

UNITED STATES TARIFF COMMISSION

[AA1921-39]

TC Publication 135

September 1, 1964

CARBON STEEL BARS AND SHAPES FROM CANADA

Determination of Injury

On June 1, 1964, the Tariff Commission was advised by the Assistant Secretary of the Treasury that carbon steel bars, bars-shapes under 3 inches, and structural shapes 3 inches and over, manufactured by Western Canada Steel Limited and/or its subsidiary, the Vancouver Rolling Mills Limited of Vancouver, Canada, are being, or are likely to be, sold in the United States at less than fair value as that term is used in the Antidumping Act. Accordingly, the Commission on June 2, 1964, instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Public notices of the institution of the investigation and of a public hearing to be held in connection therewith were published in the Federal Register (29 F.R. 7444; 29 F.R. 7788; and 29 F.R. 8154). The hearing was held on July 27, 1964.

In arriving at a determination in this case, due consideration was given by the Commission to all written submissions from interested parties, all evidence presented at the hearing, and all information obtained by the Commission's staff.

On the basis of the investigation, the Commission has determined (Commissioners Dorfman and Talbot dissenting)<sup>1/</sup> that an industry in the United States is being injured by reason of the importation of carbon steel bars, bars-shapes under 3 inches, and structural shapes 3 inches and over, manufactured by Western Canada Steel Limited and/or its subsidiary, the Vancouver Rolling Mills Limited of Vancouver, Canada, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

#### Majority Statement of Reasons

For the Commission to find injury to a domestic industry in a dumping case, it must be satisfied that there is material injury and that it is being caused by the sales-below-fair-value aspect of the goods in question rather than by their mere importation. In this case both conditions are fulfilled.

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<sup>1/</sup> The views of Commissioners Dorfman and Talbot follow the statement of reasons for the affirmative determination.

The imports which are the subject of this investigation consist of carbon steel bars, 1/ bar shapes under 3 inches and structural shapes 3 inches and over. However, it should be pointed out that the Canadian producer does not make or export structural shapes 5 inches and over. The larger structural shapes are typically separate and distinct from those products which are being imported at less than fair value. They are made on different machinery and generally serve different purposes. Consequently, structural shapes 5 inches and over are not germane to this determination.

The bars and shapes involved in this case are heavy, elongated, low-value products subject to high transportation costs. Consequently, they are commonly sold only within a comparatively restricted geographical area. Thus, it is not surprising that the three domestic producers in the Pacific Northwest--Oregon Steel Mills, Northwest Steel Rolling Mills, Inc., and the Bethlehem Steel Company--typically sell over 95 percent of their production of the relevant items in the Pacific Northwest. 2/ Furthermore, approximately 95 percent of the domestic steel bars and shapes of this type which are consumed in the area come from these three mills, and the bulk of their raw material originates in the same States. Their sales are made primarily in small lots. This factor, together with the high freight costs, isolates this group of producers.

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1/ The term "carbon steel bars" is construed not to include "steel reinforcing bars" which were the subject of a separate investigation under the Antidumping Act.

2/ The producers sell principally in Oregon and Washington, but make some sales in Montana, Utah, and Idaho which constitute the eastern fringe of the market.

It is true, of course, that this isolation has occasionally been breached by small sales in the area by other domestic producers and by shipments outside it by the firms in question, but these have been minimal and sporadic. Even the "captive" sales by one of the three domestic producers which were made to its parent company in California were extremely small.

The Canadian less-than-fair-value imports sold in the Pacific Northwest rose three-fold between 1962 and 1963. During 1963 they reached about 10 percent of local shipments of the relevant products by the three domestic producers. In fact, the total Canadian importation of these articles entering through the customs districts of the Pacific Northwest was more than 15,000 tons during 1963. However, since somewhat more than half of them simply passed through the area enroute to other areas, we are primarily concerned in this decision with the tonnage that stayed in the relevant market area. That quantity, as we have indicated, was more than enough to deprive the domestic concerns of a significant volume of sales--though not necessarily on a one-to-one basis--which they would otherwise have made.

Further, prices were markedly depressed by the impact of the Canadian goods at less than fair value. In October 1963, when the imports under investigation were coming into the Northwest in substantial quantities, a national price rise took effect. The

Northwest producers, however, were unable to participate in this general increase. 1/ Not until the Canadian imports ceased in April 1964, when the Treasury Department announced that it was withholding appraisal of the items, did these producers determine that it was economically feasible to make appropriate increases in their prices. For the intervening period their prices were the lowest in the country--as one measure, they were as much as \$7.00 a ton under the prevailing price in San Francisco--and they were caught in the familiar vise between depressed prices and higher costs for labor and scrap. 2/

Price depression of this kind is commonly, of course, the result of many factors. However, in this case the pressures for price increases were generally present: a national trend, a growing market, rising costs, and limited domestic competition. The major negative factor in the equation was the dumped Canadian imports, which were selling at prices between 6 percent and 20 percent under the domestic prices. It is true that off-shore imports from Japan and Belgium of like competitive sizes and shapes were also present in the market in the Northwest during the relevant time period. Because such imports had been there for some time, the market had adjusted to them before the surge of the Canadian imports at less than fair value. In the case of the Japanese, the bulk of the goods were of sizes not directly competitive with the subject bars and shapes.

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1/ Although the published price of one of the Northwest producers was increased in October 1963, until recently actual sales of bars and bar shapes were necessarily made at prices comparable to the lower prices of the other two producers.

2/ Labor costs had risen 12 percent and scrap costs 19 percent since the last price adjustment.

It is also germane in establishing the causal relationship between the price depression and the Canadian sales at less than fair value to point out that the Northwest producers not only did not lose sales when they raised their prices last spring, but actually gained some. The major change in the structure was the discontinuance of offers of the Canadian product in the domestic market.

If the Canadian manufacturer had sold the articles in question to the importer at fair values, the added factor of customs duty would have meant that the importer's costs would have been somewhat above the domestic producers' prices. Faced with this fact, and the ample supply of U.S. bars and shapes, the manufacturer priced his goods to the importer far below the level that was necessary to make his products reasonably price competitive. The successful penetration of the market was therefore due directly to the less-than-fair-value pricing policy, and not to the mere availability of the goods.

Thus, the producers in the Pacific Northwest were materially injured as evidenced by a substantial loss of sales which, under reasonable competitive circumstances, they could have expected to make, and by a severe price depression. The Commission finds that an industry in the United States is being injured within the meaning of the Antidumping Act.

## Views of Commissioners Dorfman and Talbot

We disagree with the majority finding that an industry in the United States is being injured by reason of imports of carbon steel bars, bars-shapes under 3 inches, and structural shapes 3 inches and over sold at "less than fair value" (LTFV) by the Vancouver Rolling Mills of Vancouver, British Columbia. The information that has come to the attention of the Commission in this investigation does not support a finding that an industry in the United States either is being injured or is likely to be injured in consequence of those imports.

In most antidumping investigations that the Commission has conducted, it has identified the domestic industry concerned as that which accounts for the national output of the article in question. It has taken this position even in circumstances where all or most domestic producers sell the bulk of their output in nearby markets. For example, in a series of antidumping decisions rendered on steel wire rods only last year, <sup>1/</sup> the Commission unanimously rejected the propriety of segmentizing the domestic production of such articles into regional industries, observing that <sup>2/--</sup>

. . . the Commission recognizes the propensity of users to buy from the lowest priced suppliers. It recognizes also that domestic producers of such articles as wire rods can generally supply nearby users at lower costs than can the more distant

1/ Hot-Rolled Carbon Steel Wire Rods From Belgium, TC Publication 93, 1963; Hot-Rolled Carbon Steel Wire Rods From Luxembourg, TC Publication 94, 1963; Hot-Rolled Carbon Steel Wire Rods From West Germany, TC Publication 95, 1963; and Hot-Rolled Carbon Steel Wire Rods From France, TC Publication 99, 1963.

2/ Hot-Rolled Carbon Steel Wire Rods From Belgium, TC Publication 93, 1963.

domestic producers. Nevertheless, virtually all such domestic producers, in greater or lesser degree, regularly penetrate one another's "natural" markets. Moreover, both the buyers and sellers in each of such markets take vigilant note of the happenings in each of the other of such markets. Accordingly, in the case of wire rods, the Commission finds no merit in the "regional industry" concept.

There is no more warrant for regarding the three producers of carbon steel bars and shapes located in Washington and Oregon as constituting an industry (in the context of the Antidumping Act) than there was for singling out for such purpose some one of the regional groups of the aforementioned producers of steel wire rods. Nor does there appear to be any more reason in the instant investigation to consider Washington and Oregon together as the competitive market area vulnerable to the LTFV imports than to consider separately the market area served by the two Washington producers and the market area served by the single Oregon producer. Why should the impact in the California marketing area be omitted from consideration altogether when the California area was the destination of more of the LTFV imports than were Washington and Oregon together? And why should the import competition not be assessed on the basis of the impact of the imports on all of the mills that market rolled products in the nine Western States that have received the LTFV imports? Those imports in 1963 were the equivalent of only a minor fraction of 1 percent of the rolled products of such mills.

Previous to this year, the only times that the Commission identified a domestic industry on a regional basis in antidumping cases were in investigations dealing with cast iron soil pipe and portland cement.



The basis for employing the regional concept in those cases rested in major degree on at least one very important consideration that is absent in the instant case, namely: All or virtually all of the facilities and labor employed by the domestic establishment or establishments in question were devoted to making a single product (soil pipe or cement); and the competitive impact of the LTFV imports was wholly, or almost wholly, on that single product.

Commencing this year, however, some Commission decisions departed radically--as well as diversely--from the Commission's historical interpretation of the antidumping statute, particularly with respect to (1) identification of the domestic industry concerned and (2) appraisal of the extent of the injury inflicted by the LTFV imports. Thus far there have been three such decisions, including the instant one. <sup>1/</sup>

In the first of these decisions, the majority appears to have identified the domestic industry as nationwide in scope, but held that it was materially injured in consequence of the "substantial capture of a major 'share' of" "a major market area" by the LTFV imports. The imports, which entered only a limited west coast market area, were found to have an "anti-competitive" effect even though that market area (like

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<sup>1/</sup> The other two were reported in Chromic Acid From Australia, TC Publication 121, February 1964, and Steel Reinforcing Bars From Canada, TC Publication 122, March 1964. The Commission's decision in the latter case was in fact evenly divided (Commissioners Schreiber, Sutton, and Culliton found in the affirmative, and Commissioners Dorfman, Talbot, and Fenn found in the negative), but sec. 201(a) of the Antidumping Act provides that the "Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative."

numerous other domestic market areas) was supplied by a group of chromic acid producers all located in the eastern part of the country but no one of which was peculiarly dependent on the west coast market. <sup>1/</sup>

In the second of these decisions, the industry likewise appears to have been identified as nationwide in scope. That industry, however, was found "likely to be injured" in consequence of the LTFV imports that entered the "competitive market area" in the Northwest, wherein are located three producers (two in Washington and one in Oregon) that manufacture a variety of steel products, including reinforcing bars. <sup>2/</sup>

We are unclear in the instant case (1) whether the majority identifies the domestic industry as being coextensive with production in only three plants in the Northwest (two in Washington and one in Oregon) <sup>3/</sup> of merchant bars, bars-shapes, and structural shapes that conform precisely in dimension and shape to the LTFV imports, or (2) whether it identifies the industry as national in scope but one that is injured in consequence of the impact of the LTFV imports on the aforementioned three producers in the Northwest.

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<sup>1/</sup> The plants in which chromic acid is manufactured (though generally part of a larger industrial complex) are almost wholly devoted to producing the one end product. In that respect they resemble the plants in which cast iron soil pipe and cement are made but are in distinct contrast to those in which steel reinforcing bars, bars-shapes and structural shapes are produced.

<sup>2/</sup> The rationale for translating loss in a regional market with injury to a national industry was most clearly phrased in a minority finding on white portland cement from Japan (TC Publication 129, July 1964), viz, "If some domestic producer or producers are injured by imports at less than fair value, it follows that the national industry may be materially injured because such producers are a part of the national industry. An injury to a part is an injury to the whole."

<sup>3/</sup> These are the same three plants that a majority of the Commission apparently regarded as constituting only a segment of a nationwide industry in their decision in the aforementioned case concerning steel reinforcing bars.

Despite semantic differences, the aforementioned three affirmative decisions (which include the present one) relate the injury in question to a "competitive market area" that bears only a tenuous relation to any industry recognizable as such. The market area thus equated with the industry may or may not coincide with the one in which the LTFV imports (or even the bulk of them) are sold; the area may or may not encompass-- or even be anywhere near--the producers that comprise the allegedly injured domestic industry; and none of those producers need be peculiarly dependent on sales in that area. Not only is the assessment of claimed injury inaptly magnified in consequence of the geographic segmentation of an industry but the assessment may be even further magnified by resort to unwarranted product segmentation. <sup>1/</sup>

In our view there is no domestic industry, either national or regional, that is coextensive solely with the production of "steel bars, bars-shapes under 3 inches, and structural shapes 3 inches and over"-- the articles which the Treasury Department identified as the LTFV imports from Canada. No mill in the country confines its production solely to such articles. The mill equipment on which these articles are rolled is used also for the manufacture of reinforcing bars, as well as other articles. Simple adjustments in production equipment (accomplished in a matter of hours at most) can permit mills to roll a variety of products almost interchangeably. <sup>2/</sup> Moreover, there is no more logic in

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<sup>1/</sup> It is significant that while the Commission has been narrowing its concept of industry under the Antidumping Act, the Congress broadened its concept of industry under the escape clause when it enacted the Trade Expansion Act of 1962.

<sup>2/</sup> H. Dewayne Kreager, in Supplemental Economic Statement to brief on behalf of Oregon Steel Mills. Also, those who found in the affirmative in the decision on steel reinforcing bars from Canada (TC Publication 122, p. 5) stated that "the production of end products of the mills can be shifted easily from one product to another."

regarding a domestic industry as coextensive with the production of the aforementioned three articles than there would be in considering that each article was made by a separate industry. On the basis of such reasoning, there could be as many industries as there are end products; and they, in turn, could be fractionated ad infinitum on the basis of size, shape, length, weight, composition, etc.

But even if we were to subscribe to the view that the domestic industry is coextensive solely with the production of bars, bars-shapes, and structural shapes in the aforementioned three mills in the Northwest, evidence would still be lacking to support a finding that the LTFV imports were causing injury to that industry.

The major part of the LTFV imports from Canada that were entered in the Washington and Oregon customs districts went to destinations in other Western States. The imports that went to customers in Washington and Oregon in 1963 were the equivalent of less than 3 percent of the total rolled products shipped by the three mills located in those States.

The LTFV imports from Canada entered into competition in the Pacific Northwest (as elsewhere) not only with products made by the mills in that area but also with other imports, principally from Japan and Europe, that presumably entered at "fair value." In 1963 the volume of offshore imports of carbon steel bars, bars-shapes, and structural shapes that entered customs districts in Washington and Oregon exceeded 25,000 tons, the principal suppliers being Japan (17,800 tons), Belgium and Luxembourg (5,400 tons), and West Germany (1,300 tons). Since ocean freight from Japan, as well as from Europe, is the same to one West coast port as to another, offshore imports customarily enter at those ports which are closest to their ultimate destinations; hence nearly all of the entries

of offshore imports into Washington and Oregon may be regarded as destined for use in those two States. In terms of volume, the offshore imports were more than four times as large as the LTFV imports from Canada that were shipped to destinations in those two States. Although the offshore imports included structural shapes somewhat larger than those produced by two of the three mills in the Northwest or by the Vancouver mill, they also included substantial quantities of bars and shapes that were directly competitive with those supplied by the mills in the Northwest and the Vancouver mill.

Complete information on the prices of offshore imports is not available. The record in this investigation, however, appears to reflect agreement that prices for the bulk of the offshore imports were about 20 percent below those for comparable domestic products, <sup>1/</sup> whereas prices for the LTFV imports from Canada were about 8 to 10 percent below domestic prices. <sup>2/</sup> Such impact as the imports from Canada had on domestic prices was therefore minor compared with the impact of the much larger and sharply rising volume of lower priced offshore imports. <sup>3/</sup>

There is nothing unique in imports of standard industrial articles of commerce, such as carbon steel bars, bars-shapes, and structural shapes--whether offshore or Canadian--selling at lower prices than comparable domestic articles of the same or similar quality. Imports of

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<sup>1/</sup> Transcript of the hearing, pp. 46 and 102.

<sup>2/</sup> Transcript of the hearing, p. 134.

<sup>3/</sup> Entries of such imports at Washington and Oregon customs districts were (in terms of volume) twice as large in 1962 as in 1961 and twice as large in 1963 as in 1962.

most standard products must be offered at prices lower than those of the domestic articles if they are to be sold at all. In addition to traditional resistance to the use of foreign industrial products, there are other factors that discourage their use, such as the long lead time for delivery schedules, uncertainties over future supplies, difficulties in making adjustments for damaged or defective merchandise, and lack of close contact between customer and supplier. Disadvantages such as these account for the discount prices that customers pay for imports compared with the prices they pay for domestic articles that can be obtained more quickly and conveniently. The price disparity between the offshore imports and those from Canada reflect principally buyers' preferences for the quicker and more certain deliveries, and for the more satisfactory service rendered by the Canadian supplier.

Despite the increase in imports (both Canadian and offshore) of the articles here considered, the aggregate sales of these articles by the producers in the Northwest have increased substantially. Their shipments of structural shapes in 1963, when LTFV imports were largest, were 35 percent higher than in 1961. Over the same period their shipments of carbon steel bars and bars-shapes rose 8 percent, and their shipments of all rolled products, 17 percent. This performance appears the more remarkable since one of the Seattle mills was shut down for modernization during much of 1963. In the first quarter of 1964, shipments of bars and bars-shapes were at an annual rate 40 percent larger than that which prevailed in 1963, and shipments of structural shapes

were at an annual rate 11 percent greater. Both domestic mills and importers appear therefore to have shared in supplying the increased demand for these articles.

We find no validity in the contention that LTFV imports from Canada caused deterioration in the price structure for domestic carbon steel bars, bars-shapes, and structural shapes in Washington and Oregon, or that they suppressed price increases that producers in those States might otherwise have been able to make effective. To test the course of prices in the Northwest with those in other areas, comparisons were made of base prices in Portland, Oreg. (Northwest), Los Angeles, Calif. (West), Johnstown, Pa. (East), Chicago, Ill. (Midwest), and Fairfield, Ala. (South). The comparison shows that historically prior to October 1962 the base prices for carbon steel bars and bars-shapes were \$0.70 to \$0.75 per hundred pounds higher on the west coast (both in California and the Northwest) than in the other three consuming centers identified above. In October 1962, on the lead of the Kaiser Steel Corp., the western premium was virtually eliminated, and all western base prices for the products covered in this investigation have since remained close to prices quoted elsewhere in the United States. In October 1963, base prices were raised throughout virtually the whole nation from \$5.675-\$5.825 to \$5.925-\$6.025 per hundred pounds. These increases were ultimately made in the Northwest, although there was some delay and irregularity in the actions of individual producers. Prices in the Pacific Northwest have shown no deterioration whatever,

and they closely reflect price developments in both the national market and other regional markets along the Pacific coast.

Producers in the Northwest have from time to time made concessions from quoted prices to win business both from importers and from domestic competitors. These concessions, however, did not significantly affect overall sales receipts, as indicated by information the Commission obtained on the net mill returns per ton for the producers in the Northwest. The average net mill return per ton in 1963 for the three producers combined on all products covered by the investigation was not significantly different from their average return in either 1961 or 1962, despite the elimination of the premiums on western prices in October of 1962. With regard to individual products, the average net mill returns per ton for 1963 compared with those for 1961 showed a small increase for bars-shapes, a slight decrease for carbon steel bars, and a decrease of 4.2 percent for structural shapes. These differences are noteworthy since three-fourths of the Canadian LTFV imports consist of bars and bars-shapes, the types of articles on which the average net returns per ton at mills in the Northwest showed only insignificant changes. On the other hand, more than three-fourths of the large imports from Japan and more than half of the sizable imports from Belgium and Luxembourg consist of structural shapes, types of articles on which the average net mill return per ton for the mills in the Northwest declined appreciably. The conclusion is inescapable that the mills in the Northwest made few, if any, price concessions in competition with Canadian LTFV imports, but they made significant price concessions



in competition with the lower priced imports from Japan and Belgium and Luxembourg.

Not only do we find that the LTFV imports from Canada are not presently causing injury to a domestic industry, but we also find that they are not likely to cause such injury. Although some improvement in production facilities is underway in the steel mill in Vancouver, British Columbia, there is no evidence (1) that its overall production capacity is at present being substantially increased, (2) that its output of carbon steel bars, bars-shapes, and structural shapes will be significantly enlarged, (3) that larger quantities of these articles will be exported to the United States, or (4) that sales of them in the Pacific Northwest will be increased. On the contrary, the President of Western Canada Steel, Ltd. has advised the Commission that production through 1964 is committed to rising Canadian demand, and that any tonnage that might be available for export to the United States in 1965 would be no greater, and probably considerably less, than that supplied in 1963. The extensive industrial expansion that is taking place in Western Canada, particularly in British Columbia, will no doubt contribute to an enlarged Canadian market for the output of the Vancouver mill.

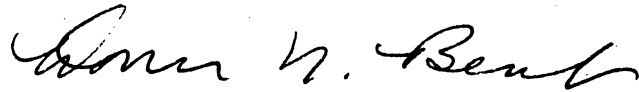
In concluding we observe that the Commission's finding will result in the application of special dumping duties on all imports of Canadian carbon steel bars, bars-shapes, and structural shapes entered at LTFV,

irrespective of whether they were consumed in the Pacific Northwest or in other areas where the larger part of the imports were actually distributed.

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This determination and the statements of reasons are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended.

By the Commission:



Donn N. Bent  
Secretary