 10, n. 24.

merchandise and, therefore, whether there would be a reasonable overlap of competition between the subject imports from Taiwan and subject imports from Korea, which had been increasingly concentrated in the high-end of the market, and the domestic like product, which were also concentrated in the high-end of the market. In considering this issue the Commission noted that, on the one hand, subject imports from Taiwan had a low average unit value relative to the domestic like product and subject imports from Korea, which the Commission found suggested a preponderance of low-end and mid-range products. On the other hand, the Commission cited testimony and briefs of representatives of the domestic industry, which, while acknowledging that imports of Taiwan TOS stainless steel cooking ware had consisted primarily of low-end and mid-range products, indicated that Taiwan cooking ware manufacturers also produced high-end merchandise that had entered the direct sales channel in the United States through which the domestic like product was sold. Specifically, industry representatives contended that some Taiwan merchandise had been sold as part of high-end cooking ware sets.

The Commission concluded, on balance, that this evidence as a whole indicated that the subject merchandise from Taiwan included at least some high-end cooking ware. The Commission also concluded that the Taiwan producers faced the same incentives as the Korean producers to upgrade the quality range of their products in light of the growing production of competing low-end and mid-range TOS stainless steel cooking ware in countries such as China, India, Indonesia, and Thailand.[103] Therefore, the Commission found a reasonable overlap of competition between the subject imports from Taiwan, the subject imports from Korea, and the domestic like product.

As noted above, in an action brought by respondent interested parties contesting the Commission's five-year review determinations on TOS stainless steel cooking ware from Korea, the CIT remanded the action to the Commission to reconsider its determination to cumulate subject TOS stainless steel cooking ware from Korea and Taiwan.[104] The CIT's analysis centered on evidence that all domestic production, and most subject imports from Korea, were high-end product, whereas the high-end product accounted for little or none of the subject imports from Taiwan. The CIT found that the record did not support the Commission's findings regarding current or likely presence of subject imports from Taiwan in the high-end, direct sales channel of distribution.[105] The Court remanded with instructions that the Commission "reconsider its finding that there is a reasonable overlap of competition between Korean and Taiwan cooking ware and domestic and Taiwan cooking ware, given the lack of substantial evidence that Taiwan producers sell high-end products, and scant evidence that Taiwan producers sell through the direct sale channel of distribution."[106]

On remand, the Commission reopened the record to gather additional information on the issues identified by the CIT. The Commission noted in the remand determinations that an importer of subject merchandise from Korea and an importer of subject merchandise from Taiwan had indicated that the Taiwan product was of lower quality than the Korean product and that, although Taiwan had the capability of producing higher-end TOS stainless steel cooking ware, Taiwan producers were not as good at producing it. The Commission also had been unable to confirm that the "high-end" cooking ware that a Taiwanese producer indicated in a telephone conversation that it produced along with the low-end and medium-end products was equivalent to the high-end merchandise sold on the U.S. market. The Commission also cited the considerable difference between the very low average unit values of cooking ware from Taiwan during the review period compared with the high unit values of the Korean and domestic merchandise, tending to indicate that those imports from Taiwan likely did not include a

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[103] USITC Pub. 3286 at 24; id. at 24-25 n.160.

[104] Chefline Corp. v. United States, 170 F.Supp.2d 1320 (Ct. Int'l Trade 2001) ("Chefline I").

[105] Chefline I, 170 F.Supp.2d at 1334.

[106] Chefline I, 170 F.Supp.2d at 1333.

significant quantity of high-end cooking ware.[107] The Commission concluded that, although future imports from Taiwan could include some high-end product, the new evidence did not indicate that a significant share of subject imports from Taiwan would be of high-end merchandise such that there would be a reasonable overlap of competition with imports from Korea or domestic product. In the absence of a likely reasonable overlap of competition, the Commission did not cumulate subject imports from Korea with those from Taiwan.[108]

The record in these reviews does not provide any new information indicating any change in the likely absence of a reasonable overlap of competition of subject imports from Taiwan with subject imports from Korea or the domestic like product. As in the first reviews and the remand determinations, we find that there is a considerable difference between the very low average unit values of cooking ware from Taiwan compared with the high unit values of the Korean and domestic merchandise,[109] again indicating that imports from Taiwan in this period likely did not consist of a significant quantity of high-end cooking ware and no new evidence suggesting a change in the composition of Taiwan imports would be likely if the orders are revoked. On the basis of the record here, including the Commission's prior determinations on TOS cooking ware from Korea and Taiwan, we find that high-end merchandise would not likely comprise a significant share of subject imports from Taiwan if the orders were revoked and that, therefore, there would not be a reasonable overlap of competition of the subject imports from Taiwan with likely subject imports from Korea or with the domestic product. Accordingly, we do not cumulate subject imports from Korea and Taiwan.[110]

B. Legal Standard and Conditions of Competition

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Korea and Taiwan, we adopt the discussion of the legal standards contained above in Sections III.B and

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[107] USITC Pub. 3485 at 4. The Commission cited importer questionnaire data that showed Korean product to have average unit values of between $*** versus average unit values of only between $*** for Taiwan product. Id. at 4 n.19. The Commission did not rely on average unit value information derived from HTSUS statistics. The Commission noted that HTSUS data include lids as separate units, whereas the questionnaire data did not. USITC Pub. 3485 at 8. The Commission noted, however, that average unit values are of somewhat limited probative value for purposes of price comparisons in an industry with a disparate product mix. Id. at 4.

[108] USITC Pub. 3286 at 4-5. The first five-year review determinations with respect to TOS cooking ware from Taiwan was not at issue in that litigation and, therefore, the initial determinations in the first five-year reviews with respect to Taiwan, in which subject imports from Korea and Taiwan had been cumulated, were not disturbed.

[109] As noted above, in the first five-year reviews the Commission cited average unit values for subject imports reported in importer questionnaires, which showed very large differences between Korean and Taiwan product. Because these are expedited reviews, no comparable questionnaire data have been collected. Average unit values in 2004 derived from HTSUS statistics show a substantial disparity between subject imports from Korea versus those from Taiwan ($6.05 for Korea versus $2.73 for Taiwan). CR/PR at Table I-11. Because of the broad mix of articles included within the scope of the order and the domestic like product, we consider the average unit values with great caution. We also note that the average unit value for the domestic like product appears to be quite high and may in fact be overstated. CR/PR at Table I-9 ($77.90 domestic unit value). However, even if that value were significantly reduced it would nonetheless serve as some further indication that any competition between the Taiwan and domestic products would be attenuated.

[110] In light of our finding that a reasonable overlap of competition is not likely, it is not necessary to address whether the imports from Taiwan or Korea likely would have no discernible adverse impact if the orders were revoked. Accord USITC Pub. 3485 at 3 (not necessary to address no discernible adverse impact on remand because finding of no reasonable overlap was dispositive of the cumulation issue).

III.C. We also note the following conditions of competition distinctive to the TOS stainless steel cooking ware industry.

The Commission explained in the first five-year reviews that TOS stainless steel cooking ware represented a significant segment of the larger U.S. cooking ware market. Apparent consumption of TOS stainless steel cooking ware had grown over the first five-year review period, but not as rapidly as did consumption of aluminum cooking ware, which had become more competitive with stainless steel cooking ware and accounted for a larger share of total cooking ware sales than at the time of the original investigations. The Commission observed that the increase in consumption of TOS stainless steel cooking ware had not prevented a decline in the number of domestic producers of that merchandise. While there were nine producers of the domestic like product at the time of the original investigations, consolidations and plant closures had reduced that number to four at the time of the first five-year reviews.[111]

The Commission noted that TOS stainless steel cooking ware falls into high-end, mid-range, and low-end groupings and that domestic production of low-end and mid-range cooking ware had ceased, although not as a result of competition with subject imports.[112]

In the initial five-year review determinations regarding TOS stainless steel cooking ware from Korea and Taiwan, the Commission found that subject imports were moderately substitutable with the domestic product, and that TOS stainless steel cooking ware from Korea showed greater substitutability with the domestic like product than did cooking ware from Taiwan.[113]

In the remand determinations regarding TOS stainless steel cooking ware from Korea, the Commission found that the subject imports from Taiwan were primarily low-end and mid-range cooking ware that did not compete significantly with subject imports from Korea or the domestic like product. On the basis of that finding and our finding here regarding the absence of a reasonable overlap of competition, we find that subject imports from Taiwan are not significantly substitutable with the domestic product.

In the first five-year reviews, the Commission noted that the direct sales channel of distribution played a distinctive role in sales of the domestic like product.[114] Three of four domestic producers sold exclusively in this sales channel, while subject imports had not been a significant factor in this distribution channel until recently.[115] The Commission noted also that the nonsubject imports were primarily low-end and mid-range products, and that such products competed with the domestic product to a lesser degree.[116]

The market share of subject imports from Korea declined significantly in the first five-year review period compared with the original period of investigation, from 49.0 percent on a quantity basis in 1985 to 8.0 percent on that basis in 1998, and from 20.8 percent on a value basis in 1985 to 8.9 percent on that basis in 1998. By 2004, the market share of the subject imports from Korea had further declined to 1.2 percent on a quantity basis and to 1.0 percent on a value basis.[117]

The market share of subject imports from Taiwan increased on a quantity basis from 1.0 percent in 1985 to 4.2 percent on that basis in 1998, and increased slightly on a value basis from 1.0 percent in

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[111] USITC Pub. 3286 at 26-27.

[112] Id. at 27.

[113] Id. at 28.

[114] Id.

[115] Id. See also Chefline I, 170 F.Supp.2d at 1334, regarding absence of evidence showing presence of subject imports from Taiwan merchandise in the direct sales channel.

[116] USITC Pub. 3286 at 28.

[117] CR/PR at Table I-14.

1985 to 1.1 percent in 1998. By 2004, however, the market share of subject imports from Taiwan had further declined to 0.9 percent on a quantity basis and to 0.3 percent on a value basis.[118]

Based on quantity, the domestic producer's market share declined from 20.7 percent in 1985 to 10.3 in 1998, then declined further to 2.3 percent in 2004. Based on value, the domestic producer's market share declined from 54.2 percent in 1985 to 37.1 percent in 1998, then declined further to 23.8 percent in 2004.[119]

The market share of nonsubject imports increased on a quantity basis from 29.2 percent in 1985 to 77.5 percent in 1998, and then increased further to 95.6 percent in 2004. On a value basis, that share increased from 23.9 percent in 1985 to 54.5 percent in 1998 and then to 74.8 percent in 2004.[120] We find that current conditions in the U.S. TOS stainless steel cooking ware industry provide us with a basis upon which to assess the likely effects of revocation of the antidumping and countervailing duty orders within the reasonably foreseeable future.

C. Revocation Of the Antidumping and Countervailing Duty Orders On TOS Stainless Steel Cooking Ware From Korea Would Be Likely To Lead To Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time[121]

1. Likely Volume of Subject Imports

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Korea, we adopt the discussion of the legal standard contained above in Section III.D.

In the original investigations, the Commission found that the cumulated value of subject imports increased by 28 percent from 1983 to 1985.[122] In the remand determinations in the first five-year reviews, the Commission noted that subject imports from Korea had decreased substantially as a result of the orders, but held a more-than-modest share of the U.S. market during the period of reviews despite the orders.[123]

The Commission explained in the remand determinations that capacity to produce subject cooking ware in Korea declined significantly since the original investigations, under either respondents' or petitioners' estimates. Nevertheless, significant capacity existed in Korea, and remained well above U.S. capacity. U.S. capacity was lower in the first review period than during the original period of investigation, as were U.S. production, shipments, and market share, as non-subject imports increased substantially. Thus, the Commission noted, an increase in subject imports from Korea at the expense of the domestic industry would not need to be as large in absolute terms as it was during the original period of investigation to be significant. This was especially so because the Korean industry was seeking to increase its share of the high-end market, the very market segment in which all remaining U.S. sales occur.[124]

Moreover, although there was some dispute about the correct levels of capacity utilization in the Korean industry, the Commission noted that Korean producers had the flexibility to increase their

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[118] Id.

[119] Id.

[120] Id.

[121] Vice Chairman Okun, and Commissioners Lane and Pearson dissenting. See Dissenting Views of Vice Chairman Deanna Tanner Okun, and Commissioners Charlotte R. Lane, Daniel R. Pearson.

[122] USITC Pub. 1936 at 11.

[123] USITC Pub. 3485 at 8.

[124] USITC Pub. 3485 at 9.

shipments to the United States by a substantial amount regardless of their reported levels of capacity utilization.[125]

The Commission found that, on balance, taking into account its original determinations and changes that had occurred since that time, subject producers in Korea had the capability to increase substantially their shipments to the United States. The Commission explained that the Korean producers also would be able to shift exports to the United States, noting that exports consistently represented between 63 and 68 percent of the volume shipped by the eight Korean producers who participated in the reviews, and that the distribution of shipments among the home market, the United States, and other export markets had varied from year to year.[126]

The Commission also observed that importers of the subject merchandise from Korea maintained high levels of inventory (as a percentage of importers' shipments) throughout the review period, indicating a commitment to a sizeable presence in the United States. The Commission also found that subject producers would use their ability to increase exports to the United States if the antidumping and countervailing duty orders were revoked. The Commission in this regard identified, among other things, the fact that Korean high-end merchandise was then present in the direct sales channel through which the U.S. industry had traditionally sold its merchandise, reinforcing other evidence that the long-term trend of Korean imports had been to push steadily into market niches traditionally held by the U.S. industry.[127]

The Commission concluded that the large market share attained by the subject producers prior to the imposition of the antidumping and countervailing duty orders on TOS stainless steel cooking ware, the Korean producers' continued maintenance of a significant market share despite the discipline imposed by the orders, and their ability to significantly increase exports to the U.S. market, and other information, suggested that subject Korean producers would continue to accelerate exports to the United States upon revocation of the orders. Consequently, the Commission concluded in the first five-year reviews that the volume and market share of subject imports from Korea would likely be significant if the orders were revoked.[128]

The record in these second five-year reviews indicates that subject imports from Korea declined significantly following issuance of the orders, from 20.08 million units in 1985 to 3.33 million units in 1998, then declined further to 757,000 units in 2004. On a value basis, subject imports from Korea decreased from $47.16 million in 1985 to $30.77 million in 1998, then declined to $4.58 million in 2004.[129]

There is no specific information on the record in these reviews with respect to current TOS stainless steel cooking ware capacity or production in Korea because Korean producers did not respond to the Commission's requests for information. The domestic interested party (the Committee) contends, however, that Korean producers likely have substantial production capacity that can be used "to drastically increase exports of the subject merchandise to the United States if the orders are revoked."[130] The Committee maintains that Korean producers remain interested in the U.S. market.[131]

We find that the large market share attained by the subject producers prior to the imposition of the antidumping and countervailing duty orders on TOS stainless steel cooking ware from Korea, the Korean producers' continued presence in the U.S. market despite the discipline imposed by the orders,

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[125] Id.

[126] Id.

[127] Id.

[128] Id. at 10.

[129] CR/PR at Table I-14.

[130] Committee's response at 19.

[131] Id. at 20.

and their ability to significantly increase exports to the U.S. market, suggest that subject Korean producers will accelerate exports to the United States upon revocation of the orders. Consequently, based on the record in these reviews, we conclude that the volume and market share of subject imports from Korea would likely be significant if the orders are revoked.

2. Likely Price Effects

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Korea, we adopt the discussion of the legal standard contained above in Section III.E.

In the original investigations, the Commission found that the pricing data were mixed because of the wide variety of configurations of stainless steel cooking ware. However, it found that pricing trends revealed a causal link between subject imports and harm to the domestic industry in that the prices for domestic products trended downward, while the prices for subject imports either stayed the same or trended downward in spite of the subject producers' shift toward higher quality products. Subject imports were typically sold to retailers at prices far lower than those for comparable domestic products.[132]

In the remand determinations in the first five-year reviews, the Commission explained that domestic products were sold primarily to distributors and the subject Korean imports were sold primarily to retailers, which left the Commission with relatively few price comparisons of similar merchandise at the same level of trade. The Commission noted that, in the small number of price comparisons, there was some indication that subject imports from Korea undersold the domestic like product. The Commission noted that, in general, the prices for domestic products either increased or remained approximately unchanged, while prices for the subject merchandise generally declined.[133]

The Commission found that the domestic industry was currently sensitive to price-based competition. The Commission explained that high-end subject merchandise was sold in some of the same retail chains, such as Williams-Sonoma, that sold high-end domestic TOS stainless steel cooking ware. The Commission noted that, in the event of revocation, subject producers would have the incentive and the capability to export merchandise competitive with all of the products made in the United States. Moreover, the Commission observed, the similarity in the features offered by domestic and subject producers ensured that importers would have ready access to high-end subject merchandise that was directly competitive with the domestic like product. The Commission explained that the closing of the quality gap between the subject merchandise and the domestic like product meant that price would likely play an even greater role in competition in the foreseeable future, and that the prices charged for subject imports would influence the prices received by the domestic industry.[134]

The Commission also found that the growth in the volume of subject imports that would likely follow the revocation of the antidumping and countervailing duty orders would likely lead to price suppression and depression. Because subject merchandise would be equal or close to the quality of the domestic like product, importers would be likely to offer price concessions to regain market share lost during the pendency of the orders and to continue to expand in the direct sales distribution channel where they were relative newcomers. The Commission found that these developments were likely to result in price suppression and depression.[135]

For the foregoing reasons, the Commission found that revocation of the antidumping duty and countervailing orders would be likely to lead to significant underselling by subject imports from Korea of

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[132] USITC Pub. 3485 at 10.

[133] Id.

[134] Id. at 10-11.

[135] Id. at 11.

the domestic like product, as well as significant price depression and suppression, within a reasonably foreseeable time.[136]

There is no new product-specific pricing information on the record in these reviews. However, as noted above, we find that Korea is likely to significantly increase exports to the United States in the reasonably foreseeable future if the orders are revoked. Based on information available in these reviews, including the determinations in the original investigations and on remand in the first five-year reviews, we find that the market for the subject merchandise is price competitive. As noted above, the Korean merchandise has increasingly competed on a head-to head basis with the domestic like product in the high-end market. Moreover, high-end product from Korea and the United States held a smaller market share, by quantity and by value, in 2004 than in any previous year.

For these reasons, subject imports would likely have to undersell the domestic like product in order to regain market share if the orders were revoked. The volume of subject imports at those prices, in turn, would be likely to have significant depressing and suppressing effects on prices of the domestic like product. That the high-end products from Korea and the United States appear to be competing for a declining share of total TOS stainless steel cooking ware sales only heightens these likely adverse effects. For the reasons given above, we find that the likely volume of imports from Korea resulting from revocation of the antidumping and countervailing duty orders would be likely to have significant adverse price effects on domestic prices for TOS stainless steel cooking ware.

3. Likely Impact

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Korea, we adopt the discussion of the legal standard contained above in Section III.F.[137]

In the original investigations, the Commission found that even though apparent domestic consumption of stainless steel cooking ware increased over the investigation period, the domestic producers' market share declined steadily. In terms of quantity, domestic producers' market share decreased from a high of 26.4 percent of the units sold in 1983 to 20.4 percent of units sold in the first nine months of 1986. In terms of value, domestic producers market share fell from 68.2 percent in 1983 to 54.3 percent in the first nine months of 1986.[138]

The Commission observed in the remand determinations in the first five-year reviews that, by 1997, these figures had fallen further. In terms of quantity, the domestic producers' market share was 13.4 percent in 1997, 10.0 percent in 1998, 9.9 percent in the first nine months of 1998, and 7.8 percent in the same period of 1999. In terms of value, domestic producers' market share had decreased to 42.5 percent in 1997, decreased again to 36.4 percent in 1998, with 36.6 percent in the first nine months of 1998 and 30.1 percent in the same period in 1999.[139]

The Commission noted that, in the original determinations, the domestic industry's production, capacity, and capacity utilization had decreased from the beginning to the end of the investigation period, although some of those figures improved slightly in the interim period of 1986 compared to interim 1985.

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[136] Id.

[137] In its reviews, Commerce found that revocation of the antidumping duty order on TOS stainless steel cooking from Korea would be likely to lead to continuation or recurrence of dumping at the following margins: 0.75 to 31.23 percent for named producers in Korea, and 8.10 percent for all others. 70 Fed. Reg. 56444 (Sept. 27, 2005).

[138] USITC Pub. 3485 at 13.

[139] Id.

Employment figures also declined. Operating income margins decreased sharply, from 19.2 percent in 1983 to 9.7 percent in the first nine months of 1985 and 6.8 percent in the same period of 1986.[140]

During the first five-year review period, production capacity increased steadily but modestly, while production decreased, resulting in a steady drop in capacity utilization. By 1997, operating income margins had increased to 11.1 percent. They increased again in 1998 to 13.1 percent, and then fell to 12.3 percent in the first nine months of 1999, compared with 13.5 percent for the same period in 1998.[141]

In the remand determinations, the Commission also noted that the imposition of the antidumping and countervailing duty orders in early 1987 led to an immediate and sharp reduction in the volume of subject imports. The Commission observed that this reduction apparently gave the domestic producers of low-end and mid-range cooking ware a respite from import competition, and may have led to an increase in domestic production of those products. However, increased competition from non-subject imports apparently eroded the benefits of the orders, and contributed to the decisions by Farberware and Revere to cease production in the United States.[142]

The Commission noted that producers of high-end TOS stainless steel cooking ware also felt the effects of the order. During the original investigation period, sales in the door-to-door channel of distribution, which was the precursor to the current direct sales channel of distribution, experienced a decline in profitability.[143]

The Commission observed that, given the high degree of substitutability between the subject merchandise from Korea and the domestic like product, the reduction in the volume of subject merchandise was likely to have helped the domestic industry maintain market share and profitability. In light of this information, the Commission concluded that the orders had a positive effect on the domestic producers of the high-end product by slowing Korean producers' shift to the high-end market, although some of the benefits may have been eroded by increased quantities of nonsubject imports.[144]

The Commission observed that, in spite of the effect of the orders and the growing demand for high-end cooking ware, the industry's condition was a mixed picture. For the entire industry, the operating income margin had remained high, although it decreased slightly in the first nine months of 1999. Shipment volume, net sales revenue, market share, production volume, and capacity utilization all declined in 1998, and then again in the first nine months of 1999 compared to 1998. The Commission stated that this lackluster performance masked a significant change in the relative fortunes of the domestic producers. All-Clad sales, which were exclusively in the retail distribution channel, increased in 1998 and then again in the first nine months of 1999 compared with the first nine months of 1998, while the aggregate sales of the companies in the direct sales channel declined. In light of that information, the Commission concluded that the evidence was mixed as to whether the domestic industry was vulnerable at that time.[145]

The Commission observed that subject importers maintained a large share of the domestic TOS stainless steel cooking ware market during the original investigation period, and found that even a partial return toward pre-order levels would result in material injury to the domestic industry and that this would be likely to occur if the orders were revoked. The Commission found that the increase in subject imports and slight decrease in domestic shipments at the end of the review period suggested that, even at fairly

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[140] Id.

[141] Id.

[142] Id. at 13-14.

[143] Id. at 14.

[144] Id.

[145] Id.

traded prices, the subject imports are already causing the domestic industry's condition to worsen to a small degree. The Commission found that the significant increase in the volume of subject imports from Korea that was likely to follow revocation of the antidumping and countervailing duty orders would likely be sold at prices that would undersell the domestic like product and depress U.S. prices. These conditions would lead to a further erosion in the domestic industry's market share. The Commission noted that the negative effects were likely to be particularly severe because the revocation of the orders would aid Korean producers efforts to expand their shipments of high-end cooking ware, which would likely occur to a substantial degree in the direct sales sector of the market. The Commission noted that it was aware of no inherent barriers to increased participation in the direct sales sector by subject imports in the event of revocation. The Commission concluded, on balance, that revocation of the antidumping and countervailing duty orders on subject imports from Korea would significantly accelerate the decline in the domestic industry's financial performance.[146]

The Commission found that the price and volume declines would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. These conditions would then have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, the Commission found it likely that revocation of the orders would result in commensurate employment declines for domestic firms.[147]

Accordingly, based on the record in those first five-year reviews, the Commission concluded that, if the antidumping and countervailing duty orders were revoked, subject imports from Korea would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.[148]

The information in these second five-year reviews indicates that domestic producers' domestic shipments have declined further since the first reviews, as has their market share. Shipments declined from 4.25 million units and $128.66 million in 1998 to only 1.44 million units and $112.41 million in 2004.[149] The domestic producers' market share has shrunk from 10.3 percent on a volume basis and 37.1 percent on a value basis in 1998 to 2.3 percent on a volume basis and 23.8 percent on a value basis in 2004.[150] Nonetheless, we do not have sufficient information on this record to determine whether the domestic industry is vulnerable.

As noted above, we find that revocation of the orders would likely lead to a significant increase in the volume of subject imports that would undersell the domestic like product and otherwise significantly suppress or depress U.S. prices. Within the limits of the data available in these reviews, and with reference in particular to the determinations and data in the original investigations, the volume and price effects of the subject imports would likely have a significant adverse impact on the domestic industry's production, sales, and revenue levels and would have a direct adverse impact on the industry's profitability and employment levels as well as its ability to raise capital and make and maintain necessary capital investments. This is particularly likely because, as noted in the first five-year review determinations on remand and above, the Korean merchandise in the U.S. market had been increasingly of a high-end quality most directly competitive with the domestic like product in the channels in which the domestic product is marketed.

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[146] Id. at 14-15.

[147] Id. at 15.

[148] Id.

[149] CR/PR at Table I-14.

[150] Id.

Accordingly, we conclude that, if the antidumping and countervailing duty orders on subject imports from Korea were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

4. Conclusion

On the basis of the above, we determine that revocation of the antidumping and countervailing duty orders on TOS stainless steel cooking ware from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

D. Revocation Of the Antidumping and Countervailing Duty Orders On TOS Stainless Steel Cooking Ware From Taiwan Would Not Be Likely To Lead To Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. Likely Volume of Subject Imports

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Taiwan, we adopt the discussion of the legal standard contained above in Section III.D.

In both the original investigations and the first five-year reviews the Commission cumulated imports from Taiwan with subject imports from Korea. Considered separately, subject imports from Taiwan were a relatively modest 421,000 units in 1985, representing just 1.0 percent of apparent consumption. By the time of the first five-year reviews, subject imports from Taiwan had increased to 1.72 million units (4.2 percent of apparent consumption), but then returned to a near-pre-order level of 587,000 units by 2004 (0.9 percent of apparent consumption).On a value basis, subject imports from Taiwan increased from $2.26 million in 1985 to $3.81 million in 1998, then declined to $1.60 million in 2004.[151]

In the first five-year reviews, the Commission found that the Taiwan industry was export-oriented and that the industry possessed substantial production capacity with which to increase exports to the United States. The Commission also found that Taiwan producers could shift exports rapidly away from individual export markets when the situation warrants.[152]

With respect to the cumulated imports from Korea and Taiwan, the Commission found in the first five-year reviews that the large market share attained by the subject producers prior to the imposition of the orders, their continued maintenance of a significant market share and high inventory level, and their ability to significantly increase exports to the U.S. market, suggested that subject producers would export significant quantities of subject product to the United States upon revocation of the orders.[153] Consequently, based on the record in those reviews, the Commission concluded that the volume of cumulated subject imports would likely increase to a significant level and subject imports likely would regain significant U.S. market share if the orders are revoked.

Based on Taiwan's available capacity and export-orientation cited by the Commission in the first five-year reviews, as well as the increased volume of those imports during the first five-year reviews period, we find that it is likely that subject imports from Taiwan would increase in the event the orders on Taiwan are revoked. However, the fact that the quantity of subject imports from Taiwan was modest both

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[151] Id.

[152] USITC Pub. 3286 at 30.

[153] Considered separately, inventories of subject imports from Taiwan were relatively *** during the period of the first five-year reviews. Those inventories were *** units in 1998, equivalent to *** percent of apparent U.S. consumption. USITC Pub. 3286 at Table IV-4.

during the original investigations (never exceeding 1.0 percent market share by quantity) and in the most recent 2004 data suggests that any increase would not be substantial. Moreover, the fact that subject imports from Taiwan are likely to be mainly low- and mid-range merchandise, in contrast to high-end domestic product, lessens the significance of any likely volume increases. Moreover, any likely increases in volume would come at the expense of nonsubject imports. We therefore find that the volume of subject imports will likely not be significant in a reasonably foreseeable time if the orders are revoked.

2. Likely Price Effects

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Taiwan, we adopt the discussion of the legal standard contained above in Section III.E.

As noted above, the degree to which subject imports from Taiwan will likely compete on price with the domestic like product in the event of revocation is significantly attenuated in light of the likely mix of articles that will make up those imports. Given this attenuated competition, the likely volume of subject imports from Taiwan and any underselling by that merchandise would not be likely to have significant depressing and suppressing effects on prices of the domestic like product. Accordingly, we find that the likely volume of imports from Taiwan resulting from revocation of the antidumping duty and countervailing duty orders would not be likely to have significant adverse price effects on domestic prices for TOS stainless steel cooking ware.[154]

3. Likely Impact

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Taiwan, we adopt the discussion of the legal standard contained above in Section III.F.[155]

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[154] In the original investigations, when the domestic industry's production was not yet limited to high-end articles, the Commission found that the pricing data were difficult to assess because of the wide variety of configurations of stainless steel cooking ware. USITC Pub. 1911 at 14. Indications of the limited nature of competition between the domestic like product and subject imports from Taiwan were present in the original investigations. For instance, within the four broad product descriptions for which the Commission collected price comparison data in the original investigations, the subject imports from Taiwan fell under only one category (8-quart stock pot) and there was no indication whether the Taiwan imports were low-end, mid-range, or high-end articles. USITC Pub. 1936 at Table 27; see also id. at A-40 (description of four pricing products), Tables 23 - 26 (Korean pricing data for all four products). Also, counsel for Taiwan producers testified that "very little of the [Taiwan] product [was] exported in set configurations and the major items exported to the United States are single ply 18-0 stock pots and asparagus cookers." USITC Pub. 1936 at A-31.

Also, in the original investigations, "counsel for KMFEA and the Taiwan producers argued that approximately half of the imported top-of-the-stove stainless steel cooking ware from Korea and all imports of the product from Taiwan are of a different grade of steel (type 430 stainless steel) than that used by the domestic manufacturers and is therefore a different product." Further, "(c)ounsel for respondents argued that domestic producers do not manufacture cookware from 430 stainless steel and that the low end 430 stainless steel cooking ware from Korea and Taiwan does not compete with the higher quality domestic product but rather with the stamped aluminum cookware produced by Regal Ware and others." USITC Pub. 1936 at A-7. Although the Commission did not find TOS stainless steel cooking ware of 430 stainless to be a separate like product, and we do not do so here, this difference is further evidence of the likely limited overlap in competition between the high-end domestic product and imports from Taiwan.

[155] In its reviews, Commerce found that revocation of the antidumping duty order on TOS stainless steel cooking from Taiwan would be likely to lead to continuation or recurrence of dumping at the following margins: 15.08 to 26.10 percent for named producers in Taiwan, and 22.61 percent for all others. 70 Fed. Reg. 56444 (Sept. 27, 2005).

As discussed above, the volume of subject imports from Taiwan has increased since the original investigations notwithstanding any restraining effects of the orders.

The information in these second five-year reviews indicates that domestic producers' domestic shipments have declined further since the first reviews, as has their market share. Shipments declined from 4.25 million units and $128,659 in 1998 to only 1.44 million units and $112,411 in 2004.[156] The domestic producers' market share has shrunk from 10.3 percent on a volume basis and 37.1 percent on a value basis in 1998 to 2.3 percent on a volume basis and 23.8 percent on a value basis in 2004.[157] Nonetheless, we do not have sufficient information on this record to determine whether the domestic industry is vulnerable to material injury if the orders are revoked.

Although, as discussed above, revocation of the orders may lead to an increase in the volume of subject imports, the predominantly low-end and mid-range merchandise from Taiwan will not likely compete significantly with the high-end domestic like product and, therefore, will not likely have significant adverse prices effects if the orders are revoked. Therefore, the likely volume of subject imports from Taiwan is not likely to have a significant adverse impact on the industry's production, sales, or revenue levels, its profitability and employment levels, or its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping and countervailing duty orders on subject imports from Taiwan were revoked, subject imports would not be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

4. Conclusion

On the basis of the above, we determine that revocation of the antidumping and countervailing duty orders on TOS stainless steel cooking ware from Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping and countervailing duty orders covering POS cooking ware from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. We also determine that revocation of the antidumping and countervailing duty orders covering TOS stainless steel cooking ware from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[158] We further determine that revocation of the antidumping and countervailing duty orders covering TOS stainless steel cooking ware from Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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[156] CR/PR at Table I-14. That the quantity of domestic producers' U.S. shipments declined more steeply than did the value of those shipments suggests that the domestic industry has further concentrated its production in relatively high-value products since the first review period.

[157] Id.

[158] Vice Chairman Okun, and Commissioners Lane and Pearson dissenting. See Dissenting Views of Vice Chairman Deanna Tanner Okun, and Commissioners Charlotte R. Lane and Daniel R. Pearson.

DISSENTING VIEWS OF VICE CHAIRMAN DEANNA TANNER OKUN, AND COMMISSIONERS DANIEL R. PEARSON AND CHARLOTTE R. LANE

INTRODUCTION

Section 751(d)(2) of the Tariff Act of 1930, as amended ("the Act"), requires that the U.S. Department of Commerce ("Commerce") revoke a countervailing duty or an antidumping duty order in a five-year review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the U.S. International Trade Commission ("Commission") determines that material injury to a U.S. industry would be likely to continue or recur within a reasonably foreseeable time.[1] Based on the record in these second five year reviews, we determine that material injury is not likely to continue or recur within a reasonably foreseeable time if the antidumping and countervailing duty orders on top-of-the-stove stainless steel cooking ware ("TOS stainless steel cooking ware") from Korea are revoked.

We join our colleagues' discussion regarding domestic like product, domestic industry, cumulation, and conditions of competition. We write separately to provide our analysis of the statutory factors leading to our negative determinations.

A. Revocation Of the Antidumping and Countervailing Duty Orders On TOS Stainless Steel Cooking Ware From Korea Would Not Be Likely To Lead To Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. Likely Volume of Subject Imports

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Korea, we adopt the discussion of the legal standard contained above in Section III.D of the Views of the Commission.

In the original determinations, the Commission found that the domestic industry was materially injured by reason of cumulated imports of TOS stainless steel cooking ware from Korea and Taiwan that were subsidized and sold at less than fair value.[2] The Commission noted that while the market share of imports by quantity remained stable during the period examined, the market share by value increased, by 5.4 percentage points, and that the value of imports was a more reliable indicator of impact on the domestic industry.[3] In the remand determinations in the first five-year reviews, the majority of the Commission found that imports from Korea would be likely to increase in volume in the event of revocation, and lead to a continuation or recurrence of material injury within a reasonably foreseeable time. They concluded that the large market share that the subject producers attained prior to the imposition of the antidumping and countervailing duty orders on TOS stainless steel cooking ware, their continued maintenance of a significant market share despite the discipline imposed by the orders and their ability to significantly increase exports to the U.S. market suggested that subject Korean producers would continue to accelerate exports to the United States upon revocation of the orders. Consequently, based on the record in those reviews, the majority of the Commission concluded on remand in the first

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[1] 19 U.S.C. § 1675(d)(2).

[2] Top-of-the-Stove Stainless Steel Cookware, USITC Pub. 1936 (Jan. 1987) at 13 ("Original Determinations").

[3] Original Determinations at 12.

five-year reviews that the volume and market share of subject imports would be significant upon revocation of the orders.

Vice Chairman Okun dissented, finding that revocation of the antidumping and countervailing duty orders on TOS stainless steel cooking ware would not be likely to lead to continuation or recurrence of material injury in a reasonably foreseeable time. She found that Korean import volume was high prior to the order, but remained relatively stable during the first period of review. Given the relatively stable import volume of Korean imports, decreased Korean producer capacity, high reported capacity utilization, and low current and projected dumping and CVD margins for most producers, she found it unlikely that Korean imports would rise appreciably should the orders be revoked.[4]

The record indicates that the U.S. market has changed considerably since the last reviews. Apparent consumption fluctuated over the period of review in the original investigation, increasing from 36.7 million units in 1983 to 42.3 million units in 1984, before decreasing to 41.0 units in 1985. Since the first five-year reviews, apparent consumption increased by 51.5 percent, from 41.4 million units in 1998 to 62.7 million units in 2004.[5] Particularly relevant is the substantial increase in market share held by nonsubject imports, whose share has risen from approximately one quarter on a quantity basis during the original period of investigation to over 95 percent of the market in 2004.[6] This increase is principally fueled by an increase in imports from China, which increased from 26.4 million units in 1999 to 43.5 million units in 2004.[7] Generally, nonsubject market share has been increasing as both subject import and domestic producer market shares have declined, a trend that has continued since the last review investigations.

The record in these second five-year reviews indicates that subject imports from Korea declined significantly following issuance of the orders, and declined even further from the time of the first reviews. Subject imports from Korea declined from 20.08 million units in 1985 to 3.33 million units in 1998, then declined further to 757,000 units in 2004. On a value basis, subject imports from Korea decreased from $47.16 million in 1985 to $30.77 million in 1998, then declined to $4.58 million in 2004.[8] The corresponding market share of subject imports from Korea also declined, from 49.0 percent on a quantity basis in 1985 to 8.0 percent in 1998, and from 20.8 percent on a value basis in 1985 to 8.9 percent in 1998. By 2004, the market share of subject Korean imports had declined to 1.2 percent on a quantity basis and to 1.0 percent on a value basis.[9] The domestic industry's market share followed similar trends. Based on quantity, the domestic producer's market share declined from 20.7 percent in 1985 to 10.3 percent in 1998, then declined further to 2.3 percent in 2004. Based on value, the domestic producer's market share declined from 54.2 percent in 1985 to 37.1 percent in 1998, then declined further to 23.8 percent in 2004.[10] At the same time, the market share of nonsubject imports increased on a quantity basis from 29.2 percent in 1985 to 77.5 percent in 1998, and then increased further to 95.6 percent in 2004. On a value basis, nonsubject market share increased from 23.9 percent in 1985 to 54.5 percent in 1998 and then to 74.8 percent in 2004.[11] Clearly, nonsubject imports are taking market share from both domestic producers and subject imports.

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[4] USITC Pub. 3485 at 18-19.

[5] CR at I-40, PR at I-32.

[6] CR/PR at Table I-14.

[7] CR at I-30, PR at I-25.

[8] CR/PR at Table I-14.

[9] CR/PR at Table I-14.

[10] Id.

[11] Id.

There is no specific information on the record from the Korean producers in these reviews with respect to current TOS stainless steel cooking ware capacity or production in Korea because those producers did not respond to the Commission's requests for information. During the last review, Korean capacity had declined significantly since the original investigation. In addition, the record indicates that since 1999, Korean manufacturers have reported rising competition in their export markets from Chinese manufacturers of TOS stainless steel cooking ware. Due to these market conditions, many local Korean companies reportedly have changed product lines or have gone out of business.[12] This reported trend is consistent with the data gathered in these review investigations.

Given the declining import volumes of Korean imports, the reported fact that some Korean manufacturers have ceased producing subject product, and most importantly, the continued increase in and large market share of nonsubject imports, we find that it is unlikely that Korean imports would rise appreciably should the orders be revoked. Therefore, we find that the past and current volume levels do not indicate that there will be a significant adverse volume effect on the industry if the orders covering Korea are revoked.

2. Likely Price Effects

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Korea, we adopt the discussion of the legal standard contained above in Section III.E of the Views of the Commission.

In the original investigations, the Commission found that the pricing data were mixed because of the wide variety of configurations of stainless steel cooking ware. However, it found that pricing trends revealed a causal link between subject imports and harm to the domestic industry in that the prices for domestic products trended downward, while the prices for subject imports either stayed the same or trended downward in spite of the subject producers shift toward higher quality products. Subject imports were typically sold to retailers at prices far lower than prices for comparable domestic products.[13]

In the remand determinations in the first five-year reviews, the majority of the Commission explained that domestic products were sold primarily to distributors and the subject Korean imports were sold primarily to retailers, which left the Commission with relatively few price comparisons of similar merchandise at the same level of trade. The majority of the Commission noted that, in the small number of price comparisons, there was some indication that subject imports from Korea undersold the domestic like product. They noted that, in general, the prices for domestic products either increased or remained approximately unchanged, while prices for the subject merchandise generally declined.[14] They concluded that revocation of the antidumping and countervailing duty orders would be likely to lead to significant price suppression and depression.

In her remand determinations, Vice Chairman Okun found limited competition between subject imports and the domestic product due to differences in channels of distribution. She found that while both Korean and domestic producers served the high end market, the record indicated that their respective sales were in different channels of distribution. She found that there was limited price sensitivity in the high end of the TOS stainless steel cooking ware market, and limited side-by-side competition, particularly in the direct sales channel dominated by the domestic industry.[15] Based on

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[12] CR at I-45, PR at I-37.

[13] See USITC Pub. 3485 at 11.

[14] USITC Pub. 3485 at 11.

[15] USITC Pub. 3485 at 19 and 20.

that, she concluded that subject imports from Korea would not be likely to have a significant negative effect on domestic prices in a reasonably foreseeable time if the orders were revoked.[16]

There is no new product-specific pricing information on the record in these reviews. Based on information available in these reviews, including the determinations in the original investigations and on remand in the first five-year reviews, we find that the market for the subject merchandise is not particularly price sensitive. Moreover, as discussed above, we do not find that import volume from Korea would increase significantly in the event of revocation. Thus, we do not find that the likely volume of imports from Korea resulting from revocation of the antidumping and countervailing duty orders would have significant adverse price effects on domestic prices for TOS stainless steel cooking ware.[17]

3. Likely Impact

For the purposes of our determinations with respect to TOS stainless steel cooking ware from Korea, we adopt the discussion of the legal standard contained above in Section III.F of the Views of the Commission.

In the original investigations, the Commission found that even though apparent domestic consumption of TOS stainless steel cooking ware increased over the investigation period, the domestic producers' market share declined steadily. In terms of quantity, domestic producers' market share decreased from a high of 26.4 percent of the units sold in 1983 to 20.4 percent of units sold in 1986. In terms of value, domestic producers' market share fell from 68.2 percent in 1983 to 54.3 percent in 1986.[18]

The majority of the Commission observed in their remand determinations in the first five-year reviews that, by 1997, these figures had fallen further. In terms of quantity, the domestic producers' market share was 13.4 percent in 1997, 10.0 percent in 1998, 9.9 percent in the first nine months of 1998, and 7.8 percent in the same period of 1999. In terms of value, domestic producers' market share had decreased to 42.5 percent in 1997, decreased again to 36.4 percent in 1998, with 36.6 percent in the first nine months of 1998 and 30.1 percent in the same period in 1999.[19] They concluded, on balance, that revocation of the antidumping and countervailing duty orders on subject

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[16] USITC Pub. 3485 at 20.

[17] Commissioner Lane notes that the average unit value (AUV) of domestic shipments of TOS cookware as compared to the AUV of U.S. imports from Korea is a further indication of limited competition between subject imports and domestic product. In 1997 and 1998 the AUV of domestic shipments was $29.17 and $30.25, respectively, while the AUV of imports from Korea was $9.27 and $9.25. In 2004, the AUV of domestic shipments increased to $77.90 while the AUV of imports from Korea decreased to $6.05. There is limited information in the record on the AUV's and the significant increase in the 2004 domestic shipment AUV could be an overstatement due to an underlying data problem. Nevertheless, even a much smaller increase in the AUV of domestic shipments would still be an indication of a product divergence between subject imports from Korea and domestic production. The significant change in the relationship between the AUV of domestic shipments and imports from Korea is an indication that there has been a shift, with U.S. production moving toward a higher end product. I find that this is further indication that subject imports from Korea will not be likely to have a significant negative effect on domestic prices in a reasonably foreseeable time if the orders are revoked.

[18] USITC Pub. 3485 at 13.

[19] USITC Pub. 1936 at 12.

imports from Korea would significantly accelerate the decline in the domestic industry's financial performance.[20]

Vice Chairman Okun, in her dissenting views on remand, found that the industry was experiencing positive performance 14 years after the orders were put in place despite substantially increased nonsubject imports, declining market share, and the continued presence of subject imports in the market. Moreover, she found that there was only limited competition between the subject imports and the domestic product. Given her finding on limited competition, and no likely significant volume or price effects on the domestic industry in the event of revocation, she found that there would not be a significant impact on the domestic industry if the orders covering the subject imports from Korea were revoked.[21]

The information in these second five-year reviews indicates that domestic producers' domestic shipments have declined further since the first review, as has their market share. Shipments declined from 4.25 million units and $128.7 million in 1998 to only 1.44 million units and $112.4 million in 2004.[22] The domestic producers' market share has shrunk from 10.3 percent on a volume basis and 37.1 percent on a value basis in 1998 to 2.3 percent on a volume basis and 23.8 percent on a value basis in 2004.[23] Nonetheless, we do not have sufficient financial information on this record to determine whether the domestic industry is vulnerable.

Given our findings that increases in subject imports, if any, are not likely to have significant volume or price impacts on the domestic industry, we also find that subject imports would not be likely to have a significant impact on the domestic industry's cash flow, inventories, employment, wages, growth, ability to raise capital, or investment within a reasonably foreseeable time in the event the orders are revoked. Further, we find that revocation of the orders is not likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time.

Accordingly, we find that there is not likely to be a significant impact on the domestic industry if the orders covering the subject imports from Korea are revoked.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping and countervailing duty orders covering TOS stainless steel cooking ware from Korea would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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[20] USITC Pub. 3485 at 15.

[21] USITC Pub. 3485 at 21.

[22] CR/PR at Table I-14.

[23] Id.

INFORMATION OBTAINED IN THE SECOND REVIEWS

INTRODUCTION

On March 1, 2005, the Commission gave notice pursuant to section 751(c) of the Tariff Act of 1930 (The Act), that it had instituted reviews to determine whether revocation of the antidumping duty orders on porcelain-on-steel ("POS") cooking ware from China and Taiwan and antidumping and countervailing duty orders on top-of-the-stove stainless steel ("TOS stainless") cooking ware from Korea and Taiwan, would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.[1] On June 6, 2005, the Commission determined that the domestic interested party group responses to its notice of institution were adequate and that the respondent interested party group response was inadequate.[2] The Commission found no other circumstances that would warrant conducting full reviews. Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act of 1930 (19 U.S.C. § 1675(c)(3)).[3] Information relating to the background of the reviews is presented below in tables I-1 and I-2.

Table I-1
POS cookware: Chronology of investigation Nos. 731-TA-298 and 299

Effective date	Action	*Federal Register* citation[1]
December 2, 1986	Commerce's antidumping duty orders on China and Taiwan	51 FR 43414 and 51 FR 43416
April 14, 2000	Commerce's continuation of antidumping duty orders after first five-year reviews	65 FR 20136
March 1, 2005	Commission's institution of second five-year reviews	70 FR 9974
June 6, 2005	Commission's scheduling of expedited second five-year reviews	70 FR 35708 (June 21, 2005)
October 5, 2005	Commerce's final results of expedited sunset reviews	70 FR 58187
October 13, 2005	Commission's vote	
October 27, 2005	Commission's views transmitted to Commerce	

[1] Cited *Federal Register* notices since Commerce's continuation orders are presented in app. A.

[1] 70 FR 9974, March 1, 2005. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

[2] The Commission received three submissions in response to its notice of institution for the subject reviews. In the reviews of POS cookware, the domestic interested party submission was filed on behalf of Columbian Home Products, LLC ("Columbian"), which accounts for 100 percent of domestic production of POS cookware. In the reviews of TOS stainless cookware, the domestic interested party submission was filed by the Stainless Steel Cookware Committee ("Committee"), which is believed to account for *** percent of domestic production of TOS cookware in 2004. The Taipei Economic and Cultural Representative Office in the United States ("TECRO") filed a respondent interested party submission for both the POS and TOS stainless cookware reviews.

[3] 70 FR 35708, June 21, 2005. The Commission's scheduling notice of its expedited reviews appears in app. A. *See* the Commission's web site *(http://www.usitc.gov)* for Commissioner votes on whether to conduct an expedited or full review. The Commission's statement on adequacy is presented in app. B.

Table I-2
TOS stainless cookware: Chronology of investigations Nos. 701-TA-267 and 268 and 731-TA-304 and 305

Effective date	Action	*Federal Register* citation[1]
January 20, 1987	Commerce's countervailing duty and antidumping duty orders on Korea and Taiwan	52 FR 2138-2142
April 18, 2000	Commerce's continuation of antidumping duty and countervailing duty orders after first five-year reviews	65 FR 20801
January 30, 2002	Commission's determinations on remand	67 FR 4471
March 1, 2005	Commission's institution of second five-year reviews	70 FR 9974
June 6, 2005	Commission's scheduling of expedited second five-year reviews	70 FR 35708 (June 21, 2005)
September 27, 2005 October 4, 2005	Commerce's final results of expedited sunset reviews	70 FR 56443 70 FR 57856
October 13, 2005	Commission's vote	
October 27, 2005	Commission's views transmitted to Commerce	

[1] Cited *Federal Register* notices since Commerce's continuation orders are presented in app. A.

THE ORIGINAL INVESTIGATIONS AND FIRST FIVE-YEAR REVIEWS

POS Cookware

The Commission completed its original investigations[4] of POS cookware in November 1986, determining that an industry in the United States was materially injured by reason of less than fair value ("LTFV") imports of POS cookware from China, Mexico, and Taiwan, and by reason of subsidized imports from Mexico.[5] Commerce issued antidumping duty orders on imports of POS cookware from China, Mexico, and Taiwan[6] on December 2, 1986, and a countervailing duty order on subject imports from Mexico on December 12, 1986.[7]

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[4] The investigations resulted from a petition filed on December 4, 1985 by General Housewares Corp., Terre Haute, IN. In March 1998, Columbian acquired General Housewares' POS cookware business.

[5] *Porcelain-on Steel Cooking Ware from Mexico, The People's Republic of China, and Taiwan, Invs. Nos. 701-TA-265, 731-TA-297-299 (Final)*, USITC Publication 1911, November 1986, p. 1.

[6] On April 21, 1999, M. Kamestein, Inc. ("Kamenstein"), an importer of POS teakettles from Taiwan, filed a request for a review of the Commission's determination under section 751(b) of the Tariff Act of 1930. The Commission found that, "...the petition does not show good cause and changed circumstances sufficient to warrant institution of a review investigation." *Views of the Commission Concerning its Determination To Not Institute A Review of Investigation No. 731-TA-299, Porcelain-On-Steel Cooking Ware from Taiwan*, USITC Publication 2117, August 1998, p. 5.

[7] Commerce's subsidy and LTFV margins were as follows: subsidized imports from Mexico, net subsidy of 1.97 percent (51 FR 44827, December 12, 1986); LTFV imports from China, margin of 66.65 percent (51 FR 43414, December 2, 1986); LTFV imports from Mexico, margins ranging from 17.47 to 58.73 percent (51 FR 43415,

In 1999, the Commission conducted full five-year reviews of the POS cookware antidumping and countervailing duty orders.[8] On January 4, 2000, Commerce revoked the countervailing duty order on Mexico and the Commission terminated its five-year review of the countervailing duty order on Mexico.[9] The Commission determined that revocation of the antidumping duty orders on POS cookware from China, Mexico, and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[10] In April 2000, Commerce published notice of the continuation of antidumping duty orders on all three subject countries.[11] In April 2002, Commerce revoked the antidumping duty order on subject imports from Mexico.[12]

TOS Stainless Cookware

The Commission completed its original investigations[13] of TOS stainless cookware in January 1987, determining that an industry in the United States was injured by reason of subsidized and LTFV imports of TOS stainless cookware from Korea and Taiwan.[14] Commerce issued antidumping and countervailing duty orders on Korea and Taiwan on January 20, 1987.[15]

In 1999, the Commission decided to conduct full five-year reviews of the TOS stainless cookware orders.[16] The Commission determined that revocation of the antidumping and countervailing duty orders on TOS stainless cookware from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[17] Commerce

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December 2, 1986); LTFV imports from Taiwan, margins of 9.04 percent for First Enamel Industrial Corp., 1.99 percent for Tian Shine Enterprise Co., 2.67 percent for Tou Tien Metal Co., 2.63 percent for Li-Fong Industrial Corp., 6.48 percent for Li-Mow Enamelling Co., 23.12 percent for Receive Will Industry Co., and 6.82 percent for all others (51 FR 43416, December 2, 1986).

[8] 64 FR 27295, May 19, 1999.

[9] 65 FR 284, January 4, 2000 and 65 FR 2430, January 14, 2000. Commerce revoked the countervailing duty order on subject imports from Mexico because it did not receive comments from any interested party during its review.

[10] 65 FR 17903, April 5, 2000.

[11] 65 FR 20136, April 14, 2000.

[12] 67 FR 19553, April 22, 2002. In January 2002, Columbian requested that Commerce revoke the antidumping duty order on TOS stainless cookware from Mexico, stating that it no longer had an interest in maintaining the order. Following a changed circumstances review of the request, Commerce revoked the order.

[13] The investigations resulted from a petition filed on January 21, 1986, on behalf of the Fair Trade Committee of the Cookware Manufacturers Association, Walworth, WI.

[14] *Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan Invs. Nos. 701-TA-267-268, 731-TA-304-305 (Final),* USITC Publication 1936, January 1987.

[15] Commerce's subsidy and LTFV margins were as follows: subsidized imports from Korea, net subsidy of 0.78 percent (except for U.S. imports produced and exported by Woo Sung or Dae Sung) (51 FR 2140, January 20, 1987); LTFV imports from Korea, margins of 31.23 percent for Bum Koo, 6.11 percent for Dae Sung, 12.14 percent for Hai Dong, 28.28 percent for Kyung Dong, 1.36 percent for Namil, and 12.40 percent for all others (52 FR 2139, January 20, 1987); subsidized imports from Taiwan, net subsidy of 2.14 percent (52 FR 2141, January 20, 1987); LTFV imports from Taiwan, margins of 15.08 percent for Golden Lion Metal Industry Co., Ltd.; 25.90 percent for Song Far Industry Col, Ltd.; 26.10 percent for Lyi Mean Industrial Co., Ltd.; and 22.61 percent for all others.

[16] 64 FR 27295, May 19, 1999.

[17] 65 FR 17903, April 5, 2000.

issued notices of the continuation of the antidumping and countervailing duty orders on Korea and Taiwan in April 2000.[18]

The Commission's determinations regarding the antidumping and countervailing duty orders on subject imports from Korea were appealed to the U.S. Court of International Trade ("CIT").[19] On October 1, 2001, the CIT affirmed the Commission's "domestic like product" determination and remanded the Commission's decision to cumulate subject imports from Korea and Taiwan. On remand, the Commission did not cumulate subject imports from Korea and Taiwan and again determined that the revocation of the antidumping and countervailing duty orders of TOS stainless cookware from Korea would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.[20] On review after remand, the CIT affirmed the Commission's remand results, finding that substantial evidence supported the Commission's determinations with respect to Korea.[21]

COMMERCE'S ADMINISTRATIVE REVIEWS

POS Cookware

Commerce has not conducted any administrative reviews of the antidumping duty order on POS cookware from Taiwan, therefore the original antidumping duty margins are still in effect and are presented in the tabulation below.[22]

Federal Register citation	Margin *(percent)*
December 2, 1986 (51 FR43416)	First Enamel Industrial Corp.....9.04 Tian Shine Enterprise Co..... 1.99 Tou Tien Metal Co.....2.67 Li-Fong Industrial Corp.....2.63 Li-Mow Enamelling Co.....6.48 Receive Will Industry Co..... 23.12 All others..... 6.82

Commerce has conducted five administrative reviews of the antidumping duty order on POS cookware from China, as presented in table I-3. Currently, all imports of POS cookware from China, except those from one firm,[23] are subject to a dumping rate of 66.65 percent *ad valorem*.

[18] 65 FR 20801, April 18, 2000.

[19] Chefline Corporation v. United States, 219 F.Supp.2d 1303 (Ct. Int'l Trade 2002).

[20] 67 FR 4471, January 30, 2002. See also *Top-of-the-Stove Stainless Steel Cooking Ware from Korea (Views on Remand: Invs. Nos. 701-TA-267 and 731-TA-304 (Review) (Remand))*, USITC Publication 3485, January 2002, pp. 1 and 5.

[21] Chefline Corporation v. United States, 219 F.Supp.2d 1303 (Ct. Int'l Trade 2002).

[22] 51 FR 43417, December 2, 1986.

[23] Clover Enamelware Enterprise, Ltd. and its affiliated reseller, Lucky Enamelware Factor Ltd. are subject to a dumping rate of 0.81 percent. 63 FR 27261, May 18, 1998. *See also* 63 FR 1434, January 9, 1998.

Table I-3
POS cookware: Commerce's administrative reviews of imports from China

Period of review	*Federal Register* citation	Margin *(percent)*
May 20, 1986 to November 30, 1987	November 7, 1990 (55 FR 46850)	13.76 - 66.65
December 1, 1987 to November 30, 1988	March 29, 1990 (55 FR 11632)	66.65
December 1, 1990 to November 30, 1991	July 10, 1998 (57 FR 30717)	66.65
December 1, 1993 to November 30, 1994	October 22, 1997 (62 FR 54825)	66.65
December 1, 1995 to November 30, 1996	May 18, 1998 (63 FR 27261)	0.81 - 66.65
Source: Cited *Federal Register* notices.		

TOS Stainless Cookware

Commerce has not conducted any administrative reviews of the antidumping or countervailing duty orders on TOS stainless cookware from Taiwan, therefore the original countervailable subsidy rate and antidumping duty margins are still in effect and are presented in the tabulation below.[24]

Federal Register citation	Rate/margin *(percent)*
January 20, 1987 (52 FR 2141)	Net subsidy.....2.14
January 20, 1987 (52 FR 2141)	Golden Lion Metal Industry Co., Ltd.....15.08 Song Far Industry Col, Ltd..... 25.90 Lyi Mean Industrial Co., Ltd..... 26.10 All others.....22.61

The net subsidy rate for all Korean manufacturers is 0.78 percent *ad valorem*, except for two firms, Woo Sung Company, Ltd. and Dae Sung Industrial, Ltd., whose rates were *de minimis*.[25] Commerce has conducted six administrative reviews of the antidumping duty order on TOS stainless cookware from Korea, as shown in table I-4. Currently, the LTFV margins range from 0.17 to 31.23 percent *ad valorem*.[26]

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[24] *Countervailing Duty Order Certain Stainless Steel Cooking Ware From Taiwan*, 52 FR 2141, January 20, 1987.

[25] 51 FR 42867, November 26, 1986.

[26] The company specific LTFV margins are as follows: 0.17 percent for Dong Won Metal Co., Ltd.; 0.90 percent for Dae-Lim Trading Co.; and 31.23 percent for Chefline Corporation, Sam Yeung Ind. Co., Ltd., Kyung-Dong Industrial Co., Ltd., Han II Stainless Steel Ind. Co., Ltd., East One Co., Ltd., Charming Art Co., Ltd., Won Jin Ind. Co., Ltd., Hanil Stainless Steel Ind. Co., Ltd., East West Trading Korea, Ltd., Clad Co., Ltd., B.Y.Enterprise, Ltd., Namyang Kitchenflower Co., Ltd., Ssang Yong Ind. Co., Ltd., O. Bok Stainless Steel Co., Ltd., Bae Chin Metal Ind. Co., Poong Kang Ind. Co., Ltd.. 68 FR 7504, February 14, 2003.

Table I-4
TOS stainless cookware: Commerce's administrative reviews of imports from Korea

Period of review	Date results published and Federal Register citation	Margin *(percent)*
July 7, 1986 to December 31, 1987	February 22, 1993 (58 FR 95560)	0.88 - 31.23
January 1, 1989 to December 30, 1989	August 12, 1991 (50 FR 38114)	1.69 - 31.23
January 1, 1990 to December 30, 1990	March 8, 1994 (50 FR 10788)	1.06 - 31.23
January 1, 1999 to December 31, 1999	August 29, 2001 (66 FR 45664)[1]	1.67 - 31.23
January 1, 2000 to December 31, 2000	June 12, 2002 (67 FR 40274)	1.26 - 31.23
January 1, 2001 to December 31, 2001	February 14, 2003 (68 FR 7504)	0.17 - 31.23

[1] Antidumping Duty Administrative Review amended, 66 FR 49930, October 1, 2001.

Source: Cited *Federal Register* notices.

COMMERCE'S FINAL RESULTS OF EXPEDITED SUNSET REVIEWS

As a result of its expedited sunset reviews, Commerce determined that revocation of the antidumping duty orders for POS cookware from China and Taiwan, and revocation of the antidumping and countervailing duty orders for TOS stainless cookware from Korea and Taiwan, would be likely to lead to continuation or recurrence of dumping and countervailable subsidies as follows:[27]

[27] *Porcelain–on-Steel Cooking Ware from the People's Republic of China and Taiwan; Five-year (''Sunset'') Reviews of Antidumping Duty Orders; Final Results*, 70 FR 58187, October 5, 2005; *Top–of-the–Stove Stainless Steel Cooking Ware from the Republic of Korea and Taiwan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 56443, September 27, 2005; *Final Results of Expedited Sunset Review of Countervailing Duty Order: Top–of-the–Stove Stainless Steel Cookware from South Korea*, 70 FR 57856, October 4, 2005; and *Final Results of Expedited Sunset Review of Countervailing Duty Order: Top–of–the–Stove Stainless Steel Cookware from Taiwan* 70 FR 57856, October 4, 2005.

POS cookware (antidumping duty orders)[1]

Country	Producer/exporter	Weighted-average margin (*percent ad valorem*)
China	China National Light Industrial Products Import and Export Corp.	66.65
	PRC-wide rate	66.65
Taiwan	First Enamel Industrial Corp.	9.04
	Tian Shine Enterprise Co., Ltd.	1.99
	Tou Tien Metal (Taiwan) Co., Ltd.	2.67
	Li-Fong Industrial Co., Ltd.	2.63
	Li-Mow Enameling Co., Ltd.	6.48
	Receive Will Industry Co.	23.12
	All others rate	6.82

[1] *Porcelain-on-Steel Cooking Ware from the People's Republic of China and Taiwan; Five-year ("Sunset") Reviews of Antidumping Duty Orders; Final Results.* 70 FR 58188, October 5, 2005.

TOS stainless cookware

Antidumping duty orders[1]

Country	Producer/exporter	Weighted-average margin (*percent ad valorem*)
Korea	Bum Koo Industrial Co., Ltd.	31.23
	Dae Sung Industrial Co., Ltd.	6.11
	Hai Dong Stainless Industries, Co.	12.14
	Kyung Dong Industrial Co., Ltd.	8.36
	Namil Metal Co., Ltd.	0.75
	All others	8.10
Taiwan	Golden Lion Metal Industry Co., Ltd.	15.08
	Lyi Mean Industrial Co., Ltd.	26.10
	Song Far Industry Co., Ltd.	25.90
	All others	22.61

Countervailing duty orders

Country	Producer/exporter	Net countervailable subsidy (*percent*)
Korea[2]	All manufacturers/exporters[3]	0.77
Taiwan[4]	All manufacturers/exporters	2.14

[1] *Top-of-the-Stove Stainless Steel Cooking Ware from the Republic of Korea and Taiwan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 56444, September 27, 2005.
[2] *Final Results of the Expedited Sunset Review of the Countervailing Duty Order: Top-of-the-Stove Stainless Steel Cookware from Taiwan*. 70 FR 57856, October 4, 2005.
[3] Dae Sung Industrial Co., and Woo Sung Company Ltd. Were excluded from the order. *Countervailing Order: Certain Stainless Steel Cooking Ware from the Republic of Korea*, 52 FR 2140, January 20, 1987.
[4] *Final Results of the Expedited Sunset Review of the Countervailing Duty Order: Top-of-the-Stove Stainless Steel Cookware from South Korea*. 70 FR 57857, October 4, 2005.

DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY OFFSET ACT FUNDS TO AFFECTED DOMESTIC PRODUCERS

Since September 21, 2001, qualified U.S. producers of POS cookware and TOS stainless cookware have been eligible to receive disbursements from the U.S. Customs and Border Protection ("Customs") under the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), also known as the Byrd Amendment.[28] Three firms received such funds for POS cookware and TOS stainless cookware.[29] Table I-5 presents CDSOA claims and disbursements for Federal fiscal years 2001-04 for Columbian, Newell Rubbermaid, and Regal Ware Inc. ("Regal Ware").

Table I-5
POS cookware and TOS stainless cookware: CDSOA claims and disbursements, Federal fiscal years 2001-04[1]

Item	2001	2002	2003	2004
	Value (dollars)			
Amount of claim filed:				
Columbian	180,459,110	180,020,291	180,227,462	177,641,928
POS total	180,459,110	180,020,291	180,227,462	177,641,928
Newell Rubbermaid	(2)	320,541,770	(2)	(2)
Regal Ware	311,910,267	312,143,944	320,844,510	341,162,173
TOS stainless total	311,910,267	632,685,714	320,844,510	341,162,173
Amount disbursed:				
Columbian	438,819	747,417	1,630,946	1,464,442
POS total	438,819	747,417	1,630,946	1,464,442
Newell Rubbermaid	(2)	1,209,673	(2)	(2)
Regal Ware	4,218,268	1,177,980	3,793,198	613,166
TOS stainless total	4,218,268	2,387,653	3,793,198	613,166

[1] The Federal fiscal year is October 1 to September 30.
[2] None reported.

Source: U.S. Customs and Border Protection's CDSOA *Annual Reports*. Retrieved at *www.cbp.gov/xp/cgov/import/add_cvd/*.

[28] 19 CFR 159.64(g).

[29] *See* U.S. Customs CDSOA *Annual Reports* for fiscal years 2001, 2002, 2003, and 2004.

THE SUBJECT PRODUCTS

Scope

Although the imported products subject to the antidumping and countervailing duty orders under review consist of POS cookware and TOS stainless cookware, the specific scope definitions for each of the subject countries vary somewhat. For the original investigations and subsequent reviews, Commerce published the definitions applicable to each country in various *Federal Register* notices. Commerce's definitions of the scope of the products subject to the antidumping and countervailing duty orders during the current reviews are presented below.

POS Cookware from China

The imported products subject to the antidumping duty order on product from China are POS cooking ware:

> *. . . including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. As a result of the Department's prior scope exclusion determinations, the following products are excluded from the scope of the order of POS cooking ware: barbeque grill basket, Delux Grill Topper, Porcelain Coated Grill Topper, and Wok Topper.*[30]

Commerce has issued several scope clarifications on POS cookware from China.[31]

POS Cookware from Taiwan

The imported products subject to the antidumping duty order on product from Taiwan are POS cooking ware:

> *. . . that do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. Kitchenware and teakettles are not subject to this order.*[32]

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[30] *Notice of Recision of Antidumping Duty Administrative Review*, 68 FR 19781, April 22, 2003; and *Porcelain–on-Steel Cooking Ware from the People's Republic of China and Taiwan; Five-year (''Sunset'') Reviews of Antidumping Duty Orders; Final Results*, 70 FR 58187, October 5, 2005.

[31] In response to a request from CGS International, on January 30, 1991, Commerce clarified that high quality, hand finished cookware, including the small basin, medium basin, large basin, small colander, large colander, 8" bowl, 6" bowl, mugs, ash tray, napkin rings, utensil holder and utensils, ladle, cream & sugar, and mixing bowls are properly considered kitchen ware and are therefore, outside the scope of the order. Further, Commerce clarified that CGS International's casserole, 12-cup coffee pot, 6-cup coffee pot, roasting pan, oval roaster, and butter warmer are within the scope of the order. See *Notice of Scope Rulings*, 56 FR 1983, April 30, 1991. In response to a request from Texsport, on August 8, 1990, Commerce determined that camping sets, with the exception of the cups and plates included in those sets, are within the scope of the order. In response to a request from Tristar Products, Commerce determined that grill sets with aluminum grill plate are outside the scope. In response to a request from the Target Corporation, Commerce determined that certain enamel-clad beverage holders and dispensers are outside the scope of the order. See *Notice of Scope Rulings*, 55 FR 43020, October 25, 1990.

[32] 70 FR 58187, October 5, 2005.

Commerce has issued several scope clarifications on POS cookware from Taiwan.[33]

TOS Stainless Cookware from Korea and Taiwan

The imported products subject to the antidumping and countervailing duty orders are:

> *. . . all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers. Excluded from the scope of the order is stainless steel oven ware and stainless steel kitchen ware.*[34]

Commerce has issued several scope clarifications for the orders on Korea[35] and Taiwan.[36]

U.S. Tariff Treatment

In the first five-year reviews, U.S. import data were based on official Commerce statistics as reported under HTS statistical reporting numbers 7323.94.0010 and 7323.94.0020 for POS cookware, and 7323.93.0030 for TOS stainless cookware.[37] Due to tariff classification changes, as of 2003 POS cookware imports are reported under HTS statistical reporting numbers 7323.94.0010, 7323.94.0021, and 7323.94.0026; and TOS stainless cookware is classified under HTS statistical reporting number

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[33] On October 39, 1996, Cost Plus, Inc.'s 10 piece porcelain-on-steel fondue set was found to be within the scope of the order. *See Notice of Scope Rulings*, 62 FR 9176, February 28, 1992. On August 18, 1995, Blair Corporation's Blair cooking ware items #1101 (seven piece cookware set), #271911 (eight-quart stock pot), and #271921 (twelve-quart stock pot) were found to be outside the scope of the order. *See Notice of Scope Rulings,* 60 FR 36782, July 18, 1995. On September 3, 1992, in response to a request from Mr. Stove Ltd., stove top grills and drip pans were found to be outside the scope of the order. *See Notice of Scope Rulings*, 57 FR 57420, December 4, 1992). On September 25, 1992, in response to a request from Metrokane Inc., the 'Pasta Time' pasta cooker was found to be within the scope of the order. *See Notice of Scope Rulings*, 57 FR 57420, December 4, 1992. On August 23, 1990, in response to a request from RSVP, BBQ grill baskets were found to be outside the scope of the order. *See Notice of Scope Rulings*, 55 FR 43020, October 25, 1990.

[34] 70 FR 56443, September 27, 2005; and 70 FR 57856, October 4, 2005.

[35] Commerce determined that certain stainless steel pasta and steamer inserts and certain stainless steel eight-cup coffee percolators are within the scope of the order on Korea. Moreover, as a result of a changed circumstances review, Commerce revoked the order on Korea with regards to certain stainless steel camping ware that (1) is made of single-ply stainless steel having a thickness no greater than 6.0 millimeters; and (2) consists of 1.0, 1.5, and 2.0 quart saucepans without handles and with lids that also serve as fry pans. 68 FR 7504, February 14, 2003.

[36] Commerce determined that 'Universal pan lids' are not within the scope of the order on Taiwan. 57 FR 57420, December 4, 1992.

[37] Merchandise reported under HTS subheading 9604.00 (hand sieves and riddles) is not included in these reviews, as it was not included in the first five-year review report. Imports of such merchandise, recorded by Commerce by value only and not quantity, were equivalent to about one percent of the value of U.S. imports reported under HTS statistical reporting numbers 7323.93.0030, 7323.94.0010, and 7323.94.0020 combined in 1998. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. I-9, n. 6.

7323.93.0045.[38] The HTS numbers are provided for convenience and for Customs purposes, but Commerce's written description of the merchandise is dispositive as to the scope of the product coverage.

Table I-6 presents current tariff rates for POS cookware and TOS stainless cookware. In addition to antidumping duty rates, imports of POS cookware from China and Taiwan are subject to a 2.7 percent *ad valorem* general duty rate. Imports of TOS stainless cookware from Korea and Taiwan are subject to a 2.0 percent *ad valorem* general duty rate, in addition to countervailing and antidumping duty rates.

Table I-6
POS cookware and TOS stainless cookware: Tariff rates, 2005

HTS provision	Article description	General[1]	Special[2]	Column 2[3]
		Rates (*percent ad valorem*)		
7323	Table, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel			
7323.93.00	Of stainless steel	2	Free(2)	40
	Cooking and kitchen ware:			
7323.93.0015	Teakettles			
7323.93.0035	Other: Cooking ware: Bakeware (cookware not suitable for stove top use)			
7323.93.0045	Other			
7323.94.00	Of iron (other than cast iron) or steel, enameled	2.7	Free(2)	35.5
	Cooking and kitchen ware: Of steel:			
7323.94.0010	Teakettles[4]			
7323.94.0021	Other: Cooking ware: Bakeware (cookware not suitable for stove top use)			
7323.94.0026	Other			

[1] Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to imports from China.
[2] Special rates apply to cookware imports from certain trading partners to the United States. The notes to the HTS indicate that duty-free entry is available to products under the Andean Trade Preference Act, the Carribean Basin Recovery Act, and U.S. free-trade agreements with Australia, Canada, Chile, Israel, Jordan, Mexico, and Singapore.
[3] Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.
[4] Applicable to teakettles from China. Teakettles from Taiwan are not subject to antidumping duties (62 FR 10024, March 5, 1997).

Note: Subject merchandise is entered under highlighted HTS categories.

Source: Harmonized Tariff Schedule of the United States (2004).

[38] On January 1, 2003 statistical reporting numbers 7323.93.0030 and 7323.94.0020 were discontinued. The merchandise previously reported under statistical reporting numbers 7323.93.00.30 were divided among two new statistical reporting numbers: 7323.93.0035 (bakeware) and 7323.93.0045 (other cooking ware). The merchandise previously reported under statistical reporting numbers 7323.94.00.20 were divided among two new statistical reporting numbers: 7323.94.0021 (bakeware) and 7323.94.0026 (other cooking ware). Committee for Statistical Annotation of the Tariff Schedule, as reflected in HTS.

The Domestic Like Product

In its original determinations on POS cookware from China, Mexico, and Taiwan, the Commission found one domestic like product consisting of all POS cookware, including teakettles.[39] In its original determinations on TOS stainless cookware from Korea and Taiwan, the Commission found one domestic like product consisting of all TOS stainless cookware, excluding teakettles, ovenware, and kitchenware.[40] In the first full five-year reviews, domestic interested parties argued that the Commission should adopt the original like product definitions for the POS cookware and TOS stainless cookware reviews, while the respondent interested party in both reviews contended that the domestic like product for each set of reviews should include all metallic cookware.[41] The Commission did not find reason to depart from the definitions of the domestic like product of POS cookware and TOS stainless cookware established in the original investigations.[42]

In response to the Commission's notice of institution in these second five-year reviews, the domestic interested party for POS cookware, Columbian, and the domestic interested party for TOS stainless cookware, the Stainless Committee, stated that they agree with the Commission's definition of the domestic like product.[43] The only respondent interested party that submitted a response to the Commission's notice of institution in these reviews, TECRO, did not comment on the definition of the domestic like product.

POS Cookware[44]

POS cookware consists of articles of porcelain-coated steel used as receptacles in the cooking and heating of food. Related items of porcelain-coated steel used only to handle or process food, i.e., POS kitchenware, such as mixing bowls and colanders, are not included. Porcelain is an opaque glass, suffused onto the steel during the production process by means of intense heat.

Among the most common POS cookware articles are skillets, frypans, saucepans, double boilers, dutch ovens, stock pots, steamers, canners, blanchers, coffee pots, egg poachers, teakettles, broiling pans, and roasters. Although such articles of POS cookware are primarily identified according to the kind of

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[39] *Porcelain-on Steel Cooking Ware from Mexico, The People's Republic of China, and Taiwan, Invs. Nos. 701-TA-265, 731-TA-297-299 (Final)*, USITC Publication 1911, November 1986. Commissioner Rohr dissented from thsi finding and instead found two like products, POS teakettles and other POS cookware. Ibid. at pp. 19-20, n. 5.

[40] *Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 701-TA-267-268, 731-TA-304-305 (Final)*, USITC Publication 1936, January 1987.

[41] The Mexican respondent, Cinsa, proposed a definition that would combine POS cookware with all other metallic cookware and ovenware (e.g., stainless steel and aluminum) for the POS cookware reviews. For the TOS stainless cookware reviews, the Korean respondents proposed a definition that would combine stainless steel with all other metallic TOS stainless cookware (excluding ovenware). *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Invs. Nos. 701-TA-267 and 268 (Review) and 731-TA-297-299, 304 and 305 (Review)*, USITC Publication 3286, March 2000, p. 7.

[42] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Invs. Nos. 701-TA-267 and 268 (Review) and 731-TA-297-299, 304 and 305 (Review)*, USITC Publication 3286, March 2000, pp. 8-9.

[43] *See* Columbian's response to the Commission's notice of institution (April 20, 2005) p. 21 and The Stainless Committee's response to the Commission's notice of institution (April 20, 2005) p. 28.

[44] The discussion in this section is from the first review, unless otherwise noted. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, pp. I-14-19.

cooking they are designed to perform and/or the kind of food they are designed to heat, their use, to a greater extent, may be linked to their unique characteristics for specialized applications.

All of the most common articles of POS cookware identified above are sold in a wide variety of shapes, sizes, configurations, steel thicknesses, colors, decorative patterns, trim, handle designs (either wood, phenolic resin or various metals), and/or price ranges. Over the years these articles have become increasingly differentiated, particularly in terms of style and decoration. Several variations of a single article may be offered by a single producer. Most articles of POS cookware are sold individually; the remainder are sold in sets, the most common consisting of seven pieces, such as a skillet, dutch oven, two sauce pans, and three lids, with one lid serving both the skillet and dutch oven.

Interchangeability

POS cookware is best suited for specialized applications rather than for everyday cooking, especially for roasting where its sturdy steel base and superior heat absorption characteristics are important advantages. In contrast, both aluminum and stainless steel have reflective properties and do not absorb heat. Further, the glass surface of POS cookware does not interact with certain types of foods as does aluminum cookware. Its relatively light construction is preferred for larger vessels compared with cast iron or cast aluminum, and it is relatively low cost. POS cookware also is reported to lack the durability that is found in stainless steel, aluminum, iron, and copper cookware in these applications.

Channels of Distribution

As reported during the first five-year reviews, both domestic and foreign producers sold POS cookware in the United States primarily to large retail mass merchandisers and mail-order houses, and to large houseware distributors which served the smaller retailers. POS cookware was not normally sold to high end department stores, to gourmet shops, or through direct sales (e.g., door-to-door, or in-home demonstrations). In fact, heavy-gauge POS cookware tended to be sold, along with other mid- to high-end cookware, to department stores and specialty stores. The Chinese sold predominantly to large retailers and had some sales representation. POS cookware from Taiwan was sold to both large retailers and distributors.

Customer Perceptions

During the first five-year reviews, it was reported that POS cookware was not regarded as being very durable, especially in comparison with stainless steel cookware, but was seen as a good value in the applications where it is preferred. It was generally not considered everyday cookware, but rather special purpose cookware.

According to purchaser questionnaire responses, POS cookware was perceived to be less convenient than non-stick cookware and less durable than stainless steel cookware. It was seen as a lower cost, lower quality cookware used for specialty purposes such as camping. While some purchasers stipulated that customer preferences and price may limit the substitutability of these other types of cookware for POS cookware, the majority of responses indicated that any other type of cookware can easily be substituted for POS cookware (e.g., stainless steel cookware, aluminum, cast iron, etc.). In fact, the Mexican producer indicated that price, style, shape, and size, rather than the component material, determine which cookware article will be purchased by the consumer. Therefore, retailers will sell a full range of cookware based on different price points rather than material.[45] Additionally, because POS

[45] Mexican producers' prehearing brief, p. 12.

cookware was seen as a lower cost, lower quality cookware, it competes directly with other low-end cookware such as pressed aluminum and lower quality stainless steel.[46]

Price

According to information gathered during the first review, prices of cookware vary according to the size, shape, and component material used. Light-gauge POS cookware is generally the least expensive type of cookware, along with light-gauge stamped aluminum and lower quality stainless steel cookware. Heavy-gauge POS cookware is relatively more expensive because of the heavier steel, added layers of porcelain, and added decorative aspects.

All of the most common articles of POS cookware are imported into the United States from one or more of the countries subject to the existing orders. According to information reported in the first five-year reviews, the domestic producer only makes light-gauge POS cookware.[47] The domestic producer also reported that all the subject imports are of the light-gauge POS cookware.[48] While some of the POS cookware articles are very similar, if not identical, there can be variation in terms of size, decoration, and other characteristics identified above.

TOS Stainless Cookware[49]

TOS stainless cookware consists of articles principally used to cook food on surface heating elements, such as saucepans, skillets, dutch ovens, double boilers, and stock pots. Stainless steel teakettles, fish poachers, kitchenware, ovenware, and bakeware (such as roasters, cookie sheets, and bread pans) are not included within the scope of these reviews.

Stainless steel cookware contains chrome and, in most cases, nickel in varying amounts. These alloys in the steel help prevent rust, add shine and luster, and contribute to the durability of the product. TOS stainless cookware is available in several grades of steel as well as several different layers of thickness or ply.

Interchangeability

As reported during the first five-year reviews, TOS stainless cookware is not interchangeable with other types of top-of-stove cookware. Stainless steel cookware is durable, non-reactive, dishwasher safe, easy to clean, does not rust or tarnish, and has a smooth and shiny appearance. It does not scratch like anodized aluminum or non-stick interior cookware. It does not react with certain types of foods and is more suitable in these applications than aluminum cookware. Questionnaire respondents indicated that stainless steel cookware is not as suitable for frying and sauteing as cast iron or non-stick aluminum, because it does not have very good food release or heat distribution properties.

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[46] Ibid., p. 13.

[47] No information was provided by Chinese or Taiwanese firms as to whether or not they also produce heavy-gauge POS cookware.

[48] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. I-15.

[49] The discussion in this section is from the first review, unless otherwise noted. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, pp. I-14-19.

Channels of Distribution

During the first five-year reviews, it was noted that TOS stainless cookware was sold in the United States through all U.S. retail channels of distribution, including department stores, mass merchandisers, catalogue showrooms, mail-order houses, gourmet shops, direct sales, and housewares distributors. Producers indicated that direct sales channels accounted for the majority of their sales. Additionally, according to producers, the majority of cookware sold through direct sales channels (e.g., door-to-door or in-home demonstrations) was stainless steel cookware because of its durability. POS cookware and most aluminum cookware was not sold through direct sales channels of distribution.

Customer Perceptions

Information gathered during the first five-year reviews indicated that TOS stainless cookware was regarded by customers as durable, easy to clean, low maintenance, and dishwasher safe. It was seen as having good cooking properties because it did not interact with food, and as modern and fashionable because of its shiny appearance. It was also often regarded as a once-in-a-lifetime purchase.

Price

As reported during the first five-year reviews, TOS stainless cookware can be found in low, mid, and high price ranges depending on the quality of the cookware. Single ply TOS stainless cookware is less expensive than brazed or bonded TOS stainless cookware, but generally more expensive than POS cookware. Higher quality bonded stainless steel cookware is less expensive than copper cookware but relatively close in price to anodized aluminum cookware. Like POS cookware, prices for TOS stainless cookware vary depending on its size, gauge, and construction. Prices can also vary according to brand name, especially in the high-end top-of stove SS cookware.

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

Columbian remains the sole domestic producer of POS cookware.[50] The number of firms producing TOS stainless cookware in the United States decreased from nine at the time of the original investigations in 1985 to seven firms in 1999.[51] The domestic TOS stainless cookware industry has experienced further consolidation since 2000. It is currently estimated that there are five domestic producers of TOS stainless cookware, as Regal Ware acquired West Bend[52] and Revereware closed its production facilities.[53] Two producers that responded to the Commission's notice of institution, Regal Ware and Vita Craft Corp. ("Vita Craft"), accounted for about *** percent of estimated 2004 production by quantity of TOS stainless cookware. These two firms accounted for *** percent of domestic

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[50] *See* Columbian's response to the Commission's notice of institution (April 20, 2005) p. 20.

[51] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. 21-22.

[52] In November 2002, Regal Ware acquired the West Bend Company from Illinois Tool Works, Inc. Regal Ware closed its Kewaskum, WI plant in 2004 and consolidated all its stainless steel production to its facility in West Bend, WI. Stainless Committee's response to the Commission's notice of institution (April 20, 2005) p. 25. *See also* website: www.wme.com/index.cfm/fuseaction/media.

[53] The Revere brand name is now owned by World Kitchen Inc.

production by quantity in the first five-year reviews.[54] Information on domestic producers of POS and TOS stainless cookware is summarized in table I-7.

Table I-7
POS cookware and TOS stainless cookware: Domestic producers, locations, distribution channels, and important events, 1999-2005

Firm (parent company)	Location	Distribution channels	Production and important events
POS cookware:			
Columbian	Terre Haute, IN.	Products are sold at K-mart, Wal-mart, and hardware stores. Columbian products are not sold for commercial use.	Some product lines are imported from overseas including from China. Exclusive distribution agreement with CINSA (Mexico), a respondent in the previous review.
TOS stainless cookware:[1]			
All-Clad Metalcrafters (Group SEB, France)	Canonsburg, PA.	Products are sold at gourmet and specialty stores.	Manufactures the majority of its products in the United States. 1999: bought by Waterford-Wedgewood. June 2004: bought by Group SEB.
New Era Inc.	Clarksville, TN.	Direct sales.	Manufactures the majority of its products in the United States.
Regal Ware Inc.	West Bend, WI.	Direct sales.	September 1999: Retail cookware business sold to Newell-Rubbermaid's Mirro unit. March 2004: Newell-Rubbermaid sells Mirro Cookware to Global Home Products, LLC, an affiliate of Cerberus Capital Management March 2004: The Kewaskum, WI plant was closed. 2002: Regal acquires West Bend Company.
Vita Craft	Shawnee, KS.	High-quality products are sold through independent distributors under a variety of brand names.	Manufactures its products in the United States.

[1] As reported during the first five-year review, a fifth U.S. producer, Calphalon Corp., ***. Confidential Staff Report, Inv. No. 731-TA-046, February 20, 2000, p. I-31, table I-7.

Source: Compiled from websites of individual cookware companies and the Cookware Manufacturers Association.

[54] Stainless Committee's response to the Commission's notice of institution (April 20, 2005), exh. 9.

U.S. Producers' Trade, Employment, and Financial Data

Table I-8 presents information on Columbian's trade, employment, and financial data during 1983-85, 1997-98, and 2004. From 1998 to 2004, Columbian's production decreased *** percent and its quantity of U.S. shipments decreased *** percent.

Table I-8
POS cookware: Columbian's trade, employment, and financial data, 1983-85, 1997-98, and 2004

* * * * * * *

Table I-9 presents trade, employment, and financial data on domestic producers of TOS stainless cookware during 1983-85, 1997-98, and 2004. From 1998 to 2004, domestic production decreased 66.8 percent and the quantity of U.S. shipments decreased 66.1 percent. The Committee did not comment specifically on reasons for the decrease in production but noted, "...the domestic industry has become vulnerable to material injury in recent years as current market conditions have deteriorated to a state that is worse than those conditions that existed at the time the orders were imposed."[55]

U.S. Producers' Raw Material Costs

Cookware producers face increasing costs of raw materials and energy. During the last few years, for example, worldwide prices of carbon steel and stainless steel, the key raw materials used in the production of the subject products, have steadily increased. In particular, during 2003-04, the high and volatile prices of the alloys that are used in making stainless steel have contributed significantly to the prices of stainless steel cookware. Prices of carbon steel and stainless steel, however, recently have stabilized owing to global oversupply.[56]

During the last few years, global prices of steel have also risen sharply because of robust demand by China, which lacks sufficient domestic supply of most major metals and relies on imports to satisfy the demand of its expanding economy.[57] The rise in global energy costs[58] has also exerted upward pressure on the U.S. production costs of cookware.

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[55] Stainless Committee's response to the Commission's notice of institution (April 20, 2005), p. 5.

[56] New Era, for example, uses T304-grade surgical stainless steel because it provides a non-reactive surface and eliminates the need for added oils, found at http://www.neweracookware.com, retrieved May 6, 2005. The price of nickel, a raw material for making stainless steel reportedly ranged from $10,000 to $18,000 per metric ton in 2004. The price of 304-grade stainless steel coil increased from $900 per metric ton in April 2003 to $1,250 per metric ton in April 2004 (nearly 40 percent increase in one year) and has remained stable at this level. See *Stainless Steel Review*, North American Edition, , March 2005, pp. 1, 4. Global production of crude stainless steel reportedly reached 24.6 million metric tons, a 7.5-percent increase over 2003. "Global Stainless: Oversupply Could Last to the End of this Year," See *Stainless Steel Review*, North American Edition, April 2005, p. 9. The price of carbon steel reportedly has been falling from recent highs as the supply of steel increased. See "Update 1-U.S. Steel Stock Down on Furnace Closing," Reuters, May 12, 2005, found at http://yahoo.reuters.com, retrieved May 12, 2005.

[57] Because of the worldwide shortage of iron ore, steel scrap and coke, the price for iron and steel increased by 37 percent in 2004. Michael D. Fenton, "Iron and Steel, The Mineral Industry of China," *U.S. Geological Survey Mineral Yearbook-2002*, pp. 9.1- 9.2.

[58] The producer price index for energy increased from 87.4 in March 2002 to 140.1 in March 2005, an increase of 52.7 percent in 3 years. U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Index- Commodities, found at http://data.bls.gov/cgi-bin/srgate, retrieved May 12, 2005.

Table I-9
TOS stainless cookware: U.S. producers' trade, employment and financial data, 1983-85, 1997-98, and 2004

Item	1983	1984	1985	1997	1998	2004
Capacity (*1,000 units)*	20,982	23,445	23,455	8,860	9,011	(1)
Production (*1,000 units*)	15,687	14,219	11,677	6,335	5,851	1,940
Capacity utilization (*percent*)	74.8	60.7	49.8	71.5	65.1	(1)
U.S. shipments: Quantity (*1,000 units*)	9,679	9,243	8,484	4,713	4,253	1,443
Value (*1,000 dollars*)	135,188	134,548	122,632	137,520	128,659	112,411
Unit value (*dollars per unit*)	13.97	14.56	14.45	29.18	30.25	77.90
Export shipments: Quantity (*1,000 units*)	***	***	***	1,676	1,509	(1)
Value (*1,000 dollars*)	***	***	***	42,114	37,067	(1)
Unit value (*dollars per unit*)	***	***	***	25.13	24.56	(1)
Production and related workers ("PRWs")	1,827	1,892	1,600	***	***	(1)
Hours worked (*1,000 hours*)[3]	3,511	3,494	3,085	1,253	1,173	(1)
Total compensation paid (*$1,000*)[3]	38,265	40,228	37,562	13,816	13,395	(1)
Hourly wages [3]	10.90	11.51	12.18	11.03	11.42	(1)
Productivity (*units per hour*)[3]	4.5	4.1	3.8	5.1	5.0	(1)
Unit labor costs (*per unit*)[3]	2.42	2.81	3.21	2.18	2.28	(1)
Net sales (*$1,000*)	465,808	552,050	494,445	179,634	165,726	(1)
Cost of goods sold (COGS) (*$1,000*)	309,125	393,371	359,350	122,154	106,923	(1)
Gross profit (*$1,000*)	156,683	158,679	135,095	57,480	58,803	(1)
SG&A (*$1,000*)	92,951	109,552	114,558	37,527	37,087	(1)
Operating income or (loss) (*$1,000*)	63,732	49,127	20,537	19,953	21,716	(1)
COGS/sales (*percent*)	66.4	71.3	72.7	68.0	64.5	(1)
Operating income or (loss)/sales (*percent*)	13.7	8.9	4.2	11.1	13.1	(1)

[1] Data not available.
[2] Includes PRWs reported by Revere during 1997-98. Confidential Staff Report, Inv. No. 731-TA-046, February 9, 2000, p. III-A-10, Table III-A-8, n. 1.
[3] Does not include data for Revere during 1997-98, as such data were not reported to the Commission.

Source: Compiled from data presented in Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan Invs. Nos. 701-TA-267-268, 731-TA-304-305 (Final), USITC Publication 1936, January 1987; *Staff Report of Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, February 9, 2000; and the Stainless Committee's response to the Commission's notice of institution (April 20, 2005).

U.S. IMPORTS AND CONSUMPTION

U.S. Imports

POS Cookware

During the first five-year reviews, two importers reported that they imported POS cookware from China and Taiwan, and an additional five importers reported imports of POS cookware from Taiwan.[59] In its response to the Commission's notice of institution in these second five-year reviews, Columbian identified two firms that import POS cookware from China and 16 firms that import POS cookware from Taiwan into the United States.[60] None of the firms identified as an importers of POS cookware in the second five-year reviews are also identified as domestic producers.[61]

U.S. import data for POS cookware based upon official Commerce statistics are presented in table I-10 and figure I-1.[62] Since the first five-year reviews, China's share of imports into the United States by quantity has increased from 9.3 percent in 1999 to 36.8 percent in 2004. China's increasing share of total imports is attributable both to the increased quantity of imports from China, as well as the decrease in imports from Taiwan and all other countries. The quantity of imports from Taiwan has fluctuated downward, decreasing from 1.2 million units in 1999 to 0.3 million units in 2004.

Subject imports' share of total imports by value increased from 16.5 percent in 1999 to 25.7 percent in 2004. This increase occurred despite Taiwan's decreasing share of total imports by value, which decreased every year, except for 2003, from 7.2 percent in 1999 to 2.2 percent in 2004. China's share of total imports by value rose from 9.3 percent in 1999 to 23.5 percent in 2004. From 1999 to 2004 average unit values of imports from China ranged from $2.43 to $3.12, imports from Taiwan ranged from $2.66 to $2.99, and total imports ranged from $2.51 to $4.01.

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[59] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. IV-1.

[60] Columbian's response to the Commission's notice of institution (April 20, 2005), exh. 7.

[61] In the first five-year review, there was no mention of imports by the domestic manufacturer of POS cookware. Staff Report, *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Invs. Nos. 701-TA-267 and 268 (Review) and 731-TA-297-299, 304 and 305 (Review)*, February 29, 2000, p. III-A-6.

[62] Value data of POS cookware imports may be more reliable than quantity data, as POS cookware can be sold in sets, which can be counted as one unit combined or as individual units.

Table I-10
POS cookware: U.S. imports, 1983-85 and 1989-2004

Item	Calendar year																		
	1983	1984	1985	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
	Quantity (*1,000 units*)																		
China	472	613	1,977	112	798	696	825	2,306	1,336	1,432	1,984	1,601	1,335	1,691	1,961	2,440	3,447	3,230	3,631
Taiwan	5,768	7,468	6,690	4,810	4,530	3,167	4,673	4,786	4,293	3,774	2,762	2,455	1,643	1,220	1,166	637	331	643	305
Subtotal	6,240	8,081	8,667	4,921	5,328	3,863	5,498	7,092	5,629	5,205	4,746	4,056	2,978	2,911	3,127	3,076	3,778	3,874	3,936
Mexico[1]	1,096	2,348	1,845	2,677	2,007	2,717	2,559	3,388	3,347	2,723	2,912	2,682	1,702	1,658	1,848	1,016	1,006	955	1,650
All other	7,814	7,426	7,963	9,339	11,195	12,688	16,466	16,673	18,720	15,765	12,203	15,452	13,727	13,521	11,969	8,293	8,367	7,289	4,283
Total	15,150	17,855	18,475	16,937	18,530	19,269	24,522	27,154	27,697	23,694	19,861	22,190	18,407	18,091	16,944	12,385	13,151	12,118	9,868
	Landed duty-paid value (*$1,000*)[2]																		
China	282	1,370	3,305	169	871	998	1,415	3,558	2,439	3,045	4,446	3,238	3,020	4,203	5,539	7,611	8,808	9,014	8,833
Taiwan	21,557	25,602	19,514	11,143	10,205	8,196	9,578	9,382	10,745	11,726	8,205	5,462	3,774	3,282	3,483	1,830	964	1,714	835
Subtotal	21,839	26,972	22,819	11,313	11,077	9,194	10,993	12,940	13,184	14,771	12,651	8,700	6,794	7,485	9,022	9,441	9,772	10,729	9,668
Mexico[1]	2,104	4,009	2,927	7,015	6,538	7,940	7,338	10,580	11,101	8,732	8,631	6,831	4,596	4,219	4,306	2,787	2,885	2,708	5,391
All other	33,986	29,516	26,939	27,155	34,562	36,330	45,441	48,225	57,423	58,946	51,750	55,306	42,721	33,626	39,660	33,948	34,672	35,167	22,546
Total	57,929	60,497	52,685	45,482	52,176	53,464	63,771	71,744	81,708	82,449	73,032	70,837	54,111	45,330	52,988	46,176	47,330	48,603	37,605
	Unit value (*dollars per unit*)																		
China	0.60	2.23	1.67	1.52	1.09	1.43	1.71	1.54	1.83	2.13	2.24	2.02	2.26	2.49	2.82	3.12	2.56	2.79	2.43
Taiwan	3.74	3.43	2.92	2.32	2.25	2.59	2.05	1.96	2.50	3.11	2.97	2.22	2.30	2.69	2.99	2.87	2.91	2.66	2.74
Subtotal	3.50	3.34	2.63	2.30	2.08	2.38	2.00	1.82	2.34	2.84	2.67	2.14	2.28	2.57	2.88	3.07	2.59	2.77	2.46
Mexico[1]	1.92	1.71	1.59	2.62	3.26	2.92	2.87	3.12	3.32	3.21	2.96	2.55	2.70	2.54	2.33	2.74	2.87	2.83	3.25
All other	4.35	3.97	3.38	2.91	3.09	2.86	2.76	2.89	3.07	3.74	4.24	3.58	3.11	2.49	3.31	4.09	4.14	4.82	5.27
Total	3.82	3.39	2.85	2.69	2.82	2.77	2.60	2.64	2.95	3.48	3.68	3.19	2.94	2.51	3.13	3.73	3.60	4.01	3.81

Table continued on next page.

Table I-10--*Continued*
POS cookware, U.S. imports, 1983-85 and 1989-2004

Item	Calendar year																		
	1983	1984	1985	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
	Share of quantity (*percent*)																		
China	3.1	3.4	10.7	0.7	4.3	3.6	3.4	8.5	4.8	6.0	10.0	7.2	7.3	9.3	11.6	19.7	26.2	26.7	36.8
Taiwan	38.1	41.8	36.2	28.4	24.4	16.4	19.1	17.6	15.5	15.9	13.9	11.1	8.9	6.7	6.9	5.1	2.5	5.3	3.1
Subtotal	41.2	45.3	46.9	29.1	28.8	20.0	22.4	26.1	20.3	22.0	23.9	18.3	16.2	16.1	18.5	24.8	28.7	32.0	39.9
Mexico[1]	7.2	13.2	10.0	15.8	10.8	14.1	10.4	12.5	12.1	11.5	14.7	12.1	9.2	9.2	10.9	8.2	7.6	7.9	16.7
All other	51.6	41.6	43.1	55.1	60.4	65.8	67.1	61.4	67.6	66.5	61.4	69.6	74.6	74.7	70.6	67.0	63.6	60.1	43.4
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Share of value (percent)[2]																		
China	0.5	2.3	6.3	0.4	1.7	1.9	2.2	5.0	3.0	3.7	6.1	4.6	5.6	9.3	10.5	16.5	18.6	18.6	23.5
Taiwan	37.2	42.3	37.0	24.5	19.6	15.3	15.0	13.1	13.2	14.2	11.2	7.7	7.0	7.2	6.6	4.0	2.0	3.5	2.2
Subtotal	37.7	44.6	43.3	24.9	21.2	17.2	17.2	18.0	16.1	17.9	17.3	12.3	12.6	16.5	17.0	20.4	20.6	22.1	25.7
Mexico[1]	3.6	6.6	5.6	15.4	12.5	14.9	11.5	14.7	13.6	10.6	11.8	9.6	8.5	9.3	8.1	6.0	6.1	5.6	14.2
All other	58.7	48.8	51.1	59.7	66.2	68.0	71.3	67.2	70.3	71.5	70.9	78.1	79.0	74.2	74.8	73.5	73.3	72.4	60.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

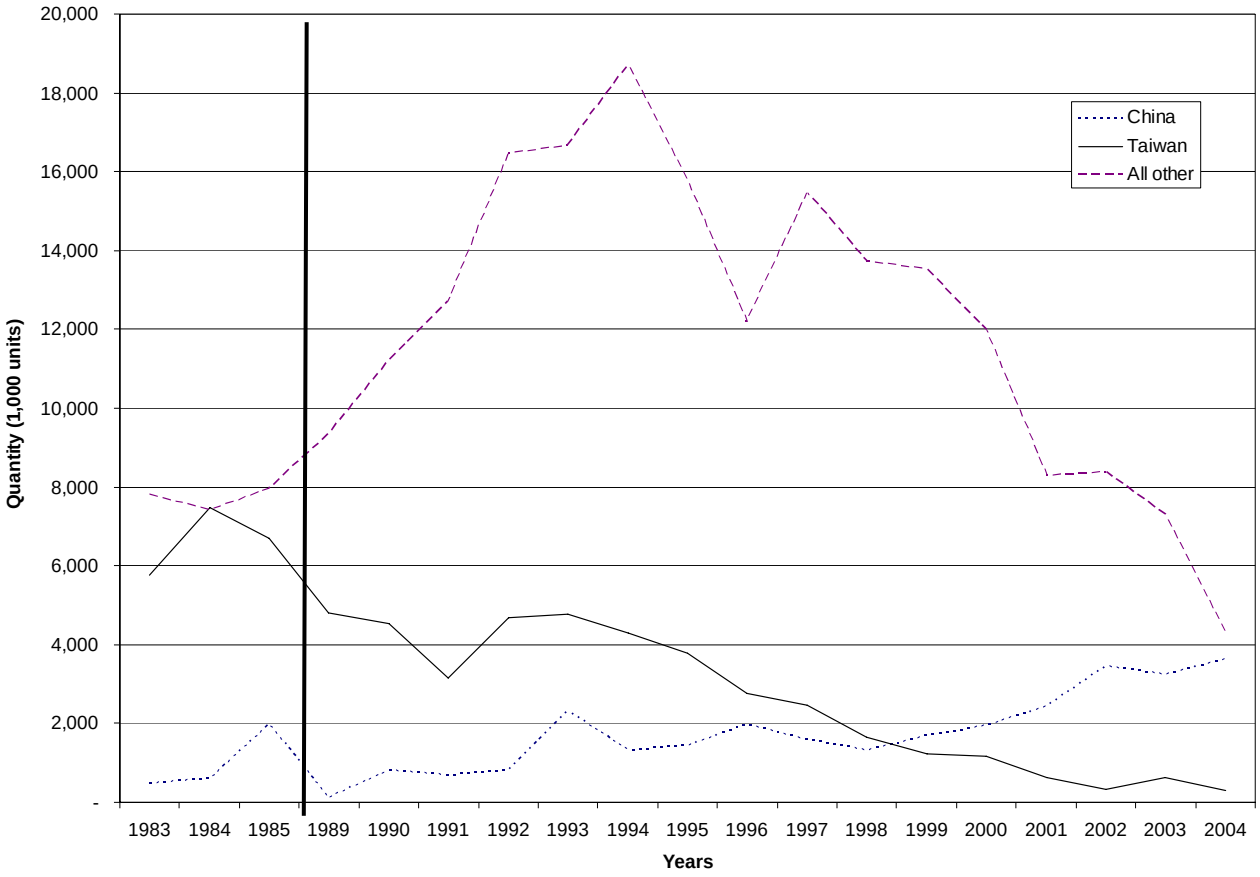
[1] Mexico imports were subject to a countervailing duty order until January 2000 (65 FR, January 4, 2000) and were subject to an antidumping duty order until April 2002 (67 FR 19553, April 22, 2002).
[2] For 1983-85, values are on a c.i.f. duty-paid basis.

Note–1983: TSUS item 654.02. 1984-85: TSUS item 654.08. 1989-2002: HTS statistical reporting numbers 7323.94.0010 and 7323.94.0020; Effective March 5, 1997, imports of teakettles, 7323.94.00.10, from Taiwan were no longer subject to antidumping duties (62 FR 10024). From 2003-04 POS cookware was classified under HTS statistical reporting numbers 7322.94.0010, 7322.94.0021, and 7323.94.0026, except for data from Taiwan, which does not include 7323.94.0010 (teakettles).

Note–Numbers may not add to totals shown due to rounding.

Source: Data compiled from *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, Table I-3; and official Commerce statistics.

Figure I-1
POS cookware: U.S. imports from China, Taiwan, and all other sources, 1983-85 and 1989-2004



Source: Table I-10.

TOS Stainless Cookware

During the first five-year reviews, 10 firms that responded to the Commission's questionnaire reported that they imported TOS stainless cookware from Korea and four firms reported that they imported TOS stainless cookware from Taiwan.[63] In its response to the Commission's notice of institution in these second five-year reviews, the Committee identified 29 firms that import TOS stainless cookware from Korea and Taiwan into the United States.[64] None of the firms identified as importers of subject products are domestic producers.[65]

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[63] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, Publication 3286, March 2000, p. I-33.

[64] *See* the Stainless Committee's response to the Commission's notice of institution (April 20, 2005), exh. 7.

[65] In the first-five year review, three domestic firms reported importing subject merchandise between January 1, 1997 and September 30, 1999, ***. Confidential Staff Report, Invs. 731-TA-046, February 29, 2000, p. III-A.

U.S. import data for TOS stainless cookware are presented in table I-11 and figure I-2. Import values may be more reliable than import quantities, due to possible discrepancies in methodologies employed for counting vessels and lids as individual units.[66]

Imports from Korea continually decreased from 6.0 million units in 1999 to 0.8 million units in 2004. Imports from Taiwan fluctuated, decreasing from 1.1 million in 1999 to 0.6 million in 2001, then increasing to 1.5 million units in 2002, before decreasing again to 0.6 million in 2004. Throughout this period nonsubject imports increased irregularly. In 2004, nonsubject imports of TOS stainless cookware accounted for 97.8 percent of total imports by quantity and 98.3 percent of imports by value. The majority of nonsubject imports consists of imports from China. According to official Commerce statistics, imports from China increased from 26.4 million units in 1999 to 43.5 million units in 2004.

Cumulation

In the remand on TOS stainless cookware from Korea, the CIT instructed the Commission to reconsider the issues of whether subject imports from Korea and Taiwan would have a discernible adverse impact, and whether there would likely be a reasonable overlap of competition between imports from each country and between such imports and the domestic like product[67]. On remand, the Commission determined that there was no reasonable overlap of competition between imports from Korea and Taiwan, and between imports from Taiwan and the domestic like product.[68] As this conclusion was dispositive of the cumulation issue, the Commission did not address the issue of no discernible adverse impact.[69]

On remand, the Commission attempted to supplement record evidence on the nature of subject imports from Taiwan. The Commission sent questionnaires to over 40 companies believed to produce TOS stainless cookware, but did not receive a response from any Taiwanese manufacturers. Information was gathered in follow-up phone calls. As reported during the remand proceeding, an importer stated that her company produced low-, medium-, and high-end TOS stainless cookware and, from 1997 to 1999,

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[66] In the original staff report, it was noted that "the units reported by Customs are suspect since it is possible that a vessel with a lid could be counted as two units, or one unit combined. This becomes even more of a problem for sets, which could be counted as one unit combined or as individual units." In its determinations, the Commission noted that, "the data developed in these investigations suggest that import values may be more reliable than import volumes as they reflect the effect of the imports on the domestic industry. Without 'weighting factors' we have been mindful of that fact in reaching our determinations." *Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan Invs. Nos. 701-TA-267-268, 731-TA-304-305 (Final)*, USITC Publication 1936, January 1987, pp. 11, A-33. In the remand determination, the Commission again noted, "we have placed primary reliance on value data for imports but have cited quantity data where appropriate." *Top-of-the-Stove Stainless Steel Cooking Ware From Korea, Invs. Nos. 701-TA-267 and 731-TA-304 (Review) (Remand),* USITC Publication 3485, February 2002, p. 8.

[67] Chefline Corporation, et. al. v. United States, Court No. 00-05-00212, Slip Op. 01-118 (September 26, 2001).

[68] The Stainless Committee notes, "The CIT disagreed with ITC's determination to cumulate, finding insufficient evidence that subject imports form Korea and Taiwan competed in the marketplace. The Committee believes that the CIT erred in this regard, but the error was harmless because no party appealed the ITC's affirmative determination with respect to Taiwan, and the ITC's remand determination considering imports from Korea in isolation was also affirmative." Stainless Committee's response to the Commissions notice of institution (April 20, 2005), p. 13.

[69] *Top-of-the-Stove Stainless Steel Cooking Ware from Korea, Invs. Nos. 701-TA-267 and 731-TA-304 (Review) (Remand*), USITC Publication 3485, February 2002, p. 3. As this conclusion was dispositive of the cumulation issue, the Commission did not address the issue of no discernible adverse impact. Ibid.

Table I-11
TOS stainless cookware, U.S. imports, 1983-85 and 1992-2004

Item	Calendar year															
	1983	1984	1985	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
	Quantity (*1,000 units*)															
Korea	18,127	20,956	20,079	4,531	3,969	3,985	3,931	3,044	2,894	3,325	5,976	5,101	2,814	2,356	829	757
Taiwan	308	309	421	1,434	2,807	2,413	2,238	1,014	3,383	1,721	1,096	835	591	1,543	627	587
Subtotal	18,435	21,265	20,500	5,965	6,775	6,398	6,168	4,058	6,278	5,046	7,072	5,937	3,405	3,900	1,455	1,345
All other	8,607	11,827	11,974	9,196	10,755	13,156	15,135	15,467	23,194	32,064	42,901	59,812	57,064	74,024	67,608	59,885
Total	27,042	33,086	32,474	15,160	17,531	19,554	21,303	19,525	29,472	37,110	49,973	65,749	60,469	77,924	69,063	61,230
	Landed duty-paid value (*$1,000*)[1]															
Korea	37,062	48,504	47,162	24,236	24,906	27,739	30,486	25,096	26,846	30,765	47,542	39,424	20,686	15,124	5,336	4,583
Taiwan	1,563	1,893	2,262	4,309	6,504	5,619	5,926	3,630	9,687	3,805	2,945	2,305	1,813	2,161	916	1,601
Subtotal	38,625	50,397	49,424	28,545	31,410	33,358	36,412	28,726	36,543	34,570	50,488	41,728	22,499	17,285	6,252	6,184
All other	24,473	56,113	54,156	58,949	63,324	80,929	104,820	99,478	144,247	183,169	232,415	300,798	295,031	349,908	352,243	352,829
Total	63,098	89,199	86,630	87,493	94,734	114,287	141,233	128,205	180,781	217,739	282,902	342,526	317,530	367,194	358,495	359,013
	Unit value (*dollars per unit*)															
Korea	2.04	2.31	2.35	5.35	6.28	6.96	7.76	8.25	9.27	9.25	7.95	7.73	7.35	6.42	6.44	6.05
Taiwan	5.07	6.13	5.37	3.01	2.32	2.33	2.65	3.58	2.86	2.21	2.69	2.76	3.07	1.40	1.46	2.73
Subtotal	2.10	2.37	2.41	4.79	4.64	5.21	5.90	7.08	5.82	6.85	7.14	7.03	6.61	4.43	4.30	4.60
All other	2.84	4.74	4.52	6.41	5.89	6.15	6.93	6.43	6.47	5.92	5.42	5.03	5.17	4.73	5.21	5.89
Total	2.33	2.70	2.67	5.77	5.40	5.84	6.63	6.57	6.13	5.87	5.66	5.21	5.25	4.71	5.19	5.86

Table continued on next page.

Table I-11--Continued
TOS stainless cookware, U.S. imports, 1983-85 and 1992-2004

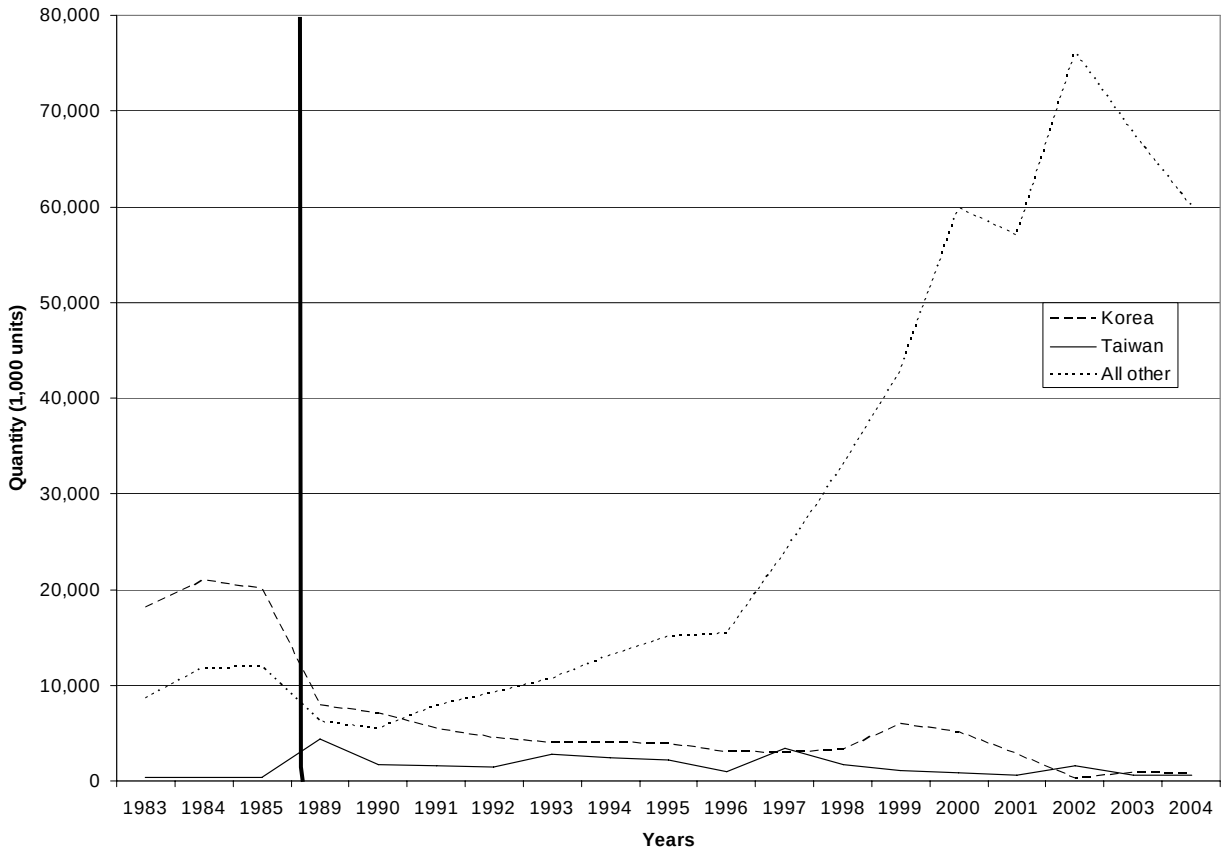
Item	Calendar year															
	1983	1984	1985	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
	Share of quantity (*percent*)															
Korea	67.0	63.3	61.8	29.9	22.6	20.4	18.5	15.6	9.8	9.0	12.0	7.8	4.7	3.0	1.2	1.2
Taiwan	1.1	0.9	1.3	9.5	16.0	12.3	10.5	5.2	11.5	4.6	2.2	1.3	1.0	2.0	0.9	1.0
Subtotal	68.2	64.3	63.1	39.3	38.6	32.7	29.0	20.8	22.0	14.0	14.2	9.0	5.6	5.0	2.1	2.2
All other	31.8	35.7	36.9	60.7	61.4	67.3	71.0	79.2	78.0	86.0	85.8	91.0	94.4	95.0	97.9	97.8
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Share of value (*percent*)[1]															
Korea	58.7	54.4	54.4	27.7	26.3	24.3	21.6	19.6	14.8	14.1	16.8	11.5	6.5	4.1	1.5	1.3
Taiwan	2.5	2.1	2.6	4.9	6.9	4.9	4.2	2.8	5.4	1.7	1.0	0.7	0.6	0.6	0.3	0.4
	61.2	56.5	57.1	32.6	33.2	29.2	25.8	22.4	20.2	15.9	17.8	12.2	7.1	4.7	1.7	1.7
All other	38.8	62.9	62.5	67.4	66.8	70.8	74.2	77.6	79.8	84.1	82.2	87.8	92.9	95.3	98.3	98.3
Total	100.0	119.4	119.6	100.0	100.0	100.0	100.0	100.0	103.1	103.1	100.0	100.0	100.0	100.0	100.0	100.0

[1] For 1983-85, values are on a c.i.f. duty-paid basis.

Note–1983: TSUS item 659.94. 1984-85: TSUS item 653.94. TSUS item 653.94 was a residual tariff item that included nonsubject merchandise such as kitchen ware and ovenware. Therefore, the Commission adjusted Commerce statistics to isolate information for subject cookware according to the following formula: for Korea, 60 percent of the quantity and 80 percent of the value of Commerce statistics was reported; and for Taiwan, 4 percent of the quantity and 16 percent of the value of Commerce statistics were reported. *Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan Invs. Nos. 701-TA-267-268, 731-TA-304-305 (Final)*, USITC Publication 1936, January 1987, p. A-34 and n. 1. 1992-2002: HTS number 7323.93.0030. Commerce statistics were not adjusted in the first five-year review. However, in the remand of TOS stainless cookware from Korea, the Commission sought to exclude nonsubject imports from official Commerce statistics. Therefore, based upon estimates provided by the domestic interested party that the U.S. market for stainless steel bakeware is less than 3 percent, and corroborated by data provided by the Korean Metal Ware Association, the Commission adjusted import data by subtracting out 3 percent of the value of Korean imports reported under HTS 7323.93.0030. *Top-of-the-Stove Stainless Steel Cooking Ware From Korea, Invs. Nos. 701-TA-267 and 731-TA-304 (Review) (Remand)*, USITC Publication 3485, February 2005, pp. 6-7. In order to remain consistent with these findings and absent any new information provided by either the domestic interested party or the respondent interested party in response to the Commission's notice of institution, official Commerce statistics reported in this table (for 1997-2002) have been adjusted by subtracting 3 percent from reported quantity and value totals. 2003-04: HTS 7323.93.0045. Due to the discontinuation of HTS number 7323.93.0030 and the creation of HTS numbers 7323.93.0045 and 7323.93.0035 (nonsubject bakeware), no adjustments to Commerce statistics are necessary.

Source: Data compiled from *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000; and official Commerce statistics.

Figure I-2
TOS stainless cookware: U.S. imports from Korea, Taiwan, and all other sources, 1983-85 and 1989-2004



Source: Table I-11.

exported all three grades of TOS stainless cookware to the United States.[70] Moreover, statements made by importers indicated that Taiwan TOS stainless cookware was of lower quality than the Korean product, and that although Taiwan had the capability of producing higher-end stainless steel cookware, Taiwan producers were not as good at producing it.[71] However, in the first five-year reviews, the Commission noted that given the growing production of low-end and mid-range TOS stainless cookware in countries such as China, India, Indonesia, and Thailand, Taiwan producers faced the same incentives as Korean producers to upgrade the quality of their product. In these second five-year reviews, as noted in figure I-4, official Commerce statistics indicate that subject imports from Taiwan have lost market share to China. TOS stainless cookware imports from Taiwan declined from 1.7 million units in 1998 to 0.6 million units in 2004.

Furthermore, the Commission found that the considerable difference between the very low average unit values of cookware from Taiwan compared with the high unit values of Korean and domestic merchandise, appeared to indicate that imports from Taiwan likely did not consist of a significant quantity

[70] Ibid., p. 2. *See also* INV-Y-249, December 12, 2001, pp. 1-2.

[71] *Top-of-the-Stove Stainless Steel Cooking Ware from Korea, Invs. Nos. 701-TA-267 and 731-TA-304 (Review) (Remand*), USITC Publication 3485, February 2002, p. 4.

of high-end cookware during the period of review.[72] Although the average unit value of imports fluctuated from 1999 to 2004, the divergence in average unit values between imports of TOS stainless cookware from Taiwan and Korea observed in the first five-year reviews continued through 2004.[73] In 1999, the average unit value of TOS stainless cookware from Korea was $7.95, compared to $2.69 from Taiwan. Between 2000 and 2004, the average unit value of TOS stainless cookware was $7.18 for Korea and $2.10 for Taiwan.

Finally, based on additional information collected on remand, the Commission found that future imports from Taiwan could include some high-end TOS stainless cookware.[74] However, the Commission did not find any indication that a significant share of subject imports from Taiwan would be of high-end merchandise such that there would be a reasonable overlap of competition with imports from Korea and the domestic product.[75] No additional information regarding the types or distribution of imports of TOS stainless cookware was available during these second five-year reviews.

Additional information gathered during these second five-year reviews regarding the presence of imports in geographical markets is presented in table I-12. The data indicate the presence of imports of TOS stainless cookware in each geographic region during January 2003-April 2005, with imports from Korea concentrated in the East and West regions, and imports from Taiwan concentrated in the Great Lakes and West regions.

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[72] Ibid.

[73] In these second five-year reviews, the average unit value of U.S.-produced TOS stainless cookware is reportedly $77.90 (*see* table I-9; calculated from data submitted in exhibit 9 of the Stainless Committee's response to the Commission's notice of institution (April 20, 2005)). This calculated average unit value should be viewed with caution as the underlying data have not been verified.

[74] This is consistent with the Commission's findings in the first five-year review. The Commission found that the evidence as a whole indicated that the subject merchandise from Taiwan included at least some high-end cookware. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, pp. 24-25, n. 160.

[75] In the first five-year review, the Commission noted that domestic producers reported that some Taiwan subject merchandise has entered the direct sales channels, where it is sold as part of high-end cookware sets. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, pp. 24-25, n. 160. On remand, the Commission found that nor that there was no further information to indicate subject imports from Taiwan would likely be sold in the direct sales channel of distribution. *Top-of-the-Stove Stainless Steel Cooking Ware from Korea, Invs. Nos. 701-TA-267 and 731-TA-304 (Review) (Remand*), USITC Publication 3485, February 2002, pp. 4-5.

Table I-12
TOS Stainless Cookware: U.S. imports by sources and Customs districts, 2003-04, January-April 2004, and January-April 2005

Region	Korea				Taiwan			
			January-April				January-April	
	2003	2004	2004	2005	2003	2004	2004	2005
	Quantity (*units*)							
East region[1]	164,136	189,093	73,573	33,760	59,641	95,162	49,418	16,712
Great Lakes region[2]	30,342	5,821	996	2,232	302,538	200,056	34,992	91,860
Gulf Coast region[3]	213,636	146,256	35,403	63,957	1,502	25,640	18,800	5,260
West region[4]	420,701	416,275	132,281	74,105	262,835	266,570	173,110	20,180
Total	828,815	757,445	242,253	174,054	626,516	587,428	276,320	134,012
	Shares of total quantity (*percent*)							
East region[1]	19.8	25.0	30.4	19.4	9.5	16.2	17.9	12.5
Great Lakes region[2]	3.7	0.8	0.4	1.3	48.3	34.1	12.7	68.5
Gulf Coast region[3]	25.8	19.3	14.6	36.7	0.2	4.4	6.8	3.9
West region[4]	50.8	55.0	54.6	42.6	42.0	45.4	62.6	15.1
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] Includes New York, NY; Philadelphia, PA; Baltimore, MD; Norfolk, VA; and Savannah, GA.
[2] Includes Ogdensburg, NY; Detroit, MI; Chicago, IL; Cleveland, OH; and St. Louis, MO.
[3] Includes Dallas-Forth Worth, TX; Mobile, AL; New Orleans, LA; Houston/Galveston, TX; and Miami.
[4] Includes Los Angeles, CA; San Francisco, CA; Columbia-Snake, OR; Seattle, WA; Honolulu, HI; and Great Falls, MT.

Source: Compiled from official Commerce statistics (HTS 7323.93.0045).

Apparent U.S. Consumption and Market Shares

POS Cookware

Table I-13 and figure I-3 present information on apparent U.S. consumption and market shares of POS cookware for the periods 1983-85, 1997-98, and 2004. In the original investigations, the Commission found that POS cookware as a percentage of the cooking ware market had declined as a result of a demand shift to higher quality stainless steel or aluminum cooking ware.[76] In the first sunset reviews, the Commission found that "apparent domestic consumption of POS cookware during the review period was at almost the same level as during the original investigation period."[77] In these second five-year reviews, Columbian reported that "the total volume of POS cookware sold in the United

[76] *Porcelain-on Steel Cooking Ware from Mexico, The People's Republic of China, and Taiwan, Invs. Nos. 701-TA-265, 731-TA-297-299 (Final)*, USITC Publication 1911, November 1986, p. A-7, 20.

[77] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. 16.

Table I-13
POS cookware: U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, 1983-85, 1997-98, and 2004

Item	1983	1984	1985	1997	1998	2004
	Quantity (*1,000 units*)					
U.S. producers' U.S. shipments	***	***	***	***	***	***
U.S. imports:						
China	472	613	1,977	1,601	1,335	3,631
Taiwan	5,768	7,468	6,690	2,455	1,643	305
Subtotal	6,240	8,081	8,667	4,056	2,978	3,936
Mexico	1,096	2,348	1,845	2,682	1,702	1,650
All other sources	7,814	7,426	7,963	15,452	13,727	4,283
Total imports	15,150	17,855	18,475	22,190	18,407	9,868
Apparent U.S. consumption	***	***	***	***	***	***
	Value ($1,000)					
U.S. producers' U.S. shipments	***	***	***	***	***	***
U.S. imports:						
China	282	1,370	3,305	3,238	3,020	8,833
Taiwan	21,557	25,602	19,514	5,462	3,774	835
Subtotal	21,839	26,972	22,819	8,700	6,794	9,668
Mexico	2,104	4,009	2,927	6,831	4,596	5,364
All other sources	33,986	29,516	26,939	55,306	42,721	22,573
Total imports	57,929	60,497	52,685	70,837	54,111	37,605
Apparent U.S. consumption	***	***	***	***	***	***
	Share based on quantity (*percent*)					
* * * * * * *						
	Share based on value (*percent*)					
* * * * * * *						

Source: Data compiled from *Porcelain-on Steel Cooking Ware from Mexico, The People's Republic of China, and Taiwan, Invs. Nos. 701-TA-265, 731-Ta-297-299 (Final)*, USITC Publication 1911, November 1986, p. III-A3; Confidential Staff Report, Inv. No. 731-TA-046, February 29, 2000; and official Commerce statistics.

Figure I-3
POS cookware: Shares of apparent U.S. consumption based on quantity, by percent, 1998 and 2004

* * * * * * *

Sates has remained fairly constant since the first sunset reviews and is unlikely to change significantly in the foreseeable future."[78] However, Columbian's assessment of the POS cookware market is inconsistent with the data compiled for apparent U.S. consumption, which decreased *** percent from *** million units in 1998 to *** million units in 2004.

The decrease in apparent consumption is primarily accounted for by a decrease in the quantity of nonsubject imports from all other sources,[79] which fell by 68.8 percent from 13.7 million units in 1998 to 4.3 million units in 2004. Between 1998 and 2004, U.S. producer shipments by quantity also decreased by *** percent from *** million units to *** million units. Apparent consumption decreased despite the 32.2 percent increase in quantity of imports of subject POS cookware between 1998 and 2004. The . increase in the quantity of subject imports was driven entirely by increased imports from China, which increased by 177.0 percent from 1.3 million units in 1998 to 3.6 million in 2004. During the same period, subject imports from Taiwan decreased by 81.4 percent from 1.6 million units in 1998 to 0.3 million units in 2004

TOS Stainless Cookware

Table I-14 and figure I-4 present information on apparent U.S. consumption and market shares of TOS stainless cookware for the periods 1983-85, 1997-98, and 2004. Apparent consumption fluctuated over the period of review in the original investigations, increasing from 36.7 million units in 1983 to 42.3 million units in 1984, before decreasing to 41.0 million units in 1985. Since the first five-year reviews, apparent consumption increased by 51.5 percent from 41.4 million units in 1998 to 62.7 million units in 2004. The increase in apparent consumption was fueled by nonsubject imports from China, which increased from 16.8 million units in 1998 to 43.5 million units in 2004.[80] Nonsubject imports' share of consumption based on quantity rose from 79.5 percent in 1998 to 95.6 percent in 2004. Over the same period U.S. producers' share of consumption fell from 10.3 percent to 2.3 percent and subject imports' share of consumption decreased from 12.2 percent to 2.1 percent.

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[78] Columbian's response to the Commissions notice of institution (April 20, 2005), p. 12.

[79] In 1998 and 2004 the majority of nonsubject imports originated from Indonesia, Spain, Thailand, and Mexico. See figure I-3.

[80] In 1998 and 2004 the majority of nonsubject imports originated from China, India, Indonesia, and Thailand. *See* figure I-4.

Table I-14
TOS stainless cookware: U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, 1983-85, 1997-98, and 2004

Item	1983	1984	1985	1997	1998	2004
	Quantity (*1,000 units*)					
U.S. producers' U.S. shipments	9,679	9,243	8,484	4,713	4,253	1,443
U.S. imports:						
Korea	18,127	20,956	20,079	2,894	3,325	757
Taiwan	308	309	421	3,383	1,721	587
Subtotal subject imports	18,435	21,265	20,500	6,278	5,046	1,345
Other sources	8,607	11,827	11,974	23,194	32,064	59,885
Total imports	27,042	33,092	32,474	29,472	37,110	61,230
Apparent U.S. consumption	36,721	42,335	40,958	34,185	41,363	62,673
	Value (*$1,000*)					
U.S. producers' U.S. shipments	135,188	134,548	122,632	137,520	128,659	112,411
U.S. imports:						
Korea	37,062	48,504	47,162	26,846	30,765	4,583
Taiwan	1,563	1,893	2,262	9,687	3,805	1,601
Subtotal subject imports	38,625	50,397	49,424	36,534	34,570	6,184
Other sources	24,473	56,113	54,156	144,247	183,169	352,829
Total imports	63,098	89,199	86,630	180,781	217,739	359,013
Apparent U.S. consumption	198,286	241,058	226,212	322,761	352,063	471,424
	Share of consumption based on quantity (*percent*)					
U.S. producers' U.S. shipments	26.4	21.8	20.7	13.8	10.3	2.3
U.S. imports:						
Korea	49.4	49.5	49.0	8.5	8.0	1.2
Taiwan	0.8	0.7	1.0	9.9	4.2	0.9
Subtotal subject imports	50.2	50.2	50.0	18.4	12.2	2.1
Other sources	23.4	27.9	29.2	67.8	77.5	95.6
Total imports	73.6	78.2	79.3	86.2	89.7	97.7

Table continued on next page.

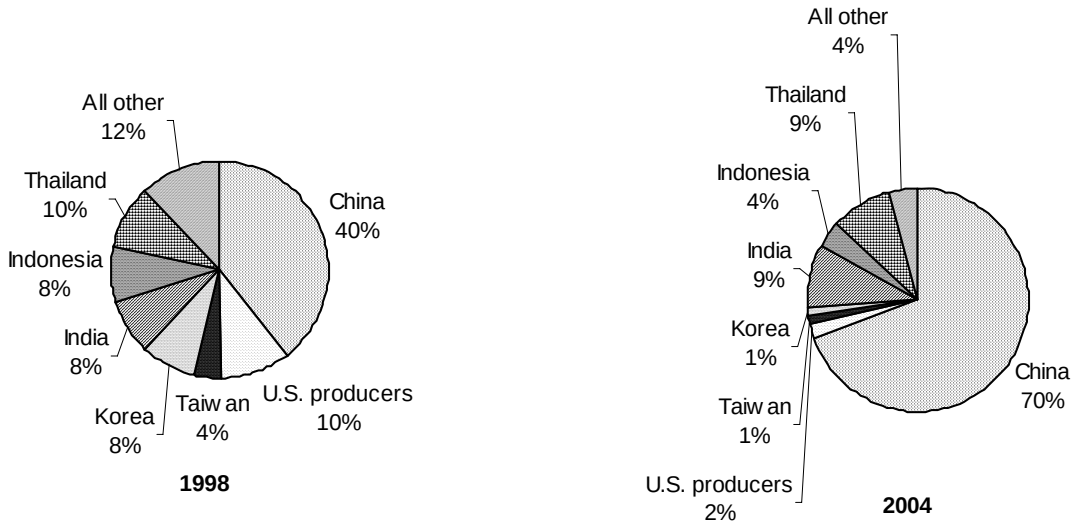
Table I-14--*Continued*
TOS stainless cookware: U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, 1983-85, 1997-98, and 2004

Item	1983	1984	1985	1997	1998	2004
	Share of apparent U.S. consumption based on value (*percent*)					
U.S. producers' U.S. shipments	68.2	55.8	54.2	43.2	37.1	23.8
U.S. imports:						
Korea	18.7	20.1	20.8	8.4	8.9	1.0
Taiwan	0.8	0.8	1.0	3.0	1.1	0.3
Subtotal subject imports	19.5	20.9	21.8	11.8	10.3	1.3
Other sources	12.3	23.3	23.9	46.7	54.5	74.8
Total imports	31.8	44.2	45.8	56.8	62.9	76.2

Note–Reported import data differ slightly from data reported in the table I-9 of the Staff Report for the first five-year review. In this table, import data from 1997-98 reflect the reduction of official Commerce statistics by three percent in order to exclude nonsubject merchandise classified under HTS number 7323.93.0030. See Note in Table I-12 for further explanation.

Source: Data compiled from *Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 701-TA-267-268, 731-TA-304-305 (Final)*, USITC Publication 1936, January 1987, p. A-26; *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. I-25; and official Commerce statistics.

Figure I-4
TOS stainless cookware: Share of apparent U.S. consumption based on quantity, by percent, 1998 and 2004



Source: Table I-14.

THE INDUSTRIES IN CHINA, KOREA, AND TAIWAN

POS Cookware

China

In the first five-year reviews, China's POS cookware industry was estimated to have produced *** units in 1998.[81] In response to the Commission's notice of institution for these second five-year reviews, Columbian estimates there are approximately 34 manufacturers of POS cookware in China with a production capacity *** times the amount of U.S. domestic consumption of POS cookware.[82] In 2004, according to official Commerce statistics, imports of POS cookware from China totaled 3.6 million units, or 2.6 million kilograms, valued at $8.8 million. According to the World Trade Atlas, in 2004, China

[81] China's annual POS cookware production provided by the American Embassy in Beijing. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Invs. Nos. 701-TA-267 and 268 (Review) and 731-TA-297-299, 304 and 305 (Review)*, USITC Publication 3286, March 2000 p. IV-7. It is also noted that the Chinese government provided annual production figures of more than 400 million units, however that figure includes production of both cookware and other POS items such as utensils. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Invs. Nos. 701-TA-267 and 268 (Review) and 731-TA-297-299, 304 and 305 (Review)*, USITC Publication 3286, March 2000, p. 19, n. 121.

[82] Columbian's response to the Commission's notice of institution (April 20, 2005), p. 15.

exported 113 million kilograms of cookware globally, valued at $155 million free on board ("FOB"), under HTS subheading 7323.94.[83]

Taiwan

In the original investigations on POS cookware, Taiwan had an estimated production capacity of *** million units of POS cookware in 1985.[84] In the first five-year reviews, 29 firms believed to manufacture POS cookware were identified. The American Institute in Taipei ("AIT") estimated there were 1,200 small, in-house manufacturers of cookware whose sales were directly almost entirely to the domestic market in Taiwan. The AIT also reported that "since the imposition of U.S. antidumping duties, most all Taiwan cookware manufacturers have either transferred their plants to other Asian countries, or produce in Taiwan only for domestic consumption or European exports."[85] Only one firm, Tian-Shine Enterprise Co., Ltd., responded to the Commission's questionnaire. Therefore, the Commission was only able to confirm a minimum annual capacity level in 1998 of *** million units.[86]

In response to the Commission's notice of institution for these second five-year reviews, Columbian estimates that there are 29 manufacturers of POS in Taiwan.[87] The Taipei Economic and Cultural Representative Office in the United States stated, "Taiwanese exporters and manufacturers who had participated in the investigation process in 1986 either no longer produce the products in question or have moved their production lines overseas...".[88] In 2004, according to official Commerce statistics, exports of POS cookware from Taiwan to the United States totaled 0.3 million units, or 0.2 million kilograms, valued at $0.8 million**.** According to the World Trade Atlas, in 2004, Taiwan exported 0.6 million kilograms of cookware globally, valued at $2.5 million FOB, under HTS subheading 7323.94.[89]

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[83] As the World Trade Atlas provides data according to a six-digit HTS subheading, data for China's global exports of cookware include nonsubject cookware. According to data provided in the World Trade Atlas, in 2004, China exported 2.0 million kilograms of cookware under HTS subheading 7323.94 to the United States, or 1.8 percent of its total cookware exports. World Trade Atlas, Trade Information System, retrieved June 27, 2005 at http://www.gts.com/product.cfm.

[84] *Staff Report of Porcelain-on Steel Cooking Ware from Mexico, The People's Republic of China, and Taiwan, Invs. Nos. 701-TA-265, 731-TA-297-299 (Final)*, October 31, 1986, p. A-29.

[85] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. IV-8.

[86] *Staff Report on Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, February 9, 2000, p. IV-9.

[87] *See* Columbian's response to the Commission's notice of institution (April 20, 2005), exh. 8. *See also* the Committee's response to the Commission's notice of institution (April 20, 2005), exh. 8.

[88] *See* TECRO's response to the Commission's notice of institution (April 11, 2005), p. 4.

[89] As the World Trade Atlas provides data according to a six-digit HTS subheading, data for Taiwan's global cookware exports include nonsubject cookware. According to data provided in the World Trade Atlas, in 2004, Taiwan exported 0.2 million kilograms of cookware under HTS subheading 7323.94 to the United States, or 26.3 percent of its total cookware exports. World Trade Atlas, Trade Information System, retrieved June 27, 2005 at http://www.gts.com/product.cfm.

TOS Stainless Cookware

Korea

During the original investigations, there were reportedly 27 producers of TOS stainless cooking ware in Korea, with a combined total annual production capacity of 50 million units.[90] In the first five-year reviews, the Commission received eight questionnaire responses from Korean firms and one response from the Korean Metal Ware Industry Association ("KMWIA"). KMWIA reported that 21 manufacturers ceased operations since 1986 and many firms were forced to move abroad due to rising labor costs in Korea.[91] KMWIA estimated Korean manufacturers' production capacity of TOS stainless cookware in 1998 to be *** million units.[92] In the remand proceeding, the Commission found that although capacity to produce TOS stainless cookware in Korea "declined significantly since the original investigation" under either respondents' or petitioners' estimates, "significant capacity exists in Korea, and remains well above U.S. capacity."[93]

Information reported by the United States Foreign Commercial Service from the Korea Importers Association notes that six local companies are listed as cookware importers but no further information on these importers is available. The four major stainless steel cookware exporters in Korea are Chefline Corp., Shin Shin Stainless Ind. Co., Seshin Co., Ltd., and Dong Jing Stainless Co.

Since 1999, Korean manufacturers reportedly have experienced rising competition in their export markets from Chinese manufacturers of stainless steel cookware. Due to market conditions, many local Korean companies reportedly have changed product lines or have gone out of business.[94]

According to the Korea International Trade Association ("KITA"),[95] Korea recorded a trade surplus with the United States of $31.5 million and a trade deficit of $11.4 million with China in stainless steel cookware in 2004, as presented in table I-15.

KITA also reported that in 2004 total Korean cookware imports from all countries increased by 17.4 percent in value from the previous year. Most of that increase was accounted for by China, the largest supplier of cookware to Korea. During 2003-04, Korea's imports from China increased by 61.5 percent. By contrast, Korea's imports from the United States, the sixth largest supplier of cookware to Korea, declined by nearly 55 percent during 2003-04.

According to KITA, Korean exports of stainless steel cookware during the first 3 months of 2005 amounted to $17.2 million, or a decrease of 9.4 percent compared to the same period of the previous year.

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[90] *Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan*, *Invs. Nos. 701-TA-267-268, 731-TA-304-305 (Final)*, USITC Publication 1936, January 1987, p. A-40.

[91] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. IV-9.

[92] In their prehearing brief, the domestic interested party argued that the capacity data submitted to the Commission by individual Korean firms and the KMWIA were flawed and intentionally concealed Korea's actual production capacity. They estimated Korean's production capacity in 1998 to be *** million units. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, pp. IV-9-11.

[93] Publication 3485, February 2002, p. 9.

[94] E-mail from the USFCS in Korea, May 3, 2005.

[95] Ibid.

Table I-15
TOS stainless cookware: Korean imports and exports of stainless steel cookware, 2004

Country	Exports from Korea	Imports into Korea
	Value (*million dollars*)	
United States	33.5	2.0
Japan	13.2	(1)
Saudi Arabia	7.7	(1)
China	4.9	16.5
Canada	1.0	(1)
Italy	1.0	(1)
Germany	1.0	(1)
Other	24.1	(1)
Total	86.4	38.3

[1] Not available.
Source: E-mail from the USFCS in Korea, May 3, 2005.

During the same period in 2005, Korean exports to the United States were $6.3 million, a decrease of 7.4 percent compared to the first 3 months of 2004.[96]

In Commerce's 2003 antidumping administrative review of the order on TOS stainless steel cookware from Korea, 26 manufacturers of the subject merchandise were identified; 18 firms were reviewed and received company-specific antidumping duty margins, and eight firms made no shipments of subject merchandise to the United States during January-December 2001.[97] In response to the Commission's notice of institution, the Stainless Committee estimated that there are currently 20 manufacturers of TOS stainless cookware in Korea.[98] In 2004, according to official Commerce statistics, exports of TOS stainless cookware from Korea to the United States totaled 0.8 million units valued at $4.6 million.

Taiwan

In the original investigations on TOS stainless cookware, the Commission found there were seven producers of TOS stainless cookware in Taiwan, with an annual production capacity in 1985 valued at 2.4

[96] Ibid.

[97] "In our Preliminary Results, we determined that the following eight companies made no shipments of subject merchandise to the United States during the POR: Hai Dong Stainless Steel Co., Ltd, Sungjin International, Inc., Seshin Co., Ltd., Sae Kwang Aluminum Co, Ltd., Dong Hwa Stainless Steel Co., Ltd., Pionix Corporation, Il Shin Co., Ltd., and Wonkwang Inc. See Preliminary Results, 67 FR at 62952. Because we received no comments from interested parties on our preliminary decision to rescind the review with respect to the above companies, we have determined that no changes to our decision to rescind are warranted for purposes of these final results. Therefore, we are rescinding this review with respect to these manufacturers/exporters." 68 FR 7504, February 14, 2003.

[98] Stainless Committee's response to the Commission's notice of institution (April 20, 2005), exh. 8.

million dollars.[99] During the first five-year reviews, the AIT estimated there were 1,200 small, in-house manufacturers of cookware whose sales were almost entirely to the domestic market in Taiwan. No Taiwanese firms responded to the Commission's questionnaire on TOS stainless cookware and no other estimates of Taiwan's production capacity were provided.[100]

In response to the Commission's notice of institution for these second five-year reviews, the Stainless Committee estimated that there are six manufacturers of TOS stainless cookware in Taiwan. The Taipei Economic and Cultural Representative Office in the United States stated, "Taiwanese exporters and manufacturers who had participated in the investigation process in 1986 either no longer produce the products in question or have moved their production lines overseas...".[101] In 2004, according to official Commerce statistics, imports of TOS stainless cookware from Taiwan totaled 0.6 million units, or 0.7 million kilograms, valued at $1.6 million. According to the World Trade Atlas, in 2004, Taiwan exported 26.0 million kilograms of cookware globally, valued at $102.5 million FOB, under HTS subheading 7323.93.[102]

DUMPING IN THIRD-COUNTRY MARKETS

In October 1990, Mexico imposed an antidumping duty order on imports of POS cookware from Taiwan. In October 1998, South Africa imposed antidumping duties on imports of stainless steel cookware ("halloware") from Korea.[103]

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[99] Production capacity was estimated to be equivalent to shipment data as firms produced multiple products in their facilities and were unable to calculate production capacity for TOS stainless cookware given incomplete records. Total production quantity was not provided. *Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 701-TA-267-268, 731-TA-304-305 (Final)*, USITC Publication 1936, January 1987, p. A-43.

[100] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 731-TA-267, 268, and 731-TA-297-299, 304, and 305 and 731-TA-297 (First Review)*, USITC Publication 3286, March 2000, p. IV-8.

[101] Letter from the Economic Division, Taipei Economic and Cultural Representative Office in the United States, May 5, 2005.

[102] As the World Trade Atlas provides data according to a six-digit HTS subheading, data for Taiwan's global cookware exports include nonsubject cookware. According to data provided in the World Trade Atlas, in 2004, Taiwan exported 16.0 million kilograms of cookware under HTS subheading 7323.93 to the United States, or 61.9 percent of its total cookware exports. World Trade Atlas, Trade Information System, retrieved June 27, 2005 at http://www.gts.com/product.cfm.

[103] *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Invs. Nos. 701-TA-267 and 268 (Review) and 731-TA-297-299, 304 and 305 (Review)*, USITC Publication 3286, March 2000, p. IV-11.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

Porcelain-on-Steel Cooking Ware From China and Taiwan (Investigations Nos. 731–TA–298 and 299 (Second Review)); Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan (Investigations Nos. 701–TA–267 and 268 and 731–TA–304 and 305 (Second Review))

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on porcelain-on-steel cooking ware from China and Taiwan and the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from Korea and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on porcelain-on-steel cooking ware from China and Taiwan and the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is April 20, 2005. Comments on the adequacy of responses may be filed with the Commission by May 16, 2005. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 1, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202) 205–3193, Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On December 2, 1986, the Department of Commerce issued antidumping duty orders on imports of porcelain-on-steel cooking ware from China and Taiwan (51 FR 43414). On January 20, 1987, Commerce issued antidumping and countervailing duty orders on imports of top-of-the-stove stainless steel cooking ware from Korea and Taiwan (52 FR 2138). Following five-year reviews by Commerce and the Commission, effective April 14, 2000, Commerce issued a continuation of the antidumping duty orders on porcelain-on-steel cooking ware from China and Taiwan (65 FR 20136 and 21504) and, effective April 18, 2000, Commerce issued a continuation of the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from Korea and Taiwan (65 FR 20801). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China, Korea, and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations and its full five-year review determinations concerning porcelain-on-steel cooking ware from China and Taiwan, the Commission defined the Domestic Like Product as all porcelain-on-steel cooking ware, including teakettles. One Commissioner defined the Domestic Like Product differently in the original determinations concerning porcelain-on-steel cooking ware from China and Taiwan. In the original antidumping and countervailing duty determinations and the full five-year review determinations concerning top-of-the-stove stainless steel cooking ware from Korea and Taiwan, the Commission defined the Domestic Like Product to correspond with the Subject Merchandise, that is, all top-of-the-stove stainless steel cooking ware, excluding teakettles, ovenware, and kitchen ware.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations and its full five-year review determinations concerning porcelain-on-steel cooking ware from China and Taiwan, the Commission defined the Domestic Industry as producers of porcelain-on-steel cooking ware, including teakettles. One Commissioner defined the Domestic Industry differently in the original determinations concerning porcelain-on-steel cooking ware from China and Taiwan. In the original antidumping and countervailing duty determinations and full five-year review determinations concerning top-of-the-stove stainless steel cooking ware from Korea and Taiwan, the Commission defined the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–115, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Domestic Industry as producers of top-of-the-stove stainless steel cooking ware.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at (202) 205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is April 20, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 16, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations and its full five-year review determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and/or antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and

likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 1998.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each Subject Country after 1998, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in each Subject Country, and such merchandise from other countries.

(11) (*Optional*) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: February 23, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–3952 Filed 2–28–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Porcelain-on-Steel Cooking Ware From China and Taiwan (Investigations Nos. 731–TA–298 and 299 (Second Review)); Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan (Investigations Nos. 701–TA–267 and 268 and 731–TA–304 and 305 (Second Review))

AGENCY: United States International Trade Commission.

ACTION: Scheduling of expedited five-year reviews concerning the antidumping duty orders on porcelain-on-steel cooking ware from China and Taiwan, and the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from Korea and Taiwan.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty orders on porcelain-on-steel cooking ware from China and Taiwan, and the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Megan Spellacy (202–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background—On June 6, 2005, the Commission determined that the domestic interested parties group responses to its notice of institution (70 FR 9974, March 1, 2005) of the subject five-year reviews were adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] [2] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on July 1, 2005, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

[2] Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson concluded that the domestic group responses for these reviews were adequate and the respondent group response was inadequate, but that circumstances warranted a full review.

[3] The Commission has found the responses submitted by Columbian Home Products, LLC and the Stainless Steel Cookware Committee to be individually adequate. Comments from other interested parties will not be accepted) (*see* 19 CFR 207.62(d)(2)).

July 8, 2005 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by July 8, 2005. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determinations.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: June 16, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–12196 Filed 6–20–05; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–601, A–583–603]

Top–of-the–Stove Stainless Steel Cooking Ware from the Republic of Korea and Taiwan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 1, 2005, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on top–of-the–stove stainless steel cooking ware (''cooking ware'') from the Republic of Korea (''Korea'') and Taiwan pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). The Department conducted expedited (120–day) sunset reviews of these orders. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Reviews* section of this notice.

EFFECTIVE DATE: September 27, 2005.

FOR FURTHER INFORMATION CONTACT: Zev Primor, AD/CVD Operations, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4114.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2005, the Department published the notice of initiation of the second sunset reviews of the antidumping duty orders on cooking ware from Korea and Taiwan pursuant to section 751(c) of the Act. *See Initiation of Five–Year (''Sunset'') Reviews*, 70 FR 9919 (March 1, 2005). The Department received the Notice of Intent to Participate from Regal Ware, Inc.; Vita Craft Corporation; and Paper Allied Industrial Chemical & Energy Workers (Local 7–0850) (collectively ''the domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i) (''Sunset Regulations''). The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as manufacturers of a domestic–like product in the United States, and unions whose workers are engaged in the production of a domestic–like product in the United States.

We received complete substantive responses from the domestic interested parties within the 30–day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from respondent interested parties with respect to any of the orders covered by these sunset reviews. As a result, pursuant to section 751(c)(4)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120–day) sunset reviews of these orders for Korea and Taiwan.

Scope of the Orders

The merchandise subject to these antidumping orders is cooking ware from Korea and Taiwan. The subject merchandise is all non–electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers. Excluded from the scope of the orders are stainless steel oven ware and stainless steel kitchen ware. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') item numbers 7323.93.00 and 9604.00.00. The HTSUS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

The Department has issued several scope clarifications for these orders. The Department found that ''universal pan lids'' are not within the scope of the orders (57 FR 57420 (December 4, 1992)) and Max Burton's StoveTop Smoker is within the scope of the orders (60 FR 36782 (July 18, 1995)). Certain stainless steel pasta and steamer inserts (63 FR 41545 (August 4, 1998)), certain stainless steel eight–cup coffee percolators (58 FR 11209, February 24, 1993), and certain stainless steel stock pots and covers are within the scope of

the orders (57 FR 57420 (December 4, 1992)). Moreover, as a result of a changed circumstances review, the Department revoked the orders in part with respect to certain stainless steel camping ware: (1) made of single–ply stainless steel having a thickness no greater than 6.0 millimeters; and (2) consisting of 1.0, 1.5, and 2.0 quart saucepans without handles and with lids that also serve as fry pans (62 FR 3662 (January 24, 1997)).

Analysis of Comments Received

All issues raised in these reviews are addressed in the ''Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Top–of-the–Stove Stainless Steel Cooking Ware from the Republic of Korea and Taiwan (''Decision Memorandum'') from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated September 27, 2005, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were to be revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in room B–099 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on cooking ware from Korea and Taiwan would be likely to lead to continuation or recurrence of dumping at the following weighted–average percentage margins:

Manufacturers/Exporters/Producers	Weighted–Average Margin (percent)
Korea.	
Bum Koo Industrial Co., Ltd.	*31.23
Dae Sung Industrial Co., Ltd.	6.11
Hai Dong Stainless Industries, Co.	12.14
Kyung Dong Industrial Co., Ltd.	8.36
Namil Metal Co. Ltd.	0.75
All Others	8.10
Taiwan.	
Golden Lion Metal Industry Co., Ltd.	15.08
Lyi Mean Industrial Co., Ltd.	26.10
Song Far Industry Co., Ltd.	25.90
All Others	22.61

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 20, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–19275 Filed 9–26–05; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–583–604]

Final Results of Expedited Sunset Review of Countervailing Duty Order: Top–of–the–Stove Stainless Steel Cookware from Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 1, 2005, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty (''CVD'') order on top–of-the–stove stainless steel cookware from Taiwan pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 9919 (March 1, 2005). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of the domestic interested parties and inadequate response from respondent interested parties (in this case, no response), the Department conducted an expedited sunset review of this CVD order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B). As a result of this sunset review, the Department finds that revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy at the level indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: October 4, 2005.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or David Goldberger, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–1767 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2005, the Department initiated a sunset review of the CVD order on top–of-the–stove stainless steel cookware from Taiwan pursuant to section 751(c) of the Act. *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 9919 (March 1, 2005). On March 16, 2005, the Department received a notice of intent to participate from the following domestic interested parties: Paper Allied Industrial Chemical & Energy Workers, Local 7–0850 (''PACE''), and Vita Craft Corporation (''Vita''), which make up the Stainless Steel Cookware Committee (''Committee''), an ad hoc coalition of domestic producers and employees, and Regal Ware, Inc. (collectively ''domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under sections 771(9)(C), (D), (E) and (F) of the Act as an ad hoc association comprised of domestic producers of the subject merchandise.

On March 31, 2005, the Department received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(I). However, the Department did not receive a substantive response from any government or respondent interested party to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited review of this CVD order.

Scope of the Order:

The merchandise subject to this CVD order is top–of-the–stove stainless steel cookware (''cookware'') from Taiwan. The subject merchandise is all non–electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers.

Excluded from the scope of the orders are stainless steel oven ware and stainless steel kitchen ware. ''Universal pan lids'' are not within the scope of the order (57 FR 57420, December 4, 1992).

Cookware is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7323.93.00 and 9604.00.00. The HTS item numbers are provided for convenience and customs purposes only. The written description remains dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Holly A. Kuga, Acting Assistant Secretary for Import Administration, dated September 27, 2005, which is hereby adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendation in this public memorandum which is on file in the Central Records Unit room B–099 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

The Department determines that revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy at the rate listed below:

Producers/Exporters	Net Countervailable Subsidy (%)
All Manufacturers/Producers/Exporters	2.14

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 27, 2005.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–19882 Filed 10–3–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–602]

Final Results of Expedited Sunset Review of Countervailing Duty Order: Top–of-the–Stove Stainless Steel Cookware from South Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 1, 2005, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty (''CVD'') order on top–of-the–stove stainless steel cookware from South Korea pursuant to section 751(c) of the Tariff Act of 1930,

as amended (''the Act''). *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 9919

(March 1, 2005). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of the domestic interested parties and no response from respondent interested parties (in this case, no response), the Department conducted an expedited sunset review of this CVD order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B). As a result of this sunset review, the Department finds that revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy at the level indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: October 4, 2005.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or David Goldberger, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–1767 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2005, the Department initiated a sunset review of the CVD order on top–of-the–stove stainless steel cookware from Korea pursuant to section 751(c) of the Act. *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 9919 (March 1, 2005). On

March 16, 2005, the Department received a notice of intent to participate from the following domestic interested parties: Paper Allied Industrial Chemical & Energy Workers, Local 7–0850 (''PACE'') and Vita Craft Corporation (''Vita''), which make up the Stainless Steel Cookware Committee (''Committee''), an ad hoc coalition of domestic producers and employees, and Regal Ware, Inc. (collectively ''domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under sections 771(9)(C), (D), (E) and (F) of the Act, as an ad hoc association which is comprised of domestic producers of the subject merchandise.

On March 31, 2005, the Department received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). However, the Department did not receive a substantive response from any government or respondent interested party to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited review of this CVD order.

Scope of the Order

The merchandise subject to this CVD order is top–of-the–stove stainless steel cookware (''cookware'') from Korea. The subject merchandise is all non–electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers.

Excluded from the scope of the order is stainless steel oven ware and stainless steel kitchen ware. Certain stainless steel pasta and steamer inserts and certain stainless steel eight–cup coffee percolators are within the scope (63 FR 41545 (August 4, 1998) and 58 FR 11209 (February 24, 1993), respectively).

Moreover, as a result of a changed circumstances review, the Department revoked the order in part with regards to certain stainless steel camping ware that: (1) is made of single–ply stainless steel having a thickness no greater than 6.0 millimeters; and (2) consists of 1.0, 1.5, and 2.0 quart saucepans without handles and with lids that also serve as fry pans (62 FR 32767, June 17, 1997).

Cookware is currently classifiable under Harmonized Tariff Schedule (''HTS'') item numbers 7323.93.00 and 9604.00.00. The HTS item numbers are provided for convenience and customs purposes only. The written description remains dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Holly A. Kuga, Acting Assistant Secretary for Import Administration, dated September 27, 2005, which is hereby adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendation in this public memorandum which is on file in the Central Records Unit room B–099 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

The Department determines that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

Producers/Exporters	Net Countervailable Subsidy (percent)
All Manufacturers[1]	0.77

[1] Dae Sung Industrial Co. and Woo Sung Company Ltd. were excluded from the order. *See Countervailing Order: Certain Stainless Steel Cooking Ware from the Republic of Korea*, 52 FR 2140 (January 20, 1987).

Notification Regarding Administrative Protective Order:

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 27, 2005.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–19884 Filed 10–3–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–506, A–583–508)

Porcelain–on-Steel Cooking Ware from the People's Republic of China and Taiwan; Five-year (''Sunset'') Reviews of Antidumping Duty Orders; Final Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 1, 2005, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty orders on porcelain–on-steel cooking ware from the People's Republic of China (''PRC'') and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended, (''the Act''). On the basis of the notice of intent to participate and adequate substantive responses filed on behalf of the domestic interested parties, and inadequate responses from respondent interested parties, the Department conducted expedited sunset reviews. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled ''Final Results of Reviews.''

EFFECTIVE DATE: October 5, 2005.

FOR FURTHER INFORMATION CONTACT: Maureen Flannery, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–3020.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2005, the Department initiated sunset reviews of the antidumping duty orders on porcelain–on-steel cooking ware from the PRC and Taiwan pursuant to section 751(c) of the Act. *See Initiation of Five-year (''Sunset'') Reviews*, 70 FR 9919 (March 1, 2005). The Department received notices of intent to participate from a domestic interested party, Columbian Home Products, LLC (''Columbian''), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. Columbian claimed interested party status pursuant to section 771(9)(C) of the Act as a U.S. producer of the domestic like product. We received a submission from the domestic interested party within the 30-day deadline specified in section 351.218(d)(3)(I) of the Department's regulations. However, we did not receive submissions from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department conducted expedited sunset reviews of these orders.

Scope of the Orders

PRC

The merchandise covered by this order is porcelain–on-steel cooking ware from the PRC, including tea kettles, which do not have self–contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the Harmonized Tariff Schedule (''HTS'') item 7323.94.00. HTS items numbers are provided for convenience and customs purposes. The written description of the scope remains dispositive.

In response to a request from CGS International, on January 30, 1991, the Department clarified that high quality, hand finished cookware, including the small basin, medium basin, large basin, small colander, large colander, 8'' bowl, 6'' bowl, mugs, ash tray, napkin rings, utensil holder and utensils, ladle, cream & sugar, and mixing bowls are properly considered kitchen ware and are, therefore, outside the scope of the order. Further, the Department clarified that CGS International's casserole, 12–cup coffee pot, 6–cup coffee pot, roasting pan, oval roaster, and butter warmer are within the scope of the order (*see Notice of Scope Rulings*, 56 FR 19833 (April 30, 1991)).

In response to a request from Texsport, on August 8, 1990, the Department determined that camping sets, with the exception of the cups and plates included in those sets, are within the scope of the order (*see Notice of Scope Rulings*, 55 FR 43020 (October 25, 1990)).

On March 8, 2000, Tristar Products' grill set with aluminum grill plate was found to be outside the scope of the order (*see Notice of Scope Rulings*, 65 FR 41957 (July 7, 2000)).

On October 29, 2003, Target Corporation's certain enamel–clad beverage holders and dispensers were found to be outside the scope of the order (*see Notice of Scope Rulings*, 70 FR 24533 (May 10, 2005)).

On January 4, 2005, Taybek International's Pro Popper professional popcorn popper was found to be within the scope of the order (*see Notice of Scope Rulings*, 70 FR 41374 (July 19, 2005)).

Taiwan

The merchandise covered by this order is porcelain–on-steel cooking ware from Taiwan that do not have self–contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. Kitchen ware and teakettles are not subject to this order The merchandise is currently classifiable under the HTS item number 7323.94.00. The HTS subheading is provided for convenience and customs purposes. The written description of the scope remains dispositive.

On August 23, 1990, in response to a request from RSVP, BBQ grill baskets were found to be outside the scope of the order (*see Notice of Scope Rulings*, 55 FR 43020 (October 25, 1990)).

On September 3, 1992, in response to a request from Mr. Stove Ltd., stove top grills and drip pans were found to be outside the scope of the order (*see Notice of Scope Rulings*, 57 FR 57420 (December 4, 1992)).

On September 25, 1992, in response to a request from Metrokane Inc., the ''Pasta Time'' pasta cooker was found to be within the scope of the order (*see Notice of Scope Rulings*, 57 FR 57420 (December 4, 1992)).

On August 18, 1995, Blair Corporation's Blair cooking ware items #1101 (seven piece cookware set), #271911 (eight–quart stock pot), and #271921 (twelve–quart stock pot) were found to be outside the scope of the order (*see Notice of Scope Rulings*, 60 FR 54213 (October 20, 1995)).

On October 30, 1996, Cost Plus, Inc.'s 10 piece porcelain–on-steel fondue set was found to be within the scope of the order (*see Notice of Scope Rulings*, 62 FR 9176 (February 28, 1997)).

Analysis of Comments Received

All issues raised in these cases are addressed in the ''Issues and Decision Memorandum'' from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Holly A. Kuga, Acting Assistant Secretary for

Import Administration, dated September 27, 2005 (''Decision Memorandum''), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Department of Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on our Web site at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on porcelain–on-steel cooking ware from the PRC and Taiwan would likely lead to continuation or recurrence of dumping at the following percentage weighted–average margins:

Manufacturers/Exporters/Producers	Weighted–Average Margin (Percent)
PRC.	
China National Light Industrial Products Import and Export Corporation	66.65
PRC–wide Rate	66.65
Taiwan.	
First Enamel Industrial Corp.	9.04
Tian Shine Enterprise Co., Ltd.	1.99
Tou Tien Metal (Taiwan) Co., Ltd.	2.67
Li–Fong Industrial Co., Ltd.	2.63
Li–Mow Enameling Co. Ltd.	6.48
Receive Will Industry Co.	23.12
All Others Rate	6.82

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 27, 2005.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

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APPENDIX B

STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

Porcelain-on-Steel Cooking Ware from China and Taiwan,
Invs. No. 731-TA-298 and 299 (Second Review)

and

Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan
Invs. No. 701-TA-267 and 731-TA-304 and 305 (Second Review)

On June 6, 2005, the Commission[1] determined that it should proceed to expedited reviews in the subject five-year reviews pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B). A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (http://www.usitc.gov).

Porcelain-on-Steel Cooking Ware from China and Taiwan

The Commission received one response from Columbian Home Products, LLC ("Columbian"), the sole domestic producer of porcelain-on-steel cooking ware. The Commission determined that Columbian's response was individually adequate. The Commission also determined that Columbian's response represented an adequate domestic interested party group response.

The Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party group response was inadequate. The Commission did not find any circumstances that would warrant conducting a full review. The Commission therefore determined to conduct an expedited review.

Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan

With regard to domestic interested parties, the Commission received one response from the Stainless Steel Cookware Committee ("Committee"). With regard to respondent interested parties, the Commission received only a response from the Taipei Economic and Cultural Representative Office in the United States, Economic Division ("TECRO"). TECRO is the Republic of China's principal representative office in the United States and thus an interested party. In the review concerning Korea, the Commission received no response from respondent interested parties.

The Commission determined that the domestic interested party group response was adequate because the Committee's producing members comprised a majority of domestic production and shipments of top-of-the-stove stainless steel cooking ware in 2004. Because no respondent interested party responded to the notice in the review concerning Korea, the Commission determined that the respondent interested party group response for this review was inadequate. With regard to the review concerning Taiwan, the Commission determined that TECRO's response was individually adequate. However, the Commission did not receive

[1] Vice Chairman Okun and Commissioner Pearson dissenting.

any responses from Taiwanese producers/exporters or U.S. importers and nothing in TECRO's response indicated that it would be able to provide the type of information collected in a full review. Thus, the Commission determined that the respondent interested party group response was inadequate in the review concerning Taiwan. The Commission therefore determined to conduct an expedited review.