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**BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION**

In the Matter of)
)
CERTAIN TIN MILL PRODUCTS)
FROM CANADA, CHINA, GERMANY,)
NETHERLANDS, SOUTH KOREA,)
TAIWAN, TURKEY, AND THE)
UNITED KINGDOM)
)
_____)

**PETITIONS FOR THE IMPOSITION
OF ANTIDUMPING AND
COUNTERVAILING DUTIES**

**VOLUME I: GENERAL ISSUES
AND INJURY**

**Petitioners:
Cleveland-Cliffs Inc. and the United Steel, Paper and Forestry, Rubber, Manufacturing,
Energy, Allied Industrial and Service Workers International Union**

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January 18, 2023

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- EXHIBIT 35** “Tin Plate Products,” available at <https://northamerica.arcelormittal.com> (Public)
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**PETITIONS FOR THE IMPOSITION OF ANTIDUMPING DUTIES AND
COUNTERVAILING DUTIES ON IMPORTS OF CERTAIN TIN MILL PRODUCTS
FROM CANADA, CHINA, GERMANY, NETHERLANDS, SOUTH KOREA, TAIWAN,
TURKEY, AND THE UNITED KINGDOM**

VOLUME I: GENERAL ISSUES AND INJURY

I. INTRODUCTION

These petitions are filed by Cleveland-Cliffs Inc. (“Cleveland-Cliffs”) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“United Steelworkers” or “USW”) on behalf of the U.S. industry producing certain tin- and chromium-coated steel sheet products.¹ For purposes of this volume, we refer to the subject merchandise as “tin mill products.”

The petitions seek the imposition of antidumping duties on U.S. imports of tin mill products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and the United Kingdom, pursuant to Section 731 of the Tariff Act of 1930, as amended (the “Act”), *codified at* 19 U.S.C. § 1673. The petitions present evidence that imports of tin mill products from each subject country are being sold in the United States at less than normal value. The petitions also seek the imposition of countervailing duties on U.S. imports of tin mill products from China, pursuant to Section 701 of the Act, *codified at* 19 U.S.C. § 1671. The petitions present evidence that imports of tin mill products from China are benefiting from countervailable subsidies.

The petitions also show that dumped and subsidized imports from the subject countries have: (1) taken sales from the domestic industry, (2) prevented domestic producers from obtaining a fair rate of return on their operations, and (3) put the very future of the domestic

¹ For the full scope of these investigations, *see* pp. 15-19 of this volume.

industry at risk. In short, trade relief is not only appropriate here – it is essential to prevent further harm to domestic producers of tin mill products.

The petitions contain separate volumes for the allegations of dumping from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and the United Kingdom,² and a separate volume for the allegations of subsidies from China.³ This volume contains general information relating to all the petitions, as well as required information concerning material injury and threat of material injury to the domestic industry. The allegations contained in these petitions consist of information that is reasonably available to the Petitioners to support the allegations made. The petitions are being filed in conformity with the requirements of Section 351.202 of the regulations of the U.S. Department of Commerce (“the Department”)⁴ and Section 207.11 of the regulations of the U.S. International Trade Commission (“ITC” or “Commission”).⁵

II. GENERAL INFORMATION

A. The Petitioners and the Degree of Industry Support for the Petitions

1. The Petitioners⁶

There are two Petitioners in these investigations: Cleveland-Cliffs and the United Steelworkers. Cleveland-Cliffs is a domestic producer of tin mill products, and its tin mill production facility is located in Weirton, West Virginia.⁷ This facility specializes in the production of tin mill products and cold-rolled sheet.⁸ Thus, Cleveland-Cliffs is an interested

² See Volumes II to IX of these petitions.

³ See Volume X of these petitions.

⁴ See generally 19 C.F.R. § 351.202.

⁵ See generally 19 C.F.R. 207.11(b)(2)(i).

⁶ See 19 C.F.R. § 207.11(b)(2)(i) and 19 C.F.R. § 351.202(b)(1).

⁷ See “Weirton,” available at <https://www.clevelandcliffs.com/operations/steelmaking/weirton>, attached as **Exhibit I-1**.

⁸ See Fact Sheet for Cleveland-Cliffs Weirton Facility, attached as **Exhibit I-2**. For confidential data regarding Cleveland-Cliffs’ operations on tin mill products, see **Exhibit I-3**.

party within the meaning of the Act.⁹ Below, we provide contact information for Cleveland-Cliffs:

Cleveland-Cliffs Inc.

200 Public Square, Suite 3300

Cleveland, OH 44114

Contact: Patrick Bloom, Vice President, Government Relations

Patrick.bloom@clevelandcliffs.com

(216) 694-5408

<https://www.clevelandcliffs.com>

The USW is a union representing 850,000 workers employed in metals, mining, pulp and paper, rubber, chemicals, glass, auto supply, and the energy-producing industries, along with a growing number of workers in health care, public sector, higher education, tech, and service occupations.¹⁰ The USW represents workers at all major facilities in the United States where tin mill products are made,¹¹ including facilities operated by Cleveland-Cliffs,¹² United States Steel Corporation (“U.S. Steel”),¹³ and Ohio Coatings Company (“Ohio Coatings”).¹⁴ Thus, the USW is an interested party within the meaning of the Act.¹⁵ Contact information for the USW is provided below:

⁹ See 19 U.S.C. § 1677(9)(C) (defining “interested party” to include “a manufacturer, producer, or wholesaler in the United States of a domestic like product”).

¹⁰ See, e.g., News Release, “USW: WTO’s Section 232 Decision Just Plain Wrong,” (Dec. 9, 2022), available at <https://usw.org/news/media-center/releases/2022/usw-wtos-section-232-decision-just-plain-wrong>, attached at **Exhibit I-4**.

¹¹ Declaration of Roy Houseman, USW, attached at **Exhibit I-5**.

¹² See “Cleveland-Cliffs Announces Ratification of New Labor Agreement with the USW Covering 12,000 Union Members,” (Oct. 12, 2022), available at <https://clevelandcliffs.com/news/news-releases/detail/559/cleveland-cliffs-announces-ratification-of-new-labor>, attached at **Exhibit I-6**; “Steelworkers Ratify Historic Agreement with Cleveland-Cliffs Steel,” (Oct. 12, 2022), available at <https://usw.org/news/media-center/releases/2022/steelworkers-ratify-historic-agreement-with-cleveland-cliffs-steel>, attached at **Exhibit I-7**.

¹³ See “USW members approve new contract with U.S. Steel,” (Dec. 21, 2022), available at <https://businessnorth.com/daily-briefing/news-members-approve-new-contract-with-u-s-steel/article-2f2ebbac-8142-11ed-b11c-c3654a4be781.html>, attached at **Exhibit I-8**.

¹⁴ See Declaration of Roy Houseman, attached at **Exhibit I-5**.

¹⁵ See 19 U.S.C. § 1677(9)(D) (defining “interested party” to include “a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product”).

United Steelworkers

60 Boulevard of the Allies

Pittsburgh, PA 15222

Contact: Roy Houseman, Legislative Director

rhouseman@usw.org

(412) 562-2400

<https://www.usw.org>**2. Other U.S. Producers¹⁶**

In 2018, the Commission issued its final determination and staff report in the third five-year review of the antidumping order on tin mill products from Japan.¹⁷ In that report, Commission Staff identified four U.S. producers that were “believed to account for all U.S. production” of tin mill products.¹⁸ One of these producers was ArcelorMittal USA LLC (“ArcelorMittal USA”), which – at the time – owned a tin mill steel production facility in Weirton, West Virginia.¹⁹ In December 2020, Cleveland-Cliffs bought the assets of ArcelorMittal USA, including the Weirton facility.²⁰

At the time of the third five-year review of the order on tin mill products from Japan, USS-POSCO Industries Inc., commonly referred to as “UPI,” was also a domestic producer of tin mill products.²¹ In March 2020, U. S. Steel bought POSCO’s share of UPI.²² At the beginning of 2022, press reports indicated that U.S. Steel intends to close this facility by December 2023.²³ These facts mean that, other than Cleveland-Cliffs, the only remaining

¹⁶ See 19 C.F.R. § 207.11(b)(2)(ii) and 19 C.F.R. § 351.202(b)(2).

¹⁷ See *Tin- and Chromium-Coated Steel Sheet from Japan*, Inv. No. 731-TA-860 (Third Review), USITC Pub. 4795 (June 2018) (hereinafter *2018 Five-Year Review*).

¹⁸ *Id.* at I-23.

¹⁹ *Id.* at I-24.

²⁰ See “Cleveland-Cliffs Inc. Completes Acquisition of ArcelorMittal USA,” (Dec. 9, 2020), available at <https://clevelandcliffs.com/news/news-releases/>, attached as **Exhibit I-10**.

²¹ See *2018 Five-Year Review* at I-23 and I-24.

²² “U. S. Steel Acquires Remaining 50 Percent Ownership Interest in USS-POSCO Industries (UPI) From POSCO-California Corporation,” (Mar. 1, 2020), available at <https://investors.ussteel.com/news/news-details/2020/U.-S.-Steel-Acquires-Remaining-50-Percent-Ownership-Interest-in-USS-POSCO-Industries-UPI-From-POSCO-California-Corporation/default.aspx>, attached as **Exhibit I-11**.

²³ Abby Verret, “US Steel to close UPI, sell property in 2023,” *Fastmarkets* (Jan. 18, 2022), available at <https://fastmarkets.com/insights/us-steel-to-close-upi-sell-property-in-2023>, attached as **Exhibit I-12**.

domestic producers of tin mill products are U.S. Steel and Ohio Coatings. Contact information for these companies is provided below:

United States Steel Corporation

600 Grant Street, Suite 1881
Pittsburgh, PA 15219
Contact: [

]

E-mail Address: [
(412) 433-1121

]

<https://www.ussteel.com>

Ohio Coatings Company

2100 Tin Plate Place
Yorkville, OH 43971

Contact: [

]

E-mail Address: [
(740) 859-5519

]

<https://www.ohiocoatingscompany.com>

3. Industry Support for the Petitions²⁴

The Department will determine that the petitions have sufficient industry support if the following criteria are met: (1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product made by that portion of the industry expressing support for or opposition to the petition.²⁵

In these investigations, Petitioners have more than enough industry support to bring these cases. As shown above, there are three domestic producers of tin mill products: Cleveland-

²⁴ See 19 C.F.R. § 351.202(b)(3). 19 C.F.R. § 351.202(b)(3)(i) asks for “the total volume and value of U.S. production of the domestic like product.” In 2018, the Commission found that in 2016, the total volume of U.S. production was 1,374,409 short tons and the value of net sales was \$ 1,286,257,000. See 2018 Five-Year Review at C-1. This is the most recent year for which this data is available. Information regarding volume and value of Cleveland-Cliffs’ production since 2019 is available in Exhibit I-3.

²⁵ See 19 U.S.C. § 1673a(c)(4)(A).

Cliffs, U. S. Steel, and Ohio Coatings. The USW, which supports these petitions, represents workers at all three companies.²⁶ Thus, workers who support the petition obviously account for more than 50 percent of domestic production.

B. Related Proceedings and Previous Requests for Relief²⁷

1. The Antidumping Order on Japan

On October 28, 1999, petitions were filed by Weirton Steel Corporation, the Independent Steelworkers Union, and the USW, alleging material injury and threat of material injury to an industry in the United States by reason of dumped and subsidized imports from Japan.²⁸ On August 9, 2000, following the Department's determination that imports of tin mill products from Japan were being sold at less than fair value, the Commission determined that the domestic industry producing tin mill products was materially injured by reason of dumped imports from Japan.²⁹

In June 2006, the Commission initiated its first five-year review of the order on tin mill imports from Japan.³⁰ In that review, which was a full review, the Commission determined that revocation would likely lead to continuation or recurrence of material injury to the United States

²⁶ See Declaration of Roy Houseman, USW, attached as Exhibit I-5.

²⁷ See 19 C.F.R. § 351.202(b)(4).

²⁸ *2018 Five-Year Review* at I-2. Weirton Steel Corp. filed for bankruptcy in 2003 and its mill in Weirton, West Virginia was acquired by International Steel Group, which subsequently merged with Mittal Steel (which in turn merged with Arcelor). *Id.* at I-2 n.6. As explained above, the Weirton mill is now owned by Cleveland-Cliffs. The Independent Steelworkers Union of Weirton formally merged with the USW in 2007. See Associated Press, "Independent Steelworkers Union formally merges with USW" (Apr. 13, 2007), available at <https://archive.triblive.com/news/independent-steelworkers-union-formally-merges-with-usw-2/>, attached as **Exhibit I-13**.

²⁹ *2018 Five-Year Review* at I-2. In September 2000, the Japanese respondents appealed the Commission's affirmative determination to the U.S. Court of International Trade ("CIT"). After a series of remands and appeals, the U.S. Court of Appeals for the Federal Circuit directed the CIT to "reinstate the Commission's affirmative material injury determination" in the investigation. For a detailed history of the appellate proceedings, see *id.* at I-2 and I-3; see also *Nippon Steel Corp. v. United States*, 458 F.3d 1345 (Fed. Cir. 2006).

³⁰ See *Tin- and Chromium-Coated Steel Sheet from Japan*, Inv. No. 731-TA-860 (Review), USITC Pub. 3860 (June 2006).

within a reasonably foreseeable time.³¹ The Commission made similar determinations in its second and third reviews of the order, which were completed in 2012 and 2018, respectively.³² As a result of these determinations, the order on Japan remains in place. It is the only antidumping and/or countervailing duty order on U.S. imports of tin mill products.

2. Other Investigations

Section 201. In a 2001 safeguards investigation, which took place under Section 201 of the Trade Act of 1974, the Commission was evenly divided as to whether tin mill products were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing such articles.³³ On March 5, 2002, President George W. Bush announced the implementation of steel safeguard measures. Import relief relating to tin mill products consisted of an additional tariff for a period of three years and one day (30 percent *ad valorem* on imports in the first year, 24 percent in the second year, and 18 percent in the third year).³⁴ However, President Bush subsequently terminated the U.S. measure with respect to increased tariffs on December 4, 2003.³⁵ There are currently no Section 201 tariffs in place on tin mill products.

Section 232. Effective March 23, 2018, tin mill products were included in the enumeration of iron and steel articles that became subject to the additional 25 percent *ad valorem*

³¹ See *Tin- and Chromium-Coated Steel Sheet from Japan*, Inv. No. 731-TA-860 (Review), USITC Pub. 3860 (June 2006).

³² See *Tin- and Chromium-Coated Steel Sheet from Japan*, Inv. No. 731-TA-860 (Second Review), USITC Pub. 4325 (May 2012); *2018 Five-Year Review*.

³³ *2018 Five-Year Review* at I-4.

³⁴ *Id.*

³⁵ *Id.* at I-5. On March 21, 2005, the Commission instituted an investigation under Section 204(d) of the Trade Act of 1974 to evaluate the effectiveness of the relief action on imports of certain steel products. *Id.* The Commission submitted the evaluation report to the President and the Congress on September 19, 2005. *Id.* See also *Steel: Evaluation of the Effectiveness of Import Relief*, Inv. No. TA-204-12, USITC Pub. 3797 (Sep. 2005).

duty under Section 232 of the Trade Expansion Act of 1962, as amended (“Section 232”).³⁶

Subsequent Presidential proclamations have exempted or adjusted these duties for selected U.S. trade partners. A description of how these proclamations have affected the subject countries at issue is provided below:

- Presidential Proclamation 9711 (March 22, 2018): Exempted iron and steel mill products originating in Canada and the European Union (“EU”) member states (including the United Kingdom), effective March 23, 2018.³⁷
- Presidential Proclamation 9740 (April 30, 2018): Ended the duty exemptions on iron and steel mill products originating in Canada and the EU member states (including the United Kingdom), effective June 1, 2018.³⁸
- Presidential Proclamation 9772 (Aug. 10, 2018): Doubled the duty rate to 50 percent on steel mill products originating in Turkey, effective August 13, 2018.³⁹
- Presidential Proclamation 9886 (May 16, 2019): Restored the original additional duty rate of 25 percent on steel mill products originating from Turkey, effective May 21, 2019.⁴⁰
- Presidential Proclamation 9894 (May 19, 2019): Restored the duty exemptions on steel mill products originating in Canada.⁴¹
- Presidential Proclamation 10328 (Dec. 27, 2021): Provided duty exemptions within annual tariff rate quotas (“TRQs”) on iron and steel mill products originating in EU member countries, effective January 1, 2022.⁴²

³⁶ Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. § 1862), authorizes the President, on advice of the Secretary of Commerce, to adjust the imports of an article and its derivatives that are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. See Presidential Proclamation 9705 of March 8, 2018, *Adjusting Imports of Steel into the United States*, 83 Fed. Reg. 11625 (Mar. 15, 2018), included in **Exhibit I-14**.

³⁷ See Presidential Proclamation 9711 of March 22, 2018, “*Adjusting Imports of Steel Into the United States*,” 83 Fed. Reg. 13361 (Mar. 28, 2018).

³⁸ See Presidential Proclamation 9740 of April 30, 2018, “*Adjusting Imports of Steel Into the United States*,” 83 Fed. Reg. 20683 (May 7, 2018).

³⁹ See Presidential Proclamation 9772 of August 10, 2018, “*Adjusting Imports of Steel Into the United States*,” 83 Fed. Reg. 40429 (Aug. 15, 2018).

⁴⁰ See Presidential Proclamation 9886 of May 16, 2019, “*Adjusting Imports of Steel Into the United States*,” 84 Fed. Reg. 23421 (May 21, 2019).

⁴¹ See Presidential Proclamation 9894 of May 19, 2019, “*Adjusting Imports of Steel Into the United States*,” 84 Fed. Reg. 23987 (May 23, 2019).

⁴² See Presidential Proclamation 10328 of December 27, 2021, “*Adjusting Imports of Steel Into the United States*,” 87 Fed. Reg. 11 (Jan. 3, 2022).

- Presidential Proclamation 10406 (May 31, 2022): Provided duty exemptions within annual TRQs on iron and steel mill products originating in the United Kingdom, effective June 1, 2022.⁴³

Section 301. In April 2018, the U.S. Trade Representative (“USTR”) determined that acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation were unreasonable or discriminatory and burden or restrict U.S. commerce.⁴⁴ In response to these acts, policies, and practices, the USTR used its authority under Section 301 of the Trade Act of 1974, as amended, (“Section 301”) to impose additional duties on several products from China.⁴⁵ These Section 301 duties did not apply to tin mill products.

On August 20, 2019, USTR modified its Section 301 measures by imposing an additional 10 percent *ad valorem* duty on products of China with an annual aggregate trade value of approximately \$300 billion.⁴⁶ The tariff subheadings subject to these additional duties were separated into two lists with different effective dates (*i.e.*, Annex A and Annex B). The list in Annex A had an effective date of September 1, 2019. That list included the following HTS subheadings, all of which include products within the scope of these investigations: 7210.11.00, 7210.12.000, 7210.50.00, 7212.50.00, 7225.99.00, and 7226.99.01.⁴⁷

⁴³ See Presidential Proclamation 10406 of May 31, 2019, “*Adjusting Imports of Steel Into the United States*,” 87 Fed. Reg. 33591 (Jun. 3, 2022).

⁴⁴ See *Notice of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 14906 (Apr. 6, 2018), included in **Exhibit I-15**.

⁴⁵ See *Notice of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation* 83 Fed. Reg. 28710 (Jun. 20, 2018); *Notice of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 40823 (Aug. 16, 2018); *Notice of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 47974 (Sep. 21, 2018).

⁴⁶ See *Notice of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 43304 (Aug. 20, 2019).

⁴⁷ *Id.*

USTR subsequently increased the rate of the additional duty applicable to the tariff subheadings covered by Section 301 duties covered by the action announced on August 30 from 10 percent to 15 percent.⁴⁸ However, on January 22, 2020, USTR reduced the level of additional duties on these products from 15 percent to 7.5 percent, effective February 14, 2020.⁴⁹ These duties remain in place today.⁵⁰ There are no Section 301 duties imposed on other subject countries.

C. Description of the Subject Merchandise

The Department's regulations ask petitioners to provide a "detailed description of the subject merchandise that defines the requested scope of the investigation, including the technical characteristics and uses of the merchandise and its current U.S. tariff classification number."⁵¹

This information is provided below.

1. Technical Characteristics and Uses

a) Tinplate⁵²

Tinplate is a tin-coated flat-rolled steel product made from black plate, an uncoated flat-rolled steel that is the basic material used to produce tin mill products. To create tinplate, black plate is coated on both sides with commercially pure tin via electrolytic deposition. Tin coatings vary by thickness, depending on intended end use. A common commercial weight for tin is 20 pounds/base box.⁵³ In addition, tinplate is available with different coating weights on the two

⁴⁸ See *Notice of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 45821 (Aug. 30, 2019).

⁴⁹ See *Notice of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 85 Fed. Reg. 3741 (Jan. 22, 2020).

⁵⁰ Since the imposition of the additional duties, USTR has granted exclusions from Section 301 duties to certain imports from China, but none of those exclusions apply to the HTS numbers relevant to these investigations.

⁵¹ 19 C.F.R. § 351.202(b)(5).

⁵² This discussion is based on *2018 Five-Year Review* at I-17 to I-18.

⁵³ A base box is a unit of sale that refers to an area equivalent to 31,360 square inches (or 217.78 square feet). See *2018 Five-Year Review* at I-17 n.50.

sides of the sheet. Single-reduced electrolytic tinplate is commonly produced by cold rolling in thicknesses of 0.38 mm and lighter while double-reduced electrolytic tinplate is normally produced by cold rolling and annealing, followed by further cold reduction in thicknesses of 0.28 mm and lighter. Tinplate is commonly manufactured to standard specifications issued by the American Society for Testing and Materials (“ASTM”), including A623, A624, and A626.

b) Chromium-coated steel sheet⁵⁴

Chromium-coated steel sheet, also known in the industry as “tin-free steel” or “TFS,” generally consists of black plate that is further processed by the electrolytic deposition of chromium metal and chromium oxide on both sides. Like tinplate, single-reduced chromium-coated steel sheet is commonly available in thicknesses of 0.38 mm and lighter, while double-reduced chromium-coated steel sheet is normally available in thicknesses of 0.28 mm and lighter. Minimum and maximum coating weights for chromium-coated steel sheet range from 3 to 13 milligrams per square foot of metallic chromium and 0.7 to 2.5 milligrams per square foot of chromium oxide. Chromium-coated steel sheet is manufactured to ASTM Standard Specification A657.

c) Primary applications

Tinplate is used primarily to manufacture welded cans for food, aerosol, paint, filtration and general line applications. Chromium-coated steel sheet is used primarily for two-piece drawn cans and ends for food cans, as well as caps and closures for glass containers. Tinplate is used for can bodies because of its corrosion-resistance qualities. Chromium-coated steel sheet is used for ends of cans because the ends of can have less of a need for corrosion-resistance, given that ends of cans have less contact with the contents of the can.⁵⁵

⁵⁴ This discussion is based on *2018 Five-Year Review* at I-18.

⁵⁵ See generally *2018 Five-Year Review* at I-18.

d) Manufacturing processes

Commission Staff has explained that both tinplate and chromium-coated steel sheet are manufactured in five major steps. Producers need not engage in all five production steps, as steel inputs can be obtained from outside a tin mill production facility.⁵⁶ For example, in 2018, the Commission found that Ohio Coatings neither produces nor rolls steel – instead, it obtains black plate and begins its production process with the coating step.⁵⁷ The five major production steps are described below.

i. Hot rolling and cold reduction⁵⁸

Both tinplate and chromium-coated steel sheet are produced from molten steel that is either cast into slabs or poured as ingots that are rolled into slabs in a separate mill. While hot, the slabs are reduced in thickness and greatly elongated by further rolling through a series of roughing and finishing stands in a hot-strip mill. The hot strip passes between rolls in successive roll stands being reduced to a predetermined thickness, typically between 1.6 and 2.5 mm. On leaving the last finishing stand, the strip is coiled.

After cooling, the hot-rolled strip is uncoiled and pickled⁵⁹ by passing it through a series of tanks or sprays of diluted acid to remove the oxide scale formed during the hot-rolling process. The pickled strip is then typically dried, oiled, and recoiled.⁶⁰ The hot-rolled and pickled strip is cold reduced by passing it through a series of rolls, in much the same manner as in the hot-rolling operation, except that a lubricant is applied between the stands as an aid in

⁵⁶ *2018 Five-Year Review* at I-22.

⁵⁷ *Id.*

⁵⁸ This discussion is based on *2018 Five-Year Review* at I-20.

⁵⁹ For more on the meaning of this term, see “What is Steel Pickling?” available at <https://metalsupermarkets.com/what-is-steel-pickling/>, attached as **Exhibit I-16**.

⁶⁰ The oil serves as protection against rusting prior to and as a lubricant during cold reduction. *2018 Five-Year Review* at I-20.

reduction and to prevent undue heating of the rolls and strip. Because the cold-reduction process hardens the strip, the strip must be annealed.

ii. Annealing⁶¹

Annealing is a heat treatment process that changes the physical (and sometimes the chemical) properties of a material to increase ductility and reduce the hardness to make the material more workable.⁶² There are two basic types of annealing operations for cold-rolled strip: batch annealing and continuous annealing.

In batch annealing, the coiled strips are placed in a sealed container and slowly heated to, and cooled from, a subcritical temperature to soften the steel and to relieve stresses produced during rolling. To reduce oxidation, an inert or slightly reducing gas is introduced into the container during the operation. Batch annealing produces a steel product with a relatively bright surface finish and relatively greater flexibility than continuous annealing.

Continuous annealing takes place by passing the cold-reduced strip through a series of vertical passes within a furnace consisting of heating, soaking, and cooling zones. The strip is heated rapidly to the desired temperature and cooled before leaving the process. This process results in a product with less flexibility than batch-annealed steel.

Once the strip is annealed, it undergoes further processing. Single-reduced strip is temper rolled, while double-reduced strip (as its name implies) is subjected to a second cold-reduction process. Each of these processes is described below.

⁶¹ This discussion is based on *2018 Five-Year Review* at I-20.

⁶² See “What Is Annealing? A Complete Process Guide,” available at <https://twi-global.com/technical-knowledge/faqs/what-is-annealing>, attached as **Exhibit I-17**.

iii. Temper rolling⁶³

After annealing, single-reduced strip is rolled in one or more passes through a temper mill. The object of temper rolling is to improve mechanical and surface properties by imparting the desired degree of stiffness and hardness, minimizing fluting and stretcher straining, and producing the desired surface type or texture.

iv. Additional cold reduction⁶⁴

Double-reduced strip is typically not temper rolled; instead, it is subjected to a second cold-reduction process after annealing to impart mechanical and surface properties to the steel. This reduction is accomplished by passing the strip through either a single roller, or a series of rollers, using a suitable lubricant. This second cold reduction supplies the final thickness and finish and the desired stiffness, strength, and flatness. It also produces a stronger, lighter weight product.

After final reduction, the coils are ready to be trimmed and sheared, which occurs in a series of operations. This product, known as “black plate,” is highly susceptible to rusting in storage and transportation. Therefore, it is typically oiled – or chemically treated and then oiled – after cold reduction. The oil is later removed prior to coating.

v. Coating⁶⁵

In the electroplating process, the temper-rolled or double-reduced coiled strip travels through a lower and upper plating unit where individual plating cells are arranged in tandem. The plating cells contain the plating solution – either a stannous tin-containing sulphonic acid for tinplate, or a chromate solution for chromium-coated steel sheet. A conductor roll at the end of

⁶³ This discussion is based on *2018 Five-Year Review* at I-20.

⁶⁴ This discussion is based on *2018 Five-Year Review* at I-20.

⁶⁵ This discussion is based on *2018 Five-Year Review* at I-21 to I-22.

each cell rides along the top surface of the strip and serves as the cathode, while the tin- or -chromium-coating material is deposited in the bottom of each cell and serves as the anode. The coating material dissolves into the plating solution and is electrochemically deposited on the steel substrate. The electroplating process is followed by rinsing, drying, quenching, and applying a lubricating film.

Tinplate and chromium-coated steel sheet are produced in varying coating weights and can be differentially coated, where the heavier coated surface is employed as the more protected inside of containers. Most producers that manufacture both tinplate and chromium-coated steel sheet do so in the same mill, but on different coating lines. While the coating process is similar for both products, it is impractical to shift product to another production line because of the expense that would be involved in retrofitting the production line.

2. U.S. Tariff Classification Numbers

Tin mill products made from nonalloy steel are classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under subheadings 7210.11.00, 7210.12.00, 7210.50.00, 7212.10.00, and 7212.50.00.⁶⁶ Tin mill products made from alloy steel (other than stainless steel) are reported for statistical purposes under statistical reporting number 7225.99.0090 and 7226.99.0180.⁶⁷ The General Duty rate of tariffs under each of these subheadings and statistical reporting numbers is “Free.”⁶⁸

⁶⁶ 2018 Five-Year Review at I-17.

⁶⁷ *Id.*

⁶⁸ See Relevant pages from HTS Chapter 72, attached as **Exhibit I-18**.

3. Requested Scope of the Investigations

The following language describes the imported merchandise that Petitioners intend to be included in the scope of these investigations:⁶⁹

The products within the scope of these investigations are tin mill flat-rolled products that are coated or plated with tin, chromium, or chromium oxides. Flat-rolled steel products coated with tin are known as tinplate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such as scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

All products that meet the written physical description are within the scope of the investigations unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of the investigations:

- Single reduced electrolytically chromium coated steel with a thickness 0.238 mm (85 pound base box) ($\pm 10\%$) or 0.251 mm (90 pound base box) ($\pm 10\%$) or 0.255 mm ($\pm 10\%$) with 770 mm (minimum width) (± 1.588 mm) by 900 mm (maximum length if sheared) sheet size or 30.6875 inches (minimum width) ($\pm 1/16$ inch) and 35.4 inches (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T2 $\frac{1}{2}$ anneal temper, with a yield strength of 31 to 42 kpsi (214 to 290 Mpa); with a tensile strength of 43 to 58 kpsi (296 to 400 Mpa); with a chrome coating restricted to 32 to 150 mg/m²; with a chrome oxide coating restricted to 6 to 25 mg/m² with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm,

⁶⁹ This scope here is the same as the scope for the antidumping duty order on tin mill products from Japan. See U.S. Department of Commerce, International Trade Administration, Memorandum from James Maeder, Senior Director, to Gary Taverman, Deputy Assistant Secretary, *Issues and Decision Memorandum for the Expedited Third Sunset Review of the Antidumping Duty Order on Certain Tin Mill Products from Japan* (Aug. 29, 2017) at 2-5.

and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m² as type DOS, or 3.5 to 6.5 mg/m² as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 400 degrees F for 100 minutes followed by a cool to room temperature).

- Single reduced electrolytically chromium- or tin-coated steel in the gauges of 0.0040 inch nominal, 0.0045 inch nominal, 0.0050 inch nominal, 0.0061 inch nominal (55 pound base box weight), 0.0066 inch nominal (60 pound base box weight), and 0.0072 inch nominal (65 pound base box weight), regardless of width, temper, finish, coating or other properties.
- Single reduced electrolytically chromium coated steel in the gauge of 0.024 inch, with widths of 27.0 inches or 31.5 inches, and with T-1 temper properties.
- Single reduced electrolytically chromium coated steel, with a chemical composition of 0.005% max carbon, 0.030% max silicon, 0.25% max manganese, 0.025% max phosphorous, 0.025% max sulfur 0.070% max aluminum, and the balance iron, with a metallic chromium layer of 70-130 mg/m², with a chromium oxide layer of 5-30 mg/m², with a tensile strength of 260-440 N/mm², with an elongation of 28-48%, with a hardness (HR-30T) of 40-58, with a surface roughness of 0.5-1.5 microns Ra, with magnetic properties of Bm (KG) 10.0 minimum, Br (KG) 8.0 minimum, Hc (Oe) 2.5-3.8, and MU 1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU-60.
- Bright finish tin-coated sheet with a thickness equal to or exceeding 0.0299 inch, coated to thickness of ³/₄ pound (0.000045 inch) and 1 pound (0.00006 inch).
- Electrolytically chromium coated steel having ultra flat shape defined as oil can maximum depth of 5/64 inch (2.0 mm) and edge wave maximum of 5/64 inch (2.0 mm) and no wave to penetrate more than 2.0 inches (51.0 mm) from the strip edge and coilset or curling requirements of average maximum of 5/64 inch (2.0 mm) (based on six

readings, three across each cut edge of a 24 inches (61 cm) long sample with no single reading exceeding 4/32 inch (3.2 mm) and no more than two readings at 4/32 inch (3.2 mm)) and (for 85 pound base box item only: crossbuckle maximums of 0.001 inch (0.0025 mm) average having no reading above 0.005 inch (0.127 mm)), with a camber maximum of 1/4 inch (6.3 mm) per 20 feet (6.1 meters), capable of being bent 120 degrees on a 0.002 inch radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/m² and chromium oxide of 10 mg/m², with a chemistry of 0.13% maximum carbon, 0.60% maximum manganese, 0.15% maximum silicon, 0.20% maximum copper, 0.04% maximum phosphorous, 0.05% maximum sulfur, and 0.20% maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS-A oil at an aim level of 2 mg/square meter, with not more than 15 inclusions/foreign matter in 15 feet (4.6 meters) (with inclusions not to exceed 1/32 inch (0.8 mm) in width and 3/64 inch (1.2 mm) in length), with thickness/temper combinations of either 60 pound base box (0.0066 inch) double reduced CADR8 temper in widths of 25.00 inches, 27.00 inches, 27.50 inches, 28.00 inches, 28.25 inches, 28.50 inches, 29.50 inches, 29.75 inches, 30.25 inches, 31.00 inches, 32.75 inches, 33.75 inches, 35.75 inches, 36.25 inches, 39.00 inches, or 43.00 inches, or 85 pound base box (0.0094 inch) single reduced CAT4 temper in widths of 25.00 inches, 27.00 inches, 28.00 inches, 30.00 inches, 33.00 inches, 33.75 inches, 36.25 inches, or 43.00 inches, with width tolerance of 1/8 inch, with a thickness tolerance of 0.0005 inch, with a maximum coil weight of 20,000 pounds (9071.0 kg), with a minimum coil weight of 18,000 pounds (8164.8 kg), with a coil inside diameter of 16 inches (40.64 cm) with a steel core, with a coil maximum outside diameter of 59.5 inches (151.13 cm), with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes, and rust.

- Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents in the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.7 mg/square foot of chromium applied as a cathodic dichromate treatment, with coil form having restricted oil film weights of 0.3-0.4 grams/base box of type DOS-A oil, coil inside diameter ranging from 15.5 to

17 inches, coil outside diameter of a maximum 64 inches, with a maximum coil weight of 25,000 pounds, and with temper/coating/dimension combinations of: (1) CAT4 temper, 1.00/.050 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 33.1875 inch ordered width; or (2) CAT5 temper, 1.00/0.50 pound/base box coating, 75 pound/base box (0.0082 inch) thickness, and 34.9375 inch or 34.1875 inch ordered width; or (3) CAT5 temper, 1.00/0.50 pound/base box coating, 107 pound/base box (0.0118 inch) thickness, and 30.5625 inch or 35.5625 inch ordered width; or (4) CADR8 temper, 1.00/0.50 pound/base box coating, 85 pound/base box (0.0093 inch) thickness, and 35.5625 inch ordered width; or (5) CADR8 temper, 1.00/0.25 pound/base box coating, 60 pound/base box (0.0066 inch) thickness, and 35.9375 inch ordered width; or (6) CADR8 temper, 1.00/0.25 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 32.9375 inch, 33.125 inch, or 35.1875 inch ordered width.

- Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents on the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.5 mg/square foot of chromium applied as a cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT5 temper with 1.00/0.10 pound/base box coating, with a lithograph logo printed in a uniform pattern on the 0.10 pound coating side with a clear protective coat, with both sides waxed to a level of 15-20 mg/216 sq. in., with ordered dimension combinations of (1) 75 pound/base box (0.0082 inch) thickness and 34.9375 inch x 29.076 inch scroll cut dimensions; or (3) 107 pound/base box (0.0118 inch) thickness and 30.5625 inch x 34.125 inch scroll cut dimension.
- Tin-free steel coated with a metallic chromium layer between 100-200 mg/m² and a chromium oxide layer between 5-30 mg/m²; chemical composition of 0.05% maximum carbon, 0.03% maximum silicon, 0.60% maximum manganese, 0.02% maximum phosphorous, and 0.02% maximum sulfur; magnetic flux density (“Br”) of 10 kg minimum and a coercive force (“Hc”) of 3.8 Oe minimum.

- Tin-free steel laminated on one or both sides of the surface with a polyester film, consisting of two layers (an amorphous layer and an outer crystal layer), that contains no more than the indicated amounts of the following environmental hormones: 1 mg/kg BADGE (BisPhenol – A Di-glycidyl Ether), 1 mg/kg BFDGE (BisPhenol – F Di-glycidyl Ether), and 3 mg/kg BPA (BisPhenol – A).

The merchandise subject to these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.50.0020, 7212.50.0090, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0180 if of alloy steel. Although the subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

D. Class or Kind of Merchandise and Domestic Like Product⁷⁰

The tin mill products covered by these investigations comprise a single class or kind of merchandise. Pursuant to 19 U.S.C. § 1677(10), those tin mill products represent the product that is “like, or in the absence of like, most similar in characteristics and uses with the article subject to investigation.” Thus, as explained in **Section III** below, there is a single like product in these investigations, which includes all tin mill products included in the scope.

E. Countries of Exportation⁷¹

The countries in which the subject merchandise is manufactured or produced are Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and the United Kingdom. Data regarding U.S. imports from these countries is included in **Exhibit I-19**. The Petitioners are not aware of significant volumes of subject merchandise being imported from a country other than the country of manufacture or production.

⁷⁰ 19 C.F.R. § 207.11(b)(2)(iv).

⁷¹ See 19 C.F.R. § 351.202(b)(6).

F. Producers, Exporters,⁷² Importers,⁷³ and Purchasers⁷⁴ of the Subject Merchandise

The names, addresses, and contact information of the companies that the Petitioners believe may have produced the subject merchandise are listed in **Exhibit I-20** (U.S. producers) and **Exhibit I-21** (producers in the subject countries). The Petitioners have not been able to obtain information that would enable them to estimate the percentage of exports accounted for by each individual exporter.

The names, addresses, and contact information of the companies that the Petitioners believe may have imported the subject merchandise into the United States during the most recent twelve-month period preceding the filing of the petitions are listed in **Exhibit I-22**. A list of purchasers is provided in **Exhibit I-23**.

Contact information for all parties was collected via Petitioners' market knowledge, as supplemented by research on the Internet and elsewhere. The exhibits referenced above reflect all information that is reasonably available to Petitioners at this time.

G. Volume and Value of Subject Merchandise

The volume and value of subject merchandise imported into the United States for 2019, 2020, 2021, January-November 2021, and January-November 2022, can be found in Exhibit I-19.

⁷² See 19 C.F.R. § 351.202(b)(7)(i)(A-B).

⁷³ See 19 C.F.R. § 207.11(b)(2)(iii); 19 C.F.R. § 351.202(b)(9).

⁷⁴ See 19 C.F.R. § 207.11(b)(2)(v).

III. THE DOMESTIC LIKE PRODUCT AND THE DOMESTIC INDUSTRY

A. The Domestic Like Product Includes All Tin Mill Products Covered by the Scope

The domestic like product is defined as the product that is “like, or in the absence of like, most similar in characteristics and uses with the article subject to investigation.”⁷⁵ In these petitions, the “article subject to investigation” includes all items covered by the scope. This scope is identical to the scope considered by the Commission when it imposed antidumping duties on unfairly traded imports of tin mill products from Japan. As described in more detail below, the Commission has consistently found that the tin mill products included in the scope of this investigation constitute a single domestic like product. It should do so again here.

1. Legal Standard

By statute, the Commission’s analysis of the domestic like product begins with the “article subject to an investigation,” *i.e.*, the subject merchandise as determined by the Department.⁷⁶ Therefore, the scope of the imported merchandise is the starting point for the Commission’s analysis.⁷⁷ The Commission then defines the domestic like product in light of the imported articles covered by the scope.

The decision regarding the appropriate domestic like product is a factual determination, and the Commission has applied the statutory standard of “like” on a case-by-case basis.⁷⁸ When making its domestic like product determination, the Commission typically considers several factors, including the following: (1) the physical characteristics and uses of the products; (2) their interchangeability; (3) their channels of distribution; (4) customer and producer perceptions

⁷⁵ 19 U.S.C. § 1677(10).

⁷⁶ See *Thermal Paper from Germany, Japan, Korea, and Spain*, Inv. Nos. 731-TA-1546-1549 (Final), USITC Pub. 5237 (Nov. 2021) at 4 (hereinafter *Thermal Paper*.)

⁷⁷ *Id.*

⁷⁸ *Id.* at 5.

of the products; (5) whether they are produced using similar manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price.⁷⁹ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁸⁰ The Commission looks for clear dividing lines among possible like products and disregards minor violations.⁸¹

2. The Commission Has Repeatedly Found that the Tin Mill Products Covered by these Investigations Constitute a Single Like Product

As noted above, the products included in the scope are the same products covered by the scope of the antidumping duty order on imports from Japan. In December 1999, the Commission issued its preliminary determination regarding tin mill products from Japan.⁸² In that determination, the Commission found that there was a single like product covering the tin mill products in that case. In support of this conclusion, the Commission made the following findings:

- **Physical characteristics and uses.** “Tin-coated and chromium-coated steel sheet are physically similar in that they consist of a flat steel substrate covered by a layer of another metal, and are generally sold in similar thicknesses, widths, coating thicknesses, tempers, and surface finishes. They are both used primarily in the production of metal cans for storing food, paints, and other substances.”⁸³
- **Interchangeability.** “Although tin- and chromium-coated steel sheet are rarely interchanged in particular applications, they are theoretically interchangeable.”⁸⁴
- **Channels of distribution.** “The channels of distribution {for tin mill products} are the same – direct from the manufacturer to customers who fabricate the steel sheet into consumer goods.”⁸⁵

⁷⁹ See *Nippon Steel Corp. v. United States*, 19 C.I.T. 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁸⁰ *Thermal Paper* at 5.

⁸¹ *Id.*

⁸² *Tin- and Chromium-Coated Steel Sheet from Japan*, Inv. Nos. 731-TA-860 (Prelim.), USITC Pub. 3264 (Dec. 1999).

⁸³ *Id.* at 5.

⁸⁴ *Id.*

⁸⁵ *Id.*

- **Customer and producer perceptions of the products.** “{B}oth the producers and customers group tin- and chromium-coated steel into a single class of ‘tin mill products.’”⁸⁶
- **Common manufacturing facilities, production processes and production employees.** “Most companies that produce tin-coated steel also produce chromium-coated steel, using the same production facilities, workers, and production process.”⁸⁷
- **Price.** “There is some overlap in prices.”⁸⁸

Given these facts, the Commission concluded that “tin- and chromium-coated steel sheet form a single like product.”⁸⁹

The Commission reached the same conclusion in the final phase of the Japan investigation.⁹⁰ It also found a single like product in all three five-year reviews of the Japan orders. In the most recent five-year review, it stated that:

In its original determination and first and second five-year reviews, the Commission defined a single domestic like product consisting of all {tin mill products} corresponding with Commerce’s scope. The record in the current review provides no basis to warrant a reconsideration of the domestic like product definition. Moreover, no party has argued for a different definition of the domestic like product in this third five-year review. Accordingly, we again define a single domestic like product consisting of all {tin mill products} coextensive with the scope of the review.⁹¹

There is no reason for a different determination here. Accordingly, the Commission should find that there is a single domestic like product in these investigations, covering all tin mill products included in the scope.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Tin- and Chromium-Coated Steel Sheet from Japan*, Inv. No. 731-TA-860 (Final), USITC Pub. 3337 (Aug. 2000) at 5.

⁹¹ *2018 Five-Year Review* at 6.

B. The Domestic Industry Includes All U.S. Producers of Tin Mill Products

The Act defines the term “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 total domestic production of the product.”⁹² The three producers listed in Section II.A. (Cleveland-Cliffs, U.S. Steel, and Ohio Coatings) account for all domestic production in the United States. At this time, the Petitioners take no position as to whether any U.S. producers (aside from Cleveland-Cliffs) should be excluded from the domestic industry due to related party status.⁹³ We reserve the right to raise this issue at a later date. In its most recent review of the order on tin mill products from Japan, the Commission defined the domestic industry to include “all domestic producers” of tin mill products.⁹⁴

IV. THE DOMESTIC INDUSTRY IS MATERIALLY INJURED BY REASON OF SUBJECT IMPORTS⁹⁵

A. The Subject Imports Should Be Cumulated

Under the Act, when deciding whether subject imports are materially injuring a domestic industry, the Commission must cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which petitions were filed on the same day, if such imports compete with each other and with the domestic like product in the U.S.

⁹² 19 U.S.C. § 1677(4)(A). An April 2022 press release describes Ohio Coatings as a joint venture owned by Esmark, Inc. and TCC Steel, a South Korean producer. See “Ohio Coatings Company, an Esmark and TCC Steel JV, Appoints David Luptak New CEO,” *Business Wire* (April 13, 2022), available at <https://businesswire.com/news/home/20220413005811/en/Ohio-Coatings-Company-an-Esmark-and-TCC-Steel-JV-Appoints-David-Luptak-New-CEO>, attached as **Exhibit I-24**. Thus, Ohio Coatings may be a related party within the meaning of the Act. See 19 U.S.C. § 1677(4)(B)(ii) (describing the circumstances under which a producer and an exporter or importer shall be considered to be related parties).

⁹³ See 19 U.S.C. § 1677(4)(B)(i).

⁹⁴ *2018 Five-Year Review* at 6.

⁹⁵ See 19 C.F.R. § 351.202(b)(10).

market.⁹⁶ In assessing whether imports compete with each other and with the domestic like product, the Commission generally has considered the following four factors:

- The degree of fungibility between the imports from different countries and between imports and the domestic like product;
- The presence of sales or offers to sell in the same geographic markets of imports from different countries and the domestic like product;
- The existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
- Whether the imports are simultaneously present in the market.⁹⁷

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors provide the Commission with a framework for determining whether the subject imports compete with each and with the domestic like product.⁹⁸ When assessing whether it should cumulate subject imports from multiple countries, the Commission looks only for a reasonable overlap of competition.⁹⁹

In these investigations, the statutory criteria for cumulation are met. First, the petitions covering imports of tin mill products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and the United Kingdom are being filed on the same day. Second, as we discuss below, there is a reasonable overlap of competition among imports from the subject countries and the domestic like product. As a result, the Commission should find that subject imports from the subject countries compete with one another and the domestic like product and should cumulate them. We discuss each of the cumulation factors below.

⁹⁶ 19 U.S.C. § 1677(7)(G).

⁹⁷ See *Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff'd*, *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898 (Ct. Int'l Trade), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988).

⁹⁸ *Granular Polytetrafluoroethylen (PTFE) Resin from India and Russia*, Inv. Nos. 701-TA-663-664 & 731-TA-1555-1556 (Final), USITC Pub. 5285 (March 2022) at 16-17.

⁹⁹ *Granular Polytetrafluoroethylen (PTFE) Resin from India and Russia*, Inv. Nos. 701-TA-663-664 & 731-TA-1555-1556 (Final), USITC Pub. 5285 (March 2022) at 16-17.

Fungibility. The subject and domestic tin mill products generally share basic characteristics and product specifications. As the Commission has previously explained, “{t}in-coated and chromium-coated steel sheet are physically similar in that they consist of a flat steel substrate covered by a layer of another metal, and are generally sold in similar thicknesses, widths, coating thicknesses, tempers, and surface finishes.”¹⁰⁰ Moreover, all tin mill products, including those produced by the domestic and subject producers, are made to similar ASTM standards. Thus, the Commission should find that the subject and domestic tin mill products are fungible with one another and the domestic like product.

Channels of Distribution. Imports from all of the subject countries are sold in the same channels of distribution in the U.S. market. As the Commission has noted in its prior determinations involving tin mill imports from Japan, the vast majority of imported tin mill products, including the subject imports, and the domestic like product are sold directly to end users, who are typically can manufacturers.¹⁰¹ Petitioners believe that this continues to be the case for the subject imports here. Thus, it is clear that imports of tin mill products from the subject countries and the domestic like product are being sold in the same channels of distribution in the U.S. market.

Geographic Markets. As the Commission has also indicated in its prior determinations, the U.S. market for tin mill products is “national in scope” and subject and domestic producers sell their products throughout the United States.¹⁰² In fact, the available evidence indicates that most subject imports enter the U.S. market through ports in the Midwest and Northeast regions and are regularly traded in those regions.¹⁰³ Moreover, the subject imports from a number of the

¹⁰⁰ *Id.* at 5.

¹⁰¹ 2018 Five-Year Review at II-1 & 1999 Preliminary Determination at 5.

¹⁰² 2018 Five Year Review at 11.

¹⁰³ **Exhibit I-25** (Geographic Distribution of the Subject Imports).

subject countries also enter the U.S. market in the Southeast, Central Southwest, and Pacific Coast regions of the United States.¹⁰⁴

Importantly, the domestic producers are well-positioned to serve customers in these same regions. As discussed above, Cleveland-Cliffs has a facility in Weirton, West Virginia, while U.S. Steel has historically made tin mill products in Indiana, and the Ohio Coatings facility is in Yorkville, Ohio.¹⁰⁵ These facts strongly indicate that imports from each subject country will compete with each other and the domestic like product throughout the United States.

Simultaneous Presence. The domestic producers sold substantial volumes of tin mill products in the U.S. market from 2019 through the first three quarters of 2022.¹⁰⁶ Moreover, significant and growing volumes of subject imports from the subject countries have been present in the U.S. market throughout this same period.¹⁰⁷ Obviously, imports from the eight subject countries and the domestic like product have been simultaneously present in the U.S. market since 2019.

Conclusion. The evidence available to Petitioners demonstrates that there is a reasonable overlap of competition between imports from each of the subject countries and the domestic like product. Accordingly, the Commission should cumulate all subject imports for the purpose of performing its cumulation analysis.

B. Available Evidence Indicates that Subject Imports Are Not Negligible

If the Commission finds that imports of the subject merchandise from a particular country are “negligible,” then the investigation into those imports shall be terminated.¹⁰⁸ Under the Act,

¹⁰⁴ Exhibit I-25 (Geographic Distribution of the Subject Imports).

¹⁰⁵ 2018 Five-Year Review at I-24.

¹⁰⁶ Exhibit I-3 (Trade and Financial Data of Cleveland-Cliffs).

¹⁰⁷ Exhibit I-19 (Import Data for the Subject Imports (2019 to 2021, and January-November 2021 to January-November 2022)).

¹⁰⁸ See 19 U.S.C. §§ 1671b(a)(1), 1673b(a)(1).

dumped and subsidized imports are “negligible” if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period.¹⁰⁹ The Act further provides that in the context of a threat of injury determination, the Commission shall not treat imports as negligible if it determines that subject imports will imminently exceed the relevant negligibility threshold.¹¹⁰ In analyzing negligibility, the Commission may make reasonable estimates on the basis of available statistics.¹¹¹

Information on subject imports for the most recent 12-month period for which Census data are available is contained in **Exhibit I-26**. These data indicate that imports are not negligible from any of the subject countries.

C. Subject Imports Have Caused Material Injury to the Domestic Industry

In antidumping and countervailing duty investigations, the Commission must determine whether an industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise.¹¹² The Act defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹¹³ When analyzing the causal link between unfair trade and material injury, the Commission has recognized that “in many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry.”¹¹⁴

¹⁰⁹ See 19 U.S.C. § 1677(24)(A)(i). The Act provides that in the case of countervailing duty investigations, the threshold for negligibility shall be 4 percent for imports from a developing country. 19 U.S.C. § 1677(24)(B). In this case, the only countervailing duty petition involves imports from China, and the United States does not regard China as a developing country for purposes of this provision. See Office of the U.S. Trade Representative, *Designations of Developing and Least-Developed Countries Under the Countervailing Duty Law*, 85 Fed. Reg. 7613 (Feb. 10, 2020).

¹¹⁰ 19 U.S.C. § 1677(24)(A)(iv).

¹¹¹ 19 U.S.C. § 1677(24)(C).

¹¹² See 19 U.S.C. §§ 1671d(b)(1), 1673d(b)(1).

¹¹³ 19 U.S.C. § 1677(7)(A).

¹¹⁴ See *Sodium Nitrate from Russia*, Inv. No. 701-TA-680 (Final), USITC Pub. 5342 (Aug. 2022) at 18.

Nonetheless, the Commission “need not isolate the injury caused by other factors from injury caused by unfairly traded imports.”¹¹⁵ Furthermore, the law does not “require that unfairly traded imports be the ‘principal’ cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.”¹¹⁶

When assessing whether the domestic industry has been materially injured by reason of imports of subject merchandise, the Commission considers: (1) the volume of imports of the subject merchandise, (2) the effect of imports of subject merchandise on prices in the United States for domestic like products, and (3) the impact of imports of such merchandise on producers of the domestic like product in the context of production operations within the United States.¹¹⁷ As shown below, each of these statutory factors shows that subject imports have caused material injury to the domestic industry.

1. Conditions of Competition in the Tin Mill Products Market Make the Domestic Industry Highly Susceptible to Adverse Impact of the Subject Imports

Under the Act, the Commission is directed to evaluate all relevant economic factors specified in the statute “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹¹⁸ Here, there are several conditions of competition in the market for tin mill products that make the domestic industry highly susceptible to the adverse impact of aggressive price competition from the subject imports.

¹¹⁵ *Id.* at 19.

¹¹⁶ *Id.* at 19-20.

¹¹⁷ 19 U.S.C. § 1677(7)(B)(i). The Commission may also consider “such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.” 19 U.S.C. § 1677(7)(B)(ii).

¹¹⁸ 19 U.S.C. § 1677(7)(B)(c)(iii).

a) Demand for tin mill products is flat or declining

The Commission has previously found that demand for tin mill products in the United States has been in a slow decline for decades.¹¹⁹ As the Commission has noted, demand for tin mill products depends primarily on demand for the downstream products in which tin mill products are used, which consist primarily of cans for food, aerosol, paint, filtration and line applications, and caps and closures for glass containers.¹²⁰ The Commission has found that because demand for these downstream products has been declining in recent years, due primarily to the increasing substitution of other packaging products for tin cans and the use of can designs that require less steel,¹²¹ demand for tin mill products has also generally declined. Accordingly, for a number of years, the domestic producers have been forced to deal with the difficult challenge of earning a reasonable return on its tin mill steel production operations despite downward pressure on demand and increasing volumes of low-priced subject imports.

b) The subject imports and the domestic like product are generally sold through annual contract sales that establish price and target volumes

The Commission has found that most tin mill products are sold pursuant to contracts that establish both price and target quantities.¹²² These arrangements usually take the form of annual contracts which are negotiated in the fourth quarter of each year for shipments in the following year.¹²³ Importantly, the Commission has recognized that purchasers routinely engage in simultaneous or overlapping negotiations with both domestic and subject suppliers, which allows them to use low subject import prices to leverage price concessions from domestic producers.¹²⁴

¹¹⁹ 2018 Five Year Review at 9-10.

¹²⁰ 2018 Five Year Review at 9-10.

¹²¹ 2018 Five Year Review at 9-10.

¹²² 2018 Five Year Review at 13.

¹²³ 2018 Five Year Review at 13.

¹²⁴ 2018 Five Year Review at 13.

c) The subject imports and domestic like product are substitutable, which makes the market price sensitive

The subject imports and the domestic like product are substitutable. As we described above, domestic and subject tin mill products all share the same basic characteristics and product specifications. Indeed, as the Commission has explained, “{t} in-coated and chromium-coated steel sheet are physically similar in that they consist of a flat steel substrate covered by a layer of another metal, and are generally sold in similar thicknesses, widths, coating thicknesses, tempers, and surface finishes.”¹²⁵

Given these facts, there is a strong level of substitutability between the subject and domestic merchandise, which means that price is a critical factor in the purchase decision. Indeed, in its determinations relating to the Japanese order, the Commission has consistently found that price is a critical factor in the purchase decision and the tin mill market is “price-sensitive.”¹²⁶ Given this strong degree of price sensitivity, the growing presence of low-priced subject imports in the U.S. market has had, and will continue to have, a serious and adverse impact on the domestic industry’s sales volumes, market share levels, and pricing and profitability levels.

2. The Volume of Subject Imports Is Significant

a) Import volumes from subject countries

Under the Department’s regulations, a Petition should contain the “volume and value of the subject merchandise imported during the most recent two-year period and any other recent period that the petitioners believe to be more representative.”¹²⁷ In this case, the best information reasonably available to the Petitioners regarding subject import volumes comes from

¹²⁵ *Id.* at 5.

¹²⁶ 2018 Five Year Review at 13.

¹²⁷ 19 C.F.R. § 351.202(b)(8).

U.S. Census data showing imports under the following HTSUS categories: 7210.11.00, 7210.12.00, 7210.50.00, 7212.50.00, 7225.99.0090, and 7226.99.0180. The Petitioners believe that these categories cover all imports of the tin mill products at issue here. Certain imports not covered by the scope of these investigations may also be reported under those categories. Nevertheless, at this time the best information available is the Census data under the HTSUS categories listed above. Furthermore, the Petitioners believe that these data accurately reflect import trends for each of the subject countries. Thus, throughout this discussion, we will use Census data under the HTSUS categories listed above to estimate the volume and value of subject merchandise. In Exhibit I-19 we provide import data for the period that is most likely to be considered by the Commission in its preliminary investigations, that is, data for full years 2019 to 2021, and data for January-November 2021 and January-November 2022.¹²⁸

b) Available information indicates that subject import volumes were significant in both absolute and relative terms

Under the Act, when evaluating the volume of imports of merchandise, the Commission is directed to consider “whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”¹²⁹ As shown in more detail below, the evidence available to Petitioners leaves no doubt that subject imports are significant, both in absolute terms and relative to apparent U.S. consumption.

The table below shows the volume of U.S. imports of tin mill products since 2019:

¹²⁸ Exhibit I-19 (Import Data for the Subject Imports (2019 to 2021, and January-November 2021 to January-November 2022)).

¹²⁹ 19 U.S.C. § 1677(7)(C)(i).

Table 1: Import Volumes (Short Tons)

	2019	2020	2021	Jan-Nov 2021	Jan-Nov 2022
Canada	229,430	269,698	242,492	221,323	263,409
China	110,117	103,613	130,062	96,646	198,365
Germany	213,415	237,124	291,519	274,421	279,801
Netherlands	264,290	251,505	264,540	243,674	270,439
South Korea	114,573	111,769	109,757	103,307	101,981
Taiwan	16,320	45,769	76,088	65,602	82,183
Turkey	337	308	16,474	5,718	52,026
United Kingdom	85,838	94,234	121,647	107,061	104,894
SUBJECT IMPORTS	1,034,320	1,114,020	1,252,579	1,117,652	1,352,998
Other Countries	135,677	128,381	158,061	139,185	176,673
TOTAL IMPORTS	1,169,997	1,242,401	1,410,640	1,256,837	1,529,671

To put these figures in perspective, consider that in 2016 – the last full year for which the Commission has collected such data – total U.S. consumption amounted to 2,454,209 short tons.¹³⁰ There is no reason to believe that demand for tin mill products has increased significantly since that time.¹³¹ In light of these facts, it seems clear that, in absolute terms, the volume of the subject imports is very significant.

Moreover, as can be seen, the Census data show that the subject imports increased by 21.1 percent from 2019 to 2021,¹³² and by another 21.1 percent from January-November 2021 to January-November 2022.¹³³ In its most recent review of the order on tin mill products from Japan, the Commission found that “{a}pparent U.S. consumption of {tin mill products} declined by 7.8 percent between 2014 and 2016, *continuing a long-term downward trend.*”¹³⁴

Furthermore, [

¹³⁰ 2018 Five-Year Review at C-3.

¹³¹ Indeed, in the most recent five-year review of the order on tin mill products from Japan, the Commission found that “The majority of responding U.S. purchasers and one-half of domestic producers indicated that demand for {tin mill products} has decreased since January 1, 2012, and most market participants reported that demand is expected to continue to decline.” 2018 Five-Year Review at 10.

¹³² $1,252,579 - 1,034,320 = 218,259$; $218,259 / 1,034,320 = 0.211 = 21.1$ percent.

¹³³ $1,352,998 - 1,117,652 = 235,346$; $235,346 / 1,117,652 = 0.211 = 21.1$ percent.

¹³⁴ 2018 Five-Year Review at 10 (emphasis added).

] ¹³⁵ Given these trends, the evidence available to the Petitioners strongly indicates that the market share of the subject imports has also increased significantly since 2019.

In sum, it seems clear that there has been a significant and rapid increase in the volume of the subject imports – both in absolute terms and relative to the U.S. market – between 2019 and the first three quarters of 2022. Accordingly, the information available to Petitioners strongly indicates that the volume of subject imports is significant.¹³⁶

3. The Price Effects of Subject Imports Are Significant

In evaluating the effects of subject imports on prices, the Commission shall consider whether: (1) there has been significant underselling by the imported merchandise as compared with the price of the domestic like product, and (2) the effect of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹³⁷ As shown below, both of these factors support a finding that the adverse price effects of unfairly traded tin mill products were significant.

¹³⁵ See Exhibit I-3 (showing that [

)]
¹³⁶ This increase in the volumes of imports from the subject countries is not a new development in this market. In the most recent review of the order on imports of tin mill products from Japan, the Commission noted that the market share of the non-subject imports had grown from 31.7 percent in 2014 to 43.1 percent in 2016, for an increase of *11.4 percentage points in that two year period*. *2018 Five Year Review* at 12. In its determination, the Commission noted that imports of tin mill products from Canada, China, Germany, the Netherlands, and South Korea accounted for more than 95 percent of these imports in 2016. *Id.*

¹³⁷ 19 U.S.C. § 1677(7)(B)(ii).

a) Evidence regarding underselling

During the first nine months of 2022, [

] ¹³⁸ [

] Over the same period, Census data

indicates that the average unit value for U.S. imports of tin mill products from the subject

countries was \$1,732/short ton.¹³⁹ These facts indicate that, on average, subject imports were

being sold at prices [] during the past year.

We believe that the subject imports offered [] low prices to purchasers in the market

during the period from 2019 through 2021.

These facts represent the best information available to Petitioners at this time. However, as part of its preliminary investigation, the Commission can obtain pricing data for both the domestic like product and subject imports. The Petitioners request that the Commission collect data for the following representative products:¹⁴⁰

- **Product 1.** – Single reduced, electrolytic tinplate with base box weights of 75 lbs. – 95 lbs. inclusive, in coils.
- **Product 2.** – Double reduced, electrolytic tinplate with base box weights of 55 lbs. – 65 lbs. inclusive, in coils.
- **Product 3.** – Single reduced, electrolytic chromium-coated steel with base box weights of 65 lbs. – 80 lbs. inclusive, in coils.
- **Product 4.** – Double reduced, electrolytic chromium-coated steel with base box weights of 55 lbs. – 65 lbs. inclusive, in coils.

¹³⁸ See Exhibit I-3 (Trade and Financial Data of Cleveland-Cliffs) ([]).

¹³⁹ See Exhibit I-9 (Import Volume and Value).

¹⁴⁰ The Commission used very similar pricing products in its most recent five-year review of the order on tin mill products from Japan. See 2018 Five-Year Review at V-3 to V-4.

b) Other evidence of adverse price effects

In addition to the evidence above regarding underselling, further evidence suggests that the effects of subject imports “otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.”¹⁴¹ As we have demonstrated above, subject imports are now entering the U.S. market in significant volumes and taking sales and market share from domestic producers by offering aggressively low prices to purchasers in the marketplace. Given that the Commission has long recognized that price is an important factor in purchasing decisions of tin mill products, and that the U.S. market for tin mill products is price sensitive,¹⁴² it is clear that the low prices being offered by the subject imports have had a significant adverse impact on the sales volumes, market share, and pricing levels of the domestic industry.

Furthermore, between 2019 and 2021 – when the volumes and market share of the subject imports increased significantly – Petitioners believe that the domestic industry [] due to the subject imports’ aggressive sales and pricing practices.¹⁴³ As a result of this aggressive competition by the subject imports, [] throughout this period.¹⁴⁴ Moreover, []¹⁴⁵ Given these facts, it is clear that the aggressive pricing practices of the subject imports have harmed the domestic

¹⁴¹ 19 U.S.C. § 1677(7)(B)(ii)(II).

¹⁴² *2018 Five-Year Review* at 23-24.

¹⁴³ In this regard, Cleveland-Cliffs’ cost of goods sold to net sales revenues was [] percent in 2019, [] percent in 2020, and [] percent in 2021. Exhibit I-3 (Trade and Financial Data).

¹⁴⁴ In this regard, Cleveland-Cliffs had [] in 2021. Exhibit I-3 (Trade and Financial Data).

¹⁴⁵ In this regard, Cleveland-Cliffs’ operating margins [] during that period. Exhibit I-3 (Trade and Financial Data).

industry's sales volumes, market share levels, and profitability. In sum, aggressive competition by the subject imports has made it impossible for domestic producers to obtain a true, market-based price for their tin mill products.

c) Evidence of lost sales and lost revenues

As can be seen in **Exhibit I-27** (which contains available information relating to certain examples of lost sales and lost revenues for the Petitioners),¹⁴⁶ the domestic industry has lost significant sales and revenues due to aggressive pricing competition by the subject imports.¹⁴⁷ Of course, [] represents the strongest possible evidence that domestic producers have lost sales and revenue to subject imports.

4. The Subject Imports Have Had A Significant Adverse Impact On the Domestic Industry's Condition

Finally, under the Act, the Commission is directed to assess whether the subject imports have had a significant adverse impact on the industry's production operations in the United States.¹⁴⁸ When examining the impact of subject imports, the Commission is directed to evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to:

- actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity,
- factors affecting domestic prices,
- actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

¹⁴⁶ In accordance with 19 C.F.R. § 207.11(b)(2)(v), Petitioners will submit lost sales and lost revenues allegations electronically in the manner specified in the Commission's Handbook on Filing Procedures.

¹⁴⁷ Exhibit I-27 (Allegations Regarding Lost Sales and Revenues).

¹⁴⁸ 19 U.S.C. § 1677(7)(B)(iii).

- actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹⁴⁹

The Commission must evaluate all relevant economic factors within the context of the business cycle and conditions of competition that are distinctive to the affected industry.¹⁵⁰

The available evidence indicates that, during the period between 2019 and 2022, growing volumes of tin mill steel imports from the subject countries have had a significant impact on the domestic industry’s condition. In particular, the evidence shows that:

- The domestic industry has lost significant sales and market share to the subject imports. As can be seen from Table 1 above, the volume of the subject imports grew by *218 thousand* short tons between 2019 and 2021. Moreover, the volume of the subject imports grew by an additional *235 thousand* short tons between the first eleven months of 2021 and the first eleven months of 2022. In comparison, we would note, Cleveland-Cliffs’ U.S. shipments ranged between [] short tons between the period between 2019 and 2021. Moreover, Cleveland-Cliffs’ U.S. shipments were [] short tons in the first three quarters of 2022.¹⁵¹ Given that [

[], it is clear that the subject imports have been []

- []¹⁵² []¹⁵³ this is []

[] Moreover, as []¹⁵⁴ Given this development, []

]

- []¹⁵⁵ []

¹⁴⁹ 19 U.S.C. § 1677(7)(C)(iii).

¹⁵⁰ 19 U.S.C. § 1677(7)(C)(iii).

¹⁵¹ Exhibit I-3 (Trade and Financial Data).

¹⁵² Exhibit I-3 (Trade and Financial Data).

¹⁵³ Exhibit I-3 (Trade and Financial Data).

¹⁵⁴ **Exhibit I-28** (Declaration of []).

¹⁵⁵ Exhibit I-3 (Trade and Financial Data).

] ¹⁵⁶

- [

] ¹⁵⁷ Obviously, the growing presence of aggressively priced subject imports in the market has had a significant impact on the company's margins.

- [

] ¹⁵⁸ Indeed, [

] ¹⁵⁹

In preparing these petitions, Petitioners have obviously relied on information available to them, including data regarding Cleveland-Cliffs' operations. However, we note that recent press reports indicate that U.S. Steel's tin mill production operations have also been harmed by unfair trade. For example, on December 2022, U.S. Steel announced that it will lay off 244 workers due to the idling of tin mill operations at its Gary Works steel mill.¹⁶⁰ As U.S. Steel explained at the time of the announcement, "{t}hese actions are due to market conditions which were out of the Company's control, including the continuing reduced demand for the company's tin products and significantly increased tin mill imports."¹⁶¹ Thus, it seems clear that the domestic industry,

¹⁵⁶ Exhibit I-28 (Declaration of []).

¹⁵⁷ Exhibit I-3 (Trade and Financial Data).

¹⁵⁸ Exhibit I-3 (Trade and Financial Data).

¹⁵⁹ Between 2019 and 2021, Cleveland-Cliffs' average unit values for its U.S. shipments ranged between [] per short ton. In 2022, [

] Exhibit I-3 (Trade and Financial Data).

¹⁶⁰ "U.S. Steel to lay off 244 workers when it idles tin operations at Gary Works," nwitimes.com (Dec. 29, 2022), attached at **Exhibit I-29**; *see also* [

], attached at **Exhibit I-30**.

¹⁶¹ "U.S. Steel to lay off 244 workers when it idles tin operations at Gary Works," nwitimes.com (Dec. 29, 2022), attached at Exhibit I-29.

as a whole, is facing severe difficulties because of large and growing volumes of unfairly traded tin mill imports from the subject countries.

In sum, the available evidence indicates that the growing volumes of low-priced imports from the subject countries have had a devastating impact on the domestic industry's production, sales, market share, capacity utilization, and profitability levels. Unless the domestic industry is afforded trade relief here, the entire future of the domestic tin mill products industry will be at risk.

5. Conclusion

As shown above, each statutory factor that the Commission considers with respect to material injury – the volume of subject imports, the adverse price effect of subject imports, and the adverse impact of subject imports – is significant. Thus, there can be no question that these petitions allege evidence showing that subject imports have caused material injury to the domestic industry.

D. Subject Imports Threaten the Domestic Industry with Further Material Injury Going Forward

Under the Act, the Commission is directed to consider eight factors when determining whether an industry in the United States is threatened with material injury by reason of sales of the subject merchandise.¹⁶² In addition to those eight factors, the Commission is also directed to consider “any other demonstrable adverse trends that indicate the probability that there is likely to be material injury” by reason of subject imports.¹⁶³ As discussed below, these factors indicate that, in the absence of trade relief, the subject imports threaten to cause further material injury to the domestic industry in the imminent future.

¹⁶² See 19 U.S.C. §§ 1677(7)(F)(i)(I) to (VIII). Please note that one of these factors, which relates to raw agricultural products, is not relevant here. See 19 U.S.C. § 1677(7)(F)(i)(VII).

¹⁶³ 19 U.S.C. § 1677(7)(F)(i)(IX).

1. The Likely Volume of Subject Imports Will Be Significant

Under the Act, the Commission is directed to consider several factors relating to the likely volume of subject imports in the absence of trade relief. In this case, all relevant factors for which Petitioners have information demonstrate that, unless trade relief is imposed, imports of tin mill products from the eight subject countries will continue to surge into the U.S. market.¹⁶⁴

First, under the Act, the Commission is directed to consider whether there has been “a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports.”¹⁶⁵ As we have already shown above, imports of tin mill products from the eight subject countries have surged into the market dramatically since 2019, taking sales volumes and market share from the domestic industry. Between 2019 and 2021, the volume of the subject imports have increased rapidly, growing by 21.1 percent between 2019 and 2021.¹⁶⁶ Moreover, the subject imports continued to surge into the market in 2022, with their sales volumes increasing by 21.1 percent between January-November 2021 and January-November 2022.¹⁶⁷ The fact that subject imports have surged into the U.S. market since 2019 demonstrates strongly that, in the absence of trade relief, the subject imports will continue entering the market in significant and growing volumes in the imminent future in the absence of trade relief.

¹⁶⁴ 19 U.S.C. § 1677(7)(F)(i)(III). As we noted previously, the available evidence indicates that the imports from the subject countries compete with one another and the domestic like product. As a result, the Commission should cumulate the imports from the subject countries. Because they will continue to compete with one another and the domestic like product in the imminent future, the Commission should also cumulate the subject countries for purposes of its threat analysis here.

¹⁶⁵ 19 U.S.C. § 1677(7)(F)(i)(III).

¹⁶⁶ Exhibit I-19 (Import Data for the Subject Imports (2019 to 2021, and January-November 2021 to January-November 2022)).

¹⁶⁷ Exhibit I-19 Import Data for the Subject Imports (2019 to 2021, and January-November 2021 to January-November 2022).

Under the Act, the Commission is also directed to consider whether there is “any existing unused capacity or {an} imminent, substantial increase in production capacity” in the subject countries that indicates “the likelihood of substantially increased imports of the subject merchandise into the United States.”¹⁶⁸ There is a relatively limited amount of public information concerning the capacity and unused capacity levels of the tin mill products industries in the subject countries. Nonetheless, the available information indicates that the subject industries have enormous amounts of capacity that can be used to ship increasingly large amounts of tin mill products to the United States in the imminent future. For example, available public reports indicate that:

- In a recent article published by a Chinese steel industry group, it was reported that, in 2020, the Chinese tin mill plate industry had a total capacity of 9.1 million metric tons, while demand for tin mill plate in the domestic Chinese market was only 3.77 million metric tons.¹⁶⁹ Moreover, the article states that, in recent years, the Chinese tin mill plate industry has been operating at a capacity utilization rate between 55 to 60 percent.¹⁷⁰ In other words, there is likely to be at least *3 million tons* of unused production capacity in China that can be used to ship tin mill products to the United States in the imminent future.
- German tin mill steel producer Thyssenkrupp Rasselstein GmbH currently has approximately 1.5 million metric tons of tin mill plate production capacity.¹⁷¹ Moreover, on September 20, 2022, Thyssenkrupp Rasselstein announced that it completed construction on its new tinplate coating line (no. 13) after three years of work. The company invested approximately 130 million euros (\$138.03 million) in the project, which will allow it to chrome-plate even thinner and wider tin mill sheet products.¹⁷² Given these capacity levels, there is no question that the German industry can ship additional amounts of tin mill products to the United States in the imminent future.
- The largest Canadian producer of flat steel products, ArcelorMittal Dofasco, produces a significant volume of tin mill products. As the company explains on its website, it

¹⁶⁸ 19 U.S.C. § 1677(7)(F)(i)(II).

¹⁶⁹ “{Tin Summit} Global tinplate total production capacity and demand - Challenge and development of tinplate in the field of packaging,” SMM News (Oct. 29, 2020), attached as **Exhibit I-31**.

¹⁷⁰ “{Tin Summit} Global tinplate total production capacity and demand - Challenge and development of tinplate in the field of packaging,” SMM News (Oct. 29, 2020), attached as Exhibit I-31.

¹⁷¹ thyssenkrupp-steel.com, “100 years Rasselstein in Andernach,” attached as **Exhibit I-32**.

¹⁷² “Thyssenkrupp Rasselstein commissions new tinplate coating line,” *SteelOrbis* (Sep. 20, 2022), attached as **Exhibit I-33**.

ships approximately 4.5 million net tons of flat carbon steel from its facility in Hamilton, Canada, including tin mill products.¹⁷³ Although ArcelorMittal Dofasco has not publicly stated how much capacity it has to make tin mill products, it boasts that it makes enough tin mill steel at its Hamilton facilities to produce “three trillion soup-sized cans every year.”¹⁷⁴ Given the recent increase in imports from Canada, it seems clear that there is sufficient capacity in Canada to ship even more tin mill products to the U.S. market in the imminent future.

- KG Dongbu Steel, a Korean producer of tin mill products, reported recently that it has approximately 480,000 metric tons of production capacity at its tin mill production lines in Incheon and Dangjin.¹⁷⁵
- Public information indicates that the Turkish tin mill steel producer Tosyali-Toyo currently has a tin mill plate capacity of 325,000 metric tons.¹⁷⁶ Moreover, in September 2022, Tosyali-Toyo announced plans to invest approximately \$200 million to increase its tinplate production capacity to 650,000 metric tons.¹⁷⁷
- The Dutch producer Tata Steel Netherlands also has substantial amounts of flat-rolled steel capacity in its facility in IJmuiden, which produces significant amounts of tin mill products.¹⁷⁸ Indeed, at this facility, Tata Steel’s production capacity is 7.5 million metric tons.¹⁷⁹ Given these facts, it is clear that Tata Steel Netherlands has a significant amount of capacity that can be used to make tin mill products that can be shipped to the United States.

These are just some examples of the amount of capacity that is available in the subject countries.

More evidence along these lines will likely become available as the Commission issues questionnaires to subject producers. Nevertheless, it seems clear that the industries in the subject countries likely have ample amounts of available capacity that can, and will, be used to ship significant amounts of additional tin mill products to the United States unless Orders are issued.

¹⁷³ Dofasco.arcelor.mittal.com, “Our history and culture,” attached as **Exhibit I-34**.

¹⁷⁴ northamerica.arcelormittal.com, Tin Plate products,” attached as **Exhibit I-35**.

¹⁷⁵ KG Dongbu Steel, “Electrolytic Tinplate Tin Free Steel.” at p. 9, available at www.kg.-steel.co.kr, attached as **Exhibit I-36**.

¹⁷⁶ “Tosyali-Toyo to double tin production capacity,” *SteelOrbis* (Sep. 2, 2022), attached as **Exhibit I-37**.

¹⁷⁷ “Tosyali-Toyo to double tin production capacity,” *SteelOrbis* (Sep. 2, 2022), attached as **Exhibit I-37**.

¹⁷⁸ “Tata Steel Europe starts up new equipment at UK, Netherlands sites,” dated November 23, 2021, agmetalmminer.com, attached as **Exhibit I-38**.

¹⁷⁹ “Tata Steel Europe starts up new equipment at UK, Netherlands sites,” dated November 23, 2021, agmetalmminer.com, attached as **Exhibit I-38**.

The Act also directs the Commission to consider the potential for product shifting by subject producers.¹⁸⁰ If a subject producer can use the same equipment and employees to shift output from another product to tin mill products, then that producer can increase shipments of tin mill products to the United States. In these investigations, it is significant to recognize that tin mill products are made by further processing a type of cold-rolled steel commonly referred to as “black plate.”¹⁸¹ Two of the subject countries at issue here – China and the United Kingdom – already face trade relief in this market on their exports of cold-rolled steel.¹⁸² To the extent producers in those countries are unable to sell cold-rolled steel to the United States, they will have an incentive to shift production to other items – such as tin mill products – that can be sold here more easily. Moreover, in its prior reviews of the order on Japan, the Commission has found that tin mill producers in other countries, such as Japan, have the ability to shift their production facilities from the production of other, non-subject products to the production of tin mill products.¹⁸³ Given these considerations, this factor also supports a finding that, in the absence of trade relief, the likely volume of subject imports will be significant.

Finally, under the Act, the Commission is directed to consider whether subject producers benefit from subsidies in their home market, especially export subsidies, and whether these subsidies make it likely to cause them to increase their exports of the subject imports.¹⁸⁴ As we discuss in detail in Volume X of these petitions, the subject producers of tin mill products in China are benefitting from a variety of subsidy programs provided in their home market, including export subsidies. Obviously, these subsidies, including subsidies that are specifically

¹⁸⁰ 19 U.S.C. § 1677(7)(F)(i)(VI).

¹⁸¹ See *2018 Five-Year Review* at I-19 to I-22 (describing how tin mill products are made).

¹⁸² See *Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, South Korea, and the United Kingdom*, Inv. Nos. 701-TA-540-543 and 731-TA-1283-1287 and 1290 (Review), USITC Pub. 5339 (Aug. 2022).

¹⁸³ *2018 Five-Year Review* at 23 n.131.

¹⁸⁴ 19 U.S.C. § 1677(7)(F)(i)(I).

tied to exports of the subject tin mill products, will encourage producers in China to increase their exports to the United States in the imminent future.¹⁸⁵

2. The Likely Price Effects of Subject Imports Are Significant

As part of its threat analysis, the Commission is directed to consider “whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports.”¹⁸⁶

There is no question that, unless trade relief is provided to the domestic industry, the subject imports will enter the U.S. market at prices that will have a significant depressing and suppressing effect on domestic prices.

As we discussed above, the subject imports have competed increasingly aggressively on price with the domestic industry, taken sales and market share from the domestic industry, and depressed and suppressed domestic prices during that period. In fact, throughout almost all the period, [

] ¹⁸⁷ Indeed, [

] in the absence of trade

relief. Given these facts, the available evidence demonstrates that the subject imports will continue to be offered at prices that will put downward pressure on domestic pricing, suppress domestic pricing levels, and increase demand for unfairly traded imports in the imminent future.

¹⁸⁵ The Commission is also directed to consider “inventories of the subject merchandise,” 19 U.S.C. § 1677(7)(F)(i)(V). Very little information is publicly available to the Petitioners on the level of inventories in the subject countries. However, given the dramatic increase of subject imports from 2019 through 2021 and the first three quarters of 2022 and the apparent presence of unused capacity in the subject countries, it seems likely that subject producers have significant amounts of inventory that could be used to increase their shipments to the U.S. market.

¹⁸⁶ 19 U.S.C. § 1677(7)(F)(i)(IV).

¹⁸⁷ See Exhibit I-3 (Trade and Financial Data of Cleveland-Cliffs).

In sum, the Commission should determine that, in the absence of trade relief, the subject imports will enter the U.S. market at prices that will likely depress and suppress domestic prices.

3. The Likely Impact of Subject Imports Is Significant

Finally, in assessing whether the subject imports will have a significant impact on the domestic industry unless trade relief is provided, the Commission typically considers whether the domestic industry is vulnerable to the adverse impact of the subject imports in the imminent future.¹⁸⁸ As we have already shown, between 2019 and 2021, [

].¹⁸⁹ Moreover, [

].¹⁹⁰ Meanwhile, U.S. Steel has reported laying off workers due to import competition. This evidence shows that the domestic industry is clearly vulnerable to further material injury in the absence of trade relief. These facts render domestic producers susceptible to the likely adverse impact of the growing volumes of low-priced subject imports that will continue to enter the country in the imminent future in the absence of trade relief.

Under the Act, the Commission must also consider whether the subject imports will have a significant impact on the existing development and production efforts of the domestic industry as part of its threat analysis.¹⁹¹ As we noted above, [

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¹⁸⁸ *E.g., Drill Pipe and Drill Collars from China*, Inv. Nos. 701-TA-474 & 731-TA-1176 (Final), USITC Pub. 4213 (February 2011) at 35-36.

¹⁸⁹ See Exhibit I-3 (Trade and Financial Data of Cleveland-Cliffs).

¹⁹⁰ See Exhibit I-3 (Trade and Financial Data of Cleveland-Cliffs).

¹⁹¹ 19 U.S.C. § 1677(7)(F)(i)(VIII) & (IX).

Thus, the Commission should conclude that unless antidumping and countervailing duty orders are issued, the subject imports will continue to have a significant adverse impact on the domestic industry's ability to make the on-going investments needed to maintain development and production efforts.

Finally, under the Act, the Commission is directed to determine whether there are any other demonstrable trends that indicate the subject impacts will materially injure the domestic industry in the imminent future.¹⁹² Here, the domestic producers face several other adverse trends that are likely to exacerbate the impact of the subject imports on their operations,¹⁹³ such as the on-going economic impact of the coronavirus pandemic and a decline in demand for tin mill products that has been continuing for a number of years. These events make clear that the domestic industry is in no position to face a continued flood of unfairly traded imports from the eight countries. Given these considerations, the Commission should determine that, in the absence of trade relief, the subject imports will have a significant impact on the domestic industry unless orders are imposed.

V. CONCLUSION

For years, domestic producers of tin mill products have faced unfair pricing competition from subject imports. These imports have made it impossible for domestic producers to obtain a healthy, market-based rate of return. As a result of these developments, the future of the domestic industry is in grave peril. If trade relief is not granted soon, the United States may lose its ability to make tin mill products.

To prevent such an outcome, Petitioners urge the Department to initiate antidumping investigations on imports of tin mill products from Canada, China, Germany, Netherlands, South

¹⁹² 19 U.S.C. § 1677(7)(F)(i)(VIII).

¹⁹³ See 19 U.S.C. § 1677(7)(F)(i)(IX).

Korea Taiwan, Turkey, and the United Kingdom, and to initiate a countervailing duty investigation on tin mill products from China. The Petitioners further urge the Commission to make affirmative determinations of material injury or threat of material injury by reason of such unfairly traded imports.

Respectfully submitted,

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