Steel Concrete Reinforcing Bars From Turkey

Investigation No. 731-TA-745 (Final)

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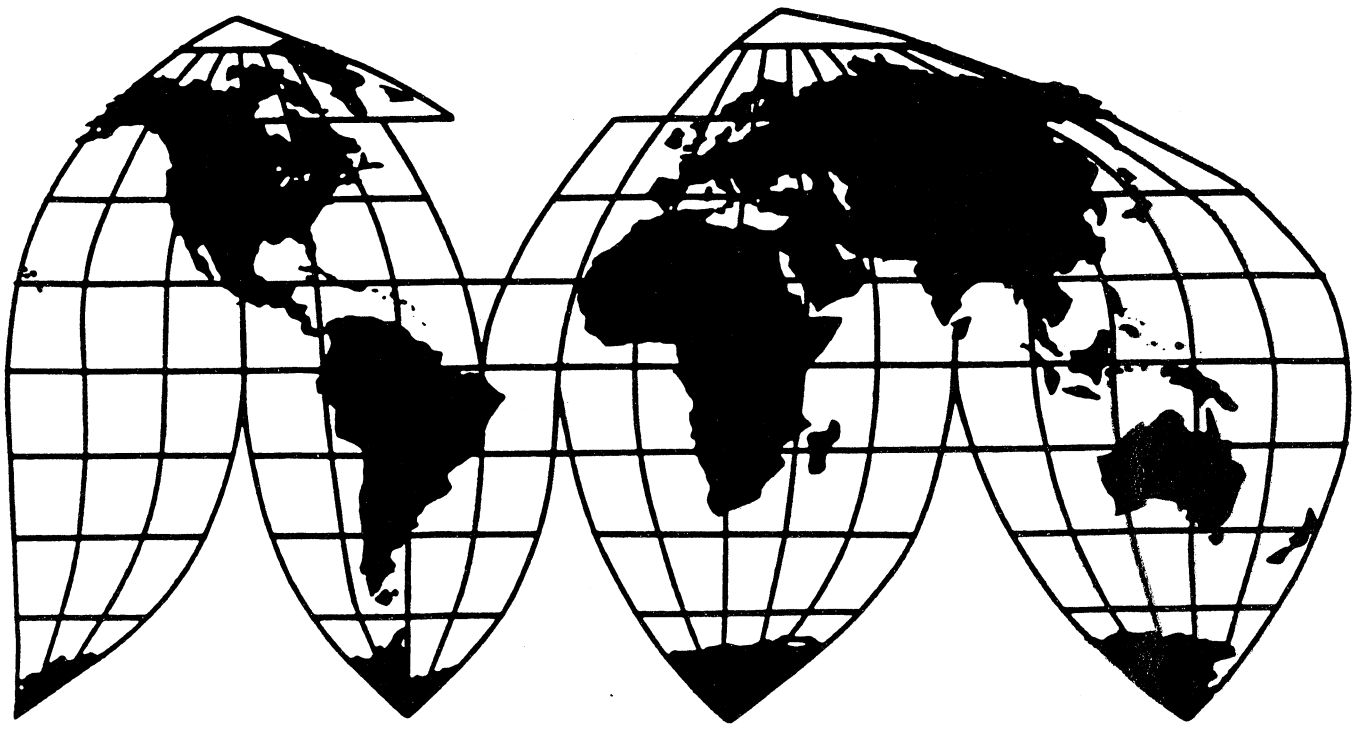
U.S. International Trade Commission



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U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-745 (Final)

STEEL CONCRETE REINFORCING BARS FROM TURKEY

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that a regional industry in the United States is materially injured by reason of imports from Turkey of steel concrete reinforcing bars, provided for in subheadings 7213.10.00 and 7214.20.00 of the Harmonized Tariff Schedule of the United States,[3] that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission also makes a negative determination, pursuant to section 735(b)(4)(A) of the Act (19 U.S.C. § 1673d(b)(4)(A)), regarding critical circumstances.

BACKGROUND

The Commission instituted this investigation effective March 8, 1996, following receipt of a petition filed with the Commission and the Department of Commerce by AmeriSteel Corporation,[4] Tampa, FL, and New Jersey Steel Corporation, Sayreville, NJ. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of steel concrete reinforcing bars from Turkey were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of November 6, 1996 (61 F.R. 57451, November 6, 1996). The hearing was held in Washington, DC, on February 26, 1997, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Commissioner Carol T. Crawford dissenting.

[3] The product covered by this investigation is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain-round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar.

[4] Formerly Florida Steel Corporation.

VIEWS OF THE COMMISSION

Based on the record in this investigation, we find that a regional industry in the United States is materially injured by reason of imports of steel concrete reinforcing bars ("rebar") from Turkey that have been found by the Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV").[1] [2] We further make a negative determination regarding critical circumstances with respect to subject imports of rebar from Turkey.[3]

I. DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY

A. Background and Product Description

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of subject merchandise, the Commission first defines the "domestic like product" and the "industry."[4] Section 771(4)(A) of the Tariff Act of 1930 ("the Act") defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[5] In turn, the Act defines "domestic like product" as: "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . . ."[6]

Our decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and we apply the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[7] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[8] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[9] Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise sold at less than fair

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[1] Commissioner Crawford determines that the regional industry in the United States is not materially injured or threatened with material injury by reason of the subject imports. She joins the majority views on domestic like product, regional industry analysis, related parties, negligible imports and condition of the industry. See Dissenting Views of Commissioner Crawford.

[2] Whether the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

[3] 19 U.S.C. § 1673d(b)(4)(A).

[4] 19 U.S.C. § 1677(4)(A).

[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(10).

[7] See, e.g., Nippon Steel Corp. v. United States, 19 CIT __, Slip Op. 95-57 at 11 (Apr. 3. 1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon at 11 n.4, and 18; The Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[8] See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[9] Nippon Steel, Slip Op. 95-57 at 11; Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

value, the Commission determines what domestic product is like the imported articles Commerce has identified.[10]

In its final determination, Commerce defined the imported merchandise within the scope of this investigation as:

> all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar, rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar.[11]

The subject merchandise is hot-rolled deformed rebar, designed specifically to enhance the tensile and shear-stress strength of concrete structures.[12] Rebar is sold to customers in various forms or stages of fabrication, but only stock deformed rebar, which is not further processed, is subject to investigation.[13]

In its preliminary determination, the Commission considered whether the domestic like product should be defined more broadly than the subject merchandise to include: (1) plain round rebar; or (2) the downstream products, fabricated and coated rebar. The Commission found a single like product consisting of stock deformed rebar and did not include either plain round rebar, or fabricated or coated rebar.[14] Neither of these decisions were contested by the parties in this final investigation. Moreover, we find that there is no evidence in the record in this final phase investigation that suggests a different conclusion is warranted on these two issues.

B. Domestic Like Product Issues in This Investigation

In the final phase of the investigation, petitioners proposed, "as an alternative to their initial statement of like product," finding two domestic like product categories: small diameter rebar (Nos. 3-5) and large diameter rebar (No. 6 and higher).[15] Petitioners did not argue that the evidence was different in the final phase of the investigation, only "that the domestic product category most 'like' the imported

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[10] Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[11] See Notice of Final Determination of Sales of Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey, 62 Fed. Reg. 9737 (March 4, 1997). Confidential Report ("CR") at A-6, Public Report ("PR") at A-6.

[12] CR at I-4, PR at I-4.

[13] CR at I-4, PR at I-4.

[14] Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Preliminary), USITC Pub. 2955 at 3-6 (April 1996)("Rebar from Turkey").

[15] Petitioners' Prehearing Brief at 13 and 14. In the preliminary phase of this investigation, petitioners proposed that there should be one domestic like product, consisting of all stock deformed rebar, and that the Commission should not define the domestic like product more broadly than the subject merchandise to include either plain round rebar or fabricated/coated rebar. Conference Transcript ("Conf. Tr.") at 10 and 11; Petition at 2-4.

subject merchandise is small bar."[16] Respondents continued to support the Commission's definition in the preliminary investigation of one like product.[17]

Based on our consideration of the following six like product criteria and the evidence in the record, we find a single domestic like product, comprised of all sizes of rebar.

Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other."[18] In past investigations in which distinctions among types of products have been alleged, the Commission has looked for clear dividing lines among the various products.[19] If there are no clear dividing lines, then the Commission usually has found a continuum and thus a single like product.

The Commission generally has declined to find separate domestic like products based solely on differences in size.[20] Distinct end uses also generally have not been the sole basis for finding separate like products.[21] The Court of International Trade has repeatedly upheld the Commission practice of defining one like product which includes a number of similar articles.[22] In particular, the CIT has held that the

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[16] Petitioners' Prehearing Brief at 18. However, in their posthearing brief, petitioners appear to have withdrawn their request for two like products. Petitioners argued that because "the collection of financial and employment information from producers disaggregated by size is problematic," the Commission should "use the information collected on the condition of the broader industry (information for both large and small bar) but focus its inquiry on the small bar/distributor market segment subject to most direct competition from Turkish imports." Petitioners' Posthearing Brief at 2 and 3.

[17] Respondents' (White & Case, herein "W&C") Posthearing Brief at 2-4 and Answers to Questions at 3-13; Tr. at 114-116 and 122-123.

[18] S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[19] See Nippon Steel, Slip Op. 95-57 at 11; Torrington, 747 F. Supp. at 748-49.

[20] Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 and 731-TA-707-710 (Final), USITC Pub. 2910 at I-8 (July 1995)(Commission found "no clear dividing line between pipe two inches or less and pipe greater than two inches in outside diameter." While size was "dictated by service conditions and code requirements," producers generally agreed that both sizes had the same physical characteristics, used the same production lines, equipment and production workers, and employed the same channels of distribution. The Commission found that limited interchangeability and differences in prices were not dispositive in light of the similarities). See also Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Inv. Nos. 701-TA-363 and 364 and 731-TA-711-717 (Final), USITC Pub. 2911 at I-10 (August 1995) (Commission found heavy-weight drill pipe was not a separate like product from other types of drill pipe, i.e., standard-weight drill pipe, with the primary distinction being in the thickness of the walls.); Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-540-541 (Final), USITC Pub. 2585 at 9 (1992)(finding physical characteristics of different specification pipes similar despite minor differences in wall thickness).

[21] Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea ("PET Film"), USITC Pub. 2383 at 8 (May 1991); Professional Electric Cutting and Sanding/Grinding Tools from Japan, Inv. No. 731-TA-571 (Final), USITC Pub. 2658 at 8-10, and 49-51 (July 1993).

[22] Aramide Maatschappij V.O.F. v. United States, 19 CIT __, Slip Op. 95-113 at 5 and 6 (June 19, 1995) (while physical differences among various forms of aramid fiber made some "more appropriate for specific end-use applications," the shared function, which was "to deliver strength in their end-use applications," was held to outweigh the differences); see also Nippon Steel, Slip Op. 95-57 at 18 (differences in physical characteristics were "of degree along a continuum").

absence of complete interchangeability does not require the finding of separate domestic like products.[23]

1. Physical Characteristics and Uses

All deformed stock rebar, regardless of size, has essentially the same metallurgy because it is produced from the same scrap material. Moreover, deformed rebar of all sizes meets the same American Society for Testing and Materials ("ASTM") standards[24] for chemical composition, tensile strength, yield strength (grade), and elongation tolerances. Deformed rebar is rolled with deformations on the bar which provide gripping power so that concrete adheres to the bar and provides reinforcing value.[25] Rebar is available in diameters ranging from 3/8-inch rounds to 2 1/4-inch rounds, which are delineated by size Nos. 3-18.[26] U.S. producers manufacture both rebar in coils and cut-to-length rebar in standard lengths of 20, 30, 40, and 60 feet for all diameter sizes.[27]

Deformed rebar of all sizes is used almost exclusively in the construction industry to provide structural reinforcement to concrete structures.[28] While the pool/patio, light construction, and residential markets primarily use rebar in the smaller sizes (3, 4, and 5), there is evidence in the record that these sizes also are used in the heavy construction, public works, and fabrication markets, which use most of the larger sizes of rebar.[29]

2. Interchangeability

Differences in diameter size and length may govern specific end-uses and limit interchangeability

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[23] Nippon Steel, Slip Op. 95-57 at 16 and 17; Aramide Maatschappij, Slip Op. 95-113 at 8 and 14 (June 19, 1995)(despite limited interchangeability among PPD-T aramid fiber forms, the CIT affirmed the Commission's finding that no clear dividing lines existed among the various aramid products).

[24] Rebar is governed by the following ASTM standards: ASTM A615, non-alloy steel; ASTM A616, non-alloy steel rails; ASTM A617, non-alloy steel axles of railroad rolling-stock and locomotives; and ASTM A706, high-strength, low-alloy steel. CR at I-5, PR at I-4.

[25] Conf. Tr. at 43. The surface of a deformed bar is provided with uniformly spaced lugs, ribs, or protrusions which inhibit longitudinal movement relative to the surrounding concrete. CR at I-4, n.12 and I-5, PR at I-3.

[26] CR at I-5, PR at I-4.

[27] CR at I-9, n. 32, and III-10, PR at I-6, n.32, and III-6. At the hearing, one importer rejected petitioners' claim that "number 6 and larger are almost always sold in 60 foot lengths and number 5 is always shorter. In fact, U.S. producers ship far more number 6 and above rebar in 20 and 40 foot lengths to Puerto Rico . . . [and] Number 3 and 4 bars are available from the U.S. in coils . . . [which] are far longer than 60 foot." Tr. at 115 (Mr. Baysal).

[28] CR at I-6, PR at I-4. Deformed rebar is embedded in concrete both for (1) structural reinforcement to enhance its compressional and tensional strength, and (2) crack control as the concrete shrinks in size as it cures or due to temperature fluctuations. Id.

[29] Examples of light or residential construction are construction of residences, pools, patios, and walkways; examples of heavy construction are construction of large buildings, bridges, and roads. CR at II-1, PR at II-1. Fabricators, who further process deformed rebar, serve primarily the heavy construction market. See Petitioners' Posthearing Brief at 3, n.9, and Exhibit A at Tab 1 (40-50 percent of small bar is sold to fabricators and 100 percent of large bar is sold to fabricators). At the hearing, one importer indicated that "like number 6 and above, most number 5 rebar is fabricated for use in various construction projects. . . . a great deal of numbers 4 and 5 are used in highway construction in Texas and Florida. Some amount of number 3 rebar is used in pools and patios, but a lot is used for construction projects for the stir-ups." Tr. at 115 and 116 (Mr. Baysal).

between small and large sizes of rebar.[30] However, this fact is not limited to a distinction between rebar sizes No. 5 and No. 6. Thus, the evidence does not support a clear dividing line between small bar, defined as size Nos. 3-5, and large bar, defined as size No. 6 and above, or for that matter, between any other individual size numbers or categories. The size of rebar used is driven by engineering specifications and building code requirements.[31] There is some degree of interchangeability along a continuum of sizes where rebar of the next size diameter may be substituted for a specified smaller size diameter, e.g., No. 6 may be used for specified No. 5.[32] There also appears to be some flexibility in identifying the size and quantities of rebar to be specified when engineering specifications for a project are prepared, i.e., it is possible that two number 4 rebars could be used in place of a number 6 rebar if space allows and the minimum cross sectional steel area is satisfied.[33]

3. Channels of Distribution

The channels of distribution for rebar are steel distributors, steel service centers, reinforcing steel fabricators, contractors, and building material dealers.[34] Small rebar and large rebar are sold through the same channels of distribution. Large rebar is sold primarily to fabricators; it is estimated that 40-50 percent of small rebar also is sold to fabricators.[35] The remaining 50-60 percent of small rebar is sold primarily to steel distributors, as well as to building material dealers, steel service centers, brokers, lumber

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[30] Complete interchangeability is not required to include various articles within a single like product. See, e.g., Asocoflores v. United States, 693 F. Supp. 1165, 1168 (Ct. Int'l Trade 1988)(fact that consumer cannot substitute size six skirt for size ten does not make the two skirts different like products).

[31] Codes for use of deformed rebar in building construction are provided by the American Concrete Institute ("ACI") 318 Code, for use in residential construction by the Council of American Building Officials ("CABO"), and the ACI 530 Code (Building Code Requirements for Masonry Structures), and for use in highway and bridge construction by the American Association of State Highway and Transportation Officials ("AASHTO") Standard Specifications. CR at I-6, PR at I-4 and I-5.

[32] Tr. at 114 and 115. See also Respondents' Posthearing Brief at 10; Petitioners' Prehearing Brief at 15. At the hearing, one importer, a civil engineer, indicated that:

> Engineering specifications will state the specific diameter of rebar needed. So a number 3 rebar, for example, cannot be used if a number 4 rebar is specified. However, it is possible that two number 4 rebars could be used in place of a number 6 rebar if the space allows. Also, upper size can be used where the next smaller size is specified. They are technically interchangeable for as long as the minimum cross sectional steel area is satisfied. So if a project requires number 5, you can use number 6 if that is readily available and 5 is not.

Tr. at 114 and 115.

[33] Tr. at 114; see also Reinforced Concrete Design (Third Edition) by Leonard Spiegel, P.E., and George F. Limbrunner, P.E., (Regents/Prentice Hall: Englewood Cliffs, NJ)(Tables A-2, A-3 and A-4 provide information on cross-sectional areas of multiples of reinforcing bars). In preparing engineering specifications for a project involving reinforced concrete, the engineer uses the tables denoting cross-sectional areas of multiples of reinforcing bars to determine the diameter and quantity of bars to specify. The ACI 318 Code, in Section 10.3.3, however, stipulates that the maximum permissible reinforcement ratio, or steel ratio, must not exceed 0.75 times the amount of steel that would produce balanced strain conditions.

[34] CR at I-9, I-10, and II-1, PR at I-6, I-7, and II-1.

[35] Petitioners' Posthearing Brief, Exhibit A at Tab 1.

yards, and end-users (such as pool builders).[36]

4. Customer and Producer Perceptions

No distinction between small and large rebar exists at the production level. Producers consider rebar of all sizes as essentially one product.[37] Moreover, customers do not perceive a clear dividing line between small rebar and large rebar.[38]

5. Common Manufacturing Facilities and Employees

Rebar of all sizes is manufactured in the same facilities using the same production and related workers.[39] The manufacturing process for all sizes of deformed rebar is the same. Moreover, production generally can be shifted between different sizes of rebar, requiring from 30 minutes to 6-8 hours to change the equipment.[40]

6. Price

Prices for rebar extend across a spectrum with no clear dividing line on price between small bar and large bar.[41] In general, U.S. producers sell rebar of different sizes at a similar price per short ton. However, they charge a premium for size No. 3 rebar because it is more expensive to produce than larger sizes of rebar, since each bar is lighter in weight and fewer tons per hour are produced.[42]

In sum, small rebar and large rebar generally have common physical characteristics, product qualities, and end-uses, similar channels of distribution, common production facilities, processes and employees, and are not clearly perceived by producers or even customers as distinct products. Thus, notwithstanding some price differences and limits on interchangeability between different sizes of rebar, we find a single domestic like product consisting of all sizes of rebar.

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[36] Petitioners' Posthearing Brief at 3, and Exhibit A at Tab 1.

[37] At the hearing, AmeriSteel's President stated: "From a production side, it's essentially one product. From the consumption side, that is the differentiation." Tr. at 93. In trying to define what constitutes small rebar, at least one producer responding to the Commission's questionnaire considered size No. 6 bar rather than size No. 5 to be the upper range of small rebar. CR at III-10, PR at III-6.

[38] Tr. at 114 (one purchaser of domestic product and imports indicated that defining two industries -- small rebar and large rebar -- "really makes no sense") and at 122 (another customer of both imports and domestic rebar indicated that defining two different rebar products would be "an artificial distinction," particularly between size Nos. 3-5 and No. 6).

[39] Petitioners' Prehearing Brief at 17; Tr. at 61; Respondents' (W&C) Posthearing Brief, Answers to Questions at 11.

[40] CR at II-3, PR at II-2. Tr. at 105.

[41] Tr. at 93.

[42] CR at II-14 and V-5, PR at II-9 and V-4. Both U.S. producers and importers of Turkish rebar sell rebar in size Nos. 3-5 in bundles. Importers of Turkish rebar, however, generally sell their bundles of small rebar in size Nos. 3-5 at one price per ton. Id. at II-14.

II. REGIONAL INDUSTRY ANALYSIS

A. General Considerations

In the preliminary phase of this investigation, petitioners argued that it was appropriate for the Commission to employ a regional industry analysis. The proposed region ("Eastern Tier") as described in the petition and adopted by the Commission in its preliminary determination includes 22 contiguous states from New England through the mid-Atlantic to the Gulf seaboard, plus the District of Columbia and Puerto Rico.[43] [44] The Commission determined that this region properly included Puerto Rico, but did not include Texas, Ohio, Indiana, or Illinois for purposes of the preliminary phase investigation.[45] The Commission concluded that a regional industry analysis was appropriate for the proposed Eastern Tier region and determined that the imports of Turkish rebar were concentrated in this region.[46]

The statute sets up three prerequisites which must be satisfied before the Commission can reach an affirmative determination under a regional industry analysis.[47] The Commission must determine that there

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[43] Petition at 8 and Rebar from Turkey, Inv. No. 731-TA-745 (Preliminary), USITC Pub. 2955 at 7-10 (April 1996). The 22 states are Maine, New Hampshire, Connecticut, Massachusetts, Rhode Island, Vermont, New Jersey, New York, Pennsylvania, Delaware, Florida, Georgia, Louisiana, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Alabama, Kentucky, Mississippi, and Tennessee. Petition at 8, n.11.

[44] There are eight producers of rebar representing 13 mills within the region. Three of these firms, including the two petitioning firms, accounted for about *** of the regional production in 1996. Tables E-2, CR at E-4, PR at E-3. One of the eight regional producers, ***, provided production and shipments data for 1995 and 1996, but not for 1994. We have used aggregate data for apparent consumption, market share, and domestic industry performance, which excludes the two-year data for this firm to more accurately reflect year-to-year trends. See Table C-3, INV-U-028, and note 115 infra. A ninth regional producer, Commercial Steel, reported that it was *** and did not provide data for its mill in the region. CR at III-1, n.2, PR at III-1, n.2. Of the 13 domestic firms responding to the Commission questionnaire, four have rebar production facilities located only in the Eastern Tier region, four have rebar production facilities located both in the region and outside the region, and five have rebar production facilities located only outside the region. The responding firms in the region accounted for nearly all U.S. production of rebar in the region during 1996, while responding firms outside the region accounted for a significant share (estimated to be 80-90 percent) of production outside the region. CR at I-3, PR at I-3.

[45] Rebar from Turkey, Inv. No. 731-TA-745 (Preliminary), USITC Pub. 2955 at 7-10 (April 1996).

[46] Rebar from Turkey, Inv. No. 731-TA-745 (Preliminary), USITC Pub. 2955 at 11 - 12 (April 1996).

[47] Section 771(4)(C) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA")(P.L. 103-465, approved Dec. 8, 1994), provides that:

> In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if--
>
> (I) the producers within such market sell all or almost all of their production of the like product in question in that market, and
>
> (ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.
>
> In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry even if the domestic industry as a whole, or those producers whose collective output of a domestic like product constitutes a

(continued...)

is: (1) a regional market satisfying the requirements of the statute, (2) a concentration of dumped imports into the regional market, and (3) material injury or threat thereof to producers of all or almost all of the regional production, or material retardation to the establishment of an industry, due to the subsidized or dumped imports. The Commission will move on to the next step only if each preceding step is satisfied.[48]

B. Analysis

1. Background and Proposed Alternative Regions

The Commission has found, in the past, that "appropriate circumstances" exist for the Commission to engage in a regional industry analysis for products with low value-to-weight ratios and where high transportation costs make the areas in which the product is produced necessarily isolated and insular.[49] [50]

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[47](...continued)
major proportion of the total domestic production of that product, is not injured, if there is a concentration of dumped imports or imports of merchandise benefitting from a countervailable subsidy into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury, or if the establishment of an industry is being materially retarded, by reason of the dumped imports or imports of merchandise benefitting from a countervailable subsidy. The term "regional industry" means the domestic producers within a region who are treated as a separate industry under this subparagraph.

19 U.S.C. § 1677(4)(C). The URAA changes to the regional industry provisions were not intended to affect substantive Commission practice. The definition of "regional industry" in the last sentence was added and technical language changes were made by the URAA. The URAA also amended the statute to require that Commerce "to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation." 19 U.S.C. § 1673e(d). Therefore, Commerce will "exclude from the [antidumping duty] order, to the 'maximum extent possible,' those exporters or producers that did not export for sale in the region during the period of investigation." Uruguay Round Agreements Act, Statement of Administrative Action ("SAA"), H. Doc. No. 316, 103d Cong., 2d Sess., vol. 1 at 189 - 190 (1994).

[48] Texas Crushed Stone Co. v. United States, 822 F. Supp. 773, 777 (Ct. Int'l Trade 1993), aff'd, 35 F.3rd 1535 (Fed. Cir. 1994)("the ITC's case-by-case approach represents a `legitimate policy choice [] made by the agency in interpreting and applying the statute.'" Id. at 1542), aff'g Crushed Limestone from Mexico, Inv. No. 731-TA-562 (Preliminary), USITC Pub. 2533 (July 1992)("Limestone"). See also Atlantic Sugar, Ltd. v. United States, 519 F. Supp. 916, 920 (Ct. Int'l Trade 1981)(court cautioned against "[a]rbitrary or free handed sculpting of regional markets.")

[49] See, e.g., Limestone, USITC Pub. 2533; Nepheline Syenite from Canada, Inv. No. 731-TA-525 (Final), USITC Pub. 2502 (April 1992), aff'd, Feldspar Corp. v. United States, 825 F. Supp. 1095 (Ct. Int'l Trade 1993); Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Final), USITC Pub. 2305 (August 1990) ("Mexico Cement"), aff'd, Cemex, S.A. v. United States, 790 F. Supp. 290 (Ct. Int'l Trade 1992), aff'd, 989 F.2d 1202 (Fed. Cir. 1993). Rebar is used in tandem with cement to make reinforced concrete, which dictates a close correlation in markets for both commodity products. Petitioners maintain that "rebar shares the low value-to-weight ratio and fungibility that have characterized other regionally distributed like products" and that the "commercial realities that split sales of cement into regional industries are no less true for rebar." Petitioners' Prehearing Brief at 22.

[50] Commissioner Crawford notes that she has not found the characteristics of a product (e.g. a low value-
(continued...)

U.S. inland transportation costs for sales of rebar within the Eastern Tier region vary from supplier to supplier, ranging between 5 and 15 percent of the total delivered cost of rebar.[51] Based on official import data, transportation charges for imports from Turkey are estimated to be 11.1 percent of the value of imports on a c.i.f. basis compared to customs values.[52]

While transportation costs are not a substantial part of the final delivered price to customers, the low value-to-weight ratio for rebar, estimated at $0.15 - 0.16 per pound, appears to restrict the geographical area in which it can be competitively sold.[53] Moreover, the industry practice of "freight absorption" or "freight equalization"[54] makes transportation costs important as a component of rebar sales by domestic producers. The majority of regional shipments of rebar are concentrated within a 250 mile radius of the mill.[55]

Respondents proposed the exclusion of Puerto Rico from the proposed region and questioned why states on the western border of the region, particularly Texas, Ohio, Illinois, and Indiana, were not included.[56] In considering possible alternative regions, the Commission has looked to whether there was competition between the imports and the domestic producers in the region and in the proposed alternatives to the region. The Commission has not required actual competition but only that there were "no current or future limitations on sales by the petitioner in these states."[57] [58]

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[50](...continued)
to-weight ratio, fungibility, etc.) as relevant under the statute. See Commissioner Crawford's discussion of this issue in Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final-Remand), USITC Pub. 2657 at 36 (June 1993); Limestone, USITC 2533 at 13, n.48.

[51] CR at V-2, PR at V-1. Transportation charges from the continental United States to Puerto Rico by ocean freight are estimated to be *** of the total delivered cost of rebar, with an additional transportation cost of approximately *** of the total delivered cost for inland transportation from the mill to the port in the continental United States. Id.

[52] CR at V-2, PR at V-1.

[53] Petitioners' Prehearing Brief at 22 and Petitioners' Postconference Brief at 17.

[54] Equalizing freight means that the customer pays only the cost of the freight from the nearest source, while the producer pays the difference in freight from the mill. CR at V-5, PR at V-3. The practice of freight absorption or equalization is not applied to regional sales to Puerto Rico. Conf. Tr. at 129.

[55] Questionnaire responses. Regional producers indicated in their questionnaire responses that ***.

[56] Respondents' Prehearing Brief at 49-67. Respondents contended that "the most supportable region is the largest one consistent with the statutory tests -- or, in the alternative, the Commission should reject a regional analysis entirely if such a region cannot be identified." Id. at 56. Respondents argued that Puerto Rico should be removed from the region because "domestic producers have not historically been a major source of supply to the Puerto Rican market" and because "there is only minimal competitive overlap between the domestic and imported products sold in Puerto Rico." Id. at 53.

[57] Nepheline Syenite from Canada, Inv. No. 731-TA-525 (Preliminary), USITC Pub. 2415 at 20 - 22 (August 1991)(Commission included states to which petitioner did not ship, noting that there was evidence of actual marketing by petitioner and importer in those states). See e.g., Fall-Harvested Round White Potatoes from Canada, Inv. No. 731-TA-124 (Preliminary), USITC Pub. 1364 (1983)("Round White Potatoes")(marketing of round white potatoes in the states of New Jersey, Delaware, and Maryland, even though there were no producers of the like product in those states, was enough to include those states in the region).

[58] In the past, the Commission has added states to make a region contiguous when there have been non-region states between states in the proposed non-contiguous region. See, e.g., Gray Portland Cement and Cement
(continued...)

The Commission in at least one case has found a regional industry whose boundaries were defined as the Commonwealth of Puerto Rico. In that case, however, there was a domestic producer in Puerto Rico, which shipped "all or almost all" of its production within Puerto Rico, and Puerto Rican demand was not supplied by domestic producers outside of Puerto Rico to any substantial degree.[59] In contrast, in a regional industry case where there was no production within Puerto Rico, similar to the present case, the Commission included Puerto Rico in a larger region, because (1) demand within Puerto Rico was not met to any substantial degree by shipments from domestic producers outside of the region, and (2) shipments by regional producers competed with imports in the Puerto Rican market.[60]

While there is no domestic producer of rebar in Puerto Rico, there have been shipments into Puerto Rico of both Turkish imports of rebar [61] and rebar produced within the region.[62] [63] The evidence in this

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[58](...continued)
Clicker from Mexico, Inv. No. 731-TA-451 (Preliminary), USITC Pub. 2235 (November 1989)(Commission included the Gulf states to make proposed separate Southwest and Florida regions contiguous). The Commission, however, has rejected adding to a proposed region the closest geographically located states (North Carolina, South Carolina, Georgia and Florida) for the sole purpose of making an island territory, Puerto Rico, (included in the proposed region) contiguous to the region to be assessed. Nepheline Syenite, USITC Pub. 2415 at 21 and 22 (August 1991).

[59] Aluminate Sulfate from Venezuela, Inv. No. 731-TA-431 (Final), USITC Pub. 2242 at 6-14 (Dec. 1989). Respondents in the present investigation contended that "Puerto Rico is an economic market unto itself." Respondents' (W&C) Posthearing Brief, Answers to Questions at 30. However, the fact that Puerto Rico does not have a domestic rebar producer means that it cannot be defined as its own region, because there would be no domestic industry for which the Commission could make a determination regarding material injury by reason of the subject imports.

[60] Nepheline Syenite, USITC Pub. 2415 at 21 and 22 (August 1991). Contrary to respondents' argument that the Commission's treatment of Kentucky in that case mandates exclusion of Puerto Rico in the present case, the Commission excluded Kentucky from the region in that investigation because it did not meet the criteria for inclusion, not because "there was no domestic producer located in Kentucky." Respondents' Prehearing Brief at 60.

[61] Turkish imports of rebar into Puerto Rico accounted for 53 percent of all Turkish imports into the United States in 1994, 48 percent in 1995, and 73 percent in 1996, based on official import statistics. CR at IV-4, PR at IV-3. Turkish imports of rebar into Puerto Rico accounted for *** of total reported Turkish imports by state in 1994, *** in 1996. Table IV-2, CR at IV-5, PR at IV-4. Respondents indicated that almost all Turkish imports into Puerto Rico remain in Puerto Rico. Conf. Tr. at 137.

[62] Regional producers' shipments to Puerto Rico as a share of their total U.S. shipments in the region were *** in 1996. Table III-7, CR at III-19; PR at III-9. Regional producers that provided shipments by state shipped *** short tons of rebar to Puerto Rico in 1996. Id. Apparent consumption of rebar in Puerto Rico was estimated by Petitioners to be about 110,000-130,000 tons annually, and by a Puerto Rican importer to be about 100,000-150,000 tons per year. Petitioners' Postconference Brief at 24, n.49, and Conf. Tr. at 90.

[63] Neither of the market isolation criteria in the statute includes consideration of shipments of imports into the region in defining the regional market, and therefore Commissioner Crawford does not join the preceding discussion of shipments of subject imports. Commissioner Crawford has indicated that:

> Texas Crushed Stone sets forth three distinct prerequisites to be met in a regional analysis. The first is that there be a regional market; the second is that there be a concentration of subject imports in the regional market. Accordingly, determining whether there is a concentration of imports is a separate test, not a factor in defining the regional market [footnote omitted].

(continued...)

final investigation indicates that demand in Puerto Rico is not supplied by domestic producers outside of the Eastern Tier region.[64] For the foregoing reasons, we include Puerto Rico in the Eastern Tier region.

Texas also is a nominal candidate for inclusion in the Eastern Tier region.[65] The Texas market, however, appears to be separate and isolated from the proposed region, with only limited shipments into Texas by Eastern Tier regional producers and very minimal shipments into the Eastern Tier region by Texas producers.[66] While Houston, Texas is the second largest port of entry for Turkish imports into the United States, these imports reportedly remain in Texas.[67] For these reasons, we do not include Texas in the Eastern Tier region.

Respondents questioned the exclusion of Ohio, Indiana, and Illinois from the Eastern Tier region since there are domestic mills that produce rebar in two of those states.[68] However, only a small share of Eastern Tier regional producers' total U.S. shipments are shipped to these states.[69] Second, while there is production of rebar in Illinois and Ohio, those producers reported either *** into the Eastern Tier region or only limited shipments, ranging from *** as a share of apparent consumption in the region during the period of investigation.[70] There is no production of rebar reported in Indiana and thus no shipments from that state into the Eastern Tier region.[71] Moreover, U.S. shipments of Turkish rebar into these states were *** over the period of investigation and for the three states combined amounted to only about *** of total U.S. shipments of Turkish rebar reported by state in 1996.[72] [73] For the above reasons, we do not include

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[63](...continued)
Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final-Remand), USITC Pub. 2657 at 36 (June 1993).

[64] Table III-7, CR at III-19; PR at III-9.

[65] Respondents charge that "if import competition is a defining element of the region, there can be little question that Texas is within the region where imports from Turkey are `concentrated.'" Respondents' Prehearing Brief at 66 and 67.

[66] Eastern Tier regional producers shipped *** short tons of rebar into Texas in 1994, *** in 1995, and *** in 1996. Table III-7, CR at III-19, PR at III-9 (based on questionnaire responses of regional producers that provided shipments by state). Regional producers' shipments into Texas as a share of their reported total U.S. shipments by state did not exceed *** during the period of investigation. Id. Reported shipments by Texas producers into the Eastern Tier region as a share of apparent consumption in the region were *** in 1996. Calculated from Tables C-3 and E-4, INV-U-028 and CR at E-6, PR at E-3.

[67] Conf. Tr. at 137. No evidence in this final phase of the investigation indicates otherwise. Turkish imports of rebar into Houston/Galveston, Texas accounted for 17 percent of all Turkish imports of rebar into the United States in 1994, 22 percent in 1995, and 11 percent in 1996. CR at IV-4, PR at IV-3 (based on official import statistics). Turkish imports of rebar into Texas accounted for *** of total reported Turkish imports by state in 1994, *** in 1996. Calculated from Table IV-2, CR at IV-5, PR at IV-4.

[68] Respondents' Prehearing Brief at 60, 62 and 63. Respondents argued "if the Commission decides to include Puerto Rico in the region, it must also include Ohio and Indiana, states that are as closely integrated to the proposed region as is Puerto Rico." Id. at 62 and 63.

[69] Eastern Tier regional producers' shipments as a share of their reported total U.S. shipments by state were *** for Ohio in 1996. Calculated from Table III-7, CR at III-19, PR at III-9.

[70] Calculated from Tables C-3 and E-4, INV-U-028 and CR at E-6, PR at E-3.

[71] Table E-4, CR at E-6, PR at E-3.

[72] Table IV-2, CR at IV-5, PR at IV-4. Importers reported *** of Turkish rebar entering the state of Indiana during the period of investigation. Turkish imports reportedly were shipped into Illinois *** of total
(continued...)

Ohio, Indiana, or Illinois in the Eastern Tier region.

2. Market Isolation Criteria

a. Sales of "all or almost all" regional production within the region

Producers in the Eastern Tier region shipped about 90 percent of their rebar production within the region throughout the period of investigation.[74] We find that this percentage of sales satisfies the statutory criterion of section 771(4)(C)(i) of the Act that "producers within such market sell all or almost all of their production of the domestic like product in that market."[75]

b. Proportion of demand within region supplied by U.S. producers outside the region

The percentage of consumption in the Eastern Tier region that was supplied by U.S. producers outside the region was less than five percent throughout the period of investigation.[76] The percentages in this investigation fall into the range[77] that the Commission previously has found satisfy the criterion of

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[72](...continued)
reported Turkish imports by state in 1994. Turkish imports reportedly were shipped into Ohio in 1994 and 1996, and accounted for *** of total reported Turkish imports by state in 1994 and *** in 1996. Id.

[73] Neither of the market isolation criteria in the statute includes consideration of shipments of imports into the region in defining the regional market, and therefore Commissioner Crawford does not join the preceding discussion of shipments of subject imports. See note 63, supra.

[74] Calculated from Tables E-4 and E-5, CR at E-6 and E-9, PR at E-3. Regional producers' shipments in the region were *** in 1994, *** in 1995, and *** in 1996. Id.

[75] 19 U.S.C. § 1677(4)(C)(i). The percentage of sales by regional producers within the region is within the range the Commission previously has considered sufficient to satisfy this criterion. See Texas Crushed Stone, 822 F. Supp. 773, aff'd, 35 F.3d 1535 (Fed. Cir. 1994); Cemex, S.A. v. United States, 790 F. Supp. at 292-294, aff'd, 989 F.2d 1202 (Fed. Cir. 1993).

[76] Calculated from Tables III-5 and C-3, CR at III-14, PR at III-7, and INV-U-028. The share of regional consumption supplied by U.S. producers outside the region was *** in 1994, *** in 1995, and *** in 1996, based on questionnaire responses. Id.

[77] The Court of International Trade has suggested that a level of 12 percent of total supply from outside of the region may be too high to be considered insubstantial "in the abstract," but nonetheless affirmed a Commission determination holding that the market isolation criteria were satisfied when 12 percent of regional consumption was supplied by producers outside the region. Atlantic Sugar, Ltd. v. United States, 519 F. Supp. 916, 919-920 (Ct. Int'l Trade 1981). The Commission has found that an average of 10.5 percent of outside supply was acceptable and on several occasions that percentages of less than 10 percent were acceptable. See, e.g., Gray Portland Cement and Cement Clinker from Venezuela, Inv. No. 731-TA-519 (Preliminary), USITC Pub. 2400 at 8-10 (July 1991) ("Venezuela Cement"); Mexico Cement, USITC Pub. 2305 at 15 (between 8 and 8.5 percent acceptable); Sugars and Sirups from Canada, Inv. No. 731-TA-3 (Final), USITC Pub. 1047 at 4, 14 (March 1980) (5.5 percent acceptable); Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108 and 109, USITC Pub. 1310 at 9 (November 1982) (less than 10 percent acceptable). It determined in one case that 30 percent was too large, and in a second that percentages that ranged between
(continued...)

Section 771(C)(4)(ii) that "demand in [the regional] market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States."[78]

Having found that the two market isolation criteria are satisfied, we determine that a regional industry exists.

3. Concentration of Imports

In the second step of the regional industry analysis, we determine whether the statutory requirement of a concentration of imports within the pertinent region is satisfied. The statute does not define concentration. The legislative history to the URAA indicates that "no precise mathematical formula is reliable in determining the minimum percentage which constitutes sufficient concentration."[79] The SAA provides that concentration of imports will be found to exist "if the ratio of the subject imports to consumption is clearly higher in the regional market than in the rest of the U.S. market,[80] and if such imports into the region account for a substantial proportion of total subject imports entering the United States."[81] The SAA cautions that there is no "benchmark" for determining what constitutes a concentration; rather, this issue should be decided on a case-by-case basis.[82] The courts have affirmed the Commission's case-by-case approach to applying the statute.[83]

The Commission historically has found percentages higher than 80 percent of total imports subject to investigation to satisfy the "substantial proportion" test,[84] but the requisite concentration has also been found at levels as low as 61 percent.[85] The percentage of total Turkish imports of rebar into the United

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[77](...continued)
25 and 50 percent were too large. See Frozen French Fried Potatoes from Canada, Inv. No. 731-TA-93 (Preliminary), USITC Pub. 1259 at 7 (June 1982); 12-Volt Lead-Acid Type Automotive Storage Batteries from the Republic of Korea, Inv. No. 731-TA-261 (Preliminary), USITC Pub. 1710 at 8 (June 1985).

[78] 19 U.S.C. § 1677(4)(C)(ii).

[79] SAA at 190.

[80] In the past, the Commission only considered the import penetration ratio in particular circumstances where imports outside the region were widely dispersed or the regional industry was a significant portion of the national industry. This Commission practice was affirmed by Texas Crushed Stone, 35 F.3rd 1535 (Fed. Cir. 1994). See also Gray Portland Cement and Cement Clinker from Japan, Inv. 731-TA-461 (Final), USITC Pub. 2376 at 21, n.47 (April 1991)(Japan Cement)(the Commission "would not consider it of much weight if Southern California represented but a very small share of overall U.S. consumption").

[81] SAA at 190.

[82] SAA at 190. See also Mitsubishi Materials Corp. v. United States, 820 F. Supp. 608, 614-615 (Ct. Int'l Trade 1993).

[83] Texas Crushed Stone, 35 F.3rd 1535 (Fed. Cir. 1994); Cemex, 790 F. Supp. at 292-294 (Ct. Int'l Trade 1992), aff'd, 989 F.2d 1202 (Fed. Cir. 1993).

[84] See, e.g., Portland Hydraulic Cement, USITC Pub. 1310 at 10 (99 percent); Offshore Platform Jacket, USITC Pub. 1848 at 10 (100 percent); Sugars and Sirups, USITC Pub. 1047 (March 1980) (96 percent).

[85] See Round White Potatoes, USITC Pub. 1463 at 7; see also SAA at 190. In the final investigation of cement from Japan, a majority of the Commissioners found an import concentration level between 61.2 percent and 73.7 percent to be sufficient. Japan Cement, USITC Pub. 2376 at 20 and 21, 48-50, aff'd, although remanded on other grounds, Mitsubishi Materials, 820 F. Supp. at 615 (Ct. Int'l Trade 1993). See also Venezuela Cement, USITC Pub. 2400 at 10 and 11 (63.5 percent to 100 percent found to be sufficient). Still other Commission
(continued...)

States entering the Eastern Tier region was 78 percent in 1994, 68.4 percent in 1995, and 80.1 percent in 1996.[86] The ratio of Turkish imports to consumption within the Eastern Tier region was 7.9 percent in 1994, 8.4 percent in 1995, and 5.2 percent in 1996.[87] The ratio of Turkish imports to consumption outside the Eastern Tier region was 1.8 percent in 1994, 2.9 percent in 1995, and 1.0 percent in 1996.[88]

Based on a comparison of the market share of subject imports in the region to the market share of subject imports outside the region, as well as consideration of the proportion of total subject imports that enter the region, we find that imports of Turkish rebar are concentrated in the region. Therefore, we proceed to the issue of whether there is material injury or threat thereof by subject imports on a regional industry basis.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

Based on our domestic like product determination and our finding that a regional industry exists, we define the domestic industry as all producers of rebar within the Eastern Tier region.

A. Injury to Producers of "All or Almost All" of the Regional Production

In a regional industry analysis, in contrast to a national industry analysis, the Commission must determine whether producers of "all or almost all" of the production within the region are being materially injured, or threatened with material injury, by reason of the subject imports.[89] The Court of International Trade has held, for purposes of determining what volume of production is sufficient to satisfy the "all or almost all" criterion, that "a numerical analysis would not be appropriate under the regional injury provision . . . [because] numerous factors must be considered and a quantitative analysis is inappropriate."[90] The CIT has held that the "Commission did not err in failing to apply a fixed percentage

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[85](...continued)
determinations have questioned whether the concentration was sufficient when the percentages of imports ranged from 66.3 percent to 79.2 percent and found insufficient concentration when the imports into the region ranged from 69.2 percent to 80.1 percent. Compare Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 (July 1987) and Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Inv. Nos. 731-TA-293, 294, 296 (Final), USITC Pub. 1907 at 6 and 7, n. 19 (November 1986).

[86] CR at I-3, PR at I-2, and Tables IV-3 and IV-4. These percentages are based on questionnaire responses from U.S. importers. The percentages of total U.S. imports of Turkish rebar entering the Eastern Tier region, based on official Commerce import statistics, were 83 percent in 1994, 77.7 percent in 1995, and 88.8 percent in 1996. Calculated from official Commerce import statistics.

[87] Table C-3, INV-U-028 (March 26, 1997)(based on U.S. importers questionnaire responses). Based on official import statistics, the ratio of Turkish imports to consumption within the Eastern Tier region was 8.3 percent in 1994, 11.3 percent in 1995, and 5.4 percent in 1996. Calculated from Tables IV-3 and E-4, and INV-U-031 at 3 (March 28, 1997).

[88] CR at I-3, PR at I-2 (based on U.S. importers questionnaire responses). Based on official import statistics, the ratio of Turkish imports to consumption outside the Eastern Tier region was 1.4 percent in 1994, 2.5 percent in 1995, and 0.5 percent in 1996. Calculated from Table IV-4, INV-U-031 at 3, and official import statistics.

[89] 19 U.S.C. § 1677(4)(C).

[90] Mitsubishi Materials Corp. v. United States, 820 F. Supp. 608, 616 and 617 (Ct. Int'l Trade 1993);
(continued...)

test of eighty to eighty-five percent" in determining whether a regional industry was injured.[91]

Respondents charge that under the stricter regional industry standard, "the Commission must find that the producers of a very large share of total regional production are injured in order to reach an affirmative determination."[92] Respondents argued that the standard is not met because three regional producers ***.[93] Petitioners countered respondents' argument by indicating that two of these three regional producers *** may have mixed feelings about the case and that their views should be discounted because they are related to importers.[94] Petitioners argued that the statements of the third regional producer, ***, should also be viewed with care because that firm ***, and thus does not compete directly with the subject imports, which are all of rebar in ***.[95]

We note that *** indicated that it supported the petition, and that it answered ***.[96] We agree with Petitioners that *** response can be explained by the fact that its *** does not compete directly with Turkish imports of rebar ***. Thus, we do not view the *** response by *** as undermining our conclusion that producers of "all, or almost all" of regional production are experiencing material injury. *** to the same Commission questions regarding negative effects, *** sales of rebar to Turkish imports of rebar since January 1, 1994.[97] We find that the *** do not provide an adequate basis for determining whether it has experienced material injury by reason of the subject imports. *** indicated that it took no position on the petition.[98] However, we note that it represented only a small share -- less than *** -- of total regional production in 1996.[99] Moreover, even if *** we do not find the combined production represented by *** to be enough to conclude that the "all or almost all" test has not been met. We therefore conclude that the evidence relied on by respondents is not a sufficient basis for concluding that the "all or almost all" test has not been met.

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[90](...continued)
Cemex, S.A. v. United States, 790 F. Supp. 290, 294 (Ct. Int'l Trade 1992), aff'd, 989 F.2d 1202 (Fed. Cir. 1993).

[91] Mitsubishi Materials, 820 F. Supp. at 616 and 617 (Ct. Int'l Trade 1993); Cemex, 790 F. Supp. at 294 (Ct. Int'l Trade 1992), aff'd, 989 F.2d 1202 (Fed. Cir. 1993).

[92] Respondents' Prehearing Brief at 51.

[93] Respondents' Prehearing Brief at 21 and 22.

[94] Petitioners' Posthearing Brief at 9 and 10. According to petitioners, these facts "should at least be taken into account when assessing the `all or almost all' standard." Id.

[95] Petitioners' Posthearing Brief at 9 and 10.

[96] Table III-1, CR at III-3, PR at III-2; *** questionnaire response.

[97] *** Id. ***

[98] Table III-1, CR at III-3, PR at III-2.

[99] Calculated from Table E-2, CR at E-4, PR at E-3.

B. Related Parties

We also have considered whether any of these producers, or any other producers, should be excluded from the regional industry pursuant to the "related parties" provision of the statute.[100] The statute permits the Commission to exclude certain producers[101] from the domestic regional industry if "appropriate circumstances" exist.[102] Exclusion of such producers is within the Commission's discretion based upon the facts presented in each case.[103]

In this final phase of the investigation, we considered whether appropriate circumstances existed to exclude three regional domestic producers, *** and Nucor-Darlington, from the domestic regional industry. In the preliminary phase of the investigation, the Commission determined it was not appropriate to exclude two domestic regional producers, ***[104] and Nucor, under the related parties provision, but indicated that this issue would be further explored before a final determination was made.[105]

***[106] ***.[107] Since the *** immediately prior to the importer's affiliation with the domestic producer, *** did not have direct or indirect control over this importer at the time of the relevant imports so as to be deemed a related party. Thus, we do not consider *** to be a related party.

The parent firm of regional producer ***. *** also is the parent firm to rebar producers outside of the region in *** and to a fabricator/purchaser, ***.[108] *** reported importing rebar from Turkey in 1995.[109] We find that *** is a related party by virtue of its corporate affiliation with importer ***.

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[100] There is no related party issue regarding ***.

[101] A domestic producer may be excluded from the domestic industry if it is either related to the exporters or importers of the subject merchandise, or is itself an importer of the subject merchandise. Parties are considered to be related if one party directly or indirectly controls another party, or if both are controlled by a third party. Direct or indirect control exists when "the party is legally or operationally in a position to exercise restraint or direction over the other party." 19 U.S.C. § 1677(4)(B).

[102] 19 U.S.C. § 1677(4)(B). Factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a domestic producer include the percentage of domestic production attributable to the importing producer; the reason the U.S. producer has decided to import the product subject to investigation; whether inclusion or exclusion of the domestic producer will skew the data for the rest of the industry; the ratio of import shipments to U.S. production for such producers; and whether the primary interests of such producers lie in domestic production or in importation. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). See also Melamine Institutional Dinnerware from China, Indonesia and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 at 14, n.81 (Feb. 1997).

[103] Torrington v. United States, 790 F. Supp. at 1168 (Ct. Int'l Trade 1992); Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352-54 (Ct. Int'l Trade 1987); see also S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979).

[104] ***.

[105] Rebar from Turkey, Inv. No. 731-TA-745(Preliminary), USITC Pub. 2955 at 13.

[106] CR at IV-1, PR at IV-1.

[107] CR at IV-1 and n. 1, PR at IV-1 and n.1.

[108] CR at III-4 and n.8, III-5 and n.11, and IV-1, n.1, PR at III-3 and n.8, III-4 and n.11, and IV-1, n.1.

[109] CR at IV-1, n.1, PR at IV-1, n.1. *** reported Turkish rebar imports of *** only in 1995. Imports of Turkish rebar by *** accounted for *** of total U.S. imports of rebar from Turkey and *** of U.S. shipments of

(continued...)

*** accounted for *** of regional production of rebar in 1995.[110] The ratio of Turkish imports of rebar by *** to domestic production by the regional producer, ***, was *** in 1995.[111] *** indicated that it purchased Turkish imports of rebar to supplement its inventories.[112] Turkish imports did not appear to be imported by *** for regional supply, ***.[113] However, since ***;[114] thus, there is little likelihood that inclusion of this firm in the regional industry would skew the industry data.[115] Moreover, the small ratio of imports to domestic production suggests that the regional facility's financial interests lie in domestic production rather than in importation. We therefore do not exclude *** as a related party.

While regional producer Nucor-Darlington *** an importer of Turkish rebar alleged at the Commission conference that Nucor's Texas mill purchased Number 3 and Number 4 rebar from it in 1994.[116] In the final investigation, the ***, listed ***.[117] The Commission did not receive a questionnaire response from Nucor-Texas in the final investigation. The limited information available in this investigation regarding these alleged purchases of Turkish imported rebar makes it unclear whether there is a relationship between Nucor-Darlington, or even Nucor-Texas, and the importer or foreign producer sufficient to warrant a conclusion that there is "control" of one over the other within the meaning of the statute.[118] We find that appropriate circumstances do not exist to exclude Nucor-Darlington as a related party.

IV. CONDITION OF THE REGIONAL INDUSTRY

In assessing whether the regional industry is materially injured or threatened with material injury by reason of LTFV imports, we consider all relevant economic factors that bear on the state of the industry.[119] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[120]

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[109](...continued)
Turkish imports into the region in 1995. CR at IV-1, n.1, and Tables IV-1 and IV-3 at IV-3 and IV-7.

[110] Table E-2, CR at E-4, PR at E-3.

[111] CR at IV-1, n.1, and Table E-2 at E-4, PR at IV-1, n.1 and E-3..

[112] Staff Report (Preliminary) at III-21.

[113] A subsidiary firm, ***.

[114] See note 44 supra.

[115] We note that *** financial performance for the two-year period is similar to that of the regional industry as a whole. While *** net sales volume ***for the same period, resulting in *** in 1996. CR at VI-4, PR at VI-4. Moreover, if *** data are aggregated with the regional industry data for 1995 and 1996, the regional industry's operating income as a share of net sales would be *** both in 1995 and 1996, or *** compared with 3.6 percent in 1995, and *** compared with 0.3 percent in 1996. Id. and Table VI-1 at V-2, PR at VI-2.

[116] Petitioners' Posthearing Brief at 10 and Conf. Tr. at 101, 134-135.

[117] *** questionnaire response at 21.

[118] Compare Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, Inv. Nos. 731-TA-520 and 521 (Final), USITC Pub. 2528 at 12 (June 1992).

[119] 19 U.S.C. § 1677(7)(C)(iii).

[120] 19 U.S.C. § 1677(7)(C)(iii). Much of the information regarding the factors considered in this section is (continued...)

There are several conditions of competition pertinent to our analysis of the regional rebar industry. First, two regional producers, accounting for about *** of regional shipments in 1996, internally transferred almost *** of the regional industry's shipments of rebar for the production of the downstream article, fabricated rebar, within the region in 1996.[121] Accordingly, we have considered whether to apply the captive production provision of the statute and have determined that the requirements that mandate a captive production analysis are not satisfied.[122]

The domestic regional rebar industry both internally consumes significant production of the domestic like product in the production of fabricated rebar and sells significant production of the domestic like product in the merchant market.[123] The third statutory factor, however, which requires that

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[120](...continued)
business proprietary. Accordingly, the public version of this opinion contains only nonnumerical characterizations of that information. See 19 C.F.R. § 201.6(a).

[121] Calculated from Tables III-5 and E-4, CR at III-14 and E-6, PR at III-7 and E-3. (We have used the aggregate regional industry shipments data, including ***, in calculating these percentages, which are only for 1996.) Two U.S. regional producers, AmeriSteel and New Jersey Steel, accounted for *** of the captive consumption of rebar used in the production of fabricated rebar within the region during the period of investigation. Id. at III-17 and 18. AmeriSteel, which accounted for *** of regional shipments in 1996, internally transferred between *** of its regional shipments of rebar for the production of fabricated rebar within the region during the period of investigation; New Jersey Steel, which accounted for almost *** of regional shipments in 1996, internally transferred between *** of its regional shipments of rebar in the same period. *** also reported internal transfer shipments within the region. CR at III-18 and calculated from Table E-4, CR at E-6, PR at III-8 and E-3.

[122] The captive production provision provides:

> (iv) CAPTIVE PRODUCTION -- If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that --
>
> > (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,
> > (II) the domestic like product is the predominant material input in the production of that downstream article, and
> > (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,
>
> then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product.

19 U.S.C. § 1677(7)(C)(iv).

[123] Over the period of investigation, the regional industry captively consumed in the production of fabricated rebar *** of regional shipments of rebar in 1994, *** in 1995, and *** in 1996. Calculated from Tables III-5 and E-4, CR at III-14 and E-6, PR at III-7 and E-3. Similarly, almost *** of regional shipments were sold to the merchant market over the period of investigation. Id. The regional industry captively consumed in the production of fabricated rebar *** of regional production of rebar in 1994, *** in 1995, and *** in 1996. Calculated from Tables III-5 and C-3, CR at III-14 and INV-U-028, PR at III-7. (These data do not include ***;
(continued...)

"production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article," is not satisfied here.[124] A significant percentage of the domestic like product, whether captively consumed or sold in the merchant market, is used in the production of the same downstream article, fabricated rebar.[125] Since one of the three required statutory factors is not satisfied, we need not consider the other factors and have looked at the regional industry as a whole.[126] [127]

Second, demand for rebar is tied to demand for construction projects that involve concrete structures such as bridges, roads, residential and other buildings, patios, and pools; there are few substitutes for rebar in most applications.[128] Rebar accounts for a small portion of the total cost of the end products.[129] Demand for new construction activity in the United States by value generally has increased from a low in the 1990-1991 period.[130] Petitioners argued that, similar to the cement industry, the rebar

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[123](...continued)
see note 44 supra.)

[124] Commissioner Crawford concurs with her colleagues that the third statutory factor is not satisfied. However, she does not make a finding on whether domestic producers captively consume significant production or sell significant production to the merchant market.

[125] In the final investigation, petitioners estimated that *** of domestic production of rebar in the Eastern Tier region was sold to the fabricator market. Petitioners' Posthearing Brief, Exhibit A at Tab 1. In the preliminary investigation it was estimated that approximately *** of shipments of rebar by U.S. producers within the Eastern Tier region were sold directly to fabricators. Report (Preliminary) at II-1, n.4.

[126] Respondents argued that if the statutory captive production provision did not apply, the Commission was precluded from considering segments of the market. Respondents' Prehearing Brief at 24 and 25. While the captive production provision is not applicable here, contrary to respondents' argument, nothing in the statute or the legislative history of the URAA precludes the Commission from considering a significant degree of captive production as a condition of competition. We have often recognized that subject imports may affect the merchant market operations of the industry differently than those operations involving captive production. See generally, e.g., Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Inv. Nos. 701-TA-319-332, 334, 446-342, 344, and 347-353 (Final) and Inv. Nos. 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), USITC Pub. 2664 at 15, 17, 22 and 23 (August 1993), aff'd, U.S. Steel Group v. United States, 873 F. Supp 673 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996). See also, PVC and Polystyrene Framing Stock, Inv. No. 731-TA-738 (Preliminary), USITC Pub. 2930 at 9-15 (October 1995).

Moreover, while the statute requires the Commission to consider the impact of the imports on the industry "as a whole," the Commission is not prevented from focusing on appropriate market segments. Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772 at I-14, n.70 (May 1994); Fresh Cut Roses from Colombia and Ecuador, Inv. Nos. 731-TA-684-685 (Final), USITC Pub. 2862 (March 1995), aff'd, Floral Trade Council v. United States, 20 CIT __, Slip Op. 96-78 at 7-14 (May 1996). See also Iwatsu Elec. Co. v. United States, 758 F. Supp. 1506, 1511, n.7 (Ct. Int'l Trade 1991); Gifford-Hill Cement, 615 F. Supp. 577, 582-84 (Ct. Int'l Trade 1985).

[127] Commissioner Newquist takes no position on whether each of the provision's "factors" or "tests" are satisfied. He concurs, however, that in this investigation it is appropriate to assess the regional domestic industry as a whole.

[128] CR at II-4, PR at II-3.

[129] CR at II-4 and 5, PR at II-4; Conf. Tr. at 22, 68-72.

[130] CR at II-4, PR at II-3.

industry is highly cyclical and susceptible to business cycle effects.[131] While demand for rebar increased over the period of investigation, there is no evidence that demand follows a recurring long-term business cycle based on any characteristics that are distinctive to the rebar industry. Nevertheless, we have considered in our analysis of the regional industry that increases in demand may have an effect on an industry's performance that "may mask real harm caused by unfairly traded imports."[132] In addition, we find that there is a seasonal cycle whereby rebar shipments are generally higher in the spring and summer, and slower in the fall and winter, primarily as a result of the peak construction activity during the summer months.

Third, the diameter size and length of rebar generally determine its use and the portion of the market to which it can be sold. While rebar is produced within the region in size Nos. 3 to 18 and in lengths of up to 60 feet, Turkish rebar is imported primarily in size Nos. 3-5, and in the shorter lengths, 20-40 feet.[133] Demand for the smaller sizes is estimated to account for about 60 percent of the total market for rebar within the region.[134] [135] There is a substantial demand for these smaller sizes in Puerto Rico, where the building codes require concrete and cement to be used in residential construction, and in the southern United States, where pools and patios are most prevalent.[136]

Rebar is sold to steel distributors, steel service centers, reinforcing steel fabricators, contractors, and building material dealers.[137] It is estimated that 40-50 percent of rebar in size Nos. 3-5 and 100 percent of rebar in size Nos. 6-18 are sold to fabricators.[138] The remaining 50-60 percent of small rebar is

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[131] Petitioners' Posthearing Brief at 11-12 and Exhibit A at 4-6; Petitioners' Prehearing Brief at 29-32. According to petitioners, "[f]irst, the injury from Turkish imports is so marked that it is not being `masked' by positive business cycle effects . . . [and] notwithstanding a positive business cycle, Petitioners are still losing money. Second . . . Turkish producers have pursued a 'skim the cream off the top' export strategy . . . [which] leaves regional mills in a perpetual bottom-of-the-business-cycle state." Petitioners' Posthearing Brief, Exhibit A at 5. Respondents argued that "the proposed region in this investigation is comprised of at least several localized markets . . . characterized by `their own independent and often unpredictable business cycles." Respondents' (W&C) Posthearing Brief, Answers to Questions at 32 and 33.

[132] S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987).

[133] CR at II-1, PR at II-1.

[134] Petitioners' Posthearing Brief, Exhibit A at Tab 1.

[135] Commissioner Crawford gives very little weight to the assertion that the smaller sizes account for such a large portion of demand. In her view, the following discussion of evidence that fabricators (which account for *** percent of purchases) prefer longer lengths, that public works projects accounting for almost 64 percent of total sales use larger sizes and longer lengths not supplied by subject imports, and petitioners' acknowledgment that the smaller sized subject imports are basically limited to the residential and pool and patio segment of the market indicate that the smaller sized products account for a substantially smaller portion of the total demand for rebar.

[136] Conf. Tr. at 27, 89 and 90. It is estimated that the smaller rebar sizes (3 and 4) account for approximately two-thirds of the Puerto Rican rebar market. Conf. Tr. at 90.

[137] CR at I-9, I-10, and II-1; PR at I-6, I-7, and II-1.

[138] Petitioners' Posthearing Brief, Exhibit A at Tab 1. Rebar in the longer lengths, 60 feet, is preferred by fabricators to enable efficient cutting of the product into the necessary lengths with the least waste, thereby limiting the use of subject imports by these customers. CR at II-1, PR at II-1, and Conf. Tr. at 33. Public works projects, which account for almost 64 percent of total sales of rebar, also may be governed by "Buy America" provisions, which restrict the purchase of imports for these projects. In any event, however, these projects typically use the larger sizes and longer lengths not supplied by the Turkish importers. Conf. Tr. at 59 and 150; CR at II-1, PR at

(continued...)

sold primarily to steel distributors, as well as building material dealers, steel service centers, brokers, lumber yards, and end-users (such as pool builders).[139]

In assessing the issues of injury to the regional industry, we are mindful that the statute directs us to consider that the requisite injury exists with respect to producers accounting for "all or almost all" of regional production. In this regard, we note that we are not required to adopt a plant-by-plant inquiry.[140] Consistent with guidance provided by our reviewing court, however, we have examined individual producers' information as appropriate to determine whether anomalies exist that an aggregate industry analysis would disguise.[141] [142]

The quantity and value of apparent U.S. regional consumption of rebar fluctuated between years but increased from 1994 to 1996.[143] The increase in volume exceeded the increase in value over the period

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[138](...continued)
II-1.

[139] Petitioners' Posthearing Brief at 3, and Exhibit A at Tab 1. Petitioners argued that there is a competitive overlap of *** between Turkish imports and the domestic small bar distributor market, and that the Commission should focus its inquiry on this market. Id. at 3-6. Petitioners also argued that decreased sales and earnings in the small-sized rebar market due to import competition has a ripple effect on the large-sized rebar market as producers shift production to larger sizes. Id. at 11. According to petitioners, the "added supply created in the large rebar market drives down prices in that market segment as well. . . .and, by virtue of product displacement, [imports] injured indirectly . . . the large bar market." Id.

[140] Respondents contended that the "all or almost all" requirement in assessing injury in a regional industry case means the Commission must assess "the performance of individual producers as well as the performance of individual mills for producers with multiple production facilities." Respondents' Prehearing Brief at 49 and 50. Respondents suggested that "it is useful to consider the percentage of production accounted for by various mills and compare their performance to the overall regional industry." Id. at 52.

[141] The CIT has held that the Commission "was not required to adopt the pure plant-by-plant inquiry" and recognized that "[u]se of either a straight aggregate or pure plant-by-plant method in determining injury in a regional analysis is not mandated by statute or case law. . . .[but that] examination of individual plant information can highlight anomalies that an aggregate analysis would disguise." Mitsubishi Materials, 820 F. Supp. at 617 and 618 (Ct. Int'l Trade 1993), accord, Mitsubishi Materials Corp. v. United States, 918 F. Supp. 422, 427 (Ct. Int'l Trade 1996)(aggregate analysis of regional producers sufficient to satisfy the "all or almost all" standard where industry conditions were common to each regional producer); Cemex, 790 F. Supp. at 294 and 295 (Ct. Int'l Trade 1992)("to the extent that some safeguard is required to assure that the `all or almost all' standard is met, it was satisfied by examination of data regarding individual plants." Id. at 296), aff'd, 989 F.2d 1202 (Fed. Cir. 1993).

[142] While we analyzed the statutory factors regarding the aggregate regional industry, we also examined the performance of individual regional producers to look for anomalies as a safeguard "to assure that the `all or almost all' standard [was] met." Cemex, 790 F. Supp. at 296. While our individual analysis was at the producer level, we note that examination at the individual plant level would not change our findings.

[143] Table C-3, INV-U-028 at 3. The data on apparent regional consumption, market share and other factors discussed below are derived primarily from Table C-3, INV-U-028. Data on subject import volumes were based on shipment data provided by U.S. importers in response to Commission questionnaires. Based on these data, apparent U.S. regional consumption by quantity decreased by 5.2 percent from 1994 to 1995, but increased by 13.4 percent from 1995 to 1996, for an overall increase of 7.5 percent during the period of investigation. The value of apparent U.S. regional consumption decreased by 4.9 percent from 1994 to 1995, but increased by 9.5 percent from 1995 to 1996, for an overall increase of 4.1 percent during the period of investigation. Id.

Official import statistics for imports within the region are higher than U.S. importer shipments reported in Commission questionnaire responses for each year during the period of investigation. Compare Table IV-3, CR
(continued...)

of investigation.[144]

The regional industry's U.S. shipments of rebar within the region fluctuated between years and increased over the period of investigation, but at a lower rate than regional consumption.[145] The value of the regional industry's U.S. shipments within the region followed the same pattern, and, similar to regional consumption, the increase in volume outpaced the increase in value during the period of investigation.[146] [147] [148] The regional industry's share of the regional market for rebar by both quantity and value declined during the period of investigation.[149]

Data regarding production capacity and capacity utilization are not meaningful in this investigation because all regional producers provided production capacity data on the basis of their total rolling capacity to produce all products, including products not part of the domestic like product, at their regional mills.[150]

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[143](...continued)
at IV-7, PR at IV-5, to official import statistics. The two reporting series are similar for 1994 and 1996, but there is a reporting difference of about 40 percent between the two reporting series for 1995. The Commission staff estimates that importer questionnaire responses account for about 80-85 percent of the shipments of imports of Turkish rebar. We have used the more conservative numbers based on U.S. importer shipments reported in Commission responses rather than official import statistics to calculate apparent U.S. regional consumption, market share, and volume of imports. In addition, we have used data for domestic regional production and shipments, primarily set forth in Table C-3, INV-U-028, which excludes the two-year data for SMI Steel South Carolina, to more accurately reflect the trends between the years.

[144] Table C-3, INV-U-028 at 3.

[145] Calculated from Tables IV-3 and C-3, CR at IV-7 and INV-U-028, PR at IV-5. Regional producers' U.S. shipments within the region by quantity decreased by 4.2 percent from 1994 to 1995, but increased by 11.0 percent from 1995 to 1996, for an overall increase of 5.7 percent during the period of investigation.

[146] Calculated from Tables IV-3 and C-3, CR at IV-7 and INV-U-028, PR at IV-5. The value of the regional producers' U.S. shipments within the region decreased by 4.2 percent from 1994 to 1995, but increased by 6.8 percent from 1995 to 1996, and showed an overall increase of 2.2 percent during the period of investigation.

[147] We note that there are some differences in trends in regional shipments among individual regional producers. Regional shipments by one regional producer, *** by quantity and value from 1994 to 1995, while regional shipments by the other regional producers by quantity *** for the same period. Calculated from Table E-4, CR at E-6, PR at E-3. *** percent of regional producers' regional shipments from 1994 to 1996. Id. Excluding ***, regional producers' shipments within the region by quantity *** from 1994 to 1996. Id. Moreover, regional shipments by regional producers, excluding *** regional consumption by value increased from 1994 to 1996. Id. While trends in regional shipments by individual regional producers by quantity and value varied from 1994 to 1996, changes in volume generally outpaced changes in value for all regional producers. Table E-4, CR at E-6, PR at E-3.

[148] Commissioner Crawford joins her colleagues in this investigation in a discussion of the "condition of the industry" even though she does not make her determination based on industry trends. Rather she views the discussion as a factual recitation of the data collected concerning the statutory impact factors.

[149] Table C-3, INV-U-028. The regional industry's share of regional apparent consumption by quantity was *** in 1996, and by value was *** in 1996. Id.

[150] CR at III-7 and III-8, PR at III-6 and III-7. All regional producers reported producing other products utilizing essentially the same rolling process as that used in producing rebar. Table E-3, CR at E-5, PR at E-3. The percentage of rebar produced compared with all steel products produced in the regional mills decreased between 1994 and 1995 for 9 of the 12 mills within the region and increased between 1995 and 1996 for 8 of these 12 regional mills. Id. Regional producers' capacity to produce rebar is estimated as approximately 2.4 million
(continued...)

Production by regional producers increased during the period of investigation, but at a lower rate than regional consumption.[151] [152] The year-end inventories held by regional producers, both by quantity and as a percentage of shipments, increased from 1994 to 1996.[153] [154] The number of production workers and hours worked in the regional industry decreased from 1994 to 1996, while wages paid, hourly wages paid, and productivity in the regional industry increased during the same period.[155] [156]

Most of the financial performance indicators for the regional rebar industry indicated declining performance throughout the period of investigation.[157] As with shipments, the regional industry's net sales by volume and value increased over the period of investigation at a lower rate than regional consumption by volume and value.[158] Moreover, the regional industry's net sales volume increased at a higher rate than

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[150](...continued)
short tons in 1994, 2.3 million short tons in 1995, and 2.35 million short tons in 1996, using the data presented in Tables E-1 and E-3. Table C-3, INV-U-028.

[151] Table C-3, INV-U-028. Production volumes decreased by 0.3 percent from 1994 to 1995, but increased by 5.1 percent from 1995 to 1996, and showed an overall increase of 4.8 percent during the period of investigation. Id.

[152] While production changes over the period of investigation varied among individual regional producers, regional producers, with *** production from 1994 to 1995. See Table E-2, CR at E-4, PR at E-3. The one exception is *** over the period of investigation. Excluding ***, the regional industry's production within the region by quantity *** from 1994 to 1996. Id.

[153] Year-end inventories held by regional producers increased by 49.6 percent from 1994 to 1995, but declined by 22.1 percent from 1995 to 1996, for an overall increase of 16.6 percent during the period of investigation. Regional producers' inventories as a percentage of their regional shipments were *** in 1996. Calculated from Tables III-5 and C-3, CR at III-14 and INV-U-028, PR at III-7.

[154] *** inventory data reported by individual regional producers followed similar trends. Table E-6, CR at E-12, PR at E-3. All regional producers reported *** in year-end inventories from 1994 to 1995 and *** from 1995 to 1996. *** in year-end inventories from 1994 to 1996 was ***. As a percentage of regional shipments, *** year-end inventories *** in 1996. Calculated from Tables E-4 and E-6, CR at E-6 and E-12, PR at E-3.

[155] Table C-3, INV-U-028. The number of production workers and hours worked decreased 7.8 percent and 3.2 percent, respectively, from 1994 to 1996. Hourly wages paid and productivity fluctuated between years, but showed an overall increase of 12.7 percent and 5.9 percent, respectively, from 1994 to 1996. Wages paid increased by 9.0 percent from 1994 to 1996. Id.

[156] Data for individual regional producers generally followed similar trends, with some minor differences reported. Table E-7, CR at E-15 - E-19, PR at E-3. *** reported ***in production workers for the 1994-1996 period, whereas the other regional producers and the industry trend reported a ***. Those producers and *** reported ***, respectively in hours worked compared to *** in the industry trend. *** reported a *** in productivity during the period of investigation, whereas the other regional producers and the regional industry as a whole reported ***. Id.

[157] The Commission obtained financial data for six regional producers on their ll mills in the Eastern Tier region, accounting for almost *** of regional production in 1996. Data for a seventh regional producer, ***, accounting for *** of regional production in 1996, is reported separately since it did not provide financial data for 1994. CR at VI-1, PR at VI-1.

[158] The regional industry's net sales by volume fluctuated between years and increased by 5.7 percent from 1994 to 1996, while apparent U.S. regional consumption by volume increased by 7.5 percent in the 1994-1996 period. The regional industry's net sales by value fluctuated between years and increased by 3.8 percent from 1994 to 1996, while apparent U.S. regional consumption by value increased by 4.1 percent in the 1994-1996 period.
(continued...)

its net sales value over the period of investigation.[159] [160] Sales increases from 1994 to 1996 were not sufficient to cover increases in production costs, despite an increase of only 1.4 percent in the unit COGS over this period.[161] Selling costs also rose over the period of investigation.[162] The average selling price declined, while sales volume and costs increased, resulting in substantial declines in profitability and operating income over the period of investigation.[163] While operating income as a share of net sales for this industry remained positive, it declined from 3.9 percent in 1994 to 0.3 percent in 1996.[164] [165]

Capital expenditures by the regional rebar industry declined from 1994 to 1996, and no research and development expenditures were reported for the same period.[166]

In addition to the declining financial performance described above, other evidence indicates that regional rebar producers have had financial problems during the period of investigation. For instance, two regional producers filed for bankruptcy,[167] and at least one mill within the region was closed during the

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[158](...continued)
Tables VI-1 and C-3, CR at VI-2 and INV-U-028, PR at VI-2.

[159] Tables VI-1 and C-3, CR at VI-2 and INV-U-028, PR at VI-2.

[160] While the trends for individual regional producers' sales over the period of investigation varied widely, regional producers accounting for about *** in sales by the regional industry overall and regional consumption by value for the same period. As with shipments, *** in sales from 1994 to 1996. Excluding ***, which accounted for about *** of the industry's sales in 1996, the regional industry's net sales value *** from 1994 to 1996 while regional consumption by value increased. *** over the period of investigation; and *** from 1994 to 1996. Table E-8, CR at E-22, PR at E-3.

[161] Tables VI-1 and VI-2, CR at VI-2 and 3, PR at VI-2 and 3. We note that the *** in the unit COGS for the 1994-1996 period. CR at VI-4, PR at VI-4.

[162] CR at VI-1, PR at VI-1.

[163] Tables VI-1 and VI-2, CR at VI-2 and 3, PR at VI-2 and 3. Thus, as a share of net sales, the regional industry's cost of goods sold (COGS) and selling, general, and administrative (SG&A) expenses increased slightly from 1994 to 1996. The regional industry's COGS as a share of net sales was 92.3 percent in 1994, 92.2 percent in 1995, and 95.4 percent in 1996. The regional industry's SG&A expenses as a share of net sales were 3.8 percent in 1994, 4.2 percent in 1995, and 4.3 percent in 1996. Id. The regional industry's unit sales value declined by 1.8 percent from 1994 to 1996. The regional industry's unit COGS increased by 1.4 percent from 1994 to 1996. The regional industry's unit SG&A expenses also increased from 1994 to 1996. Table VI-2, CR at VI-3, PR at VI-1.

[164] Table VI-1, CR at VI-2, PR at VI-2. The regional industry's operating income decreased by 6.2 percent from 1994 to 1995, and by 91.0 percent from 1995 to 1996, for an overall decline of 91.6 percent from 1994 to 1996. The regional industry's gross profits increased by 0.9 percent from 1994 to 1995 , but decreased by 37.9 percent from 1995 to 1996, and by 37.3 percent for the period of investigation. Gross profits for the regional rebar industry as a share of net sales were 7.7 percent in 1994, 7.8 percent in 1995, and 4.6 percent in 1996. Id.

[165] The financial performance of individual regional producers, with one exception, followed a trend consistent in direction with that of the regional industry overall over the period of investigation. Table E-8, CR at E-21-E-32, PR at E-3. *** for each year investigated. *** in 1996; *** of the investigation period. Moreover, while ***.

[166] Table VI-4, CR at VI-7, PR at VI-6. Capital expenditures declined by 5.2 percent from 1994 to 1996.

[167] Franklin Steel closed in March 1994 and filed for bankruptcy. CR at III-5, n.9, PR at III-4, n.9. Commercial Steel filed for bankruptcy in March 1996. In a letter to the Commission, Commercial Steel stated:

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(continued...)

period of investigation.[168] [169]

V. MATERIAL INJURY BY REASON OF LTFV IMPORTS[170]

A. In General

In the final phase of an antidumping investigation, the Commission determines whether an industry in the United States is materially injured by reason of the LTFV imports under investigation.[171] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[172] Although the Commission may consider causes of injury to the industry other than the LTFV imports,[173] it is not to weigh causes.[174] [175]

For the reasons discussed below, we find that the producers of "all or almost all" production within the region are materially injured by reason of LTFV imports of rebar from Turkey.

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[167](...continued)
CR at III-1, n.2, PR at III-1, n.2, and Letter to Commission investigator from President, Commercial Steel dated February 17, 1997. In 1996, New Jersey Steel reportedly suffered financial problems that resulted in renegotiation of its bank credit agreement and an additional $15 million advance from its principal shareholder that was secured by substantially all of the firm's assets. Reported in American Metal Market, April 16, 1996.

[168] Tr. at 27-29. AmeriSteel closed its Tampa plant in 1995 and consolidated its operations into the Jacksonville mill. CR at III-2, PR at III-2, and Conf. Tr. at 20 and 32-33.

[169] Based on the foregoing, Commissioner Newquist determines that the regional industry producing rebar is experiencing material injury.

[170] Commissioner Crawford does not join in this section of the opinion. See her dissenting Views regarding no material industry by reason of the LTFV imports of rebar from Turkey.

[171] 19 U.S.C. § 1673d(b). The statute defines "material injury" as "harm which is not inconsequential, immaterial or unimportant." 19 U.S.C. § 1677(7)(A).

[172] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[173] Alternative causes may include the following:

> [T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

[174] See, e.g., Gerald Metals, Inc. v. United States, 937 F. Supp. 930, 936 (Ct. Int'l Trade 1996); The Timken Co. v. United States, 913 F. Supp. 580, 591 (Ct. Int'l Trade 1996); Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

[175] Commissioner Newquist further notes that the Commission need not determine that imports are "the principal, a substantial, or a significant cause of material injury." S. Rep. No. 249 at 57, 74. Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, 704 F. Supp. at 1101.

B. Volume of the Subject Imports

The volume of subject imports in the Eastern Tier region increased from 1994 to 1995, but declined from 1995 to 1996.[176] Moreover, the volume of subject imports into the region from 1994 to 1995 increased in the face of a decline in apparent consumption in the region during the same period.[177] Thus, the regional market share held by subject imports also increased from 1994 to 1995, before declining from 1995 to 1996.[178] [179] [180] Domestic regional producers continued to hold a large, but generally declining, share of the regional market for rebar in terms of both quantity and value throughout the period of investigation.[181]

In accordance with the statute, 19 U.S.C. § 1677(7)(I), we considered whether the change in volume and market share of subject imports from 1995 to 1996 was "related to the pendency of the

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[176] Table C-3, INV-U-028. Measured by value, the subject imports followed a similar trend. Id. The volume of subject import shipments within the region based on importers' questionnaire responses was: 157,926 short tons in 1994, 159,275 short tons in 1995, and 110,867 short tons in 1996. We note that this data is somewhat understated because one significant importer, ***, did not respond to the Commission's questionnaire in the final investigation. In the preliminary investigation, ***. Moreover, as discussed in note 143 supra, there is an unexplained discrepancy in 1995, that is not evident for 1994 and 1996, between the two sources of import data, i.e., importer questionnaire responses and official import statistics. While petitioners argued that the Commission should use the official import statistics, we consider the import questionnaire responses to be reliable and most closely tailored to this investigation. Thus, we have based our determination on the more conservative importer questionnaire responses, but note that our determination would not have been different using official import statistics since the import numbers generally are higher. For example, the volume of subject imports within the region based on official import statistics was: 167,277 short tons in 1994, 222,021 short tons in 1995, and 116,222 short tons in 1996.

[177] Table C-3, INV-U-028.

[178] Table C-3, INV-U-028. The regional market share held by subject imports by quantity was: 7.9 percent in 1994, 8.4 percent in 1995, and 5.2 percent in 1996. Regional market share by value for subject imports was: 7.5 percent in 1994, 7.9 percent in 1995, and 5.2 percent in 1996. Id. Based on official import statistics, the regional market share held by subject imports by quantity was: 8.3 percent in 1994, 11.3 percent in 1995, and 5.4 percent in 1996. Calculated from Tables IV-3, E-4 and official import statistics.

[179] We further note that the market penetration by subject imports is concentrated in certain market segments (e.g., the smaller sizes of rebar and Puerto Rico), where domestic regional producers compete most directly with subject imports. Imports of Turkish rebar in the smaller sizes (Nos. 3-5) as a share of total imports of Turkish rebar reported by size was *** in 1996. Turkish imports in size No. 3 accounted for *** of total Turkish imports reported by size from 1994 to 1996, in size No. 4 accounted for ***, and in size No. 5 accounted for *** for the same period. Calculated from importers' questionnaire responses. Turkish imports of rebar into Puerto Rico as a share of Turkish imports within the region, based on importers' questionnaire responses by state, were: *** in 1996. Calculated from Table IV-2, CR at IV-5, PR at IV-4. Based on official import statistics, Turkish imports of rebar into Puerto Rico as a share of Turkish imports within the region were: 64.3 percent in 1994, 62.0 percent in 1995, and 82.4 percent in 1996.

[180] Commissioner Newquist notes that, in his view, questions concerning market segmentation based on characteristics and uses are most appropriately addressed in the like product determination. See note 179 supra. Accordingly, further assessment of market segmentation for purposes of a causation analysis is generally not warranted.

[181] The regional market share by quantity held by the regional producers was: 85.5 percent in 1994, 85.9 percent in 1995, and 84.1 percent in 1996. The regional industry's market share by value was: 86.0 percent in 1994, 86.6 percent in 1995, and 84.5 percent in 1996. Table C-3, INV-U-028.

investigation."[182] We find that there is evidence in the record that the decline in imports from 1995 to 1996 was related to this investigation. We note, first, that subject imports in 1996 virtually ceased after August 1996, whereas in previous years subject imports steadily entered the Eastern Tier region during the last quarter of the year.[183] Second, as we recognized in our preliminary determination, subject imports had increased dramatically from 1993 to 1995.[184] Finally, at least one purchaser reported that the cessation of Turkish imports of rebar was due to the Commerce preliminary affirmative determination.[185] We therefore "reduce the weight accorded to the data for the period after the filing of the petition" in making our determination.[186]

Based on the foregoing, we find that both the volume of subject imports into the Eastern Tier region and their market share are significant.

C. Price Effects of the Subject Imports

The record in this investigation confirms that price is a significant factor in purchasing decisions for rebar, which is essentially a commodity product.[187] Subject imports and the domestic like product of the same size are comparable and generally interchangeable when used in the same application.[188] There

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[182] 19 U.S.C. § 1677(7)(I). The statute provides that:

> The Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an [antidumping] investigation . . . is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury, threat of material injury, or material retardation of the establishment of an industry in the United States.

The SAA indicates that "[t]he provision also is intended to make clear that, when the Commission finds evidence on the record of a significant change in data concerning the imports or their effects subsequent to the filing of the petition or the imposition of provisional duties, the Commission may presume that such change is related to the pendency of the investigation." SAA at 184. See also Metallverken, 744 F. Supp. 281, 284 (Ct. Int'l Trade 1990)("the initiation of antidumping and countervailing duty proceedings can create artificially low demand for affected imports, thus distorting the data on which [the Commission] relies in making its determination.").

[183] See official import statistics for 1994, 1995, and 1996. Moreover, subject imports into the Eastern Tier region were lower in each month from March to December 1996, except July and August, than for each of these months in 1995.

[184] Based on official import statistics, subject imports into the Eastern Tier region increased by 254.6 percent from 1993 to 1994, and by 32.7 percent from 1994 to 1995, for an overall increase of 370.7 percent for the 1993-1995 period. Staff Report (Preliminary) at I-2 and Table IV-2.

[185] CR at V-23 and V-24, PR at V-9 and V-10.

[186] 19 U.S.C. § 1677(7)(I). The petition was filed on March 8, 1996, the Commission issued its affirmative preliminary determination on April 22, 1996, and Commerce made its affirmative preliminary determination on October 4, 1996.

[187] CR at II-5, n.14 and II-7, PR at II-4, n.4 Price was listed by a preponderance of purchasers (18 out of 42 responding) as the most important consideration in their rebar purchase decision. Moreover, 6 of 21 responding purchasers reported that a 5 percent increase in the price of Turkish rebar during the period of investigation would have resulted in their purchasing more domestic product. Id. at II-7.

[188] CR at II-6, PR at II-4. Twenty-five out of 29 responding purchasers reported that domestic rebar and

(continued...)

are no significant quality differences between the domestic product and subject import.[189]

There is evidence that the prices of the subject imports have had a significant depressing or suppressing effect on the prices of the domestic regional rebar product. While the evidence of underselling is somewhat mixed overall, the underselling is more consistent and significant in certain segments of the market where domestic regional producers compete most directly with the Turkish rebar, i.e., in Puerto Rico, and in size No. 3[190] in the Eastern Tier region.[191] [192] Moreover, there was consistent underselling overall until mid-1995 when certain regional producers instituted "foreign fighter" pricing programs in response to competition from Turkish imports.[193]

The evidence shows that prices for the domestic product generally were significantly higher than those for imported Turkish products during 1994 and the first two quarters of 1995, before declining sharply in 1995 to move roughly in tandem with the prices of the Turkish products for the rest of the period

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[188](...continued)
Turkish rebar are used in the same applications; 30 out of 37 purchasers reported that nothing differentiates the rebar that they resell from that sold by their direct competitors.

[189] CR at II-5, PR at II-4. The main factor considered by purchasers in assessing quality is whether the rebar meets ASTM standards. Both imports and the domestic product are required to meet ASTM specifications for use in building projects; the evidence indicates that both imports and the domestic regional product meet these standards. Id. at n.15; Conf. Tr. at 124 and 125.

[190] We recognize that U.S. producers generally charge a premium for the size No. 3 rebar because it is more expensive to produce, while importers of the Turkish product charge a standard price with no size differential. CR at V-5 and V-18, PR at V-4 and V-7 - 8. See Iwatsu Elec. Co. v. United States, 758 F. Supp. 1506, 1518 (1991) ("importers take the domestic industry as they find it").

[191] See note 179 supra. See also Light-Walled Rectangular Pipe and Tube from Mexico, Inv. No. 731-TA-730 (Preliminary), USITC Pub. 2892 at I-14 and n.82 (May 1995)(Commission compared prices for the market, Texas, where there was the most direct competition between domestic products and subject imports).

[192] Tables V-1 - V-6, CR at V-7 - V-14, PR at V-5 - V-6. Overall the Turkish product was priced below the U.S. product in 30 of 44 instances. The margins of underselling ranged between 0.1 percent and 18.9 percent. Pricing was reported for two markets, Puerto Rico and the Eastern Tier region, excluding Puerto Rico. In the Puerto Rican market: For product 1, the imports were priced below the U.S. product in 5 out of 7 instances, with margins of underselling ranging from 2.1 percent to 12.8 percent. For product 2, the imports were priced below the U.S. product in 5 out of 7 instances, with margins of underselling ranging from 2.0 percent to 10.1 percent. For product 3, the imports were priced below the U.S. product in 5 out of 7 instances, with margins of underselling ranging from 2.2 percent to 10.0 percent. Tables V-4 - V-6.

In the Eastern Tier region, excluding Puerto Rico: For product 1, the imports were priced below the U.S. product in 8 out of 8 instances, with margins of underselling ranging from 7.9 percent to 18.9 percent. For product 2, the imports were priced below the U.S. product in 4 out of 8 instances, with margins of underselling ranging from 0.1 percent to 8.6 percent. For product 3, the imports were priced below the U.S. product in 3 out of 7 instances, with margins of underselling ranging from 1.9 percent to 5.5 percent. Tables V-1 - V-3.

[193] CR at V-5, n.5, PR at V-4, n.5. In 1995, New Jersey Steel began a "foreign fighter" program which provides ***. Id. Evidence in the record indicates that Commercial Steel, primarily a producer of small bar in shorter lengths, also instituted a similar program in 1995. Petitioners' Prehearing Brief at 44. In addition, ***. Id. at n.6. In contrast, AmeriSteel indicated that it virtually left the Puerto Rican market in 1993 rather than continue to lower its prices to meet the prices for Turkish product. Petitioners' Prehearing Brief at 44, n.119. AmeriSteel reportedly returned to the Puerto Rican market in the fourth quarter of 1996 as Turkish imports of rebar ceased. Petitioners' Posthearing Brief, Exhibit A at 9.

of investigation.[194] This decline in domestic prices, exacerbated by downward pressure from the lower-priced LTFV imports, supports a finding that LTFV imports depressed prices in the domestic industry to a significant degree.[195] Prices of the domestic product then recovered at the end of the period of investigation as the volume of imports declined, and their prices increased, in 1996.[196] [197] In addition, we confirmed several instances in which the regional industry lost sales to the subject imports due to the lower price of those imports, or was forced to reduce its price in order to keep a sale.[198]

There is also evidence that the regional industry was not able to raise prices commensurate with increases in production costs during the period of investigation.[199] Unit sales values for the domestic regional product declined, while unit cost of goods sold and unit selling expenses increased, over the period of investigation.[200] Moreover, the evidence demonstrates that with the decrease in the volume of subject imports in regional market, the regional industry has been able to raise prices, or at least has announced price increases, for 1997 shipments.[201]

In light of the evidence that the subject imports and the domestic like product compete on the basis of price, that the regional industry lost sales and revenues by reason of lower import prices, that underselling has been consistent and significant, especially in the market segments that compete most

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[194] CR at V-19 and Figures V-3 - V-8 at V-10 -V-16, PR at V-8, and V-5 and V-6.

[195] Petitioners contended that "even a small amount of low-priced product can affect price levels in the overall market." Petitioners' Posthearing Brief at 7. Petitioners claim that when "Turkish volumes enter the market at an artificially low price widely advertised by `broadcast fax,' that price becomes the benchmark defining what is competitive. . . . they [Turkish imports] can't supply the whole region, but they can disrupt the market just by the amount of tons they bring in." Id. at n. 22 and Tr. at 27 and 86-87.

[196] Weighted-average prices for three types of domestic regional rebar products sold in the regional market, excluding Puerto Rico, were 13.8, 7.8, and 8.1 percent higher, respectively, in the fourth quarter of 1996 than in the first quarter of 1996. Tables V-1 - V-3, CR at V-7 - V-9, PR at V-5. Weighted-average prices for the same three types of domestic regional rebar products sold in the Puerto Rican market were 9.9, 9.5, and 9.6 percent higher, respectively, in the fourth quarter of 1996 compared to the first quarter of 1996. Tables V-4 - V-6, CR at V-12 - V-14, PR at V-6.

[197] Weighted-average prices for three types of rebar imported from Turkey and sold in the regional market, excluding Puerto Rico, were 2.6, 1.9, and 4.2 percent higher, respectively, in the third or fourth quarter of 1996 than in the first quarter of 1996. Tables V-1 - V-3, CR at V-7 - V-9, PR at V-5. Weighted-average prices for three types of rebar imported from Turkey and sold in the Puerto Rican market were 5.1, 4.7, and 4.9 percent higher, respectively, in the third quarter of 1996 compared to the first quarter of 1996. Tables V-4 - V-6, CR at V-12 - V-14, PR at V-6.

[198] CR at V-5, n.6 and V-20 - V-24, PR at V-4, n.6, and V-9 - V-10.

[199] Testimony by an AmeriSteel executive at the Commission's conference indicated that price increases put into effect by that company in 1994 "in order to pass through the effect of rising scrap costs could not be maintained in 1995. . . .In July 1995, AmeriSteel finally relented and announced price decreases." Petitioners' Postconference Brief at 28.

[200] The regional industry's unit sales value declined by 1.8 percent from 1994 to 1996, whereas the industry's unit cost of goods sold combined with unit selling expenses increased by 1.8 percent for the same period. Calculated from Table VI-2, CR at VI-3, PR at VI-3.

[201] According to press reports, all the major rebar producers have announced price rises in the first quarter of 1997. See CRU Monitor article (March 1997), submitted with Respondents' (DSM&O) letter of March 21, 1997; American Metal Market article (March 6, 1997), submitted with Respondents' (DSM&O) letter of March 7, 1997; Petitioners' Posthearing Brief, Exhibit A at 10 (referring to American Metal Market article dated January 22, 1997).

directly with imports, that prices generally followed parallel trends, and that the regional industry was prevented by the presence of lower-priced imports from raising prices in the face of rising costs, we find that subject imports have suppressed and depressed prices for the domestic product to a significant degree.

D. Impact of the Subject Imports on the Domestic Regional Industry[202] [203] [204]

In this final phase of the investigation, we find that subject imports are having a significant impact on the regional industry producing rebar. In this case, the financial information shows a regional industry experiencing declining performance over the period of investigation in the face of expanding regional consumption.[205] While there are differences in the information reported by individual regional producers, the financial performance for the individual regional producers generally followed the trends for the regional industry as a whole.[206]

The volume and market share of the subject imports increased from 1993 to 1995. While subject imports declined in 1996, they continued to enter the regional market through the third quarter of 1996, and inventories continued to provide further supply. The year-end inventories held by regional producers both by quantity, and as a percentage of shipments, increased from 1994 to 1996.[207] Moreover, domestic regional producers were only able to raise prices toward the end of 1996 and in early 1997, as Turkish imports receded from the market. Thus, despite the reduction in Turkish imports toward the end of 1996, domestic regional producers continued to suffer adverse effects from the LTFV imports throughout the period of investigation.

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[202] As part of our consideration of the impact of imports, the statute specifies that the Commission is to consider "the magnitude of the margin of dumping" in an antidumping proceeding. 19 U.S.C. § 1677(7)(C)(iii). The SAA indicates that the amendment "does not alter the requirement in current law that none of the factors which the Commission considers is necessarily dispositive in the Commission's material injury analysis." SAA at 180. The statute defines the "magnitude of the margin of dumping" to be used by the Commission in a final determination as "the dumping margin or margins most recently published by the administering authority [Commerce] prior to the closing of the Commission's administrative record." 19 U.S.C. § 1677(35)(C)(ii). The dumping margins identified by Commerce in its final determination ranged from 9.84 to 41.8 percent. 62 Fed. Reg. 9737, 9749 and 9750 (March 4, 1997). The dumping margin for IDC was determined on the basis of facts otherwise available. Id. at 9738.

Petitioners contended that the Commission's consideration of the magnitude of the margin of dumping "is of distinct importance in the present case because (i) rebar is an exceptionally price sensitive commodity . . . and (ii) the issue of why some regional producers did not serve Puerto Rico in 1995 turns on whether prices in that market were artificially deflated by reason of imports of LTFV Turkish rebar." Petitioners' Postconference Brief at 29 and 30.

[203] Vice Chairman Bragg notes that she does not ordinarily consider the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

[204] Commissioner Newquist notes that, in his analytical framework, "evaluation of the magnitude of the margin of dumping" is not generally helpful in answering the questions posed by the statute: whether the domestic industry is materially injured; and, if so, whether such material injury is by reason of the dumped subject imports.

[205] Tables VI-1 and C-3, CR at VI-2, PR at VI-2, and INV-U-028.

[206] Table E-8, CR at E-21 - E-32, PR at E-3.

[207] Calculated from Tables III-5 and C-3, CR at III-14 and INV-U-028, PR at III-7. Inventories held by U.S. importers also increased from 1994 to 1996. CR at VII-6, PR at VII-5.

The regional industry's financial performance substantially weakened over the period of investigation, and particularly in 1996. Regional producers closed regional rebar plants, filed for bankruptcy, and temporarily shut plants to reduce high inventory levels during the period of investigation. As previously noted, despite increasing demand, domestic producers were unable to raise prices sufficiently to cover increased costs.

We also note that the Turkish imports are particularly concentrated in certain areas of the market, i.e., the smaller size rebar segment and the Puerto Rican market. As might be expected, firms that competed most directly with the subject imports in these segments have experienced the most serious declines in financial performance.[208] [209] By contrast, the financial performance of non-regional producers of rebar, which did not face the same degree of direct competition from Turkish imports, was significantly better than that of the Eastern Tier regional industry.[210]

Given the overall significant decline in the financial performance of the regional industry, and generally of the individual regional producers, which we find is attributable in large part to the significant volume and adverse price effects of subject imports, we conclude that the producers of "all or almost all" of production within the region are materially injured by reason of the subject imports of rebar from Turkey.

VI. DETERMINATION REGARDING CRITICAL CIRCUMSTANCES

Because the Department of Commerce made an affirmative critical circumstances determination with regard to rebar from Turkey, and we have found that the domestic rebar industry is materially injured by reason of subject imports, we must further determine "whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping order to be issued."[211] This is one of our first opportunities to consider the URAA's

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[208] For example, New Jersey Steel, which competed directly with Turkish imports of rebar in the Puerto Rican market, experienced *** in financial performance throughout the period of investigation. While New Jersey Steel's net sales volume *** for the same period, resulting in *** in 1996. Table E-8, CR at E-21, 22, 26 and 31, PR at E-3. Commercial Steel, which produced ***. Letter to Commission investigator from President, Commercial Steel dated February 17, 1997. Another regional producer, *** in 1996. Table E-8, CR at E-26 and E-31, PR at E-3. AmeriSteel's Tampa plant, which closed in 1995, served the Florida market, also an area in which Turkish imports are heavily concentrated due to the strong demand in that market for smaller sizes of rebar. See note 136 supra; Table IV-2, CR at IV-5, and CR at II-1; PR at IV-4, and II-1.

[209] Commissioner Newquist reiterates his views expressed in note 180 supra.

[210] Table E-8, CR at E-21 - E-32, PR at E-3. While regional rebar producers reported higher increases in net sales volume compared to net sales value for the period of investigation, non-regional rebar producers reported a minimal increase (less than 0.1 percent) in net sales volume from 1994 to 1996, but a 4.6 percent increase in net sales value for the same period. Thus, as expected, non-regional producers experienced an increase of 47.1 percent in operating income, while regional producers suffered a decline of 91.6 percent for the 1994-1996 period. Regional producers' operating income as a share of net sales declined from 3.9 percent in 1994 to 0.3 percent in 1996, while non-regional producers' operating income as a share of net sales increased from 6.3 percent in 1994 to 8.9 percent in 1996.

[211] 19 U.S.C. § 1673d(b)(4)(A)(i). The statute further provides that in making this determination:
the Commission shall consider, among other factors it considers relevant--

(I) the timing and the volume of the imports,
(II) a rapid increase in inventories of the imports, and

(continued...)

amendments to the Act's provisions on critical circumstances. The legislative history of the URAA indicates that we are to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order."[212]

In finding "massive imports" in connection with its affirmative critical circumstances determination, Commerce compared import quantities for the seven months including and following the filing of the petition (March-September 1996) to import quantities for the seven months preceding the filing of the petition (August 1995-February 1996). However, in light of the impact of seasonal conditions on demand in the rebar industry, we have compared import quantities during March-September 1996 with those for March-September 1995.[213] Using official import statistics, the record indicates that the quantity of those imports subject to the Commerce affirmative critical circumstances determination (i.e., all Turkish rebar imports, except for rebar exported by Colakoglu) for the March-September 1996 period was lower than the quantity of such imports for the March-September 1995 period by at least 25 percent.[214]

The information available in the record concerning inventory levels pertains to all LTFV rebar imports, not merely those subject to the affirmative Commerce critical circumstances determination, and by year rather than by month. These data indicate that U.S. inventories of subject rebar by quantity were virtually the same in 1995 and 1996.[215] Thus, the record does not demonstrate that importers were stockpiling Turkish imports in anticipation of the imposition of estimated duties by Commerce. Additionally, the pricing data do not suggest that the imports subject to Commerce's critical circumstances determination are likely to seriously undermine the remedial effect of the order. The available pricing data indicate that prices reported by importers of LTFV rebar from Turkey for the three rebar products for which the Commission obtained pricing data were higher in the third quarter of 1996 compared to the first quarter of 1996 by percentages ranging from 1.4 percent to 5.1 percent.[216]

Thus, we do not find that the imports subject to Commerce's affirmative critical circumstances determination are likely to undermine seriously the remedial effect of the antidumping order to be issued in this case. We accordingly make a negative finding regarding critical circumstances.

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[211](...continued)

(III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.

19 U.S.C. § 1673d(b)(4)(A)(ii).

[212] SAA at 207.

[213] We note that this analysis differs slightly from that in Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. No. 3035 (Apr. 1997), in which, because there was nothing in the record indicating that the aftermarket rotor industry was affected by seasonal conditions, we used the pre-petition and post-petition periods Commerce examined in its determination. Although the Commission cannot revisit Commerce's determination of "massive imports," 19 U.S.C. § 1673d(b)(4)(A)(ii)(I) does contemplate that the Commission will make an independent consideration of the "timing and volume" of imports subject to the affirmative Commerce critical circumstances determination.

[214] Calculated from CR at IV-2, PR at IV-3, official import statistics, and *** importer questionnaire response.

[215] CR at VII-6, PR at VII-5. Due to the decline in the volume of imports in 1996, the ratio of inventories to imports was *** in 1996 compared with *** in 1995. Id. Moreover, the ratio of inventories to apparent consumption was *** in 1995. Calculated from Table IV-4 and CR at VII-6, PR at VII-5.

[216] Tables V-1 - V-6, CR V-7 - V-14, PR V-5 - V-6.

DISSENTING VIEWS
OF COMMISSIONER CAROL T. CRAWFORD

On the basis of information obtained in this final investigation, I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of steel concrete reinforcing bars from Turkey found by the Department of Commerce to be sold at less-than-fair-value ("LTFV"). I concur in the conclusions of my colleagues in the finding of the like product, regional industry, related parties, and in the discussion of the condition of the domestic industry. These dissenting views provide an explanation of my determination of no material injury or threat of material injury to a regional industry in the United States by reason of LTFV imports of steel concrete reinforcing bars from Turkey.

I. ANALYTICAL FRAMEWORK[1]

In determining whether a domestic industry is materially injured by reason of the LTFV imports, the statute directs the Commission to consider:

> (I) the volume of imports of the merchandise which is the subject of the investigation,
> (II) the effect of imports of that merchandise on prices in the United States for like products, and
> (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States....[2]

In making its determination, the Commission may consider "such other economic factors as are relevant to the determination."[3] In addition, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry ... within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[4]

The statute directs that we determine whether there is "material injury by reason of the dumped imports." Thus we are called upon to evaluate the effect of dumped imports on the domestic industry and determine if they are causing material injury. There may be, and often are, other "factors" that are causing injury. These factors may even be causing greater injury than the dumping. The statute, however, does not require us to weigh or prioritize the factors that are independently causing material injury. Rather, the Commission is to determine whether any injury "by reason of" the dumped imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effects of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry."[5] It is important, therefore, to assess the effects of the dumped imports in a way that distinguishes those effects from the effects of other factors unrelated to the dumping. To do this, I compare

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[1] In this investigation, I apply my analytical framework to the regional industry determined by the Commission.

[2] 19 U.S.C. § 1677(7)(B)(I).

[3] 19 U.S.C.§ 1677(7)(B)(ii).

[4] 19 U.S.C. § 1677(7)(C)(iii).

[5] S.Rep. No. 71, 100th Cong., 1st Sess. 116 (1987)(emphasis added).

the current condition of the industry to the industry conditions that would have existed without the dumping, that is, had subject imports all been fairly priced. I then determine whether the change in conditions constitutes material injury. Both the Court of International Trade and the United States Court of Appeals for the Federal Circuit have held that the "statutory language fits very well" with my mode of analysis, expressly holding that my mode of analysis comport with the statutory requirements for reaching a determination of material injury by reason of the subject imports.[6]

In my analysis of material injury, I evaluate the effects of the dumping[7] on domestic prices, domestic sales, and domestic revenues. To evaluate the effects of the dumping on domestic prices, I compare domestic prices that existed when the imports were dumped with what domestic prices would have been if the imports had been priced fairly. Similarly, to evaluate the effects of dumping on the quantity of domestic sales,[8] I compare the level of domestic sales that existed when imports were dumped with what domestic sales would have been if the imports had been priced fairly. The combined price and quantity effects translate into an overall domestic revenue impact. Understanding the impact on the domestic industry's prices, sales and overall revenues is critical to determining the state of the industry, because the impact on other industry indicators (e.g., employment, wages, etc.) is derived from the impact on the domestic industry's prices, sales, and revenues.

I then determine whether the price, sales and revenue effects of the dumping, either separately or together, demonstrate that the domestic industry would have been materially better off if the imports had been priced fairly. If so, the domestic industry is materially injured by reason of the dumped imports.

To understand how an industry is affected by unfair imports, we must examine the conditions of competition in the domestic market. The conditions of competition constitute the commercial environment in which the domestic industry competes with unfair imports, and thus form the foundation for a realistic assessment of the effects of the dumping. This environment includes demand conditions, substitutability among and between products from different sources, and supply conditions in the market. In this investigation, understanding the degree of substitutability between domestic rebar and subject imports, and the degree of substitutability between subject imports and nonsubject imports is most important to my determination.

Simply put, substitutability measures the similarity or dissimilarity of products from the purchaser's perspective. Substitutability depends upon 1) the extent of product differentiation, measured by product attributes such as physical characteristics, suitability for intended use, purity, rate of defects, convenience or difficulty of usage in production process, quality, etc.; 2) differences in other non-price considerations such as reliability of delivery, technical support, and lead times; and 3) differences in terms and conditions of sale. Products are close substitutes and have high substitutability if product attributes, other non-price considerations and terms and conditions of sale are similar.

While price is nearly always important in purchasing decisions, non-price factors that differentiate products determine the value that purchasers receive for the price they pay. If products are close substitutes, their value to purchasers is similar, and thus purchasers will respond more readily to relative price changes. On the other hand, if products are not close substitutes, relative price changes are less

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[6] U.S. Steel Group v. United States, 96 F.3rd 1352, at 1361 (Fed. Cir. 1996), *aff'g* 873 F.Supp. 673, 694-695 (Ct. Int'l Trade 1994).

[7] As part of its consideration of the impact of imports, the statute as amended by the URAA now specifies that the Commission is to consider in an antidumping proceeding, "the magnitude of the margin of dumping." 19 U.S.C. § 1677(7)(C)(iii)(V).

[8] In examining the quantity sold, I take into account sales from both existing inventory and new production.

important and are therefore less likely to induce purchasers to switch from one source to another. Thus, while overall demand for a product will only change moderately in response to the overall price change, the demand for products from different sources (e.g., subject imports) will decrease or increase depending on their relative prices and the substitutability of the products from different sources. In other words, purchasers can avoid price increases from one source by shifting their purchases to alternative sources. The magnitude of this shift in demand is determined by the degree of substitutability among the sources.

I have made the following determinations regarding substitutability. First, I find that subject imports of rebar from Turkey are not good substitutes for domestic rebar. Second, I find that subject imports of rebar and nonsubject imports of rebar are good substitutes. Factors which determine that there is a low degree of substitution between subject imports and domestic rebar include that *** of domestic production is captively consumed and *** of rebar consumption is restricted to domestic production due to "Buy America" provisions.[9] Subject imports are basically limited to the residential and pool and patio segment of the market. Moreover, in 1996 *** of all Turkish imports were shipped to the port of San Juan.[10] In 1996 regional producers' shipments to Puerto Rico as a share of their total U.S. shipments in the region were ***.[11] Thus there was limited head to head competition between subject imports and domestic production. In many instances subject imports could not substitute for domestic products.

Other facts reveal a high degree of substitutability between subject imports and nonsubject imports. The market share of subject imports dropped in the region from *** in 1995 to *** in 1996. During this same period, total consumption of rebar in the region increased ***.[12] The record indicates that during a period when total consumption increased the market share of subject imports decreased, and the market share of regional producers decreased ***. At this same time nonsubject imports increased market share from *** in 1995 to *** in 1996.[13] Thus, the record indicates that nonsubject imports replaced subject imports in the market. Additionally, the record indicates that subject and nonsubject imports are generally sold in the same sizes, are used in the residential applications, and face the same "Buy America" restrictions. Based on what has actually taken place in the market, I determine that subject imports and nonsubject imports are reasonably good substitutes.[14]

II. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS OF REBAR FROM TURKEY

The statute requires us to consider the volume of subject imports, their effect on domestic prices, and their impact on the domestic industry. I consider each requirement in turn.

A. Volume of Subject Imports

Subject imports of rebar in the regional U.S. market decreased from 159,275 short tons in 1995 to 110,867 short tons in 1996. The value of subject imports decreased from $44.9 million in 1995 to $32.5

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[9] CR at II-1 notes 1, 5 and 6. PR at II-1, notes 1, 5 and 6. *See also* Petitioners' Posthearing Brief, Exhibit A at Tab 1.

[10] Table IV-2, CR at IV-5. PR at IV-4.

[11] Table III-7, CR at III-19. PR at III-9.

[12] Table C-1, CR at C-3. PR at C-3.

[13] Table C-1, CR at C-3. PR at C-3.

[14] CR at II-16. PR at II-15.

million in 1996. By quantity, subject imports held a market share of *** percent in 1995 and *** percent in 1996.[15] Whether the volume of subject imports is significant cannot be determined in a vacuum, but must be evaluated in the context of their price and volume effects. Based on the market share of subject imports, the relatively low degree of substitutability between domestic rebar and subject imports, the high degree of substitutability between subject imports and nonsubject imports, and the lack of significant price effects or impact on the domestic industry as discussed below, I find that the volume of subject imports is insignificant.

B. Price Effects

To determine the effect of subject imports on domestic prices, I examine whether the domestic industry could have increased its prices, if the subject imports had not been dumped. Both demand and supply conditions in the rebar market are relevant. Examining demand conditions helps us understand whether purchasers would have been willing to pay higher prices for the domestic product, or buy different quantities of it, if subject imports had been sold at fairly traded prices. Examining supply conditions helps us understand whether available capacity and competition among suppliers to the market would have imposed discipline and prevented price increases for the domestic product, even if subject imports had not been unfairly priced.

In this investigation, the alleged dumping margins for subject imports are relatively high. Thus, if subject imports had been fairly priced, their prices in the U.S. market would have increased, and they would have become more expensive relative to domestic rebar. In such a case, because of the low degree of substitutability between domestic rebar and subject imports only a small amount of purchases of rebar would have shifted towards the domestic product. The evidence clearly indicates that between 1995 and 1996 the withdrawal from the market of subject imports did not result in an increase in market share for the regional domestic producers. In other words, if they had been fairly priced, most sales of subject imports would have been replaced by nonsubject imports and not been captured by domestic producers. Overall, any shift in demand to domestic rebar would have been minimal, since domestic producers would have captured only a fraction of the market share of subject imports.

On the supply side, competitive market conditions characterized by the presence of nonsubject imports and nonregional producers, would have limited attempts by the domestic industry to increase prices. In these circumstances, domestic producers could have raised their prices only somewhat, and not by significant amounts, had subject imports been fairly priced. Any effort by a producer to raise prices substantially would have been resisted sufficiently by competitors.

In general, while there may be some effects on domestic prices that can be attributed to the unfair pricing of subject imports, I do not find that subject imports are having significant effects on prices for domestic rebar. Therefore, significant effects on domestic prices cannot be attributed to the unfair pricing of subject imports. Consequently, I find that subject imports of rebar are not having significant effects on prices for domestic regional rebar.

C. Impact

To assess the impact of subject imports on the domestic industry, I consider output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return

[15] Table C-1, CR at C-3. PR at C-3.

on investment, ability to raise capital, research and development and other relevant factors.[16] These factors together either encompass or reflect the volume and price effects of the dumped imports, and so I gauge the impact of the dumping through those effects.

As discussed above, the domestic regional industry producing rebar would not have been able to increase its prices significantly if subject imports of rebar from Turkey had been sold at fairly traded prices. Therefore, any impact of dumped imports on the domestic industry would have been on the domestic industry's output and sales. Had subject imports not been dumped, the demand for subject imports likely would have declined, but demand for the domestic product would have increased only minimally, if at all. The behavior of the market between 1995 and 1996 supports this conclusion. If LTFV subject imports were not in the market, purchasers would have chosen nonsubject imports to replace Turkish imports. In other words, had subject imports not been dumped, the domestic regional industry would not have been able to increase its output and sales, and therefore its revenues, significantly. Consequently the domestic regional industry would not have been materially better off if the subject imports had been fairly traded. Therefore, I find that the domestic regional industry producing rebar is not materially injured by reason of LTFV imports of rebar Turkey.

III. NO THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS OF REBAR FROM TURKEY

On the basis of information obtained in this investigation, I determine that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of LTFV imports of rebar from Turkey. Section 771(7)(F) of the Act directs the Commission to consider whether a U.S. industry is threatened with material injury by reason of the subject merchandise by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted".[17] The Commission considers the threat factors "as a whole"[18] and may not make such a determination "on the basis of mere conjecture or supposition".[19] In making my determination, I have considered all of the statutory factors[20] that are relevant to this investigation[21] and have determined that there is no reasonable indication that the regional domestic industry producing rebar is threatened with material injury by reason of the LTFV imports.

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[16] 19 U.S.C. § 1677(7)(C)(iii).

[17] 19 U.S.C. §1673d(b) and 1677(7)(F)(ii).

[18] While the language referring to imports being imminent (instead of "actual injury" being imminent and the threat being "real") is a change from the prior provision, the SAA indicates the "new language is fully consistent with the Commission's practice, the existing statutory language, and judicial precedent interpreting the statute." SAA at 184.

[19] 19 U.S.C. §1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. U.S., 744 F.Supp. 281, 287 (Ct. Int'l Trade 1990). *See also* Calabrian Corp.v. United States, 794 F.Supp. 377,387 and 388(Ct. Int'l Trade 1992), *citing* H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984).

[20] The statutory factors have been amended to track more closely the language concerning threat of material determinations in the Antidumping and Subsidies Agreements, although "[n]o substantive change in Commission threat analysis is required." SAA at 185.

[21] 19 U.S.C. Sec.1677(7)(F)(i). Factor I regarding consideration of the nature of the subsidies alleged is inapplicable because there have not been subsidies alleged. Factor VII regarding raw and processed agricultural products is also inapplicable to the products at issue. *See also* 19 U.S.C. Sec. 1677(7)(F)(iii)(I).

I do not find that there is any increase in production capacity or unused capacity in the exporting country likely to result in a significant increase in imports of rebar into the United States. Production capacity in Turkey increased from *** metric tons in 1995 to *** metric tons in 1996, while production dropped from *** metric tons in 1995 to *** metric tons in 1996.[22] Capacity utilization remained at a high level, ranging from a utilization rate of *** percent in 1995 to a rate of *** percent in 1996.[23] At these levels of capacity utilization, Turkish exporters would have difficulty increasing exports to the U.S. market. As a share of total shipments, subject Turkish rebar exports to the U.S. dropped from *** percent in 1995 to *** percent in 1996. Home market shipments and exports to all other countries increased during this period. Given the high capacity utilization rates and the significance of shipments to non-U.S. markets, I find little likelihood of significantly increased Turkish exports of rebar to the U.S. market.

The record in this investigation does not show a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports of subject rebar into the United States. As noted above, the volume of imports to the U. S. regional market decreased noticeably, from 1995 to 1996, while consumption in the regional market increased for the same period.[24] Because nonsubject imports have displaced subject imports in the regional market and would compete with any efforts by subject imports to penetrate the regional market, as well as the high levels of capacity utilization in Turkey, I find that there is little likelihood of substantially increased imports.

I do not find that subject imports will enter the United States at prices that will have a depressing or suppressing effect on domestic prices. As noted above, I find a low degree of substitution between subject imports and domestic rebar. The withdrawal of LTFV subject imports from the regional market in 1996 has not resulted in significant price increases for domestic rebar. I find no evidence to indicate that subject imports are likely to have any greater impact on domestic prices in the near future than is currently the case.

The record does not support a finding that the inventories of subject imports will have an injurious effect on the U.S. industry. Inventories in Turkey in 1996 were not significant and are projected to decline in the imminent future.[25]

During 1996 Turkish shipments to its home market and Turkish exports to countries other than the United States increased.[26] These increases in Turkish shipments took place at the same time consumption was increasing in the regional U.S. market. Thus, I find evidence of the likelihood of any significant diversion of the subject merchandise to the United States to be minimal, given the growth of subject imports in other available markets.

I therefore determine that there is no reasonable indication that the domestic regional industry producing rebar is threatened with material injury by reason of LTFV imports of rebar from Turkey.

IV. CONCLUSION

On the basis of the foregoing analysis, I determine that the domestic regional industry producing rebar is not materially injured or threatened with material injury by reason of LTFV imports of rebar from Turkey.

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[22] Table VII-2, CR at VII-5, PR at VII-4.

[23] Table VII-2, CR at VII-5, PR at VII-4.

[24] Table C-1, CR at C-3. PR at C-3.

[25] Table VII-2, CR at VII-5. PR at VII-4.

[26] Table VII-2, CR at VII-5. PR at VII-4.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by AmeriSteel Corporation (formerly Florida Steel Corporation), Tampa, FL, and New Jersey Steel Corporation, Sayreville, NJ, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of steel concrete reinforcing bars[1] from Turkey. Information relating to the background of the investigation is provided below.[2]

Date	*Action*
March 8, 1996	Petition filed with Commerce and the Commission; institution of Commission investigation
April 4, 1996	Initiation of Commerce investigation
April 22, 1996	Commission's preliminary determination
October 4, 1996	Commerce's preliminary determination; scheduling of Commission's final phase investigation (61 F.R. 57451, November 6, 1996)
February 24, 1997 . .	Commerce's final determination (62 F.R. 9737, March 4, 1997)[3]
February 26, 1997 . .	Commission's hearing[4]
April 1, 1997	Commission's vote
April 9, 1997	Commission determination transmitted to Commerce

SUMMARY DATA

The petition in this investigation was filed on behalf of a regional U.S. industry that produces rebar. The regional industry is defined in the petition as comprising 22 states from New England through the mid-Atlantic to the Gulf seaboard states, as well as the District of Columbia and Puerto Rico.[5] The petition argues that the defined regional industry "is separate and isolated from other domestic rebar

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[1] The product covered by this investigation is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain-round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is classifiable in subheadings 7213.10.00 and 7214.20.00 of the Harmonized Tariff Schedule of the United States (HTS), each of which has provisions for a most-favored-nation tariff rate of 3.4 percent *ad valorem* in 1997, applicable to imports from Turkey.

[2] *Federal Register* notices cited in the tabulation are presented in appendix A.

[3] Final LTFV margins as calculated by Commerce are as follows: 9.84 percent for Colakoglu Metalurji A.S.; 18.68 percent for Ekinciler Demir Celik A.S.; 18.54 percent for Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.; 41.80 percent for Izmir Demir Celik Sanayi A.S.; 30.16 percent for Izmir Metalurji Fabrikasi Turk A.S.; and 16.06 percent for all other Turkish exporters/manufacturers. Commerce also found critical circumstances to exist with respect to all Turkish exporters/manufacturers, except Colakoglu Metalurji A.S.

[4] A list of witnesses that appeared at the hearing is presented in appendix B.

[5] The 22 states in the "Eastern tier region" include Maine, New Hampshire, Connecticut, Massachusetts, Rhode Island, Vermont, New Jersey, New York, Pennsylvania, Delaware, Florida, Georgia, Louisiana, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Alabama, Kentucky, Mississippi, and Tennessee.

markets."[6] Furthermore, the petition notes that demand for rebar in the proposed region "is met overwhelmingly by production within the region," and, "to the extent demand is met by domestic producers outside the region, the penetration of outside supply is nominal and limited to the periphery of the region."[7] Finally, the petition notes that "imports of Turkish rebar are concentrated in the defined region."[8] Respondents Colakoglu Metalurji A.S. (Colakoglu), Diler Demir Celik Sanayi ve Ticaret A.S. (Diler Demir), Ekinciler Demir Celik A.S. (Ekinciler), and Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas) oppose the adoption of petitioners' proposed region as being "arbitrary and free-sculpted."[9] Respondents, for example, question why petitioners exclude from the proposed region the border states of Illinois, Indiana, and Ohio, states that have been significant marketing areas for producers within the region, or have rebar production, while Puerto Rico, a market that has not been historically supplied by producers within the region, is included in the "sculpted" region.[10] Repondents also propose that Texas be included in the proposed region.

In its preliminary determination, the Commission found a regional analysis to be appropriate and defined the region as including the 22 states in the Eastern tier region plus the District of Columbia and Puerto Rico.[11] Data developed during the investigation concerning the region defined in the Commission's preliminary determination are as follows (in *percent*):

Item	1994	1995	1996
Shipments within the region by producers in the region as a share of their total shipments	90.1	89.5	90.5
Shipments into the region by producers outside the region as a share of regional consumption	3.4	2.8	3.5
U.S. shipments of imports from Turkey into the region as a share of U.S. importers' total U.S. shipments	78.0	68.4	80.1
Market share of U.S. importers' shipments of imports from Turkey in the region	7.9	7.8	4.7
Market share of U.S. importers' shipments of imports from Turkey *outside* the region	1.8	2.9	1.0

[6] Petition, p. 7.

[7] Ibid., p. 10.

[8] Ibid., p. 11.

[9] Posthearing brief submitted on behalf of Turkish respondents Colakoglu, Diler Demir, Ekinciler, and Habas, pp. 1 and 2.

[10] Postconference brief submitted on behalf of Turkish respondents Colakoglu, Diler Demir, Ekinciler, and Habas, pp. 4-7.

[11] *Steel Concrete Reinforcing Bars from Turkey*, Inv. No. 731-TA-745 (Preliminary), USITC Pub. 2955 at 6-12.

The information presented in the body of this report focuses on the region defined in the Commission's preliminary determination. A summary of the data collected in the investigation for the defined region and the U.S. industry as a whole is presented in appendix C. Except as noted, U.S. industry data are based on the questionnaire responses of 13 firms. Four of the 13 firms produce rebar at production facilities located only within the region; four firms produce at facilities located both within the region and outside the region; and five firms produce rebar solely at sites located outside the region. The responding firms located within the region accounted for virtually all U.S. production of rebar in the region during 1996, and the responses of those located outside the region accounted for a significant share of production outside the region. U.S. imports are based on the questionnaire responses of 25 firms.

THE PRODUCT

The imported product subject to this investigation is steel concrete reinforcing bar ("rebar") designed specifically to enhance the tensile and shear-stress strength of concrete structures. This includes all hot-rolled deformed[12] rebars sold in straight lengths or coils and rolled from non-alloy billet steel, rail steel, axle steel, or high-strength low-alloy billet steel. The subject imports exclude (1) plain round rebar,[13] (2) fabricated rebar that a processor has further worked,[14] and (3) all coated rebars. Deformed rebar is classified in the 1996 HTS under subheadings 7213.10.00 if in irregularly wound coils and 7214.20.00 if in straight lengths. Rebar of Turkish origin, reported to be in straight lengths of 20 or 30 feet,[15] would enter the United States under HTS subheading 7214.20.00. This section presents information on both imported and domestically produced rebar, as well as information related to the Commission's "domestic like product" determination.[16] Petitioners proposed that the like product is deformed rebar, and in the alternative that two like products be defined, delineated by size: small diameter rebar and large diameter rebar. Respondents agree with the single like product proposal, but argue that there is no competitive overlap between the Turkish product and the material manufactured by producers within the specified region because each concentrates on different size rebars with different end-use markets.

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[12] "Deformed" refers to the pattern of uniformly shaped surface protrusions or ribs running across and uniformly spaced along the length of a rebar. Smooth-surface rebars lacking such deformations are referred to as "plain rounds."

[13] Plain round rebar was originally included in petitioners' proposed product definition but later was withdrawn by the petitioners. D.E. Xenopoulos, Brickfield Burchette Ritts, PC, counsel for the petitioners in a written communication to D.R. Koehnke, Secretary, U.S. International Trade Commission, Mar. 26, 1996. The U.S. Department of Commerce did not include plain round rebar in its scope of investigation. See Commerce's final determination (62 F.R. 9737, Mar. 4, 1997).

[14] Rebar is sold to customers in various forms or stages of fabrication (e.g., bent to shape, assembled into structures by welding or tying, or both); only stock rebar, which is not further processed, is subject to this investigation.

[15] Respondent's postconference brief, Apr. 3, 1996, p. 31.

[16] The Commission's decision regarding the appropriate domestic products that are "like" or "most similar in characteristics and uses" to the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price.

Physical Characteristics and Uses

Deformed rebar is designed specifically to resist tension, compression, temperature variation, and/or shear stresses in reinforced concrete, as the surface of a deformed bar has protrusions which inhibit longitudinal movement relative to the surrounding concrete. Rebars are available in diameters from $^{3}/_{8}$-inch rounds up to and including $2^{1}/_{4}$-inch rounds. Bar size is indicated by a number that is about eight times the nominal diameter in inches for size Nos. 3 through 8;[17] this relationship diverges somewhat for larger sizes (Nos. 9 through 18). Grade is indicated by a number that is one-thousandth of the yield strength in pounds per square inch (psi).[18] Rebars are manufactured to conform with standards of the American Society for Testing and Materials (ASTM) which specify for each bar size the nominal unit weight, nominal dimensions, and deformation requirements (depth and spacing of deformations), as well as chemical composition, tensile strength, yield strength (grade), and elongation tolerances. These standards apply to both deformed and plain round rebar, whether coiled or in straight lengths. There are four ASTM specifications for rebars, based upon steel composition. Rebars are most commonly rolled from billet steel to the requirements of ASTM A615, which is a non-alloy steel. Rebars are also available re-rolled from the top portion of non-alloy steel rails (ASTM A616) and from axles of railroad rolling-stock and locomotives (ASTM A617). For special applications that require a combination of strength, weldability, ductility, and bendability (e.g., seismic areas), ASTM A706 is specified, which is a high-strength low-alloy (HSLA) steel. Generally, deformed rebars of the various ASTM specifications are interchangeable except for use in seismic areas.[19] Deformed rebars are identified by distinguishing sets of marks legibly rolled onto the surface of one side of the bar to denote, in order, the producer's hallmark, mill designation, size designation, specification of the type of steel,[20] and minimum-yield designation.

Rebars are embedded in concrete for both (1) structural reinforcement to enhance its compressional and tensional strength and (2) crack control as the concrete shrinks on curing or due to temperature fluctuations. Deformed rebars are used almost exclusively in the residential and commercial construction industry to provide structural reinforcement to concrete structures. Rebars are supplied either as stock rebar cut to proper length or as fabricated rebar, bent or curved in accordance with plans and specifications.[21] During construction, rebar is placed in a form and concrete from a mixer is poured over it. Once the concrete has set, deformation is resisted and stresses are transferred from the concrete to the steel reinforcement by friction and adhesion along the surface of the steel. Guidelines for use of deformed rebar in building construction are provided by the American Concrete Institute (ACI) 318 Code and guidelines for use in highway and bridge construction are provided by the American Association of State Highway

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[17] For example, $^{3}/_{8}$-inch rebar is designated No. 3 ($^{3}/_{8} \times 8 = {}^{24}/_{8} = 3$).

[18] Grade 60, for example, indicates a yield strength of 60,000 psi.

[19] Written communication from the American Concrete Institute International to Commission staff, Apr. 4, 1996.

[20] Specification letters are "S" for A615, "S" and "W" for A706, "R" or a rail symbol for A616, and "A" for A617.

[21] Stock rebar is further worked into fabricated rebar by relatively straightforward operations such as cutting stock rebar to length, either from straight lengths or coils, bending it to fit engineering plans, and performing any necessary assembly into structures such as mats or cages by welding or tying. Estimates of the value added by such processes are sparse and vary widely from 15 to 35 percent (questionnaire responses of importers of rebars from Turkey). Petitioners estimated that value added for bending would be "in the neighborhood" of 20 percent (conference transcript, p. 47).

and Transportation Officials (AASHTO) Standard Specifications. Contents of the two are similar; the ACI 318 Code is applicable throughout the Continental United States and in Puerto Rico.[22]

Manufacturing Facilities and Production Employees

Rebar mills typically specialize in producing either (1) A615 and A706 from billet steel, (2) A616 from rail steel, or (3) A617 from axle steel, because each involves different starting materials and imposes somewhat different rolling requirements. The most common process for manufacturing deformed rebar[23] from billet steel consists of three stages: (1) melting steel scrap,[24] (2) casting billets,[25] and (3) hot-rolling the bar. In contrast, the manufacturing process for rebar from scrapped rail or axle steel requires only the rolling stage.

Prior to rolling, newly cast billets, scrap rails, or scrap axles are channeled through a reheat furnace. This step increases the malleability of the steel and reduces wear on the rolling mill. The semi-finished steel shape is reduced in size as it passes through successive rolling stands. Most modern rolling mills are in-line, and an increasing number are capable of rolling multiple strands. Deformations are rolled onto the surface of the rebar as it passes through the final finishing stand, which has patterns cut into the grooves of the rolls.[26] After the rolling process, rebars are channeled to a coiler or cut to length, and then sent to a cooling bed.

Interchangeability

As long as imported rebar meets specifications of the ASTM, specific sizes of imported rebar would be interchangeable with the same size of domestic rebar for structural reinforcement of concrete in the United States. However, producers in the region can provide deformed rebar in longer stock lengths and larger diameters than the Turkish product. Domestic regional mills are capable of producing straight

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[22] Written communication from the American Concrete Institute to Commission staff, Apr. 4, 1996.

[23] Manufacturing processes for plain round rebar are the same as for deformed rebar up to the final rolling process. Conference transcript, p. 42.

[24] Both in the United States and Turkey, rebar is produced via the nonintegrated or minimill process. Molten steel is produced by melting scrap in an electric arc furnace. It is increasingly common for scrap to be shredded and pre-heated with exhaust furnace gasses to enhance the energy efficiency of the melting process. Molten steel is poured or tapped from the furnace into a ladle, an open-topped, refractory-lined vessel, typically with an off-center bottom opening equipped with a nozzle. Meanwhile, the primary steel-making vessel is charged with new materials to continue the melting process. It is increasingly common for the steel to pass to a ladle metallurgy or secondary steel-making station, where its chemistry is refined by addition of alloys to embody the steel with the required properties. The ladle metallurgy station may also have electromagnetic stirrers to ensure homogeneity of the steel and controls to adjust the temperature of the steel for optimum casting.

[25] Once molten steel with the desired properties has been produced, it is continuously cast into billets, a form that can enter the rolling process. In the strand- or continuous-casting method, the ladle is transferred from the ladle metallurgy station to the caster. The molten steel is poured at a controlled rate into a tundish, which in turn controls the rate of flow into the strand caster. The tundish may also have electromagnetic stirrers to ensure homogeneity of the steel. The strand caster is designed to produce billets in the desired cross-sectional dimensions. After being cast, billets are transferred to a hot-rolling mill where they are reduced in cross-sectional dimension.

[26] When rolling plain round rebar, with uniformly smooth surfaces rather than with deformations, smooth-grooved rolls are substituted in the final finishing stand. Conference transcript, p. 42.

lengths up to 60 feet, or longer-length coils, which are better suited for fabrication because they minimize the amount of left-over short-length remnants.[27]

Due to building-code requirements and its relatively low cost, there are few substitutes for deformed rebar for structural reinforcement of concrete. Plain rebars are used as dowels to prevent lateral movement of concrete slabs, as spirals and structural ties for binding deformed rebar, and as supports for mats or mesh, but cannot be substituted for deformed rebar in its principal application of reinforcing concrete.[28] Welded wire mat or reinforcing mesh is substitutable for deformed rebar in certain limited applications,[29] such as structural reinforcement of thin concrete slabs and wall panels, especially in tilt-up and pre-cast concrete work. Mat or mesh is also used as a complementary material to deformed rebar in structural columns. Other materials cast into concrete such as steel pipe, structural shapes, wire, and steel fibers are used mainly for cracking control rather than reinforcement.[30] Pre-tensioned cables or rods, and high-strength deformed steel bars are prepared specifically for pre-stressing concrete rather than structural reinforcement.[31]

Customer and Producer Perceptions

In addition to the size and length differences between domestic and Turkish rebar,[32] other differences are perceived by customers. One respondent noted that Turkish rebar is sometimes rusty, and another indicated that domestic rebar is perceived to be of higher quality.[33] Importers also indicate that domestic producers have the advantages of offering greater availability, faster delivery (weeks instead of months), and a greater range of product sizes, lengths, and grades. Producers and customers both perceive plain round rebar to be a totally different product with a different marketplace than deformed rebar.[34] [35]

Channels of Distribution

Domestic and Turkish rebar are distributed to similar customers, but in differing proportions, in that some domestic rebar manufacturers supply their own rebar-fabricating facilities. Domestic mills also sell to independent fabricators and steel distributors, with lesser amounts sold directly to steel service

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[27] Conference transcript, p. 133.

[28] AASHTO section 9.2, entitled "Material," and ACI Code 3.5.1 and Commentary R3.5.1, entitled "Steel reinforcement."

[29] Written communication from the American Concrete Institute to Commission staff, Apr. 4, 1996.

[30] Interview with official of the Concrete Foundations Association, Apr. 4, 1996.

[31] Concrete (e.g., for railroad ties and overhead beams) is pre-stressed before use specifically to enhance its load-bearing properties; compressional stress is induced as the pre-stretched steel anchored within the concrete tries to regain its original length. Substitutability of pre-tensioned steel for rebar is not mentioned in building codes. Commission staff interview with official of the Concrete Reinforcing Steel Institute, Mar. 22, 1996.

[32] As noted in Parts III and IV of this report, U.S. producers manufacture rebar in lengths of 20, 30, 40, and 60 feet, as well as in coils, and in diameter Nos. 3 through 18, whereas Turkish rebar is imported only in lengths of 20, 30, and 40 feet and primarily in diameter Nos. 3 through 5.

[33] Questionnaire responses of importers of rebars from Turkey.

[34] Conference transcript, pp. 42-44.

[35] A more detailed discussion of customer and producer perceptions is presented in the section of the report entitled "Substitutability issues."

centers, building material dealers, and the mining industry. Based on the questionnaire responses of 13 producers that supplied such information, steel distributors accounted for between 3 percent and 50 percent of 11 of 13 firms' U.S. shipments of rebar, by weight, in 1996; 10 firms indicated that steel service centers accounted for between 1 percent and 20 percent of such U.S. shipments; 12 firms indicated that fabricators accounted for between 10 percent and 97 percent of such shipments; 1 firm indicated that contractors accounted for 30 percent of its 1996 U.S. shipments; 6 firms indicated that building material dealers accounted for between 1 percent and 76 percent of their total rebar shipments in 1996; and 3 firms indicated that all other types of customers accounted for between 8 percent and 50 percent of their U.S. shipments of rebar in 1996. In contrast, importers purchase Turkish rebar primarily for sales to steel distributors, with smaller amounts sold to reinforcing-steel fabricators, contractors, and building material dealers. Ten of 12 importers that supplied information on their U.S. shipments by customer type indicated that steel distributors accounted for between 20 percent and 100 percent of their U.S. shipments of rebar in 1996. Four of the 12 U.S. importers indicated that steel service centers made up between 10 percent and 80 percent of their U.S. shipments in 1996; 4 indicated that fabricators accounted for between 4 percent and 25 percent of their total U.S. shipments in 1996; 3 indicated that contractors accounted for between 3 percent and 10 percent of their total U.S. shipments; 2 indicated that building material dealers made up 100 percent of their U.S. shipments, while 2 others indicated that such dealers accounted for between 3 percent and 20 percent of their total U.S. shipments; and 1 importer indicated that all other types of customers (principally retail hardware stores) accounted for 54 percent of its total U.S. shipments of rebar in 1996.

PREVIOUS INVESTIGATIONS INVOLVING STEEL CONCRETE REINFORCING BARS

The Commission has conducted three previous antidumping investigations concerning steel concrete reinforcing bars. In March 1964, the U.S. Tariff Commission determined that an industry in the United States was likely to be injured by reason of the importation of steel reinforcing bars from Canada that were found by the Department of the Treasury to be sold at LTFV within the meaning of the Antidumping Act, 1921, as amended (investigation AA1921-33).[36] In February 1970, the Commission determined that an industry in the United States was being injured by reason of the importation of steel bars, reinforcing bars, and shapes from Australia that were found by the Department of the Treasury to be sold at LTFV within the meaning of the Antidumping Act, 1921, as amended (investigation AA1921-62).[37] Finally, in August 1973, the Commission determined that an industry in the United States was not being or likely to be injured, and was not prevented from being established, by reason of the importation of deformed concrete reinforcing bars of non-alloy steel from Mexico that were found by the Department of the Treasury to be sold at LTFV within the meaning of the Antidumping Act, 1921, as amended (investigation AA1921-122).[38] There are no outstanding antidumping orders resulting from these investigations.

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[36] *Steel Reinforcing Bars from Canada*, March 1964, TC Pub. 122. In this investigation, the Commission focused on a Pacific Northwest industry consisting of three producers in Washington and Oregon.

[37] *Steel Bars, Reinforcing Bars, and Shapes from Australia*, February 1970, TC Pub. 314.

[38] *Deformed Concrete Reinforcing Bars of Non-Alloy Steel from Mexico*, August 1973, TC Pub. 605.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

MARKET SEGMENTS AND CHANNELS OF DISTRIBUTION

U.S.-produced rebar is sold to steel distributors, steel service centers, reinforcing steel fabricators, contractors, and building material dealers. A significant share of U.S. rebar production is also captively consumed by fabricators affiliated with the U.S. producers.[1] Because the Turkish product is limited to the smaller-sized rebar in shorter lengths, it serves primarily only one portion of the market, the pool and patio and residential market.[2] This market is particularly large in Puerto Rico, where the building codes require concrete to be used in residential construction[3] and in the southern United States where pools and patios are more popular. Fabricators prefer longer segments of rebar than can be provided by the Turkish imports in order to efficiently cut the product into the necessary lengths, thereby limiting the use of imports by these consumers.[4]

Approximately 64 percent of sales of rebar are used in public works,[5] [6] which are typically governed by "Buy America" provisions. This restricts the use of imported product by limiting its use to jobs not covered by a "Buy America" clause and by discouraging fabricators from purchasing the product because they do not want to hold two sets of inventories, one for "Buy America" jobs and one for other projects.[7]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on the available information, staff believes that U.S. producers are likely to respond to changes in demand with relatively large changes in shipments of U.S.-produced rebar to the U.S. market, and smaller changes in prices. Factors contributing to the responsiveness of supply are discussed below.

Capacity in the U.S. industry

The existence of levels of unused capacity in the U.S. rebar industry increases the degree to which U.S. producers can respond to increases in demand with changes in production. Total annual rolling capacity of domestic producers of rebar within the Eastern tier region ranged from *** to ***

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[1] During 1994-96, *** short tons, or *** percent of U.S. producers' U.S. shipments within the region, were internally consumed or transferred.

[2] Conference transcript, p. 27.

[3] Ibid., pp. 89-90.

[4] Conference transcript, p. 133. Petitioners' postconference brief, p. 4.

[5] Petitioners' postconference brief, p. 4. Hearing transcript, p. 81.

[6] Public works projects typically use the larger sizes and longer lengths which are not supplied by the Turkish imports. Ibid, pp. 3-4; conference transcript, pp. 59 and 150.

[7] Conference transcript, p. 59. Purchaser questionnaire responses of ***.

million short tons from 1994 to 1996. From 1994 to 1996, U.S. producers' rolling capacity utilization levels for rebar ranged from *** to *** percent within the Eastern tier region.

Production alternatives

Many mills, both domestic and foreign, are able to switch production from rebar to other products with relative ease.[8] According to Philip Casey of AmeriSteel, production capacity has moved to merchant bar, structural steel, rods, bar for automotive use, and flat-rolled product as public works demand has started to decline.[9] *** indicated in its questionnaire response that it purposely shifts production from rebar to higher-valued products when the market allows. *** stated that it has internally shifted steel away from rebar to other products due to competition in the rebar market. According to Philip Casey of AmeriSteel, production shifting can be limited by the equipment available at the mill. Product shifting is also limited by the fact that rebar producers need to run their production lines continuously in order to amortize their high fixed costs of production.[10] Shifting production to different bar sizes can require from 30 minutes to up to 6-8 hours to change the equipment, depending on the sophistication of the mill stands.[11] Significant periods of down time increase the unit costs of production. It is easier to shift from production of smooth rounds to production of deformed rebar rather than visa-versa, since deformed rebar requires loose tolerances because of its deformed nature, while smooth rounds have more strict tolerances and require more precise equipment.[12]

Inventory levels

The existence of inventories increases the degree to which U.S. producers can respond to changes in demand with changes in shipments. End-of-period inventories of producers within the Eastern tier region rose by 89.4 percent from *** short tons in 1994 to *** short tons in 1995, then fell by 32.3 percent to *** short tons in 1996. These inventories represent between 3.0 and 7.1 percent of regional U.S. producers' U.S. shipments within the region by weight. For all producers, inventories rose by 77.0 percent from *** short tons in 1994 to *** short tons in 1995, then fell by 21.4 percent to *** short tons in 1996. These inventories represent between 6.4 and 11.3 percent of U.S. producers' U.S. shipments by weight.

Export markets

Three U.S. producers, ***, reported exporting steel concrete reinforcing bar. Exports accounted for less than 1 percent of total shipments by producers within the Eastern tier region as well as nationally during 1994-96. Export shipments went to Canada, Mexico, and the Philippines.

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[8] Petitioners' postconference brief, p. 38.

[9] Conference transcript, p. 23.

[10] Hearing transcript, pp. 105 and 106.

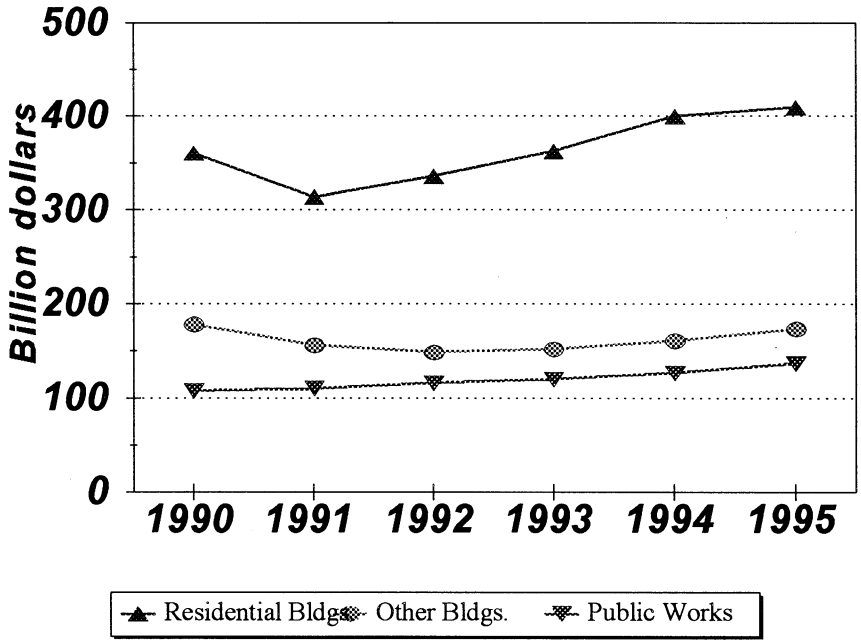
[11] Ibid., p. 105

[12] Conference transcript, p. 44.

U.S. Demand

Demand for rebar depends on the demand for the construction projects that use rebar. The yearly values of new construction activity during 1990-95 are presented below in figure II-1.

Figure II-1
Value of new construction activity in the United States, by sectors, 1990-95



Source: Eonomic Report of the President, Feb. 1997, p. 360.

Based on available information, staff believes that demand for rebar will not change significantly with changes in the price. The main factors limiting the price sensitivity of overall demand for rebar are the lack of substitute products and the small cost share accounted for by rebar in the end products.

Substitute Products

There are few substitutes for deformed steel concrete rebar available, and these can only be used in limited circumstances. Twenty-five of 35 responding purchasers reported that there are no other products that could be substituted for rebar in its end uses. Products cited by the remaining purchasers as possible substitutes include plain rounds, wire mesh, structural steel, and post-tension steel cable. Plain rounds can be used in situations where adhesion of the concrete to the bar is not important, such as when used as dowels to prevent longitudinal movement of concrete sections of roadway or for binding longitudinal rebar in a column. Wire mesh and structural shapes can be used

for controlling cracking of concrete rather than for structural reinforcement. Any of these product substitutions can only be made where building codes and design specifications allow.

Cost Share

The demand for rebar is a derived demand, dependent on demand for the concrete structures such as bridges, roads, patios, pools, etc. in which it is used. For all of these end uses, the cost of stock steel rebar accounts for a small portion of the total cost of the end product.[13]

SUBSTITUTABILITY ISSUES

U.S. producers, importers, and purchasers were requested to provide information regarding the differences in non-price factors between the domestic products, subject imports, and nonsubject imports. The factors rated as most important by purchasers in their rebar purchase decision include price, availability, quality, product range, reliability of inventory, and whether the supplier is a traditional supplier in the market, competes with the purchaser, or is a related company.[14] The main factor considered by purchasers in assessing quality is whether the rebar meets ASTM standards.[15] Other quality factors cited include uniformity of length, brittleness, surface appearance, straightness, and coating qualities.

Substitution Between U.S.-Produced and Imported Turkish Rebar

Most U.S. producers and importers reported that, except for projects governed by "Buy America" provisions, Turkish and U.S. rebar can be used interchangeably.[16] Twenty-five of 29 responding purchasers reported that U.S.-produced and imported Turkish rebar are used in the same applications.[17] Thirty of 37 responding purchasers reported that nothing differentiates the rebar they

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[13] Twelve end-user purchasers reported that the cost of rebar accounts for a relatively large share (42-85 percent) of the total cost of the final product. However, these final products were goods such as mine roof bolts that do not account for a large share of the total end-use market.

[14] Eighteen purchasers listed price as the most important consideration, nine listed availability, six listed quality, two listed reliability of inventory, and two listed product range. Each of the other factors was cited as most important by only one purchaser.

[15] Rebar from both Turkey and the United States is required to meet ASTM specifications for use in building projects.

[16] A U.S. producer,***, reported that the U.S.-produced and imported Turkish rebar are not interchangeable because of problems with the coating and breakage of the imported Turkish rebar. An importer, ***, reported that the domestic and imported Turkish products are not interchangeable because the domestic rebar can be purchased in coils, which minimizes the scrap when it is cut to length. *** also maintained that for critical projects (i.e., high-rises, nuclear plants, etc.) and projects with quick deadlines, domestic product is preferred. Another importer, ***, reported that the products are not interchangeable because U.S. producers are unwilling to sell the high percentage of small diameter rebar (Nos. 3 and 4) needed in the Puerto Rican market.

[17] Three of the purchasers that reported that domestic and imported Turkish rebar are not used in the same applications cited "Buy America" requirements. The fourth stated that imported Turkish rebar is generally used in residential projects--only a very small amount is used in commercial projects.

sell from that sold by their direct competitors.[18] However, 22 of 43 responding purchasers reported that they buy domestic rebar specifically due to "Buy America" restrictions.[19]

Eleven of 41 responding purchasers reported instances during 1994-96 when U.S.-produced rebar has been either unavailable in the quantities and specifications required, or on allocation from U.S. producers. Two of 25 responding purchasers reported similar availability problems with imported Turkish rebar. Five of 43 responding purchasers reported that certain grades, types, or sizes of rebar are only available from a single source (i.e., domestic or foreign). Three of 41 responding purchasers reported instances when a domestic or foreign producer failed in its attempt to qualify its rebar. Two of 42 responding purchasers reported that either a domestic or a foreign producer has consistently supplied inferior quality rebar to their firm. When asked how the source of their rebar would have changed if the price of imported Turkish rebar had been 5 percent higher during 1994-96, 6 of 21 responding purchasers reported that they would have purchased more domestic product.

According to the domestic producers, the average lead time between a customer's order and the date of delivery ranged from 1 day to 7 weeks, depending on whether the rebar was from stock or made to order. The average lead time reported by the importers of Turkish rebar ranged from 1 day to 6 months, with 12 of the 21 responding importers indicating lead times of greater than 2 months.

Substitution Between U.S.-Produced and Imported Nonsubject Rebar

Purchasers reported marketing knowledge of rebar imported from Mexico, Venezuela, Brazil, Canada, Poland, Spain, and Colombia. "Buy American" restrictions affect imports of nonsubject rebar to the same extent that they affect imports of Turkish rebar. Also, nonsubject rebar imports tend to be sold in smaller sizes and lengths than the domestic product. However, 25 of 29 responding purchasers reported that U.S.-produced and imported nonsubject rebar are used in the same applications.[20]

Substitution Between Imported Turkish and Imported Nonsubject Rebar

"Buy American" restrictions do not affect substitution between imported Turkish and imported nonsubject rebar. In addition, sales of imported nonsubject rebar are generally concentrated in the same sizes and lengths as the imported Turkish product. Twenty-two of 23 responding purchasers reported that imported Turkish and nonsubject rebar are used in the same applications. However, when asked how the source of their rebar would have changed if the price of imported Turkish rebar had been 5 percent higher during 1994-96, only 6 of 21 responding purchasers reported that they would have purchased more nonsubject imports.

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[18] Two purchasers cited quality differences; two cited differences in price, quality, and availability; one cited price differences; one cited differences in delivery times; and one noted that some of their competitors offer "nongrade" material.

[19] Twenty purchasers reported that they never specifically order rebar from one country in particular. One purchaser, ***, reported buying the Turkish product because of its uniform packaging.

[20] Three of the purchasers that reported that domestic and imported nonsubject rebar are not used in the same applications cited "Buy America" requirements. The fourth stated that imported nonsubject rebar is generally used in residential projects--only a very small amount is used in commercial projects.

ELASTICITY ESTIMATES

This section discusses the elasticity estimates used in the COMPAS analysis (appendix D).

Supply Elasticity[21]

The domestic supply elasticity for rebar measures the sensitivity of the quantity supplied by U.S. producers to a change in the U.S. market price of rebar. The elasticity of domestic supply depends on several factors including U.S. producers' level of excess capacity, the ease with which U.S. producers can alter productive capacity, the existence of inventories, and the availability of alternate markets for U.S.-produced rebar.[22] Analysis of these factors indicates that, overall, U.S. producers have the flexibility to substantially alter their supply of rebar in response to relative changes in the demand for their product; thus, the domestic supply elasticity is estimated to be high, or in the range of 5 to 10.

Petitioners agreed with staff's domestic supply elasticity estimate range; respondents did not comment.

U.S. Demand Elasticity

The U.S. demand elasticity for rebar measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of rebar. This estimate depends on factors such as the existence, availability, and commercial viability of substitute products, as well as the cost share that rebar accounts for in the production of the end product. Based on available information, the demand elasticity for rebar was estimated to be in the range of -0.5 to -1.0. Purchasers would likely be insensitive to changes in the price of rebar.

In their prehearing brief, petitioners maintained that staff's demand elasticity estimate range was too elastic. Petitioners argued that, since there are no substitutes for deformed rebar in its most important use (the reinforcement of concrete structures), and rebar accounts for only a tiny component of the cost of a structure, the demand elasticity should be very low (less than unitary). Petitioners cited a regression analysis done in the *Certain Flat-Rolled Steel Products* case that estimated the total demand elasticity for hot-rolled sheet and strip to be -0.75.[23] Petitioners argued that, since hot-rolled sheet and strip have more substitutes, their demand should be more elastic than the demand for rebar. Therefore, petitioners maintained that an elasticity of demand conservatively set at approximately -0.75 is appropriate.[24] Respondents did not comment on staff's demand elasticity estimate range.

Based on further study of the quarterly price and quantity data supplied by U.S. producers and importers of Turkish rebar, staff agrees with petitioners that the elasticity of demand estimate range should be lowered. Figure II-2 shows quarterly indexed quantities and unit values of combined U.S.-produced and imported Turkish products 1-3. The relatively stable unit values appear to have little

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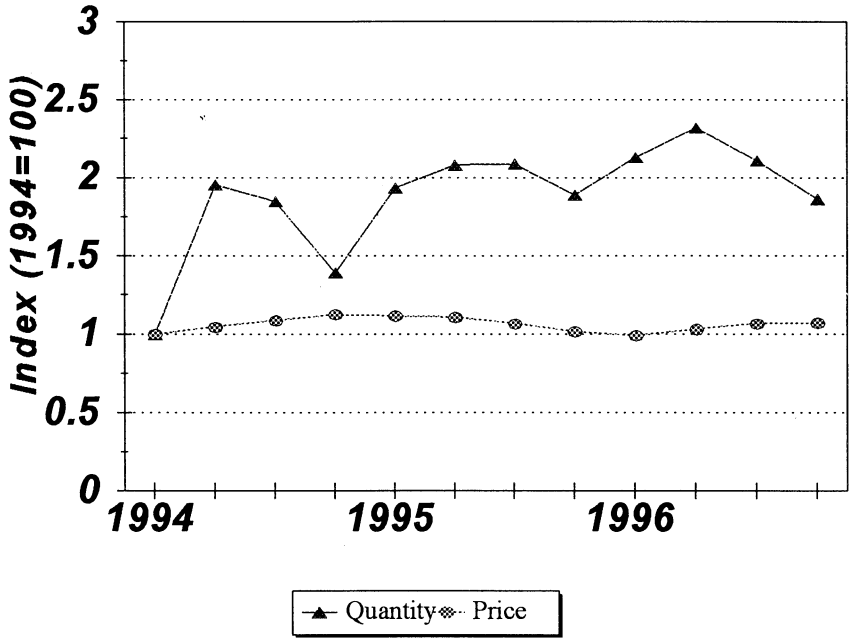
[21] A supply function is not defined in the case of a non-competitive market.

[22] Domestic supply response is assumed to be symmetrical for both an increase and a decrease in demand for the domestic product. Therefore, factors opposite to those resulting in increased quantity supplied to the U.S. market result in decreased quantity supplied to the same extent.

[23] Raymond S. Hartman, Andrew R. Wechsler, and Jeffrey Anspacher, "Elasticity Estimates and Econometric Analysis," op. cit. at II F-3.

[24] Petitioners' prehearing brief, volume II, pp. 9-10.

Figure II-2
Indexed quantities and unit values of combined U.S.-produced and imported Turkish products 1-3, by quarters, 1994-96



Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

discernible effect on the cyclical and generally increasing quantity trend. Based on this and further study of the investigative record, staff estimates the elasticity of demand to be in the range of -0.25 to -0.75.

Elasticity of Substitution Between U.S.-Produced and Imported Turkish Rebar [25]

The elasticity of substitution depends upon the degree to which the U.S. rebar market is segmented based on "Buy America" requirements, captive consumption, and product differentiation. Product differentiation, in turn, depends on such factors as physical composition (e.g., ASTM standard certification, straightness, brittleness, surface condition, etc.) and conditions of sale (e.g., product range, availability, delivery lead times, reliability of supply, standard minimum quantity requirements, etc.). Based on available information, the elasticity of substitution between domestic and imported Turkish rebar is likely to be between 3 and 5.

[25] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the U.S. like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject imported product (or vice versa) when prices change.

In their prehearing brief, petitioners maintained that staff's elasticity of substitution estimate range was much too low. Petitioners argued that a higher value for the elasticity of substitution was supported by comparisons both with the record and with other investigations (e.g., *Nitrile Rubber from Japan, Certain Steel Wheels from Brazil, New Steel Rails from Canada, Certain Flat-Rolled Steel Products,* and *Gray Portland Cement from Mexico).* The elasticity of substitution ranges estimated in these cases ranged from between 3 and 5 to between 5 and 10. Petitioners noted that the prehearing staff report stated that, "As long as imported rebar meets specifications of the ASTM, it would be interchangeable with domestic rebar." Petitioners maintained that differences between the Turkish product and the domestic product in terms of sizes available and customer perceptions, and the existence of "Buy American" requirements are small and play a relatively unimportant role in the decision by a purchaser of rebar, and no role whatsoever in the large non-"Buy American" market segment for rebar. Petitioners stated that by far the most important factor in purchasing decisions was the price of the product, according to purchaser surveys. Petitioners maintained that, comparing staff's estimates in this case to those of previous cases, a significantly higher elasticity of substitution estimate range of between 5 and 10 was appropriate.[26]

At the hearing petitioners clarified that their elasticity of substitution estimate range concerned substitution among small sizes (Nos. 3-5) of rebar only, and not for all rebar subject to the investigation. Petitioners acknowledged that the elasticity of substitution among all sizes of subject imported Turkish and domestic rebar would be lower, and estimated a midpoint substitution elasticity for all rebar subject to the investigation to be 5.[27]

In their posthearing brief petitioners argued four general points:

- The law and economic analysis require that the relevant substitutability is that of the Turkish imported product for the domestic product, not the reverse. This substitution occurs at the margin.
- For similar reasoning, the "Buy American" argument for limiting substitutability fails because the unaffected segment in small rebar alone is sufficiently large to carry on its own very high elasticity of substitution for Turkish product even when the relevant like product is defined as all rebar. "Buy American" provisions do not have any practical impact on the elasticity of substitution in this matter because they do not operate at the relevant margin where Turkish rebar imports compete head-to-head with essentially identical regional product. Thus, no adjustment need be made in the comparisons to past Commission cases for this factor.
- For purely technical reasons owing to the definition of Allen elasticities of substitution, the overall size of the market does reduce somewhat the elasticity of substitution when the relevant market is expanded from small rebar to all subject rebar.
- The appropriate ranges for the elasticity of substitution in this case are as follows:

Domestic like product	Range	Midpoint
All rebar	4.5-7.5	6.0
Small rebar alone	5-10	7.5

Petitioners further argued that the relevant competition is between small rebar in lengths of 40 feet and under, since almost all imported Turkish rebar is of these sizes. Petitioners maintained that "Buy

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[26] Petitioners' prehearing brief, volume II, pp. 6-9.

[27] Hearing transcript, pp. 63 and 94.

American" provisions do not cover the smaller, private projects that use the smaller sizes of imported Turkish rebar. Therefore, "Buy American" restrictions do not affect the market for Turkish rebar imports, and cannot directly decrease the elasticity of substitution of Turkish rebar for domestic regional rebar. Petitioners also argued that the effect of "Buy American" provisions is overstated because (1) some of these provisions are "preferences" and not "restrictions;" (2) there are separate state and national provisions; (3) and there is inadequate enforcement of existing provisions.

At the hearing respondents maintained that, based on "Buy American" restrictions and size differences between imported Turkish and domestic rebar, the elasticity of substitution estimate range should be somewhat lower than that estimated by staff. In their posthearing brief, respondents reported that in four out of the five investigations cited by petitioners in their prehearing brief, "Buy American" policies or practices were not addressed. Respondents maintained that, had the prevalence of "Buy American" restrictions in the present investigation applied in each of these earlier investigations, the reported elasticity of substitution ranges would have been significantly reduced. In *Certain Flat-Rolled Steel Products*, the case cited by petitioners for which "Buy American" provisions were present, respondents stated that "Buy American" restrictions played a significantly smaller role in the marketplace than in the present investigation.

Respondents further reported that the econometric study of the flat-rolled steel industry cited by petitioners presented a variety of estimated elasticities of substitution. Respondents maintained that those elasticities that were estimated based on conventional methodologies that are more commonly used in the econometric literature were significantly lower than those cited by petitioners in this case. Respondents stated that the estimates cited by petitioners in this case were based principally on purchaser questionnaire responses from noncaptive purchasers. Respondents also reviewed two multi-sectoral studies of elasticities of substitution.[28] [29] Both studies found that estimated elasticities of substitution were under 2 in about 95 percent of the individual estimates reviewed.

Staff does not agree with petitioners' characterization that the imported Turkish rebar competes head-to-head with essentially identical domestic rebar. The Commission statement that imported Turkish and domestic rebar are interchangeable as long as they both meet ASTM standards refers to *specific sizes* of rebar. An imported Turkish No. 3 rebar is interchangeable with a U.S.-produced No. 3 rebar. However, an imported Turkish No. 3 rebar is, in most cases, not interchangeable with a U.S.-produced No. 5 rebar. Both U.S. producers and importers of Turkish rebar sell small rebar in bundles (Nos. 3-5). However, U.S. producers charge significantly higher prices for their No. 3 rebar than for their Nos. 4 and 5 rebar, whereas importers of Turkish rebar generally sell their bundles of small rebar (Nos. 3-5) at one price. Purchasers have also complained about the availability of domestic No. 3 bar.[30] For these reasons, purchasers tend to buy imported Turkish rebar when they want No. 3 rebar.[31] Because bundles of imported Turkish small rebar are marketed differently and typically include a higher percentage of No. 3 rebar than domestic bundles of small rebar, purchasers

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[28] See Kenneth A. Reinert and Clinton R. Shiells, "Estimated Elasticities of Substitution for Analysis of a North American Free Trade Area," Staff Research Study 19, U.S. International Trade Commission Office of Economics, undated.

[29] "Armington Elasticities for United States Manufacturing Sectors," *Journal of Policy Modeling*, October 1992 at 631.

[30] Purchaser questionnaire responses of ***.

[31] During 1994-96, No. 3 rebar accounted for *** percent of regional U.S. producers' production of small rebar (Nos. 3-5). Based on available price data accounting for *** percent of imported Turkish rebar shipments, No. 3 rebar accounted for *** percent of imported Turkish shipments during 1994-96.

do not consider the competing bundles of small rebar to be "essentially identical." These differences in marketing and product range reduce the elasticity of substitution. Since the investigations concerning *Nitrile Rubber from Japan* and *Gray Portland Cement and Cement Clinker from Mexico* did not consider product range differences,[32] or any other differences to be significant limiting factors, those investigations are not directly comparable to this investigation. In the investigation concerning *Certain Flat-Rolled Steel Products,* the elasticity of substitution estimate ranges for hot-rolled product varied from a low of 1 to 2 for Japan to a high of 6 to 7 for Canada. The investigations concerning *Certain Steel Wheels from Brazil* and *New Steel Rails from Canada* found the elasticity of substitution estimate range to be 3 to 5 in both cases.

The two multi-sectoral studies of elasticities of substitution cited by respondents estimated elasticities of substitution for 163 mining and manufacturing sectors of the U.S. economy. In general, these sectors were substantially more heterogeneous aggregates of products than the aggregate of products subject to this investigation (deformed rebar sold in straight lengths and coils).[33] A heterogeneous product aggregate will tend to have a lower elasticity of substitution than a homogeneous aggregate since the elasticity of substitution for the heterogeneous aggregate must account for substitution between the more differentiated products included in the aggregate.[34] For this reason, staff believes that the elasticity of substitution for rebar should be higher than most of the elasticities of substitution estimated in these studies.

Substitution Between U.S.-Produced and Imported Nonsubject Rebar

The elasticity of substitution between U.S.-produced and imported nonsubject rebar is likely to be the same as the elasticity of substitution between U.S.-produced and imported Turkish rebar, since imported nonsubject rebar tends to be sold in similar sizes, suffer similar transportation damage, and be subject to the same "Buy American" restrictions as imported Turkish rebar. For this reason, the elasticity of substitution between U.S.-produced and imported nonsubject rebar is also estimated to be in the range of 3 to 5.

Elasticity of Substitution Between Imported Turkish and Imported Nonsubject Rebar

For the same reasons listed above (imported nonsubject rebar tends to be sold in similar sizes, suffer similar transportation damage, and be subject to the same "Buy American" restrictions as imported Turkish rebar), the elasticity of substitution between imported Turkish and imported nonsubject rebar should be higher than the elasticity of substitution between U.S.-produced and imported subject/nonsubject rebar. The elasticity of substitution between imported Turkish and imported nonsubject rebar is estimated to be between 4 and 6.

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[32] In Investigation No. 731-TA-461 (Final), Gray Portland Cement and Cement Clinker from Japan, it was noted that there are five standard types of portland cement. However, it was also noted that specifications for type I and type II are very similar and they account for the majority of sales in the United States. Furthermore, no mention was made of U.S. producers and importers of the Mexican product offering different product ranges. (Economic Memorandum INV-N-084, August 9, 1990, pp. 15-17.)

[33] For example, these studies estimate elasticities of substitution for "fabricated metal work" which would include a variety of fabricated metal products.

[34] This downward bias could be counteracted to a certain extent depending on the relative substitutability of the individual products included in the product aggregate.

PART III: CONDITION OF THE U.S. INDUSTRY

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of 10 firms that accounted for nearly all of U.S. production of rebar in the Eastern tier region in 1996.

U.S. PRODUCERS

The Commission sent producers' questionnaires to a total of 27 firms believed to produce rebar in the United States. Eleven of the firms are located within the states comprising the region and 16 are located outside the region.[1] Questionnaire responses were received from 10 of the 11 firms located within the region and from 10 of the 16 firms located outside the region.[2] [3] Two of the responding firms located within the region and three of the responding firms located outside the region responded to the questionnaire by indicating that they did not produce rebar during the period for which information was requested.[4]

Producers Within the Region

Firms that produce rebar within the region include AmeriSteel Corporation, Atlantic Steel Industries, Auburn Steel Co., Inc., Birmingham Steel Corporation, Connecticut Steel Corporation, New Jersey Steel Corporation, Nucor Steel-South Carolina, and SMI Steel South Carolina.[5] Together, these

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[1] Five firms in the region also have mills (or related mills) outside the region. There are no known U.S. producers of rebar in the District of Columbia or Puerto Rico.

[2] Commercial Steel Corporation, Glassport, PA, responded to the Commission's request for information by submitting a letter in which it stated in part that "***."

[3] The 6 firms outside the region that did not respond to the Commission's questionnaire include AB Steel Mills, Inc. (Cincinnati, OH); Cascade Steel Rolling Mills, Inc. (McMinnville, OR); Hawaiian Western Steel, Ltd. (Ewa Beach, HI); Nucor Steel Division of Nucor Corporation (Jewett, TX); Sheffield Steel Corporation (Sand Springs, OK); and W. Silver, Inc. (Vinton, TX).

[4] Within the region, these firms include Bayou Steel Corporation, LaPlace, LA; and Franklin Industries Company, Franklin, PA. Firms located outside the region include Calumet Steel Company, Chicago Heights, IL; Commercial Metals Company, Dallas, TX; and Northwestern Steel and Wire Company, Sterling, IL. Although Bayou Steel indicated that its LaPlace, LA, mill had no production of rebar during the period for which information was requested, the company's Harriman, TN, mill, which has rolling capacity totaling approximately *** tons annually, did have limited production (***) of rebar in 1995 and *** in 1996. According to Mr. Richard Gonzalez, the firm's chief financial officer, the Tennessee mill was acquired in April 1995 and started production of merchant bar products in July of the same year. Also according to Mr. Gonzalez, Bayou Steel ***. Also, while Commercial Metals Company indicated that it had no production of rebar during the period for which information was requested, several of its subsidiary firms did produce the subject product and supplied the Commission with questionnaire information.

[5] The following 4 firms have related firms or mills outside the region that also produce rebar: Auburn Steel has a related firm (Austeel Lemont) that produces rebar in Lemont, IL; Birmingham Steel has two related mills located in Kankakee, IL, and Seattle, WA, that produce rebar; Nucor Steel South Carolina has related firms

(continued...)

eight firms account for all or nearly all U.S. production of rebar within the subject region. The locations of these firms' production facilities, their rebar sales as a percentage of overall establishment sales in 1996, and each firm's position with respect to support of the petition are shown in table III-1. As shown in the table, two firms, AmeriSteel Corporation and Birmingham Steel Corporation, operate a combined total of seven rebar facilities within the region, as compared with a total of six for all other producers in the region.

Table III-1
Rebar: U.S. producers within the region, locations of their production facilities within the region, their shipments of rebar within the region as a share of their total U.S. shipments of rebar in 1996, and their positions on the petition

Producers within the region	Locations of production facility(ies) within the region	Shipments of rebar within the region as a share (percent) of total U.S. shipments of rebar (1996)	Positions on the petition
AmeriSteel Corp.	Charlotte, NC; Baldwin, FL; Tampa, FL;[1] Jackson, TN; Knoxville, TN	***	Petitioner
Atlantic Steel Industries	Atlanta, GA	***	***
Auburn Steel Co., Inc.	Auburn, NY	***	***
Birmingham Steel Corp.	Birmingham, AL; Jackson, MS	***	***
Connecticut Steel Corp.	Wallingford, CT	***	***
New Jersey Steel Corp.	Sayreville, NJ	***	Petitioner
Nucor Steel	Darlington, SC	***	***
SMI Steel	Columbia, SC	***	***

[1] Facility closed in Sept. 1995.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

AmeriSteel Corporation

Petitioner AmeriSteel Corporation (AmeriSteel) is a U.S. subsidiary of the Japanese steelmaker, Kyoei Steel, Ltd. Incorporated in 1966, AmeriSteel, through its predecessor company, first produced rebar in 1958. Currently, it is the region's largest producer, accounting for *** percent of the region's rebar production in 1994, *** percent in 1995, and *** percent in 1996. In September 1995, the firm closed its

[5] (...continued)
in Jewett, TX, and Plymouth, UT, that also produce rebar; and SMI Steel South Carolina has related firms in Magnolia, AR, and Sequin, TX, that produce rebar.

Tampa, FL, rebar facility, reducing the number of mills in which it produces rebar from five to four. The firm's Knoxville, TN, facility, ***, had the *** rebar production output of the four mills in each period. Conversely, because not more than *** percent of AmeriSteel's Jackson, TN, facility's total rolling capacity was devoted to rebar during the 1994-96 period, that facility produced ***.

AmeriSteel produces both coiled and cut-to-length rebar in sizes ranging from No. 3 to No. 18. Cut-to-length rebar is generally produced in standard lengths of 20, 40, and 60 feet. Merchant bar and wire rod also are produced within the mills wherein rebar is produced. In addition to its operations involving these products, AmeriSteel has about 15 other small businesses that produce a downstream fabricated product.[6]

Birmingham Steel Corporation

Birmingham Steel (Birmingham) is the largest producer of rebar in the United States. It produces rebar at four locations, two within the region and two outside of the region. Inside the region, Birmingham operates rebar facilities in Birmingham, AL, and Jackson, MS.[7] Outside the region, the firm operates rebar facilities located in Kankakee, IL, and Seattle, WA. Birmingham also maintains a rebar distribution facility in Baltimore, MD, and it has a wholly owned subsidiary, Port Everglades Steel, that imports rebar from ***. Other products produced at Birmingham's four rebar facilities include merchant bars and other light-shaped bar products.

New Jersey Steel Corporation

New Jersey Steel Corporation (New Jersey Steel) was formed in 1967 and began rebar production in that same year. It is principally owned by the Swiss firm Von Roll, Ltd., which holds a ***-percent controlling interest. New Jersey Steel has only one location at which it produces rebar and that is Sayreville, NJ. Although merchant bar is also produced at that location, the majority of the firm's rolling capacity between 1994 and 1996 was devoted to rebar production.

Other Producers Within the Region

Other U.S. producers of rebar that have production facilities within the region include Atlantic Steel Industries, Inc. (Atlantic Steel); Auburn Steel Company, Inc. (Auburn Steel); Owen Electric Steel Company of South Carolina (d/b/a SMI Steel South Carolina (SMI South Carolina));[8] Commercial Steel Corporation (Commercial Steel); Connecticut Steel Corporation (Connecticut Steel); and Nucor Steel

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[6] Conference transcript, pp. 18 and 19.

[7] Effective Dec. 1996, Birmingham's Jackson, MS, facility became a part of Birmingham Steel Southeast, LLC, a limited liability corporation formed by Birmingham Steel and Atlantic Steel Industries, Inc. Atlantic's steel-making facility located in Cartersville, GA, also now falls under the ownership of the limited liability corporation.

[8] SMI Steel South Carolina, a subsidiary of Commercial Metals Company, Dallas, TX, acquired Owen Steel Company, Inc., in Nov. 1994. The firm was not able to provide questionnaire information related to the 1994 operations of the acquired company but did supply full year 1995 and 1996 data with respect to its own rebar operations. A summary of data concerning the regional U.S. market excluding SMI Steel South Carolina is presented in appendix C, table C-3.

Division of Nucor Corporation (Nucor).[9] [10] As noted earlier, Commercial Steel is reportedly in bankruptcy proceedings. Based on data reported in the Commission's questionnaire, the combined rebar production of these six firms, excluding Commercial Steel, represented only 20 percent of total rebar production within the region in 1996. Three of the six firms also have related firms that produce rebar outside of the region. Auburn Steel, for example, has a subsidiary firm, Austeel Lemont, that produces rebar at a facility located in Lemont, IL. SMI South Carolina has sister firms located in Magnolia, AR, and in Sequin, TX that also produce rebar.[11] Nucor has rebar production facilities located in Jewett, TX, and in Plymouth, UT. With respect to ownership, two of the firms are controlled by offshore firms. Atlantic Steel is owned by the Canadian firm IVACO, and Auburn Steel is ***-percent owned by Sumitomo Corporation of Japan and ***-percent owned by Kyoei Steel, Ltd. Some of the other products produced by these firms include merchant bar, special quality bar products, rounds, squares, flats, angles, and channels.

Producers Outside the Region

Firms that have U.S. production of rebar outside the region include Auburn Steel (Lemont, IL); Birmingham Steel (Kankakee, IL, and Seattle, WA); CF&I, L.P. (CF&I) (Pueblo, CO); Chaparral Steel Midlothian LP (Chaparral Steel) (Midlothian, TX); Marion Steel Company (Marion, OH); North Star Steel Company (Wayzata, MN); Structural Metals, Inc. (SMI Texas) (Sequin, TX) and SMI Steel Arkansas (SMI Arkansas) (Magnolia, AR); and TAMCO (Rancho Cucamonga, CA). Information concerning Auburn Steel and Birmingham Steel was discussed earlier in this section of the report. CF&I, a subsidiary of Oregon Steel Mills, began production of rebar in 1993, the year it was established. It also produces rod and other bar products at its Colorado location. Chaparral Steel, a subsidiary of Texas Industries, was formed in 1973 and started rebar production in May of that year. It also produces "engineering steel rounds and flats." North Star Steel, a wholly owned subsidiary of Cargill, Inc., operates five minimills in five states in which rebar is produced.[12] The oldest of these minimills had its startup in 1967 and the newest began operations in June 1996.[13] Marion Steel Company of Marion, OH, had its startup in 1982. Only about *** percent of its production capacity in 1996 was dedicated to rebar. The bulk of its rebar shipments are concentrated in ***. SMI Arkansas and SMI Texas are both owned by

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[9] Petitioners allege that a firm known as Franklin Steel also produced rebar within the region but that it was in Chapter 11 bankruptcy proceedings in 1994. Petition, exhibit A-2 at 2. In a letter to the Commission dated Dec. 8, 1996, Mr. James W. Young, vice president of sales and marketing for a firm known as Franklin Industries Company, advised the Commission that Franklin Steel Company closed in Mar. 1994 and filed under Chapter 11. In Feb. 1996, a group of investors purchased the assets of the old Franklin Steel Company and opened a new mill on the premises. The new company, Franklin Industries Company, however, does not manufacture rebar.

[10] Respondents assert that still another firm within the region, Roanoke Electric Steel Corporation, Roanoke, VA, also has production of rebar. However, according to information supplied to the Commission by Mr. Donald G. Smith, chairman of the board and chief executive officer, Roanoke Electric Steel stopped rebar production in about 1991 or 1992 and has since elected to purchase domestically produced rebar to supply its fabricating operations. Telephone conversation between Commission staff and Mr. Donald G. Smith, Mar. 6, 1997.

[11] These firms also are subsidiaries of Commercial Metals Company, Dallas, TX.

[12] North Star Steel's five minimills are located in Kingman, AZ; Wilton, IA; Monroe, MI; St. Paul, MN; and Beaumont, TX.

[13] When fully completed, North Star Steel will have invested nearly $*** in its newest mill in Kingman, AZ. This new facility is expected to produce 500,000 tons annually of steel wire rod and rebar for the construction industry in the Phoenix, Las Vegas, and Los Angeles markets.

CMC Holding Company, which in turn is owned by Commercial Metals Company. TAMCO, which is partly owned by two Japanese entities, Mitsui & Company, Ltd., and Tokyo Steel Manufacturing Co., Inc., had its startup in 1977 and produces only rebar at its facility located in Rancho Cucamonga, CA.

U.S. PRODUCTION CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Except where noted, the information presented in this section of the report is based on the questionnaire responses of 8 firms representing 13 mills within the region wherein rebar is produced and 9 firms representing 10 mills outside of the region wherein the subject merchandise is produced.[14] A summary of the data collected in the investigation on a mill-by-mill basis is presented in appendix E, and a summary of the limited data availiable with respect to small diameter rebar is presented in appendix F.[15]

Five firms reported changes in their operations during the period for which the Commission requested information (1994-96) that impacted their operations or organization relating to the production of rebar.[16] AmeriSteel reported the closure of its Tampa, FL, rebar mill in September 1995. Atlantic Steel noted in its response that, effective December 2, 1996, its Cartersville, GA, mill was contributed to a new joint venture company (Birmingham Steel Southeast, LLC) to be run by Birmingham Steel. Birmingham Steel reported in its questionnaire response that ***. CF&I reported that ***. New Jersey Steel noted that it experienced ***.

Production capacity of a mill can refer either to the mill's melting capacity or to its rolling capacity. The rolling mill is typically the physical constraint limiting the amount of rebar a mill can produce. If a given mill produced rebar to the exclusion of all other products, that mill's rebar capacity would theoretically equal its rolling capacity.[17] Based on information supplied by the 13 firms that responded to the Commission's questionnaire, all but one, TAMCO, produced other merchant and/or bar products utilizing essentially the same rolling process as that used to produce rebar during the period for which the Commission requested information. Therefore, any discussion of capacity applicable to rebar alone would be misleading.

Data on U.S. producers' rolling capacity within mills wherein rebar is produced are shown in table

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[14] The Commission's questionnaire requested that firms supply separate information for each of their mills located within the region and to combine the information for all of their mills located outside of the defined region. AmeriSteel supplied separate information for each of its 5 mills located within the region; Birmingham Steel supplied limited disaggregated information on its 2 rebar operations located within the region and for the 2 located outside the region and aggregated information on all 4 operations; Auburn Steel supplied information concerning its Atlanta, GA, mill and limited information concerning its Lemont, IL, rebar operations; Atlantic Steel, CF&I, Chaparral Steel, Connecticut Steel, Marion Steel, New Jersey Steel, Nucor Steel (SC), SMI Arkansas, SMI South Carolina, SMI Texas, and TAMCO supplied information on their rebar operations at the one mill operated by each. North Star Steel supplied information on its Minnesota rebar mill operations but supplied no information with respect to its mills located in Iowa, Michigan, and Texas.

[15] In their prehearing brief, petitioners argued that the Commission should find two like products consisting of small rebar and large rebar. At the Commission's hearing, petitioners' counsel was asked if the petitioners and other members of the domestic rebar industry were able and willing to provide separate specific information regarding production, employment, and financial peformance for separate small rebar and large rebar. (See transcript at 59-65.)

[16] Although outside the period for which information was requested in the Commission's questionnaire, ***.

[17] See supplement to AmeriSteel's questionnaire response dated Jan. 28, 1997, p. 2.

III-2. The total mill rolling capacity for U.S. producers located within the region *** by *** percent between 1994 and 1996, compared with an increase of 14 percent for U.S. producers located outside the region.

Table III-2
Rolling capacity of U.S. producers' mills wherein rebar is produced, by regions, 1994-96

* * * * * * *

As an indication of the degree to which U.S. producers dedicated their rolling capacity to produce rebar as opposed to other merchant and bar products, appendix table E-3 shows the percentage (on the basis of quantity) of rebar produced by U.S. producers as compared with their production of all steel products within the mill. As shown in the table, the percentage of rebar produced compared with all steel products produced in the mill decreased between 1994 and 1995 for *** of the 13 mills within the region and increased between 1995 and 1996 for an equal number of mills. For the 10 mills outside the region for which information was supplied, rebar production as a percentage of all steel products produced in the mills fell for 5 of the 10 mills between 1994 and 1995 and increased for 6 mills between 1995 and 1996.

Data on U.S. production of rebar by firms located within the region and by firms located outside the region are shown in table III-3. As shown in the table, rebar production by U.S. producers within the region *** steadily between 1994 and 1996, *** by *** percent between 1994 and 1995 and by *** percent between 1995 and 1996. Production by firms located outside the region rose unevenly over the same period, falling by 3 percent between 1994 and 1995 and then increasing by 11 percent from 1995 to 1996.

Table III-3
Rebar: U.S. production, by producers within the region and by producers outside the region, 1994-96

* * * * * * *

Based on information supplied in questionnaire responses, U.S. producers produce both cut-to-length rebar and rebar in coils. Cut-to-length rebars are generally produced in standard lengths of 20, 30, 40, and 60 feet and in sizes (nominal diameter) ranging from No. 3 to No. 18. Six firms reported production of rebar in coils; one of those firms, Connecticut Steel, produces only coiled rebar. Two U.S. producers, Connecticut Steel and SMI Arkansas, produce only small rebar. Connecticut Steel produces Nos. 3-4 rebar, and SMI Arkansas produces Nos. 3-5 rebar. All other U.S. producers produce a range of small and large rebar. All but two U.S. producers (Birmingham Steel and CF&I Steel) were able to supply information on their production of rebar on the basis of size during the period for which the Commission requested information. All firms generally agreed that rebar in sizes from No. 3 through No. 5 constituted small rebar. However, one firm, ***, noted in its response that it agreed in general with that premise except that it believed that No. 6 rebar would be considered by some to be the upper range of small rebar. Data on U.S. producers' production of rebar according to size are presented in figure III-1 and table III-4.

Figure III-1
Rebar: U.S. producers' production of small and large rebar, 1994-96

* * * * * * *

Table III-4
Rebar: U.S. producers' production, by sizes and by regions, 1994-96

* * * * * * *

As shown in figure III-1, U.S. producers' production of small rebar outpaced production of large rebar in all periods. On average, small rebar accounted for about *** percent of total rebar production for those U.S. producers located within the region, compared with an average of about 56 percent for those U.S. producers located outside the region. Table III-4 shows U.S. producers' production by individual sizes. As shown in the table, U.S. producers' production of small rebar was overwhelmingly concentrated in size Nos. 4 and 5 rebar, whereas Nos. 6 and 8 rebar accounted for between *** percent and *** percent of regional producers' production of large rebar and between 49 percent and 50 percent of outside-the-region producers' production of the same.

The 1994-96 production trends for small and large rebar for U.S. producers within the region and U.S. producers outside the region were somewhat dissimilar. U.S. producers within the region, for example, experienced uninterrupted increases in their production of small and large rebar of *** percent and *** percent, respectively, between 1994 and 1996. In contrast, U.S. producers outside the region experienced an uneven increase of 4 percent in their production of small rebar between 1994 and 1996 and a steady increase of 16 percent in their production of large rebar over the same period.

U.S. SHIPMENTS

Data showing U.S. producers' U.S. shipments of rebar within the subject region are presented in table III-5 and data showing U.S. producers' total U.S. shipments of rebar are shown in table III-6.

Table III-5
Rebar: U.S. producers' U.S. shipments within the region, by types, 1994-96

* * * * * * *

Table III-6
Rebar: U.S. producers' total U.S. shipments, by types, 1994-96

* * * * * * *

U.S. producers' U.S. shipments within the region were predominantly accounted for by those producers located within the region (table III-5). U.S. producers outside the region accounted for between 3 percent and 4 percent of the quantity and value of all U.S. producers' total U.S. shipments within the region during 1994-96. The quantity and value of U.S. shipments of rebar within the region by those producers located inside the region *** from 1994 to 1996, *** by *** percent (both quantity and value) from 1994 to 1995 and by *** percent and *** percent, respectively, from 1995 to 1996. The average unit value of such U.S. producers' U.S. shipments within the region fell over the same period, declining by 4

percent overall.

The quantity and value of U.S. producers' total U.S. shipments of rebar both rose by 13 percent from 1994 to 1996. The increase in the value of such U.S. shipments was steady throughout the period while the quantity of such U.S. shipments dipped slightly in 1995 before increasing in 1996 (table III-6). The average unit value of such U.S. shipments increased by 2 percent from 1994 to 1995 and then fell back to its 1994 level in 1996. Although the data for U.S. producers outside the region is somewhat understated because of the failure of at least one firm to supply information on its rebar operation outside the region, U.S. producers outside the region accounted for slightly more than half of the quantity and value of total U.S. shipments of rebar as reported by both groups of U.S. producers between 1994 and 1996. The data show that both groups of producers experienced overall increases in the quantity and value of their total U.S. shipments between 1994 and 1996. For U.S. producers inside the region, the quantity and value of such U.S. shipments increased uninterruptedly by 18 percent and 15 percent, respectively, from 1994 to 1996. For U.S. producers located outside the region, the increases were 8 percent and 11 percent, respectively. The average unit value of total U.S. shipments of rebar by producers within the region rose slightly from 1994 to 1995 but then declined by 4 percent from 1995 to 1996. The average unit value of total U.S. shipments for U.S. producers outside the region rose by nearly 4 percent between 1994 and 1995 but then dipped slightly between 1995 and 1996.

Fabricators represent a significant market for U.S.-produced rebar. AmeriSteel and New Jersey Steel are themselves fabricators, each consuming a portion of their rebar production for that purpose. In the case of New Jersey Steel, the production and fabrication of stock rebar takes place at one site. AmeriSteel, however, has multiple locations in which fabrication may occur. These two firms accounted for *** reported internal consumption/intercompany transfers of rebar for producers located within the region. Internal consumption/intercompany transfer shipments accounted for between *** percent and *** percent of AmeriSteel's regional U.S. shipments of rebar between 1994 and 1996, and represented between *** percent and *** percent of New Jersey's total shipments within the region over the same period. Internal consumption/intercompany transfers accounted for *** percent of regional shipments in 1994, *** in 1995, and *** percent in 1996.

Six U.S. producers within the region and five outside the region were able to supply information on the quantity of their U.S. shipments of rebar on a state-by-state basis. Such data, reported on the basis of the overall establishment rather than on a mill-by-mill basis for firms operating more than one mill, are shown in table III-7. Between 1994 and 1996, U.S. producers within the region accounted for better than 90 percent of the total reported volume of U.S. shipments of rebar into 16 of the 22 states (plus the District of Columbia and Puerto Rico) comprising the region. States within the region that received the majority of regional producers' shipments in 1996 included Alabama, Florida, Georgia, Kentucky, Maryland, Massachusetts, New York, North Carolina, Pennsylvania, Puerto Rico, South Carolina, Tennessee, and Virginia. By virtue of its numerous fabricating operations in the state of Florida, AmeriSteel ***.

Three firms (***) supplied the information shown in table III-7 for Puerto Rico. However, the vast majority (*** percent in 1996) of the shipments into Puerto Rico was accounted for by ***. It is estimated that small diameter rebar accounts for two-thirds of the total rebar market in Puerto Rico.[18] Small rebar, which is used predominantly in residential construction, is supplied in this market by both U.S. producers and U.S. imports. Rebar used in Puerto Rican public works projects, on the other hand, is mostly supplied by domestic producers due to "Buy American" provisions which mandate the use of U.S.-produced rebar.[19]

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[18] See testimony of Mr. Victor Gonzalez at the Commission's hearing (transcript, p. 126).

[19] Ibid.

Table III-7
Rebar: U.S. producers' U.S. shipments, by states, 1994-96

* * * * * * *

Figure III-2 shows the combined U.S. shipments of small and large rebar to Puerto Rico as reported by ***. As shown, the quantities of small and large rebar that were shipped to Puerto Rico in 1994 were nearly equal, with small rebar having a slight edge. In 1995, nearly twice as much small rebar was shipped as large rebar, and in 1996 the gap closed somewhat.

Figure III-2
Rebar: U.S. producers' U.S. shipments of small and large rebar to Puerto Rico, 1994-96

* * * * * * *

U.S. PRODUCERS' EXPORTS

Three firms, ***, reported having exported rebar during the period for which the Commission requested information. *** and *** exported rebar to Canada, whereas *** exported principally to Canada, Mexico, and the Philippines. As shown in the tabulation that follows, the aggregate quantity and value of these U.S. producers' exports rose slightly from 1994 to 1995 and then dropped precipitously from 1995 to 1996.

Item	1994	1995	1996
Export quantity (*short tons*)	***	***	***
Export value (*$1,000*)	***	***	***
Average unit value (*per ton*)	$***	$***	$***

U.S. PRODUCERS' PURCHASES

No producers within the region reported purchases of rebar during the period for which information was requested. Three firms located outside the region, however, did report such purchases. ***, the firm that accounted for the bulk of the purchases, stated that it purchased *** rebar to help minimize the effects of shortages of its own production. *** noted that demand for other products produced at the mills limited the available capacity to produce rebar since the other products could not be purchased elsewhere. *** purchased rebar from other domestic producers as well as from other domestic sources. *** stated that it purchased rebar from other domestic producers. Its purchases consisted of No. 3 rebar, a product it does not produce, and No. 4 rebar, the demand for which exceeded its own production. Total rebar purchases by all three firms are shown in the following tabulation:

Item	1994	1995	1996
Quantity of purchases (*short tons*)	***	***	***
Value of purchases (*$1,000*)	***	***	***
Average unit value (*per ton*)	$***	$***	$***

U.S. PRODUCERS' INVENTORIES

Data on U.S. producers' end-of-period inventories of rebar are shown in table III-8.[20] As shown in the table, the combined end-of-period inventories of U.S. producers within the region and U.S. producers outside the region rose sharply from 1994 to 1995 and then declined from 1995 to 1996. Such end-of-period inventories rose by 77 percent between 1994 and 1995 and declined by 21 percent between 1995 and 1996. The ratios of inventories to production and inventories to total U.S. shipments closely paralleled each other in all periods.

Table III-8
Rebar: U.S. producers' end-of-period inventories, 1994-96

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

In the Commission's questionnaire, producers were requested to report any reductions in the number of production and related workers (PRWs) producing rebar that occurred within their U.S. reporting establishments during the period for which information was requested. Producers were also requested to provide the date such reductions occurred, the number of workers affected by the reductions, the duration of the reductions, and the reason for the reductions. Four producers within the region reported such reductions and none located outside of the region did so.

AmeriSteel reported permanent reductions of *** workers in July 1994 and *** workers in September 1995 resulting from its decision to shut down its Tampa, FL, mill. Also, in August 1995 and in March 1996, AmeriSteel furloughed a total of *** workers at three mills (Charlotte, Jackson, and Knoxville) for *** while it ***. Birmingham Steel noted in its response that it reduced its number of workers by one shift because of ***. New Jersey Steel reported a reduction of *** workers in July 1994, *** workers in December 1995, and *** workers in 1996 as a result of "***."

Employment data for the U.S. industry producing rebar are shown in table III-9. Employment trends for the industry as a whole were generally favorable over the 1994-96 period: the average number of PRWs increased by *** percent; the number of hours worked by PRWs rose unevenly, increasing by *** percent; wages paid to PRWs as well as hourly wages paid to those same workers increased by *** percent and *** percent, respectively; worker productivity rose by over *** percent from 1994 to 1995 but then declined by nearly the same percentage from 1995 to 1996; and unit labor costs rose by nearly *** percent. The data also show that U.S. producers outside of the region benefitted from significantly greater worker productivity from their PRWs at substantially lower unit labor costs compared with U.S. producers located within the region.

[20] Two firms, Birmingham Steel and CF&I, did not report inventory data.

Table III-9
Rebar: Average number of PRWs, hours worked, wages paid to such PRWs, and hourly wages, productivity, and unit labor costs, 1994-96

* * * * * * *

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent questionnaires to 37 firms believed to be importing rebar. Responses were received from 29 firms, 4 of which responded that they did not import rebar from any source during the period for which information was requested. Nine of the 25 firms that supplied usable information are owned by offshore firms. Countries represented by these parent firms include Germany, Japan, Luxembourg, South Korea, Sweden, and Turkey. Two U.S. importers, Commercial Metals Company and Port Everglades Steel Corporation, are affiliated with domestic rebar producers. The former is the parent firm to SMI Steel and the latter became a wholly owned subsidiary of Birmingham Steel effective December 31, 1994.[1]

In terms of sizes of rebar imported by U.S. importers, one firm noted that it imports up to size No. 8 rebar, four firms noted that they import rebar up to size No. 6, and all other U.S. importers import rebar in size Nos. 3-5. None of the U.S. importers reported imports of rebar in lengths greater than 40 feet. Lengths of 20, 30, and 40 feet are standard for imported Turkish rebar. No U.S. importer reported imports of rebar in coils.

The total quantity and value of U.S. imports of rebar from sources other than Turkey fall far below the quantity and value of such U.S. imports as shown in official statistics of the U.S. Department of Commerce. Data in this section of the report concerning U.S. imports of rebar from sources other than Turkey, therefore, are based on official statistics, which are believed to be more reliable. Data on U.S. imports from Turkey are based on questionnaire responses.

The quantity and value of U.S. imports of rebar from all sources rose by 76 percent and 68 percent, respectively, from 1994 to 1996, increasing from 335.3 million short tons, valued at $94.0 million, in 1994 to 589.2 million short tons, valued at $157.5 million, in 1996 (table IV-1). The quantity and value of such U.S. imports from Turkey, however, fell unevenly by 34 percent and 30 percent, respectively, over the same period. The quantity and value of such imports rose by 14 percent and 19 percent, respectively, from 1994 to 1995 and then fell sharply from 1995 to 1996, declining by 42 percent and 41 percent, respectively. In contrast, the average unit value of U.S. imports from Turkey rose in all periods, increasing by 4 percent between 1994 and 1995 and by 2 percent between 1995 and 1996. The overall decline in the quantity of U.S. imports of Turkish rebar over the 3-year period was more than offset by the nearly 3-fold increase in the quantity of U.S. imports from all other sources, particularly from Mexico and Venezuela. Such U.S. imports from all other sources increased from 38 percent of the quantity and 40 percent of the value of total U.S. imports in 1994 to 77 percent of the quantity and 75 percent of the value of such imports in 1996.

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[1] Commercial Metals reported imports ***, and Port Everglades reported ***. Commercial Metals' reported ***. ***. Port Everglades' reported ***. Commercial Metals also reported ***. Port Everglades also reported ***.

Table IV-1
Rebar: U.S. imports, by sources, 1994-96

Source	1994	1995	1996
	Quantity (*short tons*)		
Turkey[1]	208,860	238,893	138,400
All other sources	126,468	246,685	450,800
Total	335,328	485,578	589,200
	Value[2] (*1,000 dollars*)		
Turkey[3]	56,666	67,448	39,889
All other sources	37,321	71,057	117,595
Total	93,987	138,505	157,484
	Unit value (*per short ton*)		
Turkey	$271	$282	$288
All other sources	295	288	261
Average	280	285	267
	Share of total quantity (*percent*)		
Turkey	62.3	49.2	23.5
All other sources	37.7	50.8	76.5
Total	100.0	100.0	100.0
	Share of total value (*percent*)		
Turkey	60.3	48.7	25.3
All other sources	39.7	51.3	74.7
Total	100.0	100.0	100.0

[1] As reported in official statistics, U.S. imports from Turkey totaled 201,544 short tons in 1994, 285,621 short tons in 1995, and 130,930 short tons in 1996.

[2] Landed, duty-paid value.

[3] As reported in official statistics, U.S. imports from Turkey were valued at $54.8 million in 1994, $80.7 million in 1995, and $44.0 million in 1996. The value figure reported in official statistics for Turkey in 1996 is believed to be overstated.

Source: U.S. imports from Turkey, compiled from questionnaire data; U.S. imports from all other sources, compiled from official statistics of the U.S. Department of Commerce.

Commerce found that critical circumstances exist with respect to U.S. imports of Turkish rebar, except for rebar exported by Colakoglu. Data concerning U.S. imports from Turkey on a monthly basis for calendar year 1996, based on official statistics (with the exception of rebar exported by Colakoglu, which was obtained from counsel), are shown in the tabulation that follows (in *short tons*):

Month	Official statistics	Colakoglu[1]	Month	Official statistics	Colakoglu[1]
January	2,271	***	July	36,687	***
February	0	***	August	17,819	***
March	13,123	***	September	0	***
April	31,286	***	October	2,889	***
May	21,882	***	November	0	***
June	4,960	***	December	13	***

[1] Commerce made a negative determination with respect to critical circumstances applying to Colakoglu.

U.S. IMPORTERS' U.S. MARKETS

In the Commission's questionnaire, U.S. importers were requested to identify the U.S. ports at which their imports from Turkey are entered and also to report their U.S. shipments of Turkish rebar by state. Fourteen supplied such information. Four of the 14 firms, 2 of which are located in the Texas area, identified Houston, TX, and Chicago, IL, as ports outside of the petition-defined region in which they enter imported Turkish rebar. One of the four firms noted that some of its imports that are entered and sold at the port in New Orleans are subsequently put on barges for shipment to markets in Illinois, Arkansas, Kansas, and Missouri. One firm also noted in its response that on at least one occasion in 1995, it entered and sold rebar at the port of New Orleans that was later sent to Missouri.[2]

According to official statistics of the U.S. Department of Commerce, rebar imported from Turkey during 1994 and 1996 entered the United States at ports in 12 of the 22 states (plus the District of Columbia and Puerto Rico) that comprise the subject region, and at 2 ports outside the region. U.S. ports within the region were in Florida, Georgia, Louisiana, Maryland, Massachusetts, North Carolina, Pennsylvania, and Puerto Rico. The two ports outside the region were in Texas and the U.S. Virgin Islands. The port at San Juan, PR, accounted for 53 percent of all U.S. imports of rebar from Turkey that entered the United States in 1994 and 48 percent and 73 percent of such imports that entered in 1995 and 1996, respectively. Ports in the Houston/ Galveston, TX, area accounted for 17 percent of Turkish rebar entered into the United States in 1994, 22 percent in 1995, and 11 percent in 1996.

U.S. importers were asked in the Commission's questionnaire to report their U.S. shipments of imported Turkish rebar on a state-by-state basis. Eighteen of the 25 importers that

[2] Conference transcript, p. 136.

supplied questionnaire information reported such state-by-state shipments; those data are shown in table IV-2. As shown in the table, Florida, Puerto Rico, and Texas accounted for the bulk of U.S. importers' U.S. shipments between 1994 and 1996. As a group, states within the region, including Puerto Rico, accounted for between 71 percent and 80 percent of U.S. importers' reported total U.S. shipments by state.

Table IV-2
Rebar: U.S. importers' U.S. shipments of the Turkish product, by states, 1994-96

* * * * * * *

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of rebar within the subject region are presented in table IV-3, and data on apparent U.S. consumption of rebar in the total U.S. market are shown in table IV-4. The quantity and value of apparent U.S. consumption of rebar within the region rose steadily between 1994 and 1996, increasing from *** short tons, valued at $***, in 1994 to *** short tons, valued at $***, in 1996. The changes in such apparent consumption represented increases of 18.5 percent by quantity and 14.8 percent by value. The quantity and value of apparent consumption within the region increased by 2.0 percent and 2.6 percent, respectively, from 1994 to 1995 and increased by 16.2 percent and 11.9 percent, respectively, from 1995 to 1996. Similarly, the quantity and value of apparent consumption outside the region fluctuated upward by 16.9 percent and 18.4 percent, respectively, from 1994 to 1996.

Apparent consumption in the total U.S. market rose from 4.5 million short tons, valued at $1.3 billion, in 1994 to 5.3 million short tons, valued at $1.6 billion, in 1996. The quantity and value of such apparent consumption increased by 17.6 percent and by 16.8 percent, respectively, over the 3-year period.

U.S. MARKET SHARES

Data on U.S. market shares for the subject region are shown table IV-5, and data on U.S. market shares for the total U.S. market are shown in table IV-6. Regional producers' market share of the regional market rose from *** percent, on the basis of quantity, in 1994 to *** percent in 1995 and declined to *** percent in 1996. On the basis of value, regional producers' market shares rose and fell similarly, increasing from *** percent in 1994 to *** percent in 1995, and declining to *** percent in 1996. On the basis of quantity, U.S. importers' U.S. shipments of Turkish rebar in the regional market declined from *** percent in 1994 to *** percent in 1995 and dropped sharply to *** percent in 1996. Such market shares, on the basis of value, declined similarly, falling from *** percent in 1994 to *** percent in 1996. With respect to the total U.S. market, U.S. producers' market shares declined steadily from *** percent, on the basis of quantity, and *** percent, on the basis of value, in 1994 to *** percent and *** percent, respectively, in 1996. On the basis of quantity, regional producers' share of the total market increased irregularly from *** percent in 1994 to *** percent in 1996. On the basis of value, regional producers market share increased by half a percentage point from 1994 to 1995 and declined by 1.3 percentage points from 1995 to 1996. Market shares accounted for by U.S. importers' U.S. shipments of Turkish rebar fluctuated downward from *** percent on the basis of quantity and *** percent on the basis of value, in 1994, to *** percent on the basis of both quantity and value in 1996.

Table IV-3
Rebar: U.S. shipments of domestic product within the region, U.S. imports from Turkey and from all other sources into the region, and apparent consumption within the region, 1994-96

Source	1994	1995	1996
	Quantity (*short tons*)		
U.S. shipments by:			
Producers within the region	***	***	***
Producers outside the region	***	***	***
Subtotal	***	***	***
U.S. imports/shipments of imports into the region:			
From Turkey	157,926	159,275	110,867
From all other sources	64,721	51,355	147,972
Subtotal	222,647	210,630	258,839
Apparent U.S. consumption in the region	***	***	***
	Value (*1,000 dollars*)		
U.S. shipments by:			
Producers within the region	***	***	***
Producers outside the region	***	***	***
Subtotal	***	***	***
U.S. imports/shipments of imports into the region:			
From Turkey	44,935	44,891	32,548
From all other sources	18,794	14,102	40,039
Subtotal	63,729	58,993	72,587
Apparent U.S. consumption in the region	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Table IV-4
Rebar: U.S. shipments of domestic product, U.S. imports from Turkey and from all other sources, and apparent consumption in the total U.S. market, 1994-96

Source	1994	1995	1996
	Quantity (*short tons*)		
U.S. shipments by:			
Producers within the region	***	***	***
Producers outside the region	***	***	***
Subtotal	***	***	***
U.S. imports/shipments of imports :			
From Turkey	202,463	232,779	138,445
From all other sources	126,468	246,685	450,800
Subtotal	328,931	479,464	589,245
Apparent consumption in the total U.S. market	***	***	***
	Value (*1,000 dollars*)		
U.S. shipments by:			
Producers within the region	***	***	***
Producers outside the region	***	***	***
Subtotal	***	***	***
U.S. imports/shipments of imports:			
From Turkey	55,745	66,242	40,797
From all other sources	37,321	71,057	117,595
Subtotal	93,066	137,299	158,392
Apparent consumption in the total U.S. market	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Table IV-5
Rebar: Apparent consumption and market shares within the region, 1994-96

* * * * * * *

Table IV-6
Rebar: Apparent consumption and market shares in the total U.S. market, 1994-96

* * * * * * *

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

Raw Material Costs

The primary raw material used in the production of rebar is scrap. According to most of the questionnaire responses of the domestic producers, the price of scrap increased during the period 1994 through 1996.[1] Scrap prices reported by AmeriSteel are presented below in figure V-1.

Figure V-1
Scrap prices: Prices reported by AmeriSteel for its purchases of steel scrap from its largest supplier, ***, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Seven of the responding domestic producers indicated that rebar prices increased at least some in response to increasing scrap prices. Of these producers, four stated that prices for rebar increased only as much as the market would accept, not by the full increase in scrap prices.[2] One producer, ***, reported that the price of rebar is determined independently of scrap prices and another, ***, stated that the main driving force for rebar prices is found in the marketplace.

Transportation Costs

Transportation charges for rebar from Turkey to the U.S. market are estimated to be 11.1 percent. This estimate is derived from official U.S. import data and represents the transportation and other charges on imports valued on a c.i.f. basis compared to customs value.

According to the questionnaire responses of the domestic producers, U.S. inland transportation costs for sales within the Eastern tier region account for between 5 and 15 percent of the total delivered cost of rebar. According to ***, a Puerto Rican purchaser of rebar from domestic sources and an importer of Turkish rebar, transportation charges from the continental United States to Puerto Rico are estimated to be $*** per short ton. In addition, *** reports that it costs approximately $*** per short ton to transport rebar from its mill to its continental U.S. port in ***. Mr. Gonzalez of Mateco, a Puerto Rican purchaser of both U.S.-produced and imported Turkish product, alleged that the ocean freight costs between the continental United States and Puerto Rico are expensive due to the Jones Act requirement to use U.S.-built, owned, and managed ships.[3]

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[1] Eight U.S. producers reported that scrap prices increased during 1994-96, three reported that scrap prices remained the same, one reported that prices fluctuated up and down, and one reported that scrap prices decreased during 1995-96.

[2] Gary Giovannetti of New Jersey Steel stated that although they were successful in passing along scrap price increases in 1994 by raising the price of rebar, in 1995 sales prices of rebar declined despite increases in the price of scrap. Conference transcript, p. 41.

[3] *** reported in its questionnaire response that Jones Act restrictions may increase freight costs to Puerto
(continued...)

Commerce Margins of Dumping

On February 25, 1997, Commerce published notice of its final determination that rebar from Turkey is being, or is likely to be, sold in the United States at LTFV. The final margins are as follows (in percent):

Turkish producer/exporter	LTFV margin	Critical circumstances
Colakoglu	9.84	No
Ekinciler	18.68	Yes
Habas	18.54	Yes
IDC	41.80	Yes
Metas	30.16	Yes
All others	16.06	Yes

Commerce's period of investigation was January 1, 1995, through December 31, 1995. To determine whether sales of rebar from Turkey to the United States by the Turkish exporters Colakoglu, Ekinciler, Habas, and Metas were made at LTFV, Commerce compared the "Export Price" (EP) to the "Normal Value" (NV). Regarding Habas and Metas, Commerce calculated NV based on constructed value (CV). Regarding Colakoglu and Ekinciler, Commerce calculated NV based on sales at the same level of trade as the U.S. sale. IDC failed to reply completely to Commerce's requests for information. Thus, Commerce determined that an adverse inference was warranted with regard to IDC, and assigned to IDC the highest margin stated in the notice of initiation, 41.8 percent.

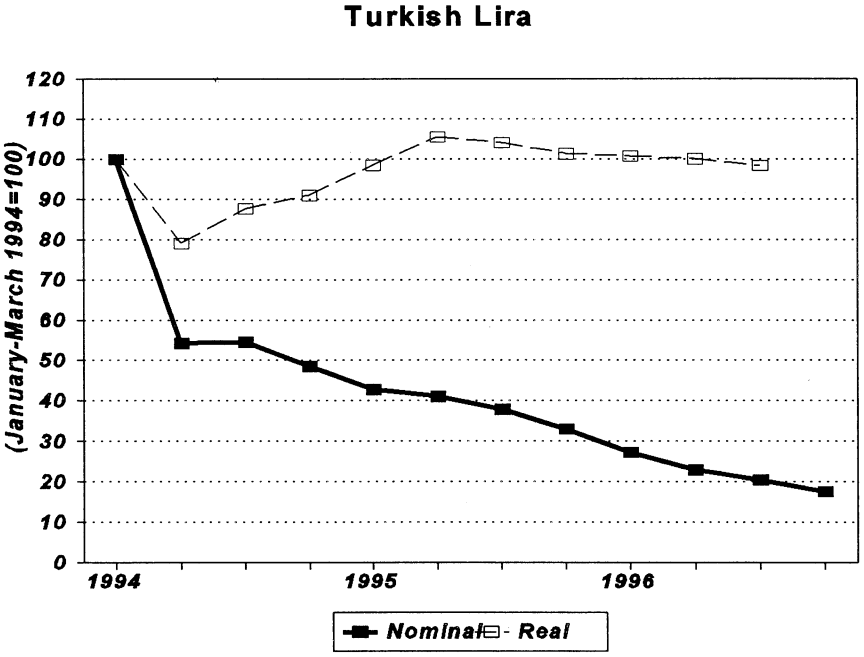
Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Turkish lira depreciated sharply by 45.7 percent in relation to the U.S. dollar between the first and second quarters of 1994, then continued to fall during the rest of the period. The real exchange rate fell 20.8 percent between the first and second quarters of 1994, but rose to its highest point in the second quarter of 1995, then fell slightly during the rest of the period (figure V-2).

---

[3](...continued)
Rico by limiting freight competition. *** reported in its questionnaire response that its shipping costs would have been *** percent lower if it were allowed to use foreign boats to ship from the continental United States to Puerto Rico.

Figure V-2
Exchange rates: Indices of the nominal and real exchange rates between the U.S. dollar and Turkish lira, by quarters, Jan. 1994-Dec. 1996



Source: International Monetary Fund, *International Financial Statistics*, February 1997.

Tariff Rates

Imports of rebar from Turkey are dutiable at 3.4 percent *ad valorem*.

PRICING PRACTICES

Four of the 14 responding U.S. producers publish price lists. Most U.S. producers sell on a spot basis at market prices, although seven indicated that at least some product is sold on a contract basis. The duration of contracts ranges from quarterly to annual, and both quantity and price are fixed. One producer indicated that although price is fixed, escalators are built into the contract. Prices are generally quoted f.o.b., although 8 of the 14 responding producers indicated that they equalized freight for at least some transactions during the period. Equalizing freight means that the customer pays only the cost of freight from the nearest source, while the producer pays the difference in freight from the mill.[4] All 14 responding

[4] Conference transcript, p. 24.

producers indicated that they offer rebates for prompt payment of invoices. Rebates are generally 0.5 percent.[5]

Most of the importers sell product on a spot basis and set prices using transaction-by-transaction negotiation. Nineteen of the 20 responding importers reported that they offer no set discounts, with the other offering a volume discount. Prices are generally quoted f.o.b. U.S. port of entry; no importers reported that they equalized freight during the period of investigation.[6] Sales terms are generally net 30 days, with only one importer reporting rebates for prompt payment.

Smaller size rebar is more expensive to produce than larger size rebar since it is lighter in weight and fewer tons per hour are produced. The U.S. producers generally charge a premium for the smaller diameter rebar, while the importers of the Turkish product charge a standard price with no size differential.[7] Both the U.S. producers and importers have bundling requirements when selling rebar; that is, only a certain percentage of an order is available in the smallest sizes. Turkish imports are concentrated in the smaller diameters due to the need for smaller sizes in the home market, and bundling requirements are less restrictive.

PRICE DATA

The Commission requested U.S. producers and importers to report the total net U.S. f.o.b. and delivered value for sales of selected rebar products to unrelated U.S. customers, as well as the total quantity shipped, in each quarter from January 1994 through December 1996. The products for which pricing data were requested are as follows:[8]

Product 1: ASTM A615, No. 3, grade 60 stock rebar
Product 2: ASTM A615, No. 4, grade 60 stock rebar
Product 3: ASTM A615, No. 5, grade 60 stock rebar

Seven U.S. producers and 14 importers provided usable pricing data for sales of the requested products in the Eastern tier region, although not necessarily for all products or all quarters over the period examined.[9] Pricing data are broken out by sales within the Eastern tier region excluding Puerto Rico (tables V-1 to V-3 and figures V-3 to V-5), and sales to Puerto Rico (tables V-4 to V-6 and figures V-6 to V-8). Reported pricing data for sales within the entire Eastern tier region are estimated to account for *** percent of U.S. producers' open-market shipments of rebar within the region, and *** percent of U.S. shipments of rebar into the region from Turkey.

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[5] In 1995, New Jersey Steel began a "foreign fighter" program which provides ***.

[6] One importer, ***, reported that its U.S. supplier, ***, had to ***.

[7] Conference transcript., p. 29.

[8] The Commission also requested price data for these three products in coil form. Price data for the coiled products are presented in appendix G.

[9] Seven U.S. producers and five importers provided usable price data for U.S. sales of rebar outside the Eastern tier region. These data are presented in app. G and accounted for *** percent of U.S. producers' shipments of rebar outside of the region and *** percent of U.S. shipments of rebar from Turkey outside of the region.

Table V-1
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers within the Eastern tier region, excluding Puerto Rico, for product 1 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table V-2
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers within the Eastern tier region, excluding Puerto Rico, for product 2 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table V-3
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers within the Eastern tier region, excluding Puerto Rico, for product 3 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure V-3
Rebar: Weighted-average net f.o.b. prices for sales of product 1 to U.S. customers within the Eastern tier region, excluding Puerto Rico, reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure V-4
Rebar: Weighted-average net f.o.b. prices for sales of product 2 to U.S. customers within the Eastern tier region, excluding Puerto Rico, reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure V-5
Rebar: Weighted-average net f.o.b. prices for sales of product 3 to U.S. customers within the Eastern tier region, excluding Puerto Rico, reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table V-4
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers within Puerto Rico, for product 1 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table V-5
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers within Puerto Rico, for product 2 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table V-6
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers within Puerto Rico, for product 3 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure V-6
Rebar: Weighted-average net f.o.b. prices for sales of product 1 to U.S. customers within Puerto Rico reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure V-7
Rebar: Weighted-average net f.o.b. prices for sales of product 2 to U.S. customers within Puerto Rico reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure V-8
Rebar: Weighted-average net f.o.b. prices for sales of product 3 to U.S. customers within Puerto Rico reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

U.S. Producers' and Importers' Prices Within the Eastern Tier Region Excluding Puerto Rico

U.S. Product

U.S. producers' prices for product 1 rose by 16.4 percent during 1994 to a peak of $*** per short ton in the fourth quarter of 1994. Prices fell by 14.7 percent during 1995 and the first quarter of 1996 to a low point of $*** per short ton, then increased by 13.8 percent over the rest of 1996 to end the period up by 12.9 percent. Prices for U.S. product 2 followed a similar pattern. Product 2 prices rose by 19.7 percent to the high of $*** per short ton in the first quarter of 1995. Prices fell by 12.7 percent to $*** per short ton in the first quarter of 1996, then increased by 7.8 percent during the last three quarters of 1996 to end the period up 12.6 percent. Prices for U.S. product 3 followed prices for U.S. products 1 and 2. Product 3 prices increased by 16.1 percent during 1994 to a high point of $*** in the fourth quarter of 1994. Prices fell by 12.2 percent during 1995 and the first quarter of 1996, then increased by 8.1 percent during the rest of 1996 to end the period up 10.4 percent.

Turkish Product

Available prices for imported Turkish product 1 increased by 2.5 percent between the second and third quarters of 1994 to a high point of $*** per short ton. Prices then declined by 7.3 percent during the rest of 1994 and the first two quarters of 1995 to a low point of $*** per short ton. Available prices then increased by 3.8 percent during the rest of the period, ending the period down 1.4 percent. Available prices for imported Turkish product 2 declined by 6.9 percent between the third quarter of 1994 and the first quarter of 1995 to a low point of $*** per short ton. Available prices then increased by 2.9 percent during the rest of the period to end the period down 4.2 percent. Available prices for imported Turkish product 3 fluctuated during the period within the relatively narrow range of $*** to $*** per short ton, ending the period at approximately the same price level as at the beginning.

Price Comparisons of U.S. and Turkish Rebar Within the Eastern Tier Region Excluding Puerto Rico

Tables V-1 through V-3 show the margins of underselling/(overselling) for U.S. and Turkish rebar sold within the Eastern tier region excluding Puerto Rico from January-March 1994 through October-December 1996. Overall, the Turkish product was priced below the U.S. product in 15 of 23 instances. Margins ranged from 7.9 to 18.9 percent for product 1, from negative 5.7 to 8.6 percent for product 2, and from negative 7.5 to 5.5 percent for product 3. The higher margins of underselling for product 1 relative to products 2 and 3 are largely due to the fact the U.S. producers charge significantly higher prices for product 1 versus products 2 and 3, whereas importers tend to charge the same price for products 1-3. For products 2 and 3, price comparisons tended to show overselling after the second quarter of 1995.

U.S. Producers' and Importers' Prices Within Puerto Rico[10]

U.S. Product

U.S. producers reported price data for rebar sold within Puerto Rico only during 1995-96. Reported price data for U.S. products 1-3 all showed similar trends. Prices for product 1 were constant during the first three quarters of 1995, fell by 11.8 percent in the fourth quarter of 1995, remained constant during the next two quarters, then increased by 10.0 percent over the last two quarters of 1996. Product 1 prices were 3.0 percent lower at the end of the period than they were at the beginning. Prices for product 2 were constant during the first three quarters of 1995, fell by 8.5 percent in the fourth quarter of 1995, remained constant during the next two quarters, then increased by 9.6 percent over the last two quarters of 1996. Product 2 prices returned to their original price level at the end of the period. Prices for product 3 were constant during the first three quarters of 1995, fell by 8.6 percent in the fourth quarter of 1995, remained constant during the next two quarters, then increased by 9.8 percent over the last two quarters of 1996. Product 3 prices also returned to their original price level at the end of the period.

Turkish Product

Reported price data for imported Turkish products 1-2 also showed similar trends. Prices for imported Turkish product 1 fluctuated downward by 8.1 percent during 1994, then fluctuated upward by 7.8 percent during 1995 and the first three quarters of 1996. Product 1 prices were 0.9 percent lower at the end of the period than they were at the beginning. Prices for imported Turkish product 2 fluctuated downward by 8.5 percent during 1994, then fluctuated upward by 8.4 percent during 1995 and the first three quarters of 1996. Product 2 prices were 0.8 percent lower at the end of the period than they were at the beginning. Prices for imported Turkish product 3 fluctuated downward by 8.7 percent during 1994, then fluctuated upward by 3.3 percent during 1995 and the first three quarters of 1996. Product 1 prices were 5.7 percent lower at the end of the period than they were at the beginning.

Price Comparisons of U.S. and Turkish Rebar Within Puerto Rico

Tables V-4 through V-6 show the margins of underselling/(overselling) for U.S. and Turkish rebar sold within Puerto Rico from January-March 1994 through October-December 1996. Overall, the Turkish product was priced below the U.S. product in 15 of 21 instances. Margins ranged from negative 3.6 to 12.8 percent for product 1, from negative 3.5 to 10.1 percent for product 2, and from negative 3.5 to 10.0 percent for product 3. Prices of U.S. products 1-3 were significantly higher than those of imported Turkish products 1-3 during the first three quarters of 1995, before declining abruptly in the fourth quarter of 1995 to come more into line with prices for imported Turkish products 1-3.

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[10] Since imported Turkish rebar is generally sold c.i.f. landed duty paid San Juan, PR., the f.o.b. plant prices for sales of U.S. rebar to Puerto Rico were adjusted to account for: transportation from the U.S. plant to the U.S. port of exit; shipping costs from the U.S. port of exit to San Juan; insurance costs; Puerto Rican excise taxes; and offloading charges.

LOST SALES AND LOST REVENUES

One of the responding producers, ***, cited two specific instances in its questionnaire response of lost sales due to imports of rebar from Turkey.[11] *** indicated that they had lost both revenues and sales. *** indicated that it had reduced prices and rolled back announced price increases due to the imported Turkish product. Two producers, ***,[12] reported that they had lost sales to the imported Turkish product. *** reported that "We may have had to reduce prices at some time to compete with some who used foreign steel. It would be difficult to know if it was Turkish steel that the competitor was using or intended to use." *** indicated that they had not lost sales or revenues to the Turkish imports.

*** alleged that in the fourth quarter of 1994 it lost a sale of *** short tons of primarily smaller diameter rebar with an estimated value of $*** to *** due to Turkish imports. *** of ***, a ***, stated that the allegation was false. He stated that the volume of product cited in the allegation is not consistent with the purchase patterns of the company. *** purchases both domestic and foreign products, including Turkish rebar. *** stated that during the bidding process, many times the country of origin of foreign product is unknown.

The second allegation involved a sale to *** of *** metric tons of rebar in sizes ***, with an estimated value of $*** to $***, lost by *** due to Turkish imports. *** of *** confirmed the allegation and additionally stated that he has not encountered significant problems with supply (aside from a temporary equipment problem) or bundling requirements with his U.S. supplier. He stated that he would prefer to buy American and that his customers are willing to pay a slight premium for U.S. steel, but that the price differential between U.S. and Turkish product is significant. *** stated that he switched back to purchasing U.S. product when ***.

According to Mr. Duane, counsel for petitioners, *** suffered both lost sales and revenues in transactions with *** due to Turkish imports in 1995. The allegation stated that *** was implemented and that sales decreased by *** tons. The total estimated value of the lost sales was $***. An intracompany memo from *** of *** was submitted to support the allegation. In the memo, *** stated that domestic market share was taken away from both *** and *** by imported rebar, although Turkish imports were not specifically mentioned. They also present ***.[13]

In response to a request by staff to provide additional information regarding lost sales, counsel for the petitioners provided 20 lost sales allegations in a separate submission dated March 4, 1997. These lost sales allegations are presented below in table V-7.

Table V-7
Additional lost sales allegations concerning imports of rebar from Turkey as reported by U.S. producers

* * * * * * *

*** was named in *** lost sales allegations concerning *** short tons of rebar. ***, a representative of ***, could neither confirm nor deny the specific allegations. *** reported that *** buys approximately *** short tons of rebar a year. It buys both imported and domestic rebar, depending on the

---

[11] *** also reported four other lost sales allegations, but was unable to provide specific quantity or price information for these lost sales allegations.

[12] *** believes that overall competitive forces in the market caused by Turkish rebar imports have caused price depression, but gave no specific information to support the allegation.

[13] Petitioners' postconference brief, exhibit J.

price spread. *** buys imported rebar if it is priced $***-$*** per short ton lower than domestic rebar. The firm buys primarily Nos. *** rebar, and has not had any difficulty getting the sizes it needs. Domestic rebar is of better quality, but imported rebar is generally lower-priced. Public works projects have "Buy American" restrictions that require domestic product, unless that product is unavailable. Jobs that require metric sizes of rebar generally use imported rebar.

*** was named in *** allegations concerning *** short tons of rebar. ***, a representative of ***, could neither confirm nor deny the specific allegations. *** reported that *** position in the market had changed dramatically over the last three years. In ***, *** was a big player in the U.S. rebar market, buying *** short tons of rebar a year. *** was a ***, but it also imported a smaller amount of Turkish rebar. At the time, imported Turkish rebar was priced $10-$15 lower than domestic rebar. Purchasers bought imported Turkish rebar not only because of the current price spread, but also because they expected U.S. suppliers to increase their prices even more in the near future. *** purchases of rebar ***, and, at the end of ***, *** decided to ***. At the same time, ***. Since then ***'s overall purchases of rebar have fallen to very low levels, and it has replaced its rebar business with other business (i.e., more processing).

*** was named in *** lost sales allegations concerning *** short tons of rebar. ***, a representative of ***, could neither confirm nor deny the specific allegations. *** reported that ***'s purchases of rebar have been increasing, to the point that it purchased *** short tons of rebar in 1996. Since 1994, *** bought *** of imported Turkish rebar and *** of imported *** rebar. In 1994, pricing was a key factor in the decision to buy imported Turkish rebar, but a more important factor was ***'s inability to get No. *** rebar from domestic suppliers. Domestic No. *** rebar was not priced competitively, and in some cases was totally unavailable. ***. In addition, although *** has a very strong relationship with ***, it doesn't want to put all of its eggs in one basket. After Commerce announced its preliminary margins, all the importers got cold feet and stopped importing Turkish rebar. *** shifted to imported *** rebar, although they expect their prices to increase in the near future due to their growing home market for rebar.

PART VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

Eleven mills[1] in the Eastern tier region provided financial data on rebar operations. These data accounted for *** percent of reported U.S. regional production of rebar in 1996. SMI Steel (South Carolina), accounting for *** percent of reported U.S. regional production of rebar in 1996, bought Owen Electric Steel Co. in November 1994. SMI could not find data for Owen for 1994 but supplied revised data only on rebar operations for 1995 and 1996 after the hearing; hence, SMI's data were not aggregated with the other mills' data but are shown in a separate tabulation. Auburn Steel did not provide financial data. Nine mills[2] located outside the region, accounting for all reported U.S. production of rebar outside the region in 1996, provided financial data on their rebar operations. The financial data are presented for the region, outside the region, and the total U.S. rebar industry separately.

OPERATIONS ON REBAR PRODUCED WITHIN THE REGION

Income-and-loss data for the region's rebar operations are presented in table VI-1 and figure VI-1; data on a per-short ton basis are shown in table VI-2. Selected financial data, by firms, are presented in appendix E, table E-8. The operating income margins declined from 3.9 percent in 1994 to 3.6 percent in 1995 and then fell to 0.3 percent in 1996. The volume of total net sales in short tons decreased by about 3 percent from 1994 to 1995, and rose by about 9 percent from 1995 to 1996. From 1994 to 1995, average selling price per short ton increased faster than the rise in the average cost of goods sold per short ton, resulting in higher gross profit despite a lower volume of sales, but increased SG&A expenses per short ton reduced operating income. From 1995 to 1996, the average selling price per short ton fell faster than the decline in the average cost of goods sold per short ton, resulting in declining gross profit and operating income in spite of an increasing volume of sales.

SMI Steel (South Carolina) provided data for its rebar operations for 1995 and 1996, which are presented in the following tabulation:

* * * * * * *

If SMI Steel's data are aggregated with other mills' data reported in table VI-1, operating income/loss and net income/loss margins would be *** percent and *** percent, respectively, for 1995 and *** percent and *** percent for 1996.

---

[1] These mills and their fiscal year ends are AmeriSteel (5 mills), ***; Atlantic Steel, ***; Birmingham Steel (2 mills), ***; Connecticut Steel, ***; New Jersey Steel, ***; and Nucor Steel, ***. AmeriSteel's producer questionnaire data were verified by the Commission staff. This final report reflects revisions made by the company as a result of verification. Most of the revisions were minor except the restated pricing data.

[2] These mills and their fiscal year ends are Birmingham Steel (2 mills), ***; CF&I Steel, ***; Chaparral Steel, ***; Marion Steel, ***; North Star Steel, ***; SMI Steel, (2 mills), ***; and TAMCO, ***.

Table VI-1
Income-and-loss experience of U.S. producers in the Eastern tier region on their operations producing rebar, fiscal years 1994-96

Item	1994	1995	1996
	Quantity (short tons)		
Net sales:			
Trade	1,422,406	1,378,440	1,558,654
Intercompany	403,616	396,275	371,429
Total sales	1,826,022	1,774,715	1,930,083
	Value ($1,000)		
Net sales:			
Trade	425,674	416,060	453,528
Intercompany	116,643	124,368	109,312
Total sales	542,317	540,428	562,840
Cost of goods sold	500,651	498,379	536,735
Gross profit	41,666	42,049	26,105
Selling, general and administrative (SG&A) expenses	20,746	22,430	24,347
Operating income	20,920	19,619	1,758
Interest expense	10,710	11,320	14,315
Other expense	1,581	1,312	2,079
Other income	534	157	251
Net income or (loss)	9,163	7,144	(14,385)
Depreciation/amortization	17,346	18,050	21,755
Cash flow	26,509	25,194	7,370
	Ratio to net sales (percent)		
Cost of goods sold	92.3	92.2	95.4
Gross profit	7.7	7.8	4.6
SG&A expenses	3.8	4.2	4.3
Operating income	3.9	3.6	0.3
Net income or (loss)	1.7	1.3	(2.6)
	Number of mills reporting		
Operating losses	5	4	7
Net losses	6	5	7
Data	11	11	11
Decreases from previous year in--			
Net sales value	-	8	3
Operating income	-	5	8
Net income	-	5	9

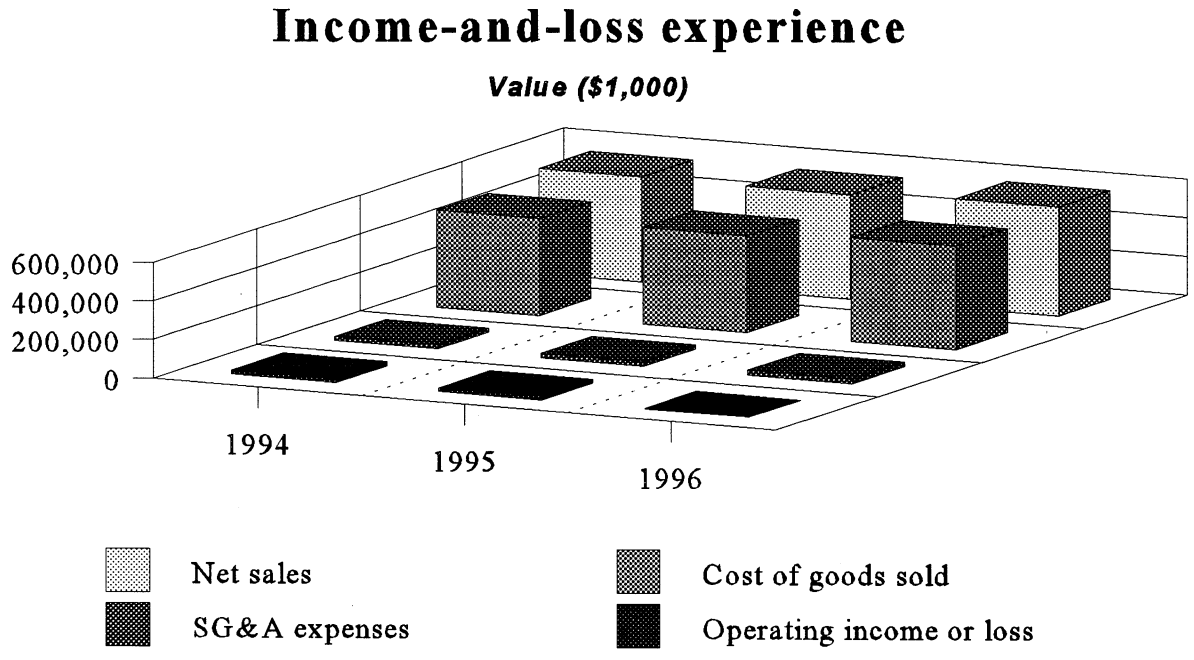
Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-2
Income-and-loss experience (per ton) of U.S. producers in the Eastern tier region on their operations producing rebar, fiscal years 1994-96

Item	1994	1995	1996
Net sales	$296.99	$304.52	$291.61
Cost of goods sold (COGS)	274.18	280.82	278.09
Gross profit	22.82	23.69	13.53
SG&A expenses	11.36	12.64	12.61
Operating income	11.46	11.05	0.91

Source: Compiled from data submitted in response to Commission questionnaires.

Figure VI-1
Rebar: Net sales, cost of goods sold, SG&A expenses, and operating income or loss of U.S. producers in the Eastern tier region, fiscal years 1994-96



Source: Table VI-1.

*** and *** did not supply data on raw materials, direct labor, and other factory costs. Data for the remaining firms on a per-short ton basis are presented in the following tabulation:

Item	1994	1995	1996
Raw materials:			
Scrap	$121.80	$126.06	$124.37
Others	23.45	26.10	22.79
Total	145.25	152.16	147.16
Direct labor	25.65	25.45	25.48
Other factory costs:			
Energy costs	39.74	36.34	39.30
Others	77.08	76.81	78.48
Total	116.82	113.15	117.78

The Commission requested variable and fixed costs, and gross profit per short ton for each size of rebar from U.S. producers for their fiscal year ending in 1996. *** provided such data up to size 11. *** only supplied gross profit and depreciation up to size 11 and then provided supplemental data on average selling price and average cost of sales without depreciation. *** reported such data for sizes 3 and 4; data were the same for both sizes. Data of these companies are presented in the following tabulation:[3]

* * * * * * *

Variance Analysis

The variance analysis for 11 mills producing rebar within the region is presented in table VI-3. The information for this analysis is derived from table VI-1. Export sales were minor and averaged less than 1 percent of total shipments in short tons during the period of investigation. Company transfers were about 22 percent of total shipments in short tons in 1994 and 1995 and were 19 percent in 1996.

The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. Although there may have been product mix changes during the period of investigation, it is believed that they are not of sufficient magnitude to invalidate general conclusions about the effects of changes in pricing, costs, and volume on profitability.

[3] During the hearing, the staff requested complete income-and-loss data for small sizes (Nos. 3 to 5) and larger sizes (Nos. 6 and above) for 1994-96. Only two producers (Atlantic Steel and Connecticut Steel) were able to provide such data, which are shown in appendix F. ***, ***, and *** indicated that income-and-loss data are not kept by size and hence, not readily available (see more detailed discussion in app. F).

Table VI-3
Variance of U.S. producers in the Eastern tier region on their operations producing rebar during 1994-96, 1994-95, and 1995-96

($1,000)

Item	1994-96	1994-95	1995-96
Net sales:			
Trade:			
Price variance	(12,920)	3,543	(16,927)
Volume variance	40,774	(13,157)	54,395
Total trade sales variance	27,854	(9,614)	37,468
Company transfers:			
Price variance	1,971	9,847	(7,258)
Volume variance	(9,302)	(2,122)	(7,798)
Total company transfers variance	(7,331)	7,725	(15,056)
Total net sales:			
Price variance	(10,382)	13,349	(24,900)
Volume variance	30,905	(15,238)	47,312
Total net sales variance	20,523	(1,889)	22,412
Cost of sales:			
Cost variance	(7,553)	(11,795)	5,275
Volume variance	(28,531)	14,067	(43,631)
Total cost of sales variance	(36,084)	2,272	(38,356)
Gross profit variance	(15,561)	383	(15,944)
SG&A expenses:			
Expense variance	(2,419)	(2,267)	47
Volume variance	(1,182)	583	(1,964)
Total SG&A variance	(3,601)	(1,684)	(1,917)
Operating income variance	(19,162)	(1,301)	(17,861)

Note: Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in net sales, cost of sales, gross profit, SG&A expenses, and operating income as presented in table VI-1.

Source: Compiled from data submitted in response to Commission questionnaires.

The variance analysis shows that the decrease of $19.2 million in operating income from 1994 to 1996 is attributable to the following (amounts in thousands of dollars):

	1994-96
Net unfavorable price variance	(10,382)
Net favorable volume variance	1,192
Net unfavorable cost and expense variance	(9,972)
Total	(19,162)

Investment in Productive Facilities, Capital Expenditures, and Research and Development Expenses

The responding firms' data on the value of their property, plant, and equipment; capital expenditures; and research and development expenses are shown in table VI-4. *** and *** did not supply data. *** reported zero research and development expenses during the period of investigation. Some of the firms reported these data for their total mill.

Table VI-4
Value of fixed assets, capital expenditures, and R&D expenses of U.S. producers of rebar in the Eastern tier region, fiscal years 1994-96

($1,000)

Item	1994	1995	1996
Fixed assets:			
Original cost	515,615	585,927	631,682
Book value	370,444	416,301	437,009
Capital expenditures	63,918	60,263	60,593
R&D expenses	0	0	0

Source: Compiled from data submitted in response to Commission questionnaires.

OPERATIONS ON REBAR PRODUCED OUTSIDE THE REGION

Income-and-loss data for rebar operations outside the Eastern tier region are presented in table VI-5 and figure VI-2; data on a per-short ton basis are shown in table VI-6. Selected financial data, by firms, are presented in appendix E, table E-8. The operating income margins increased from 6.3 percent in 1994 to 9.3 percent in 1995 and then fell to 8.9 percent in 1996. The volume of total net sales in short tons decreased by about 7 percent from 1994 to 1995, and rose by about 7 percent from 1995 to 1996. From 1994 to 1995, average selling price per short ton increased faster than the rise in the average cost of goods sold per short ton, resulting in higher gross profit and operating income despite a lower volume of sales and increased SG&A expenses per short ton. From 1995 to 1996, the average selling price per short ton fell faster than the decline in the average cost of goods sold per short ton, resulting in declining gross profit and operating income per short ton.

Table VI-5
Income-and-loss experience of U.S. producers outside the Eastern tier region on their operations producing rebar, fiscal years 1994-96

Item	1994	1995	1996
	Quantity (short tons)		
Net sales:			
Trade	1,972,193	1,826,959	1,963,267
Intercompany	144,283	146,316	154,182
Total sales	2,116,476	1,973,275	2,117,449
	Value ($1,000)		
Net sales:			
Trade	586,743	576,637	608,808
Intercompany	47,576	50,197	54,985
Total sales	634,319	626,834	663,793
Cost of goods sold	561,419	535,865	569,403
Gross profit	72,900	90,969	94,390
Selling, general and administrative (SG&A) expenses	32,636	32,923	35,144
Operating income	40,264	58,046	59,246
Interest expense	5,465	6,417	7,951
Other expense	7,022	7,256	8,569
Other income	2,592	1,981	4,442
Net income	30,369	46,354	47,168
Depreciation/amortization	31,225	32,133	26,899
Cash flow	61,594	78,487	74,067
	Ratio to net sales (percent)		
Cost of goods sold	88.5	85.5	85.8
Gross profit	11.5	14.5	14.2
SG&A expenses	5.1	5.3	5.3
Operating income	6.3	9.3	8.9
Net income	4.8	7.4	7.1
	Number of mills reporting		
Operating losses	3	2	3
Net losses	3	2	3
Data	9	9	9
Decreases from previous year in--			
Net sales value	-	5	4
Operating income	-	2	5
Net income	-	2	4

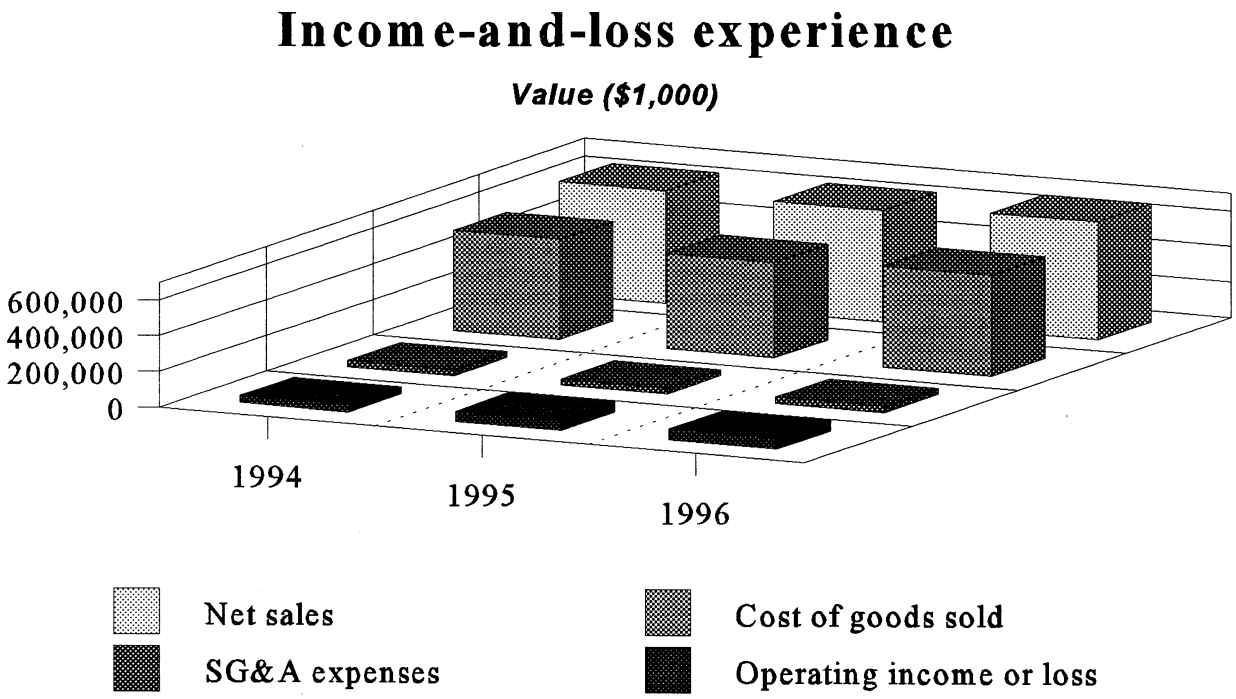
Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-6
Income-and-loss experience (per ton) of U.S. producers outside the Eastern tier region on their operations producing rebar, fiscal years 1994-96

Item	1994	1995	1996
Net sales	$299.71	$317.66	$313.49
Cost of goods sold (COGS)	265.26	271.56	268.91
Gross profit	34.44	46.10	44.58
SG&A expenses	15.42	16.68	16.60
Operating income	19.02	29.42	27.98

Source: Compiled from data submitted in response to Commission questionnaires.

Figure VI-2
Rebar: Net sales, cost of goods sold, SG&A expenses, and operating income or loss of U.S. producers outside the Eastern tier region, fiscal years 1994-96



Source: Table VI-5.

,, and *** did not supply data on raw materials, direct labor, and other factory costs. Data for the remaining firms on a per-short ton basis are presented in the following tabulation:

Item	1994	1995	1996
Raw materials:			
Scrap	$111.55	$120.87	$121.81
Others	10.40	8.68	11.32
Total	121.94	129.55	133.13
Direct labor	21.97	24.27	25.24
Other factory costs:			
Energy costs	18.82	20.15	20.49
Others	64.55	70.09	74.19
Total	83.37	90.24	94.68

Variance Analysis

The variance analysis for nine mills producing rebar outside the region is presented in table VI-7. The information for this analysis is derived from table VI-5. Export sales were minor and averaged less than 1 percent of total shipments in short tons during 1994-96. Company transfers averaged about 7 percent of total shipments in short tons during this period. Although there may have been product mix changes during the period of investigation, it is believed that they are not of sufficient magnitude to invalidate general conclusions about the effects of changes in pricing, costs, and volume on profitability.

The variance analysis shows that the increase of $19.0 million in operating income from 1994 to 1996 is attributable to the following (amounts in thousands of dollars):

	1994-96
Net favorable price variance	29,182
Net unfavorable volume variance	19
Net unfavorable cost and expense variance	(10,219)
Total	18,982

Investment in Productive Facilities, Capital Expenditures, and Research and Development Expenses

The responding firms' data on the value of their property, plant, and equipment; capital expenditures; and research and development expenses are shown in table VI-8. *** did not supply data. *** reported zero research and development expenses during the period of investigation. Some of the firms reported these data for their total mill. ***.

Table VI-7
Variance of U.S. producers outside the Eastern tier region on their operations producing rebar during 1994-96, 1994-95, and 1995-96

($1,000)

Item	1994-96	1994-95	1995-96
Net sales:			
Trade:			
Price variance	24,721	33,102	(10,851)
Volume variance	(2,656)	(43,208)	43,022
Total trade sales variance	22,065	(10,106)	32,171
Company transfers:			
Price variance	4,145	1,951	2,089
Volume variance	3,264	670	2,699
Total company transfers variance	7,409	2,621	4,788
Total net sales:			
Price variance	29,182	35,433	(8,840)
Volume variance	292	(42,918)	45,799
Total net sales variance	29,474	(7,485)	36,959
Cost of sales:			
Cost variance	(7,726)	(12,432)	5,614
Volume variance	(258)	37,986	(39,152)
Total cost of sales variance	(7,984)	25,554	(33,538)
Gross profit variance	21,490	18,069	3,421
SG&A expenses:			
Expense variance	(2,493)	(2,495)	184
Volume variance	(15)	2,208	(2,405)
Total SG&A variance	(2,508)	(287)	(2,221)
Operating income variance	18,982	17,782	1,200

Note: Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in net sales, cost of sales, gross profit, SG&A expenses, and operating income as presented in table VI-5.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-8
Value of fixed assets, capital expenditures, and R&D expenses of U.S. producers of rebar outside the Eastern tier region, fiscal years 1994-96

($1,000)

Item	1994	1995	1996
Fixed assets:			
Original cost	465,043	473,084	533,811
Book value	273,643	260,386	300,199
Capital expenditures	32,487	31,519	104,194
R&D expenses	0	0	0

Source: Compiled from data submitted in response to Commission questionnaires.

TOTAL U.S. REBAR OPERATIONS

Income-and-loss data for all U.S. rebar operations are presented in table VI-9 and figure VI-3; data on a per-short ton basis are shown in table VI-10. Selected financial data, by firms, are presented in appendix E, table E-8. The operating income margins increased from 5.2 percent in 1994 to 6.7 percent in 1995 and then fell to 5.0 percent in 1996. The volume of total net sales in short tons decreased by about 5 percent from 1994 to 1995, and rose by about 8 percent from 1995 to 1996. From 1994 to 1995, average selling price per short ton increased faster than the rise in the average cost of goods sold per short ton, resulting in higher gross profit and operating income despite a lower volume of sales and increased SG&A expenses per short ton. From 1995 to 1996, average selling price per short ton fell faster than the decline in the average cost of goods sold per short ton, resulting in declining gross profit and operating income, in spite of an increasing volume of sales.

,,***, and *** did not supply data on raw materials, direct labor, and other factory costs. Data for the remaining firms on a per-short ton basis are presented in the following tabulation:

Item	1994	1995	1996
Raw materials:			
Scrap	$114.65	$122.54	$122.70
Others	14.35	14.28	15.31
Total	129.00	136.82	138.01
Direct labor	23.08	24.65	25.32
Other factory costs:			
Energy costs	25.15	25.35	27.03
Others	68.34	72.25	75.68
Total	93.49	97.61	102.71

Table VI-9
Income-and-loss experience of all U.S. producers on their operations producing rebar, fiscal years 1994-96

Item	1994	1995	1996
	Quantity (short tons)		
Net sales:			
Trade	3,394,599	3,205,399	3,521,921
Company transfers	547,899	542,591	525,611
Total sales	3,942,498	3,747,990	4,047,532
	Value ($1,000)		
Net sales:			
Trade	1,012,417	992,697	1,062,336
Intercompany	164,219	174,565	164,297
Total sales	1,176,636	1,167,262	1,226,633
Cost of goods sold	1,062,070	1,034,244	1,106,138
Gross profit	114,566	133,018	120,495
Selling, general and administrative (SG&A) expenses	53,382	55,353	59,491
Operating income	61,184	77,665	61,004
Interest expense	16,175	17,737	22,266
Other expense	8,603	8,568	10,648
Other income	3,126	2,138	4,693
Net income	39,532	53,498	32,783
Depreciation/amortization	48,571	50,183	48,654
Cash flow	88,103	103,681	81,437
	Ratio to net sales (percent)		
Cost of goods sold	90.3	88.6	90.2
Gross profit	9.7	11.4	9.8
SG&A expenses	4.5	4.7	4.8
Operating income	5.2	6.7	5.0
Net income	3.4	4.6	2.7
	Number of mills reporting		
Operating losses	8	6	10
Net losses	9	7	10
Data	20	20	20

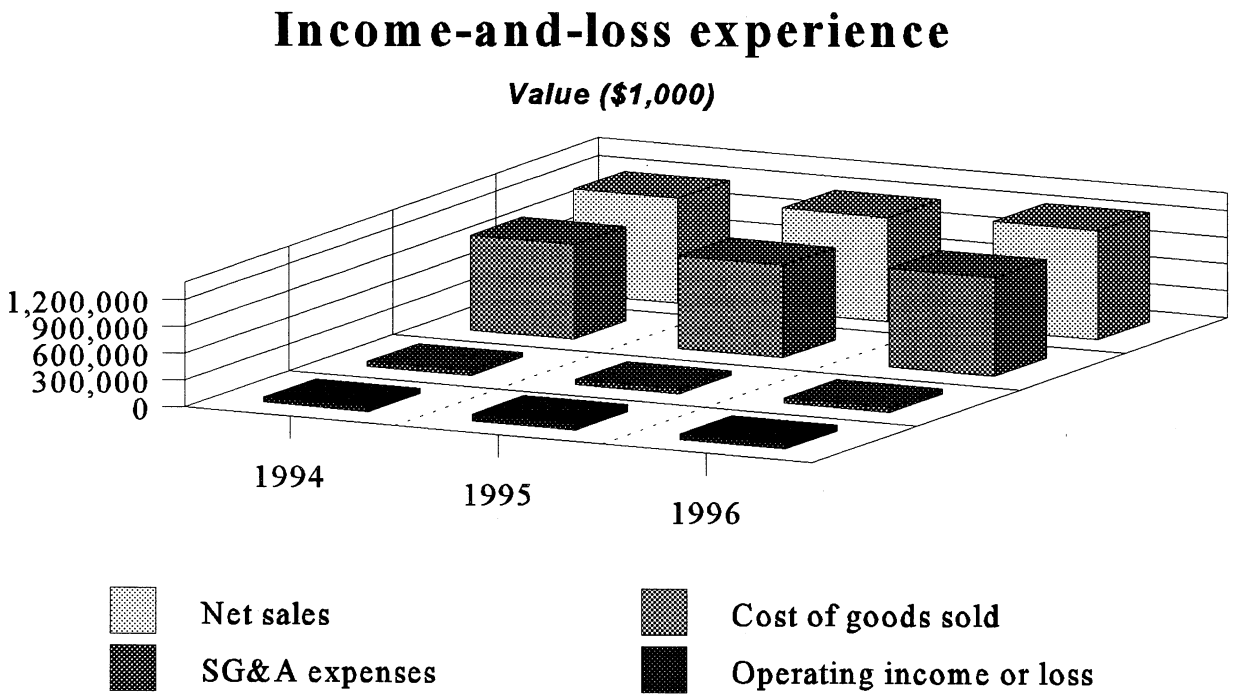
Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-10
Income-and-loss experience (per ton) of all U.S. producers on their operations producing rebar, fiscal years 1994-96

Item	1994	1995	1996
Net sales	$298.45	$311.44	$303.06
Cost of goods sold (COGS)	269.39	275.95	273.29
Gross profit	29.06	35.49	29.77
SG&A expenses	13.54	14.77	14.70
Operating income	15.52	20.72	15.07

Source: Compiled from data submitted in response to Commission questionnaires.

Figure VI-3
Rebar: Net sales, cost of goods sold, SG&A expenses, and operating income or loss of all U.S. producers, fiscal years 1994-96



Source: Table VI-9.

Variance Analysis

The variance analysis for 20 mills producing rebar is presented in table VI-11. The information for this analysis is derived from table VI-9. Export sales were minor and averaged less than 1 percent of total shipments in short tons during 1994-96. Company transfers averaged about 14 percent of total shipments in short tons during the period. Although there may have been product mix changes during the period of investigation, it is believed that they are not of sufficient magnitude to invalidate general conclusions about the effects of changes in pricing, costs, and volume on profitability.

The variance analysis shows that the decrease of $180,000 in operating income from 1994 to 1996 is attributable to the following (amounts in thousands of dollars):

	1994-96
Net favorable price variance	18,650
Net favorable volume variance	1,630
Net unfavorable cost and expense variance	(20,460)
Total	(180)

Investment in Productive Facilities, Capital Expenditures, and Research and Development Expenses

The responding firms' data on the value of their property, plant, and equipment; capital expenditures; and research and development expenses are shown in table VI-12. ***, ***, and *** did not supply data. *** reported zero research and development expenses during the period of investigation. Some of the firms reported these data for their total mill.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of rebar from Turkey on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix H.

Table VI-11
Variance of all U.S. producers on their operations producing rebar during 1994-96, 1994-95, and 1995-96

($1,000)

Item	1994-96	1994-95	1995-96
Net sales:			
Trade:			
Price variance	11,946	36,708	(28,386)
Volume variance	37,973	(56,428)	98,025
Total trade sales variance	49,919	(19,720)	69,639
Company transfers:			
Price variance	6,758	11,937	(4,805)
Volume variance	(6,680)	(1,591)	(5,463)
Total company transfers variance	78	10,346	(10,268)
Total net sales:			
Price variance	18,650	48,677	(33,917)
Volume variance	31,347	(58,051)	93,288
Total net sales variance	49,997	(9,374)	59,371
Cost of sales:			
Cost variance	(15,773)	(24,573)	10,764
Volume variance	(28,295)	52,399	(82,658)
Total cost of sales variance	(44,068)	27,826	(71,894)
Gross profit variance	5,929	18,452	(12,523)
SG&A expenses:			
Expense variance	(4,687)	(4,605)	286
Volume variance	(1,422)	2,634	(4,424)
Total SG&A variance	(6,109)	(1,971)	(4,138)
Operating income variance	(180)	16,481	(16,661)

Note: Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in net sales, cost of sales, gross profit, SG&A expenses, and operating income as presented in table VI-9.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-12
Value of fixed assets, capital expenditures, and R&D expenses of all U.S. producers of rebar, fiscal years 1994-96

($1,000)

Item	1994	1995	1996
Fixed assets:			
Original cost	980,658	1,059,011	1,165,493
Book value	644,087	676,687	737,208
Capital expenditures	96,405	91,782	164,787
R&D expenses	0	0	0

Source: Compiled from data submitted in response to Commission questionnaires.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN TURKEY

This section of the report is based on information supplied in the Commission's foreign producers' questionnaire by the 16 producers and/or exporters of rebar in Turkey that are shown in table VII-1. Two of the firms shown in the table are not themselves producers of rebar but export rebar produced by other firms. As shown in the table, the sale of rebar represented between 7 percent and 100 percent of the total overall establishment sales of the 16 firms. Exports of rebar by these firms are mostly targeted to countries in the Middle and Far East, specifically such countries as Algeria, China, Hong Kong, South Korea, Kuwait, United Arab Emirates, Singapore, Tunisia, and Yemen. Seven of the 16 firms indicated that the United States represented one of their major export markets between 1994 and 1996. Ten firms also reported that their exports to Singapore were found to violate that country's antidumping laws.

Eleven of the 14 firms that are producers of rebar reported operating only one plant in which rebar is produced. One firm reported operating two such plants, and two firms failed to supply the number of plants they operate. Information on efforts to expand or curtail production capacity was reported by three firms, two of which are affiliated. The two affiliated firms reported the shutdown of a plant located in Karabuk, Turkey during 1995-96. This plant was reportedly taken out of production and the machinery and equipment used at the plant was scrapped. Another firm reported that it had made investments to increase its productivity during 1995-96, and a third firm indicated that it plans to increase or improve productivity by switching its raw material input from 100 milllimeter (mm) steel billets to 120 x 120 mm prime steel billets.

Aggregate production capacity, production, shipments, and inventory data supplied by the 16 firms are presented in table VII-2. Between 1994 and 1996, these firms' production capacity, production, and home market shipments increased by 13.4 percent, 6.3 percent, and 74.2 percent, respectively. While the increases in production capacity and home market shipments were without interruption, production fell in 1995 before increasing in 1996. Total exports fell irregularly over the period, declining overall by 19.3 percent. Exports to the United States rose by 2.5 percent between 1994 and 1995 but then declined by 31.8 percent between 1995 and 1996. As a share of total shipments, exports to the United States increased from 5.0 percent in 1994 to 6.0 percent in 1995 and then dropped to 3.7 percent in 1996. Respondents assert that because of ongoing and planned infrastructure projects in Turkey, which include the construction of seven new dams, there is little likelihood that Turkey will significantly increase its exports to the United States.[1] Home-market shipments nearly doubled as a share of total shipments during the period, rising from 14.7 percent in 1994 to 27.1 percent in 1996. End-of-period inventories held by these firms fluctuated downward between 1994 and 1996 and fell from 9.8 percent of production in 1994 to 5.1 percent in 1996. As a group, the 16 firms represented in the table project improvements in all aspects of their rebar operations in 1997 as compared with 1996.

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[1] Respondents' posthearing brief, p. 12.

Table VII-1
Rebar: Turkish producers and/or exporters and their sales of rebar as a share of their total establishment sales, their major export markets, their exports to the United States as a share of their total exports, and any antidumping findings in member WTO countries

Producer/exporter	Rebar sales as a share (*percent*) of total establishment sales	Major export markets	Exports to the United States as a share (*percent*) of total exports (1996)	Antidumping findings or remedies in WTO member countries
Cebi Metal Sanayi ve Ticaret A.S.	***	***	***	No
Cebitas Demir Celik Endustrisi A.S.	***	***	***	No
Colakoglu Metalurji A.S.	***	***	***	Yes[1]
Demirsan Haddecilik Sanayi ve Ticaret A.S.	***	***	***	Yes[1]
Diler Demir Celik Endustri ve Ticaret A.S.	***	***	***	Yes[1]
Diler Dis Ticaret A.S.[2]	***	***	***	Yes[1]
EGE Metal Demir Celik Sanayi ve Ticaret A.S.	***	***	***	Yes[1]
Ekinciler Demir Celik A.S.	***	***	***	Yes[1]
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.	***	***	***	Yes[1]
Istanbul Celik ve Demir Izabe Sanayi A.S. (ICDAS)	***	***	***	No

Table continued on next page.

Table VII-1--Continued
Rebar: Turkish producers and their sales of rebar as a share of their total establishment sales, their major export markets, their exports to the United States as a share of their total exports, and any antidumping findings in member WTO countries

Firm	Rebar sales as a share (*percent*) of total establishment sales	Major export markets	Exports to the United States as a share (*percent*) of total exports (1996)	Antidumping findings or remedies in WTO member countries
Izmir Demir Celik Sanayi A.S.	***	***	***	Yes[1]
Izmir Metalurji Fabrikasi Turk A.S.	***	***	***	Yes[1]
Kibar Dis Ticaret A.S.[3]	***	***	***	No
Nurkom Dis Ticaret A.S.	***	***	***	No
Ucel Haddecilik Sanayi ve Ticaret A.S.	***	***	***	Yes[1]
Yazici Demir Celik Sanayi ve Ticaret A.S.	***	***	***	Yes

[1] Effective Dec. 2, 1995, Singapore imposed dumping duties ranging from $16 per metric ton to $59 per metric ton on rebar exported into that country from Turkey. Rebar exported by Istanbul Celik ve Demir Izabe Sanayi A.S. was found not to be dumped.

[2] Trading company affiliated with Yazici Demir Celik Sanayi ve Ticaret A.S.

[3] Trading company and not a producer.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table VII-2
Rebar: Production capacity, production, shipments, and inventories for selected Turkish producers, 1994-96, and projected 1997

(In *metric tons*, except as noted)

Source	1994	1995	1996	Projected 1997
Production capacity	4,390,281	4,490,536	4,977,536	5,332,536
Production[1]	3,613,796	3,399,604	3,842,706	4,193,000
Shipments:				
Home-market	648,269	1,009,334	1,129,009	1,213,163
Exports to--				
United States	219,034	224,617	153,137	190,000
All other countries	3,546,246	2,516,352	2,883,826	3,326,000
Total exports	3,765,280	2,740,969	3,036,963	3,516,000
Total shipments	4,413,549	3,750,303	4,165,972	4,729,163
End-of-period inventories	353,760	150,661	194,910	71,834
Capacity utilization (*percent*)	82.3	75.7	77.2	78.6
As a share (*percent*) of total shipments:				
Home market shipments	14.7	26.9	27.1	25.7
Exports to the United States	5.0	6.0	3.7	4.0
Exports to all other countries	80.3	67.1	69.2	70.3
Total exports	85.3	73.1	72.9	74.3
Ratio of:				
Inventories to production (*percent*)	9.8	4.4	5.1	1.7
Inventories to total shipments (*percent*)	8.0	4.0	4.7	1.5

[1] Includes production under tolling contracts for third parties as reported by ***.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

U.S. INVENTORIES OF PRODUCT FROM TURKEY

As shown in the tabulation that follows, U.S. importers' inventories of rebar imported from Turkey rose steadily between 1994 and 1996, nearly doubling over the period. The ratio of inventories to imports and the ratio of inventories to U.S. shipments of imports also rose over the period, each by approximately 6 percentage points.

U.S. Importers' Inventories of Turkish Rebar			
Item	1994	1995	1996
Quantity (*short tons*)	***	***	***
Ratio to imports (*percent*)	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***

APPENDIX A

FEDERAL REGISTER NOTICES

[Investigation No. 731-TA-745 (Final)]

Steel Concrete Reinforcing Bars From Turkey

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No.

731-TA-745 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Turkey of steel concrete reinforcing bars, provided for in subheadings 7213.10.00 and 7214.20.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207), as amended by 61 FR 37818, July 22, 1996.

EFFECTIVE DATE: October 10, 1996.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-205-3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of steel concrete reinforcing bars from Turkey are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on March 8, 1996, by AmeriSteel Corporation (Tampa, FL) and New Jersey Steel Corporation (Sayreville, NJ).

[1] For purposes of this investigation, Commerce has defined the subject merchandise as "all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar."

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on February 12, 1997, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on February 26, 1997, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before February 14, 1997. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on February 19, 1997, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is February 20, 1997. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 4, 1997; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 4, 1997. On March 25, 1997, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 28, 1997, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

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

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published

pursuant to section 207.21 of the Commission's rules.

Issued: October 29, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96-28533 Filed 11-5-96; 8:45 am]

BILLING CODE 7020-02-P

manufacturer is, the cash deposit rate will be that rate established for the manufacturer of the merchandise in earlier reviews or the original investigation, whichever is the most recent; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 162.14 percent, the "all others" rate established in the LTFV investigation.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This administrative review and this notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR § 353.22(h).

Dated: February 24, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97-5229 Filed 3-3-97; 8:45 am]

BILLING CODE 3510-DS-P

INTERNATIONAL TRADE ADMINISTRATION

[A-489-807]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey

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

EFFECTIVE DATE: March 4, 1997.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson, Cameron Werker, or Fabian Rivelis, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-1776, (202) 482-3874, or (202) 482-3853, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA).

Final Determination

We determine that certain steel concrete reinforcing bars (rebar) from Turkey are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in § 735 of the Act.

Case History

Since the preliminary determination in this investigation (*Notice of Preliminary Determination and Postponement of Final Determination: Certain Steel Concrete Reinforcing Bars from Turkey*, 61 FR 53203, (Oct. 10, 1996)), the following events have occurred:

In October 1996, we issued supplemental sales and cost questionnaires to Colakoglu Metalurji A.S. (Colakoglu), Ekinciler Demir Celik A.S. (Ekinciler), and Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas), and a supplemental cost questionnaire to Izmir Metalurji Fabrikasi Turk A. S. (Metas). Responses to these questionnaires were also received in October 1996.

From October through December 1996, we verified the questionnaire responses of Colakoglu, Ekinciler, Habas, and Metas. We also verified that the following companies had no shipments of subject merchandise to the United States during the period of investigation (POI): Cebitas Demir Celik Endustrisi A.S., Cukurova Celik Endustrisi A.S., Icdas Istanbul Celik ve Demir Izabe Sanayii A.S., Diler Demir Celik Endustrisi ve Ticaret A.S., Diler Dis Ticaret A.S., and Yazici Demir Celik Sanayi ve Ticaret A.S.

On January 14 and 27, 1997, the Department requested that Colakoglu and Habas submit new computer tapes to include data corrections identified through verification. This information was submitted on January 17 and 29, 1997, respectively.

Petitioners (*i.e.*, AmeriSteel Corporation and New Jersey Steel Corporation) and three of the respondents (*i.e.*, Colakoglu, Ekinciler, and Habas) submitted case briefs on January 22, 1997, and rebuttal briefs on January 27, 1997. No case or rebuttal briefs were received from any other interested party.

Scope of Investigation

The product covered by this investigation is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this investigation is dispositive.

Period of Investigation

The POI is January 1, 1995, through December 31, 1995.

Facts Available

One of the respondents in this case, Izmir Demir Celik Sanayi A.S. (IDC), failed to respond completely to the Department's requests for information. Specifically, IDC submitted a response to Sections A, B, and C of the May 9 questionnaire, but did not provide any subsequent information, including a response to the supplemental sales questionnaire and the cost of production (COP) questionnaire.

On August 12, 1996, IDC informed the Department that it would not be able to provide any additional information in a timely manner and requested that the Department use the information already on the record in its analysis. However, we were unable to perform any analysis for IDC without a COP response because COP data is an essential component in our margin calculations. We afforded IDC an opportunity to request additional time for completion of its responses. However, IDC neither requested an extension nor submitted any additional data.

Section 776(a)(2) of the Act provides that if an interested party: (1) Withholds information that has been requested by the Department; (2) fails to provide such information in a timely manner or in the form or manner requested; (3) significantly impedes a determination under the antidumping statute; or (4) provides such information but the information cannot be verified, the Department shall, subject to subsections 782(c)(1) and (e) of the Act, use facts otherwise available in reaching the applicable determination. Because IDC

failed to respond to the Department's supplemental and COP questionnaires and because that failure is not overcome by the application of subsections 782(c)(1) and (e) of the Act, we must use facts otherwise available with regard to IDC.

Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. 870. IDC's failure to reply to the Department's requests for information demonstrates that IDC has failed to act to the best of its ability in this investigation. Thus, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted with regard to IDC. As facts otherwise available, we are assigning to IDC the highest margin stated in the notice of initiation, 41.8 percent.

Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Corroborative means that the secondary information to be used has probative value. *See* SAA at 870. In analyzing the petition, the Department reviewed all of the data the petitioners relied upon in calculating the estimated dumping margins, and adjusted those calculations where necessary. *See* Memorandum to the File from Case Analysts, dated March 26, 1996. These estimated dumping margins were based on a comparison of a home market price list to: (1) A contracted price to a U.S. customer; and (2) an offer of sale to a U.S. customer. The estimated dumping margins, as recalculated by the Department, ranged from 27.4 to 41.8 percent. The Department corroborated all of the secondary information from which the margin was calculated during our pre-initiation analysis of the petition to the extent appropriate information was available for this purpose at that time. For purposes of this determination, the Department re-examined the price information provided in the petition in light of information developed during the investigation and found that it continued to be of probative value.

Fair Value Comparisons

Petitioners have requested that the Department and the ITC find that there is a regional industry[1] and perform the requisite analysis, in accordance with § 771(4)(C) of the Act. Section 736(d)(1) of the Act directs the Department to assess duties only on the subject merchandise of the specific exporters and producers that exported the subject merchandise for sale into the region concerned during the POI. In our notice of initiation we indicated that the petition had met the requirements of § 771(4)(C) and § 732(c)(4)(C) of the Act. However, because respondents were not able to provide requested information on sales which were ultimately made in the region, we have not limited our analysis in the LTFV investigation to only shipments entering ports located in the region. We will again attempt to collect this information during any subsequent administrative reviews, in the event that an antidumping duty order is issued in this case.

To determine whether sales of the subject merchandise by Colakoglu, Ekinciler, Habas, and Metas to the United States were made at less than fair value, we compared the Export Price (EP) to the Normal Value (NV), as described in the "Export Price" and "Normal Value" sections of this notice.

Regarding Habas, we calculated NV based on constructed value (CV) in accordance with § 773(a)(4) of the Act because Habas's home market sales did not provide an appropriate basis for calculating NV. *See* the "Normal Value" section of this notice, below, for further discussion.

Regarding Metas, we calculated NV on the basis of CV because we found no home market sales at prices above COP. *See* the "Normal Value" section of this notice, below, for further discussion.

Regarding Colakoglu and Ekinciler, as set forth in § 773(a)(1)(B)(i) of the Act, we calculated NV based on sales at the same level of trade as the U.S. sale. In accordance with § 777A(d)(1)(A)(i) of the Act, we compared weighted-average EPs to weighted-average NVs. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics, level of trade, and significant inflation.

(i) Physical Characteristics

In accordance with § 771(16) of the Act, we considered all products covered by the description in the *Scope of Investigation* section, above, produced in Turkey and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Regarding Colakoglu and Ekinciler, where there were no sales of identical merchandise in the home market pursuant to § 771(16)(B) of the Act, to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the physical characteristics listed in Appendix III of the Department's antidumping questionnaire.

(ii) Level of Trade

In its preliminary determination, the Department found that no differences in level of trade existed between home market and U.S. sales for any participating respondent. Our findings at verification confirmed that the respondents performed essentially the same selling activities for each reported home market and U.S. marketing stage. Accordingly, we determine that all price comparisons are at the same level of trade and that an adjustment pursuant to § 773(a)(7)(A) of the Act is unwarranted.

(iii) Significant Inflation

Turkey experienced significant inflation during the POI, as measured by the Wholesale Price Index (WPI) published by the International Monetary Fund (IMF) in the *International Financial Statistics*. Accordingly, to avoid the distortions caused by the effects of significant inflation on prices, we calculated EPs and NVs on a monthly-average basis, rather than on a POI-average basis. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey*, 61 FR 30309, 30315 (June 14, 1996) (*Pasta*).

Export Price

We calculated EP, in accordance with subsections 772 (a) and (c) of the Act, where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and where constructed export price was not otherwise warranted based on the facts of record.

A. Colakoglu

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions to EP for foreign inland freight, dunnage expenses, lashing expenses, loading charges, despatch expenses (which included an adjustment for revenue that was realized on a contractual agreement between Colakoglu and its ocean freight

[1] The region identified by the petitioners includes Maine, New Hampshire, Connecticut, Massachusetts, Rhode Island, Vermont, New Jersey, New York, Pennsylvania, Delaware, Florida, Georgia, Louisiana, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Alabama, Kentucky, Mississippi, Tennessee, the District of Columbia, and Puerto Rico.

carrier), demurrage expenses, and ocean freight, where appropriate, in accordance with § 772(c)(2)(A) of the Act. We disallowed an adjustment to EP for wharfage revenue and freight commissions earned by an affiliated party because we were unable to make a corresponding deduction for the affiliate's costs (*see* Comment 8).

We based our calculations on the revised U.S. sales database submitted by Colakoglu after verification. We revised the amount of despatch revenue received on one U.S. sale based on our findings at verification because this correction was not incorporated into the revised sales listing.

B. Ekinciler

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight, warehousing expenses, loading charges, tallying expenses, forklift expenses, dunnage expenses, demurrage expenses (which included an adjustment for despatch revenues), ramneck tape expenses, customs fees, detention expenses, stevedoring expenses, wharfage expenses, overage insurance, and ocean freight, where appropriate, in accordance with § 772(c)(2)(A) of the Act. We disallowed an adjustment to EP for agency fee revenue and freight commissions earned by an affiliated party because we were unable to make a corresponding deduction for the affiliate's costs (*see* Comment 8).

We made the following corrections to the data reported by Ekinciler, based on our findings at verification: a) we revised the price and quantity for two U.S. sales; b) we revised the control number used for matching purposes for certain U.S. sales; c) we revised the following movement expenses for certain U.S. sales: international freight, forklift expenses, inland freight from plant to port, overage insurance, and pre-sale warehouse expenses; and d) we revised bank fees for two U.S. sales. In addition, we disallowed Ekinciler's claim for dunnage revenue on certain U.S. sales (*see* Comment 13).

C. Habas

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions to EP for foreign inland freight, dunnage expenses, despatch expenses (which included an adjustment for revenue that was realized on a contractual agreement between Habas and its customer), brokerage and handling, demurrage expenses, customs fees, ocean freight, and marine insurance, where appropriate, in accordance with § 772(c)(2)(A) of the Act. We disallowed an adjustment to EP for freight revenue earned by an affiliated party because we were unable to make a corresponding deduction for the affiliate's costs (*see* Comment 8). We revised the amounts reported for demurrage, brokerage, international freight, marine insurance, and export fees for certain vessels based on our findings at verification.

D. Metas

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight, lashing expenses, brokerage and handling, demurrage expenses (which included an upward adjustment for revenue that was realized on a contractual agreement between Metas and its ocean freight carrier), and ocean freight, where appropriate, in accordance with § 772(c)(2)(A) of the Act.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with § 773(a)(1)(C) of the Act. Because each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for each respondent.

Regarding Habas, however, we did not use home market sales as the basis for NV. Rather, we based NV on CV in accordance with § 773(a)(4) of the Act. In its questionnaire responses, Habas notified the Department that its home market was a residual market and that it did not maintain the records necessary to accurately report the unique physical characteristics of its home market products. We examined Habas's record-keeping practices at verification and confirmed that Habas was unable to report specific product characteristics for its home market database. Consequently, we are unable to use these products to make price-to-price comparisons according to the matching criteria listed in Appendix III of the Department's questionnaire.

Regarding Ekinciler and Metas, these respondents made sales of subject merchandise to affiliated parties in the home market during the POI. Consequently, we tested these sales to ensure that, on average, they were made at "arm's-length" prices, in accordance with 19 CFR 353.45. To conduct this test, we compared the gross unit prices of sales to affiliated and unaffiliated customers net of all movement charges, rebates, and packing. Based on the results of that test, we discarded from each respondent's home market database all sales made to an affiliated party that failed the "arm's-length" test.

Based on the cost allegation submitted by petitioners, the Department determined, pursuant to § 773(b) of the Act, that there were reasonable grounds to believe or suspect that sales in the home market were made at prices below the cost of producing the merchandise. Consequently, the Department initiated an investigation to determine whether the respondents made home market sales during the POI at prices below their respective COPs.

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A), in accordance with § 773(b)(3) of the Act. As noted above, we determined that the Turkish economy experienced significant inflation during the POI. Therefore, in order to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that respondents submit monthly COP figures based on the current production costs incurred during each month of the POI. *See Pasta.*

We used the respondents' monthly COP amounts, adjusted as discussed below, and the WPI from the IMF (*see* Comment 2) to compute an annual weighted-average COP for each respondent during the POI. We compared the weighted-average COP figures to home market sales of the foreign like product, as required under § 773(b) of the Act, in order to determine whether these sales had been made at prices below their COP. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and packing expenses. We did not deduct selling expenses from the home market price because these expenses were included in the SG&A portion of COP.

In determining whether to disregard home market sales made at prices below the COP, we examined: 1) whether, within an extended period of time, such sales were made in substantial quantities; and 2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time.

Where 20 percent or more of a respondent's sales of a given product during the POI were at prices below the COP, we found that sales of that model were made in "substantial quantities," and within an extended period of time, in accordance with § 773(b)(2) (B) and (C) of the Act. To determine whether prices were such as to provide for recovery of costs within a reasonable period of time, we tested whether the prices which were below the per-unit COP at the time of the sale were above the weighted-average per-unit COP for the POI, in accordance with § 773(b)(2)(D) of the Act. If prices that were below cost at the time of sale were above the weighted-average cost for the POI, we included such prices in determining NV (for all respondents except Habas). Otherwise, we disregarded them.

In accordance with § 773(e) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, SG&A, profit, and U.S. packing costs, except as noted in the company-specific sections below. In accordance with § 773(e)(2)(A) of the Act, where possible, we based SG&A expenses and profit on the amounts incurred and realized by each of these companies in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. In addition, to account for the effects of inflation on costs, we calculated each respondent's CV based on the methodology described in the calculation of COP above. Company-specific calculations are discussed below.

A. Colakoglu

We relied on the respondent's COP and CV amounts except in the following instances:

(1) We adjusted Colakoglu's submitted scrap cost to include the transfer prices it paid to an affiliated company for freight service because the transfer prices were made at arm's length and represent the actual cost to Colakoglu (*see* Comment 11).

(2) Colakoglu based its reported SG&A and financing expense rates on amounts contained in the company's tax return. However, because the Department prefers to use figures from audited financial statements, we revised the SG&A and financing expense rates for COP and CV using amounts reported in Colakoglu's 1995 audited financial statements.

(3) We indexed the submitted monthly SG&A and financing expenses using the IMF's WPI (*see* Comment 2).

(4) We included translation losses in financing expense (see Comment 3).

(5) Because Colakoglu did not report costs for products which were once-folded, we assigned to these products the COP and CV amounts calculated for the same products sold in straight lengths, based on our findings at verification confirming that there were no appreciable cost differences associated with folding.

For those comparison products for which there were sales at prices above the COP, we based NV on ex-factory prices to home market customers. In accordance with § 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. In addition, we adjusted for differences in the circumstances of sale, in accordance with § 773(a)(6)(C)(iii) of the Act. These adjustments included differences in imputed credit expenses (offset by the interest revenue actually received by the respondent), bank charges, testing and inspection fees, and Exporters' Association fees. We revised the interest revenue amounts received on certain home market sales based on our findings at verification. In addition, we recalculated credit expenses using the interest rates associated with Colakoglu's actual borrowings in the home market (see Comment 7). Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with § 773(a)(6)(C)(ii) of the Act and 19 CFR 353.57.

Where we compared CV to export prices, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses.

B. Ekinciler

We relied on the respondent's COP and CV amounts except in the following instances:

(1) We revised the reported COP and CV amounts to account for the costs of rebar produced by subcontractors.

(2) We used the IMF's WPI to inflate the idle asset revalued depreciation expense adjustment, SG&A and financing expense (*see* Comment 2).

(3) We included translation losses in financing expense and amortized them over the remaining life of the loans (*see* Comment 3).

(4) We disallowed Ekinciler's offset to financing expenses for foreign exchange gains related to accounts receivable because they occurred after the sale date and therefore are not relevant to the Department's margin calculations.

(5) We added intra-factory freight expense to the cost of billets (*see* Comment 19).

(6) We reduced G&A expenses by non-operating revenue and increased G&A expenses by non-operating expenses (*see* Comment 17).

For those comparison products for which there were sales at prices above the COP, we based NV on ex-factory, ex-warehouse or delivered prices to home market customers. We excluded from our analysis home market sales by Ekinciler of non-subject merchandise because this merchandise was not within the class or kind of merchandise subject to investigation (*see* Comment 12 and § 731 and § 771(16) of the Act). Where appropriate, we made deductions from the starting price for foreign inland freight, inland insurance, and direct warehousing expenses. We revised certain foreign inland freight expenses based on our findings at verification. In accordance with § 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. As facts available for a portion of Ekinciler's total packing expenses, we used the highest verified packing expense for one of Ekinciler's mills (*see* Comment 15). In addition, we adjusted for differences in the circumstances of sale, in accordance with § 773(a)(6)(C)(iii) of the Act. These adjustments included differences in imputed credit expenses, bank charges, warranty expenses, testing and inspection fees, and Exporters' Association fees. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with § 773(a)(6)(C)(ii) of the Act and 19 CFR § 353.57.

Where we compared CV to export prices, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses.

C. Habas

As noted in the "Fair Value Comparisons" section above, we determined NV for Habas on the basis of CV. We relied on the respondent's CV amounts except in the following instances:

(1) We revised the reported CV amounts to account for the cost of billets and rebar produced by subcontractors.

(2) Because Habas could not accurately report the unique physical characteristics of its home market products, we were unable to determine whether Habas made home market sales in the ordinary course of trade (*e.g.*, perform the cost test). Consequently, we based Habas's SG&A expenses and

profit on the weighted average of the profit and SG&A data computed for those respondents with home market sales of the foreign like product in the ordinary course of trade (*i.e.*, Colakoglu and Ekinciler) in accordance with § 773(e)(2)(B)(ii) of the Act.

Because we were unable to use Habas's home market sales data for purposes of making price-to-price comparisons, we compared export prices to CV. We deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses. Home market direct selling expenses were based on the weighted average of the selling expense data computed for Colakoglu and Ekinciler (the respondents for whom we found home market sales of the foreign like product in the ordinary course of trade after performing the cost test) in accordance with § 773(e)(2)(B)(ii) of the Act. U.S. direct selling expenses included imputed credit expenses, bank charges, testing and inspection fees, and Exporters' Association fees. We revised the total bank fee amount to account for unreported bank fees based on our findings at verification.

Regarding Habas's U.S. packing expenses, we revised the monthly reported figures based on corrections found at verification.

D. Metas

We relied on the respondent's COP and CV amounts except in the following instances:

(1) We used the IMF's WPI to recalculate the company's SG&A and financing expenses (*see* Comment 2).

(2) We adjusted material costs by using the actual mix of scrap purchased during 1995 (*see* Comment 23).

(3) We adjusted SG&A expenses to exclude expenses associated with the movement of finished goods because COP is calculated on an ex-factory basis, in accordance with § 773 of the Act.

(4) Because Metas made no home market sales in the ordinary course of trade (*i.e.*, all sales were found to be below cost), we based the profit and SG&A expenses used in CV on the weighted average of the profit and SG&A data computed for Colakoglu and Ekinciler, in accordance with § 773(e)(2)(B)(ii) of the Act.

Because all of Metas's home market sales were sold below their COP, we compared export prices to CV. We deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses. Home market direct selling expenses were based on the weighted average of the selling expense data computed for Colakoglu and Ekinciler (those respondents with home market sales of the foreign like product in the ordinary course of trade after performing the cost test), in accordance with § 773(e)(2)(B)(ii) of the Act. U.S. direct selling expenses included imputed credit expenses (offset by the interest revenue actually received by the respondent), bank charges, testing and inspection fees, and Exporters' Association fees.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones News/Retrieval Service. *See* 19 CFR § 353.60. *See e.g., Pasta.*

Critical Circumstances

In the petition, petitioners made a timely allegation that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise.

According to § 733(e)(1) of the Act, if critical circumstances were alleged under § 733(e) of the Act, the Department will determine whether:

(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) the person by whom, or for whose account, the merchandise was imported knows or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) there have been massive imports of the subject merchandise over a relatively short period.

In this investigation, the first criterion is satisfied because the Republic of Singapore began imposing antidumping measures against rebar from Turkey in 1995. Therefore, we determine that there is a history of dumping of rebar by Turkish producers/exporters. Because there is a history of dumping, it is not necessary to address whether the importer had knowledge that dumping was occurring and material injury was likely.

Because we have found that the first statutory criterion is met, we must consider the second statutory criterion: whether imports of the merchandise have been massive over a relatively short period. Pursuant to 19 CFR 353.16(f) and 353.16(g), we consider the following to determine whether imports have been massive over a relatively short period of time: (1) Volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding and following the filing of the petition. Under 19 CFR 353.16(f)(2), unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider the imports to have been "massive."

To determine whether or not imports of subject merchandise have been massive over a relatively short period for all respondents, except IDC, we compared each respondent's export volume for the seven months subsequent to and including the filing of the petition to that during the comparable period prior to the filing of the petition. Based on our analysis, we find that imports of the subject merchandise from Ekinciler, Habas, and Metas increased by more than 15 percent over a relatively short period, whereas the imports of subject merchandise from Colakoglu did not increase by more than 15 percent. Moreover, regarding IDC, as facts available, we are making the adverse assumption that imports have been massive over a relatively short period of time in accordance with § 735(a)(3)(B) of the Act.

Therefore, because there is a history of dumping of such or similar merchandise, and because we find that imports of rebar from all respondents except Colakoglu have been massive over a relatively short period of time, we determine that critical circumstances exist with respect to exports of rebar from Turkey by Ekinciler, Habas, IDC, and Metas. Regarding Colakoglu, because we find that imports of rebar from this company have not been massive over a relatively short period of time, we determine that critical circumstances do not exist with respect to exports of rebar from Turkey by Colakoglu. For further discussion, *see* Comment 10.

Regarding all other exporters, because we find that critical circumstances exist for three of the four investigated companies, we also determine that critical circumstances exist for companies covered by the "All Others" rate.

Verification

As provided in § 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

A. General

Comment 1: *Use of Total Facts Available for the Final Determination*

Petitioners assert that the Department should base its final determination with regard to Ekinciler on total facts available due to the numerous errors discovered by the Department at verification. Petitioners contend that these errors are so numerous and substantial that they call into question the propriety of using Ekinciler's response as the basis for calculating a dumping margin. Petitioners cite the following examples: (1) Ekinciler included non-subject merchandise in its home market sales database; (2) Ekinciler's packing expenses contained errors; (3) Ekinciler did not report the cost of old stocks (*i.e.*, fuel oil) and certain service production costs; and (4) Ekinciler was unable to provide the Department with heat sheets for grade 60 billets as requested.

In support of their position, petitioners cite to *Circular Welded Non-Alloy Steel Pipe from South Africa: Notice of Final Determination of Sales at Less Than Fair Value*, 61 FR 24274 (May 14, 1996) (*Steel Pipe*), where the Department used facts available because "the number of errors discovered draw into question the completeness and accurateness of respondent's remaining sales (*i.e.*, sales not specifically reviewed at verification)." Petitioners state that the antidumping law and the Department's practice require that the Department strive to calculate accurate margins, but that an accurate and fair comparison is not possible in view of the errors in Ekinciler's responses. Therefore, according to petitioners, the final determination for Ekinciler should be based on total facts available. Moreover, petitioners urge the Department to consider applying total facts available to Colakoglu and/or Habas on the same basis, even though their errors were not as egregious or numerous as those of Ekinciler.

Ekinciler argues that its reported sales and cost data were substantially verified by the Department and, as a result, the use of total facts available for the final determination is not supported by evidence on the record. Respondent cites to *Certain Cut-To-Length Carbon Steel Plate from Germany: Final Results of Antidumping Duty Administrative Review*, 61 FR 13834 (March 28, 1996), where the Department rejected petitioner's request to base the final results of the review on total best information available because respondent had been cooperative throughout the proceeding and the errors found at verification were not so large as to render the respondent's reported information unusable. Ekinciler maintains that, pursuant to § 776(a)(2) of the Act, when errors or gaps appear in otherwise timely and verified information and the respondent has been cooperative, the Department will simply revise the information or fill the gaps using non-adverse facts available. Accordingly, Ekinciler asserts that the Department should, consistent with this practice, fill the gaps in its reported data found at verification with non-adverse facts available.

Colakoglu and Habas argue that the information they have submitted on the record was also substantially verified, and, thus, the use of total facts available is not supported by evidence on the record.

DOC Position

We agree with respondents. Although our verifications uncovered certain errors in the responses of these companies, those errors are not so egregious as to resort to total facts available for purposes of the final determination. The errors found at Ekinciler consisted primarily of minor variations in the reported movement expenses due to clerical errors and inadvertent omissions—errors that the Department routinely corrects in making its final determination. Regarding the inclusion of non-subject merchandise, the Department normally excludes sales from its analysis which were found at verification to have been incorrectly included. *See Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 61 FR 69067, 69068 (Dec. 31, 1996), *Final Results of Antidumping Duty Administrative Review: Extruded Rubber Thread from Malaysia*, 61 FR 54767 (Oct. 22, 1996), and *Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil*, 60 FR 31960, 31965 (June 19, 1995).

Contrary to petitioners' assertion, the errors found at Ekinciler were not of the same magnitude as the errors described in *Steel Pipe*. The errors encountered at verification in *Steel Pipe* undermined the fundamental components of the respondent's submitted data and included most notably quantity and value reconciliation errors, unreported sales, and incorrect prices for a majority of sales. Such errors led the Department to determine that respondent's questionnaire responses were unverifiable. In the instant case, the discrepancies found in Ekinciler's responses are not so material and pervasive as to warrant use of total facts available. Consequently, in accordance with our practice, we have used facts available only for certain aspects of Ekinciler's response, as discussed in other comments below.

Comment 2: Selection of Inflation Index

Respondents argue that monthly costs should be inflated to year-end values using the WPI published by the IMF rather than the primary metals index (PMI) published by the Turkish Institute of Statistics. Respondents note that the WPI was used to determine that Turkey was experiencing hyperinflation and, thus, this index should be used to account for distortions caused by hyperinflation. Additionally, respondents argue that they paid for major material inputs using U.S. dollars. For this reason, respondents argue that the Department should use the WPI—which is a general indicator of the price levels of the whole economy—because it provides a reliable, macroeconomic indicator of the relative values of the Turkish lira and the U.S. dollar. Respondents assert that the PMI does not reflect macroeconomic considerations.

Petitioners counter that PMI should be used to inflate monthly costs to year-end values because this index is industry-specific and, unlike the WPI, it is not subject to influences which are irrelevant to the merchandise under investigation. Petitioners argue that the test of whether an economy is experiencing hyperinflation is a threshold test and the use of a particular index to determine whether the threshold has been met does not imply that the same index should be used to measure the impact of inflation. Petitioners also claim that it is irrelevant whether the index used is a reliable indicator of the relative values of the Turkish lira and the U.S. dollar because the index is being used for a different purpose—to inflate Turkish lira-denominated monthly expenses and cost of sales to year-end amounts.

DOC Position

We agree with petitioners that it is irrelevant whether the index used is a

macroeconomic indicator of the relative value of the Turkish lira and the U.S. dollar since inflation adjustments concern only the Turkish lira. However, we have reconsidered our use of the PMI in the preliminary determination and, for the reasons set forth below, have used instead the WPI published by the IMF to account for inflation in the final determination.

There are no financial reporting requirements prescribed by Turkish authorities that require the financial statements of Turkish companies to be restated to account for the effects of inflation. Consequently, in the absence of this requirement, none of the respondents restated their financial statements to correct for the effects of inflation. Accordingly, in this instance, we relied on International Accounting Standard (IAS) 29 entitled "Financial Reporting in Hyper-inflationary Economies" for guidance on an appropriate methodology. (*See* Memorandum to the File from Paul McEnrue, dated February 12, 1997.) According to IAS 29, financial statements prepared in the currency of a highly inflationary economy must be restated to account for the effects of inflation. The statement requires the use of a general price index that reflects changes in general purchasing power to restate financial statements. The IAS statement also notes that the same index should be used for all enterprises that report in the currency of the same economy. Because the WPI measures changes in the general price index, while the PMI does not, we find that it is more appropriate to use the WPI to account for inflation for purposes of the final determination.

Comment 3: Translation Losses[2]

Respondents contend that translation losses from their foreign currency borrowings (which were principally U.S. dollar-denominated) should be excluded from the submitted costs. Respondents reason that, since the translation losses are not a result of cash transactions, the losses are fictional. Respondents explain that the translation losses result from converting dollar-denominated loans into their Turkish lira equivalents as of the balance sheet date. Respondents argue that the translation losses are equivalent to monetary corrections on domestic loans and the Department's practice is to exclude monetary corrections from reported costs. Respondents note that, where the indexation (*i.e.*, adjustment for inflation) of domestic loan balances is required by the generally accepted accounting principles (GAAP) of a hyperinflationary economy, the Department's practice has been to exclude the monetary corrections on such loan balances and to treat the indexation of those loan balances as an adjustment which is not relevant to the determination of cost (*see Final Determination of Sales at Less Than Fair Value: Tubeless Disc Wheels From Brazil*, 52 FR 8947, 8949 (March 20, 1987) and *Notice of Amended Final Determination of Sales at Less Than Fair Value: Ferrosilicon From Brazil*, 59 FR 8598, 8598 (Feb. 23, 1994)). Respondents maintain that their adjustment of foreign currency loan balances for translation losses is equivalent to the indexation of domestic loans and, thus, the Department should not include respondents" translation losses in COP and CV. Additionally, because costs included in CV are eventually converted into dollars, respondents argue that the Department should base loan costs on the U.S. dollar-denominated loan balances and avoid the conversion from dollars to Turkish lira and back to dollars which creates a loss that does not exist in dollar terms.

Petitioners argue that translation losses are "real costs" that should be included in COP and CV. To support their position, petitioners cite the decision of the Court of International Trade (CIT) in *Micron Tech.* v. *United States*, 993 F. Supp. 21, 29–30 (CIT 1995). In that case, the CIT held that "increased liability for borrowed funds caused by fluctuations in the exchange rate . . . are akin to an increased cost of borrowing funds that should be included in any reasonable measure of the cost climate faced by the company during the period of investigation. . ." Moreover, petitioners maintain that it is the Department's practice to include foreign exchange translation losses in the cost of manufacturing (*see Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Products, Certain Cold-Rolled Carbon Steel Products, Certain Corrosion-Resistant Carbon Steel Products and Certain Cut-to-Length Carbon Steel Plate from Korea*, 58 FR 37176, 37187 (July 9, 1993)).

Petitioners contend that respondents" argument for excluding translation costs from COP and CV fails for the following reasons. First, CV is the cost of producing merchandise in the exporting country and not the cost of producing merchandise in the United States or in U.S. dollars. Therefore, the fact that a translation loss does not exist in dollars is irrelevant. Second, the Department's practice of excluding from costs monetary adjustments from the indexation of domestic loan balances does not apply in this case because respondents do not index their foreign currency or domestic loans and Turkish GAAP does not call for such indexation. Third, respondents did not cite any precedent which establishes the Department's position regarding the treatment of monetary corrections for foreign currency loans. Thus, petitioners urge the Department to include respondents" translation losses in COP and CV.

DOC Position

We agree with petitioners. The cases cited by respondents are not specifically related to the Department's treatment of monetary corrections for foreign currency loans. The Department does not agree with respondents' supposition that their translation losses are fictional. The translation losses are recorded in respondents" financial statements in the ordinary course of business. In the past, the Department has found that translation losses represent an increase in the actual amount of cash needed by respondents to retire their foreign currency-denominated loan balances. *See Notice of Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Ecuador*, 24 FR 7019, 7039, (Feb. 6, 1995). We have therefore included the translation losses in our calculation of COP and CV and have amortized these expenses over the remaining life of the companies" loans.

Comment 4: Waste and Discarded Material

Petitioners note that the accounting method used by each respondent to record the value of scrap (either generated from or recycled back into rebar production) can result in a significant understatement of costs. Petitioners reason, therefore, that the Department should closely scrutinize the quantity, value and accounting treatment of scrap reported by each respondent.

Respondents maintain that each company's treatment of scrap is reasonable and does not result in a significant understatement of costs.

DOC Position

We reviewed and verified the respondents' accounting treatment of

[2] Foreign currency translation is the process of expressing amounts denominated in one currency in terms of a second currency, by using the exchange rate between the currencies. Assets and liabilities are translated at the current exchange rate on the balance sheet date. The Department typically includes foreign exchange translation gains and losses in a respondent's financial expenses if such gains and losses are related to the cost of acquiring debt for purposes of financing the production of the subject merchandise.

scrap. We found respondents' treatment accurately reflects the value of scrap. *See* Colakoglu Cost Verification Report at 6 and 7; Ekinciler Cost Verification Report at 10 and 18; Habas Cost Verification Report at 9 and 17; and Metas Cost Verification Report at 10 and 18.

Comment 5: Treatment of Defective Bar and "Out-of-form" Billets

Petitioners assert that Colakoglu and Habas improperly treated defective bar and "out-of-form" billets, respectively, as co-products. Petitioners argue that both respondents should have treated these products as by-products. Petitioners state that by-products are: (1) products that have low sales value compared to the sales value of the main product; and (2) produced unintentionally as part of the manufacturing process from the intended product. Petitioners assert that Colakoglu's defective bar and Habas's out-of-form billet satisfy all the by-product criteria and, therefore, should be treated as such.

Colakoglu maintains that its co-product accounting treatment of defective bar is proper, stating that a co-product accounting methodology is consistent with the manner in which defective bar is treated in its books and records in the normal course of business. Colakoglu argues that during verification the Department did not find its co-product methodology distortive.

Habas argues that it properly treated "out-of-form" billet as a co-product because billets are a finished good and are treated as such in Habas's books. Furthermore, Habas contends that it accounts for such billets in the same manner as it accounts for plain billets in the ordinary course of business. Habas also states that the only difference between billet and rebar production processes is the additional rolling time required for rebar.

DOC Position

We agree with respondents. We believe that the methods used by Colakoglu and Habas to account for defective bar and "out of form" billet, respectively, are reasonable because we found that they do not distort the cost of producing rebar. Consequently, we have relied on them for purposes of the final determination.

According to § 773(f)(1)(A) of the Act, "costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, when appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise." *See also* H.R. Doc. No. 316 (SAA) at 834 and 835. The CIT has upheld the Department's use of expenses recorded in the company's financial statements, when those statements are prepared in accordance with the home country's GAAP and do not significantly distort the company's actual costs. *See e.g., Laclede Steel Co.* v. *United States*, Slip Op. 94–160 at 22 (CIT 1994).

Accordingly, our practice is to adhere to an individual firm's recording of costs, if we are satisfied that such principles reasonably reflect the costs of producing the subject merchandise and are in accordance with the GAAP of its home country. *See, e.g., Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand*, 60 FR 29553, 29559 (June 5, 1995); *Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Welded Pipe from the Republic of Korea*, 57 FR 53693, 53705 (Nov. 12, 1992); and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from South Africa*, 60 FR 22550, 22556 (May 8, 1995). Normal accounting practices provide an objective standard by which to measure costs, while allowing respondents a predictable basis on which to compute those costs. However, in those instances where it is determined that normal accounting practices result in an unreasonable allocation of production costs, the Department will make certain adjustments or may use alternative methodologies that more accurately capture the costs incurred. *See, e.g., Final Determination of Sales at Less Than Fair Value: New Minivans from Japan*, 57 FR 21937, 21952 (May 26, 1992).

In the instant proceeding, therefore, the Department examined whether respondents' accounting methodology for defective bar and "out of form" billet reasonably reflects the cost of producing the subject merchandise. We found that the quantity of defective bar and "out of form" billet produced by these companies, in relation to total production of all bar products, is so small as to not significantly affect the per-unit cost for rebar. *See* Colakoglu Cost Verification Report at 12 and Habas Cost Verification Report at 11. As such, we have determined that respondents' methods of accounting for defective bar and "out of form" billet do not distort the cost of producing rebar. Moreover, these methods are used in the normal course of business. Accordingly, we have accepted these methods for purposes of the final determination.

Comment 6: Revised Cost Databases Submitted by Colakoglu and Habas

Petitioners argue that several fields in the cost databases submitted after verification were revised without explanation from those used for the preliminary determination. Therefore, petitioners argue that the Department should use facts available instead of the unexplained values contained in the altered fields. If the Department has the information at its disposal, petitioners ask that the Department explain why certain fields were omitted from the revised cost databases.

In addition, petitioners state that Habas reported costs for certain products for months during which there was no production of those products. Petitioners maintain that the Department should ensure that Habas did not fail to account for all costs actually incurred and that the method Habas used to calculate monthly costs appropriately allocated all costs. Petitioners argue that the Department should use total facts available if Habas's submissions do not account for all costs actually incurred, or if all costs are accounted for but inappropriately allocated.

Colakoglu maintains that certain fields in its cost database were altered due to changes that were requested by the Department. Furthermore, Colakoglu states that certain fields were omitted because the Department did not use those fields for the preliminary determination, and, in fact, never requested that such data be reported.

DOC Position

We disagree with petitioners. We analyzed respondents' revised databases and found that all revisions were the direct result of changes requested by the Department. Moreover, regarding the omitted fields, we agree with Colakoglu that these fields were unnecessary and were not used in our analysis. Therefore, we have accepted respondents' revised databases for purposes of the final determination.

Company-Specific Issues

B. Colakoglu

Comment 7: Interest Rate Used to Calculate Home Market Credit Expenses

Colakoglu argues that the Department should not use loans issued by the Turkish Eximbank in calculating its home market imputed credit expenses. Colakoglu asserts that its Eximbank loans were related to export-oriented activities and, as such, were not used to

finance home market sales. As precedent for its position, Colakoglu cites *Porcelain-on-Steel Cooking Ware From Mexico; Final Results of Antidumping Duty Administrative Review*, 58 FR 43327 (Aug. 16, 1993) *(Porcelain-on-Steel Cooking Ware)*, where the Department excluded short-term export loans from the information used to calculate the home market interest rate.

Petitioners disagree, stating that the Department should use Colakoglu's Eximbank loans in calculating credit because Colakoglu had no other source of borrowings denominated in Turkish lira during the POI. Petitioners maintain that Colakoglu's actual borrowings are more indicative of the company's short-term borrowing experience than are the rates published by the IMF. Moreover, petitioners claim that the facts in this case are distinguishable from those in *Porcelain-on-Steel Cooking Ware* because the respondent in *Porcelain-on-Steel Cooking Ware* had other short-term loans denominated in the home market currency.

DOC Position

We agree with petitioners. In general, the Department's practice with regard to the interest rate used to calculate home market imputed credit expenses is to base the rate on a company's actual borrowings in the home market currency. The Department makes exceptions to this practice either when there are no loans in the home market currency or when a company is able to prove that its loans in that currency do not form an appropriate basis for the home market interest rate (*e.g.*, when they are tied to specific export transactions).

In *Porcelain-on-Steel Cooking Ware*, it was demonstrated to the Department's satisfaction that the loans at issue were tied directly to exports of subject merchandise. In this case, however, not only is there no evidence on the record showing that these loans are tied to U.S. sales of rebar, but there is also no evidence that they are tied to exports at all. Moreover, these loans are based on Turkish lira-denominated borrowings and bear interest rates into which inflation has been factored. Consequently, we find that the interest rates paid on these loans are more indicative of Colakoglu's actual borrowing experience than are the interest rates published by the IMF. Accordingly, we have used them in our calculation of home market credit for purposes of the final determination.

Comment 8: SG&A Expenses Incurred by Affiliated Parties at the Port

Colakoglu argues that the Department should not include in its U.S. movement expenses those SG&A expenses incurred by Denak, an affiliated party, in connection with export-related activities at the port. According to Colakoglu, the administrative services performed by Denak consist of securing vessels and communicating with vessel owners, not running the port or moving goods. As such, Colakoglu asserts that these circumstances are analogous to the circumstances in which a respondent itself secures the services of an unaffiliated ocean freight company. Colakoglu notes that, in such an instance, the Department does not add a respondent's overhead expenses to the amount reported for ocean freight.

Colakoglu also contends that in the event that the Department decides that it must make an adjustment for Denak's SG&A expenses, the Department should exclude those expenses which were unrelated to services provided on behalf of Colakoglu.

Petitioners assert that the Department should make an adjustment for Denak's SG&A expenses in order to ensure that all U.S. movement expenses are captured in the margin calculation.

DOC Position

We disagree with petitioners and have made no adjustment for Denak's SG&A expenses for the reasons explained below.

Regarding services provided by affiliated parties, the Department's practice is to value the services at an arm's-length price. In order to determine whether the price between the parties is at arm's length, the Department generally looks at prices charged by the affiliate to unaffiliated parties or at prices paid by the respondent to an unaffiliated party. *See, e.g., Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Finland*, 56 FR 56363 (Nov. 4, 1991). When there is no transaction with an unaffiliated party, the Department must find another way to value the services in question.

In this case, we examined Denak's role in the export process at verification. We noted that Denak performed several services for Colakoglu related to the shipment of the subject merchandise to the United States. However, we were unable to determine the arm's-length value of these services because we found that Denak did not charge Colakoglu for such services, nor did Colakoglu secure the same services from an outside party. As an alternative, we examined Denak's total SG&A expenses at verification. However, we are unable to use these expenses in our margin calculations because they relate to Denak's operations as a whole, and not just to the shipment of rebar to the United States.

Under these circumstances, the Department would normally base the per-unit amount of the expense on facts available. Given the particular facts of this case, however, we find that this is not appropriate for Colakoglu. Specifically, we find that there is no net cost associated with Denak's activities because: (1) Denak received revenue from unaffiliated parties which was directly related to Colakoglu's export of subject merchandise to the United States; and (2) Denak's revenues exceeded its aggregate costs during the POI. As such, we determine that no adjustment for Denak's SG&A expenses (or the directly-related revenues) is warranted in this case.

We note that two of the other respondents, Ekinciler and Habas, had similar arrangements with affiliated parties during the POI and similar problems in determining the amount of per-ton SG&A expenses. Consistent with our treatment of Colakoglu's situation, we have made no adjustments for either the expenses or revenues associated with these transactions.

Comment 9: Use of Data Contained in Revised Sales Database

At verification, the Department found that in certain instances Colakoglu had reported average home market price and interest revenue data. Colakoglu argues that the Department should accept its revised database correcting these data for purposes of the final determination. Colakoglu maintains that the averaging affected only a limited portion of the home market database. Moreover, Colakoglu notes that the corrected information was verified by the Department.

Petitioners contend that the Department should not use the data in question. According to petitioners, this information is untimely because it was submitted after the deadline for submission of factual information (*i.e.*, seven days prior to the start of verification). Petitioners cite *Elemental Sulfur from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 969 (Jan. 7, 1997) (*Elemental Sulfur*), which outlines the conditions under which the Department will accept new information

at verification.[3] Petitioners claim that the conditions set forth in *Elemental Sulfur* do not apply here.

DOC Position

We disagree with petitioners. The information in question was not new information within the meaning of 19 CFR § 353.31 because it consisted of minor corrections to data which were already on the record and affected only a limited portion of Colakoglu's home market database. Accordingly, consistent with our practice outlined in *Elemental Sulfur*, we used Colakoglu's revised home market database for purposes of the final determination.

Comment 10: Critical Circumstances

Colakoglu maintains that the Department should determine that critical circumstances do not exist with respect to its shipments based on the fact that the increase in its imports has not been massive prior to the preliminary determination. According to Colakoglu, it is the Department's practice to use in its analysis the longest period for which information is available from the month of the filing of the petition until the effective date of the preliminary determination. In this case, the appropriate period would be seven months.

Petitioners contend, however, that the Department should define the period used in its analysis as the five-month period between the filing of the petition and the date of the preliminary determination as originally scheduled (*i.e.*, August 1996). Petitioners argue that, had it not been for the Department's decision to conduct a below-cost investigation, the Department would have issued the preliminary determination in August and Colakoglu would have been effectively precluded from making its argument on critical circumstances. Moreover, petitioners assert that a finding in Colakoglu's favor would have a chilling effect on petitioners' use of either the below-cost provisions or the critical circumstances provisions of the antidumping law, by forcing petitioners to choose between alleging the existence of sales below cost or critical circumstances.

DOC Position

We agree with Colakoglu. In determining whether imports have been massive within the meaning of § 735(a)(3)(B) of the Act, it is the Department's practice to base its analysis on the longest period for which information is available, normally beginning with the month of filing of the petition[4] and ending with the date of the preliminary determination. *See Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China* (issued on Feb. 24, 1997), where the Department used a seven-month period; *Notice of Preliminary Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 60 FR 56567, 56574 (Nov. 9, 1995), where the Department used periods ranging from three to six months, based on "the Department's practice of using the longest period for which information is available from the month that the petition was submitted through the effective date of the preliminary determination," affirmed in *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, 19031 (April 30, 1996)); and *Notice of Preliminary Determination of Critical Circumstances: Disposable Pocket Lighters from the People's Republic of China*, 60 FR 436, 437 (Jan. 4, 1995), where the Department used a period of seven months, affirmed in *Notice of Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from the People's Republic of China*, 60 FR 22359, 22363 (May 5, 1995).

Consequently, we have based our analysis on the seven-month period between the filing of the petition and the date of the preliminary determination. Using these data, we find that imports by Colakoglu have not been massive over a relatively short period of time. Accordingly, we find that critical circumstances do not exist for Colakoglu.

Comment 11: Affiliated Party Freight Services

Colakoglu argues that the transfer prices that it pays to its affiliate Denak for transporting imported scrap are not equivalent to market prices and, therefore, should not be used in the Department's final determination. Respondent notes that, in the past, the Department has included transfer prices only when it was demonstrated that they were equivalent to market prices. *See Final Determination at Less Than Fair Value: High Information Content Flat Panel Displays and Display Glass from Japan*, 56 FR 32376, 32376 (July 16, 1991). Respondent reasons that, in order for the Department to conclude that the transfer price between Colakoglu and its affiliate is at arm's length, the Department must conclude that prices charged by the affiliate are comparable to those charged by an unaffiliated freight supplier. Respondent argues that the discrepancy between Denak's price and the unaffiliated price demonstrates that the amount charged by Denak is not an arm's-length price and should be disregarded. Respondent notes that the statute does not specify that only transfer prices that are lower than market prices may be disregarded. Rather, respondent points out that in the past the Department has also disregarded transfer prices which are higher than arm's-length prices. *See Final Results of Antidumping Duty Administrative Review: Color Picture Tubes from Japan*, 55 FR 37915, 37922 (Sept. 14, 1990).

Petitioners argue that the Department should continue to use the price Colakoglu paid to Denak for freight services because it is an arm's-length price. Petitioners note that the Department has recently found that "in the case of a transaction between affiliated persons involving a major input, we will use the highest of the transfer price between the affiliated parties, the market price between unaffiliated parties, and the affiliated supplier's cost of producing the major input." *See Final Results of Antidumping Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom*, 62 FR 2081, 2115 (Jan. 15, 1997) (*AFB's*).

DOC Position

We agree with petitioners. In determining whether a transaction occurred at an arm's-length price for a major input, as stated in *AFB's*, the Department will use the highest of the transfer price between the affiliated parties, the market price between unaffiliated parties, and the affiliated supplier's cost of producing a major input.

In the normal course of business Colakoglu records the transfer price in its books to account for freight costs from its affiliate. However, Colakoglu submitted its affiliate's cost of providing freight service, the transfer price paid by Colakoglu, and prices from unaffiliated freight companies. In accordance with the practice outlined in *AFB's*, we

[3] These conditions are: (1) the need for the information was not evident previously, (2) the information makes minor corrections to information already on the record, or (3) the information corroborates, supports, or clarifies information already on the record.

[4] The date on which a petition is filed will determine whether the month of filing will be included in the base or comparison period.

compared these data and found that the price paid to Denak was an arm's-length price for freight services pursuant to § 773(f) (2) or (3) of the Act. Accordingly, we have used the affiliated company's transfer price to value freight services.

C. Ekinciler

Comment 12: *Non-Subject Merchandise*

Ekinciler argues that the inclusion of de minimis quantities of non-subject merchandise in its home market database is not material to the calculation of dumping and that the Department should not adjust its reported home market sales database with regard to non-subject merchandise. Ekinciler states that the number of sales of fabricated rebar inadvertently included in its home market sales database is so small as to be insignificant. Ekinciler maintains that a comparison of the relative prices of the non-subject rebar to the subject rebar demonstrates that the inclusion of the non-subject merchandise is of no consequence and may work to its disadvantage. Thus, Ekinciler asserts that the Department should continue to use Ekinciler's submitted home market database without making adjustments for fabricated rebar for purposes of the final determination.

Petitioners contend that, if the Department does not base Ekinciler's margin on total facts available (*see* Comment 1), it should use the most adverse facts available for this aspect of Ekinciler's margin.

DOC Position

We disagree with respondent, in part. We agree with respondent that the Department should continue to use its home market sales listing because the quantity of non-subject merchandise included is small. However, according to § 773(a)(1)(B)(i) of the Act, the price on which normal value is based is "the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country * * *" Therefore, we are required by the statute to exclude non-subject merchandise from our calculation of normal value.

Petitioners point to the inclusion of non-subject merchandise as evidence that Ekinciler's entire response is unreliable and propose the use of the most adverse facts available for this aspect of Ekinciler's response. We find, however, that adverse facts available is not warranted in this instance because we were able to verify Ekinciler's home market sales of subject merchandise. Accordingly, we have excluded all sales of non-subject merchandise discovered at verification.

Comment 13: Dunnage Revenue

Petitioners argue that the Department should omit dunnage revenue from the calculation of U.S. price for Ekinciler because dunnage revenue could not be verified. Specifically, petitioners cite to the verification report which stated that Ekinciler was "unable to provide bills of lading for third country sales that would have confirmed which shipment was more appropriately associated with the dunnage sales."

Ekinciler contends that, although it was not possible to directly tie the reported dunnage revenue to a specific U.S. sale, its methodology is reasonable, and the Department should make an adjustment for the reported revenue. Ekinciler maintains that, as stated in the verification report, no more than one vessel may dock at the port for loading at any one time. Therefore, since Ekinciler matched dunnage sales to shipments that left the port on approximately the same date as the date of the dunnage sale, it claims that it is reasonable to assume that the reported dunnage revenues were earned in connection with the identified U.S. shipments.

DOC Position

We agree with petitioners. At verification, we noted that Ekinciler did not receive revenue from the sale of dunnage materials on every export shipment. Consequently, we were unable to verify that the reported dunnage revenue actually corresponded to shipments of U.S.-bound rebar and not to shipments to other export markets. Therefore we did not include dunnage revenue in our final margin calculation for Ekinciler.

Comment 14: Home Market Credit Expense

Ekinciler asserts that the Department should make no adjustment for imputed home market credit expense for the final determination because this adjustment is de minimis. Ekinciler claims that the imputed credit expense resulting from the use of its verified average number days outstanding is insignificant, and that the Department should disregard this insignificant adjustment to NV in accordance with § 777A(a)(2) of the Act and 19 CFR 353.59(a). Alternatively, Ekinciler contends that the Department should correct its calculation of credit to reflect that the interest rate reported is an annual rate.

DOC Position

We agree with respondent, in part. According to § 773A(a)(2) of the Act, the Secretary may disregard adjustments that are insignificant. However, there is no requirement that adjustments which may be insignificant must be disregarded. We have made the adjustment to NV for imputed credit expenses because this adjustment can be easily made and the information on which it is based has been verified and is reliable. However, we agree with respondent that this expense was calculated incorrectly for the preliminary determination. Accordingly, we have corrected our calculation for the final determination to reflect that the interest rate was reported on an annual basis.

Comment 15: Packing Expenses

Ekinciler argues that the Department should accept its packing expenses as reported. Ekinciler maintains that, although the Department's verification report indicates that there was a variation in the reported packing expenses for one of its mills as well as a difference in home market and U.S. packing, it was unaware that there was any significant discrepancy between the reported packing costs and those found at verification. Ekinciler states that, if the Department should find that the packing expenses with respect to the mill in question need to be corrected, the Department may use any of the reported monthly packing expenses from its other mills. According to Ekinciler, these sources provide accurate, verified data reasonable for use as facts available, particularly since Ekinciler can be assumed to have sourced all of its packing materials for all of its mills from the same sources at the same prices.

Petitioners argue that, if the Department does not base Ekinciler's margin on total facts available (*see* Comment 1), it should use the most adverse facts available for this aspect of Ekinciler's margin calculation.

DOC Position

We disagree with Ekinciler that the Department should accept its submitted packing expenses. At verification, Ekinciler was unable to demonstrate that the packing expenses associated with one of its mills were reported correctly. Consequently, we have based the packing expenses for the mill in question on facts available. As facts available, we used the highest verified monthly packing expense reported by Ekinciler for any of its other mills.

Comment 16: Depreciation

Petitioners claim that Ekinciler failed to allocate the year-end inflation adjustment for depreciation expense to each month of the year. Thus, petitioners maintain that Ekinciler's monthly depreciation costs are understated.

According to Ekinciler, its cost submissions clearly show that the year-end inflation adjustment to depreciation expense was included in the monthly costs used to derive COP and CV. Also, Ekinciler asserts that, if the Department inflates its monthly production costs as it did in the preliminary determination, it will overstate its depreciation expense because this expense was already adjusted to account for inflation. Ekinciler notes that the Department verified its reported depreciation expense included a monthly adjustment. This adjustment was calculated at year-end using the revaluation index published by the Turkish Ministry of Finance and applied to each month's costs. Therefore, Ekinciler contends that in the final determination the Department should either: (1) Not inflate reported monthly depreciation expenses; or (2) deflate the reported monthly depreciation expenses to remove the effects of the revaluation before depreciation expenses are inflated.

DOC Position

We agree with Ekinciler. Ekinciler expressed the year-end inflation adjustment to depreciation expense as a percentage of cost of sales and applied this percentage to reported monthly manufacturing costs to derive the monthly depreciation expense reported for COP and CV. Thus, contrary to petitioners" claim, the adjustment to inflate depreciation expense was applied to each month of the POI.

Additionally, the Department found at verification that the reported depreciation expense was calculated using asset costs that had been revalued with the revaluation index published by the Turkish Ministry of Finance. Moreover, Ekinciler provided a translation of the Ministry of Finance's regulations concerning asset revaluation which indicated that the revaluation index is based on an inflation index. Thus, revaluation using this index means that the depreciation expense was already adjusted for inflation. Accordingly, for the final determination we have subtracted depreciation expense from total manufacturing costs before inflating those costs to year-end values. We added inflated manufacturing costs to the reported depreciation expense to derive the total cost of manufacturing.

Comment 17: Other Revenue and Expenses

Petitioners maintain that Ekinciler should include non-operating and other expenses in general and administrative (G&A) expenses because these expenses are related to the production of subject merchandise. However, petitioners argue that non-operating and other revenue should not be used to offset G&A expenses because this revenue is either from activities unrelated to the sale or manufacture of rebar or from accounting adjustments.

Ekinciler maintains that both non-operating and other expenses and revenue should be included as reported because these are components of G&A expenses. Unless G&A expenses are reported on a divisional or product-line basis, Ekinciler contends that it is irrelevant that an element of G&A does not relate to the subject merchandise.

DOC Position

We agree with Ekinciler that both non-operating and other revenue and expenses should be included in G&A. At verification, we identified each item included in non-operating and other revenue and expenses. After examining these items we determined that, except for one revenue item, Ekinciler's non-operating and other revenue and expenses relate to the subject merchandise. We reached this conclusion because these items are generated from resources associated with the production of subject merchandise. The Department's practice is to adjust G&A expenses for miscellaneous revenue and expenses related to the production of subject merchandise (*see Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods From Argentina*, 60 FR 33539, 33550, (June 28, 1995)). Therefore, we have increased G&A by non-operating and other expenses and reduced G&A expenses by non-operating and other revenue except for the one revenue item unrelated to the production of subject merchandise.

Comment 18: G&A Rate

Petitioners note that Ekinciler included certain non-manufacturing costs (*i.e.*, costs associated with operating Ekinciler's port and cafeteria) in the denominator of its G&A ratio, but did not report these costs elsewhere in its response. Petitioners argue that, because these non-manufacturing costs were not included in COP and CV, the Department should base both Ekinciler's G&A rate and COP on adverse facts available. Petitioners claim that Ekinciler's failure to report the costs in question demonstrates that the company's response contains other inaccuracies. At a minimum, however, petitioners argue that, if the Department does not apply adverse facts available, it should treat the non-manufacturing costs consistently (*i.e.*, either exclude or include such costs from both the G&A rate and the reported costs).

Ekinciler maintains that the Department should accept its G&A rate as reported (*i.e.*, by including the non-manufacturing costs in question as part of the denominator of the calculation of the G&A rate). Ekinciler notes that the Department defined G&A expenses in its cost questionnaire as "those period expenses which relate to the activities of the company as a whole rather than to the production process alone."

DOC Position

We agree with Ekinciler. Because the G&A expenses used to derive the G&A rate relate to the activities of the company as a whole, including non-manufacturing activities, we have determined that the methodology Ekinciler used to compute the G&A rate is appropriate. Furthermore, the non-manufacturing costs are related to a separate line of business and, thus, they are unrelated to the manufacture of the subject merchandise. Therefore, these costs were properly excluded from the COP and CV.

Comment 19: Billet Transportation Costs

At verification, the Department found that Ekinciler failed to include the cost of transporting billets within the factory in its reported billet cost. Ekinciler urges the Department to accept the reported billet costs because the omission found at verification is insignificant.

Petitioners claim Ekinciler's failure to include intra-factory transportation costs in reported billet costs indicates Ekinciler's responses are unreliable and therefore, the Department should base Ekinciler's billet cost on adverse facts available.

DOC Position

We disagree with petitioners. For the reasons stated in Comment 1, we do not find that Ekinciler's omission of intra-factory transportation costs satisfies the statutory requirements for using facts available or making adverse inferences in reaching a determination. Therefore, consistent with the Department's practice of correcting minor errors where the use of adverse facts available is unwarranted, we adjusted the

reported billet cost to include intra-factory transportation costs (*see Notice of Final Determination of Sales at Less Than Fair Value: Beryllium Metal and High Beryllium Alloys From the Republic of Kazakstan*, 62 FR 2648, 2650 (Jan. 17, 1997)).

D. Habas

Comment 20: Packing Expenses

Habas acknowledges that the Department was unable to verify the monthly production quantities of exported billet, which together with monthly rebar production quantities serve as the denominator for monthly per-unit strap expense. However, Habas maintains that the Department was able to successfully verify all other components of its packing calculation. Habas, therefore, argues that the Department should continue to use Habas's reported packing costs in the margin calculation.

Petitioners argue that, because the Department found Habas's packing expense to be erroneous at verification, the Department should either base Habas's packing expense on adverse facts available or recalculate Habas's packing expense taking into account the information discovered at verification. Petitioners maintain that using adverse facts available with respect to calculating Habas's packing expense is appropriate because: 1) the respondent has an obligation to provide accurate data; 2) the Department has a practice of not accepting new information submitted at verification; and 3) the Department's resorting to the use of facts available constitutes a significant incentive for the submission of accurate data.

DOC Position

To calculate the per unit strap expense in its overall packing calculation, Habas used billets produced for export along with total rebar production as part of the calculation's denominator. At verification, Habas was unable to provide supporting documentation for billets produced for export. We agree with respondent that, other than this one element, the Department was able to successfully verify all other packing material and labor expenses. Therefore, we disagree with petitioners that adverse facts available is warranted in this instance. We do, however, agree with petitioners that the Department should recalculate Habas's packing expense taking into account the information discovered at verification. Therefore, rather than billets produced for export, we used the total verified 1995 exports of billets and total rebar production as the denominator for the per-unit strap calculation.

Comment 21: Home Market Credit

Habas states that, as reported to the Department, its books do not accurately reflect the date of receipt of payment for home market sales. However, Habas contends that its methodology for reporting payment dates and amounts of payment is consistent with the records kept by Habas in the ordinary course of business. Therefore, Habas argues that the Department should continue to use its reported home market credit expenses in the final determination.

DOC Position

Because we did not use Habas's selling expense data for purposes of the final determination, this issue is moot.

Comment 22: G&A Expenses

Petitioners assert that, as facts available, the Department should base Habas's G&A expenses on Habas's annual corporate-wide G&A expenses for 1995, adjusted for inflation, rather than the G&A expenses for the iron and steel division. As support for this position, petitioners cite the Department's practice in the following determinations: *Final Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, Certain Cut-to-Length Carbon Steel Plate from Canada*, 58 FR 37099, 37114 (July 9, 1993).

Habas maintains that the Department verified all of its SG&A expenses. Habas states that, although the Department frequently uses a corporate-wide G&A rate, the Department's practice is to use selling expenses which are based on the expenses of the relevant division within a company. Therefore, Habas maintains that the correct ratio to use for the sales portion of the SG&A is the indirect selling expenses of the iron and steel division divided by the iron and steel division's cost of sales.

DOC Position

Insofar as we did not use Habas's G&A expenses in the calculations for the final determination, this issue is moot.

E. Metas

Comment 23: Material Costs

Petitioners argue that Metas's submitted cost of materials is not based on the actual quantities of scrap used in the production of rebar. Petitioners note that Metas calculated its submitted cost of scrap inputs based on the company's policy regarding the preferred mixture of different scrap types. Petitioners maintain that the Department was unable to verify that Metas's policy of preferred scrap usage is indicative of the actual scrap used to produce rebar during the POI. Petitioners believe that Metas's schedule of scrap purchases during the POI is the best evidence on the record of actual scrap used and argue that the Department should adjust Metas's material costs so that the average usage of scrap reflects the ratio of scrap purchased during 1995.

DOC Position

We agree with petitioners. In order to provide the Department with product-specific material costs, Metas calculated the cost of materials using the average scrap quantities it believes are typical of the mixtures required to make rebar. During verification, we found that Metas does not specifically track the quantity of the types of scrap used in the production of rebar. As a result, Metas was unable to provide us with documentation to substantiate the ratio of scrap types used in its calculations. Therefore, we recalculated Metas's material costs using the actual mix of scrap purchased during 1995.

Continuation of Suspension of Liquidation

In accordance with § 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of rebar from all companies except Colakoglu that are entered, or withdrawn from warehouse, for consumption on or after July 12, 1996, which is 90 days prior to the date of publication of the notice of the preliminary determination in the Federal Register. Regarding Colakoglu, we are directing the Customs Service to continue to suspend liquidation of all entries of rebar from Colakoglu that are entered, or withdrawn from warehouse, for consumption on or after October 10, 1996, the date of publication of our preliminary determination in the Federal Register. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which NV exceeds export price, as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
Colakoglu	9.84	No.
Ekinciler	18.68	Yes.
Habas	19.15	Yes.

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
IDC	41.80	Yes.
Metas	30.16	Yes.
All Others	16.25	Yes.

ITC Notification

In accordance with § 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to § 735(d) of the Act.

Dated: February 24, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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International Trade Administration

Export Trade Certificate of Review; Notice of Application to Amend Certificate

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any priviledged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 95-A0006."

The Water and Wastewater Equipment Manufacturers Association ("WWEMA") original Certificate was issued on June 21, 1996 (61 FR 36708, July 12, 1996). A summary of the application for an amendment follows.

Summary of the Application

Applicant: Water and Wastewater Equipment Manufacturers Association ("WWEMA"), 101 E. Holly Avenue, Suite 14, Sterling, Virginia 22170.

Contact: Randolph J. Stayin, Partner.

Telephone: (202) 289-1313.

Application No.: 95-A0006.

Date Deemed Submitted: February 19, 1997.

Proposed Amendment: WWEMA seeks to amend its Certificate to:

1. Add the following companies as new "Members" of the Certificate within the meaning of Section 325.2(1) of the Regulations (15 CFR 325.2(1)): Ashbrook Corporation, Houston, Texas and The F.B. Leopold Company Inc., Zelienople, Pennsylvania (Parent: Thames Water Products & Services); Jeffrey Chain Corporation, Morristown, Tennessee; and Waterlink, Inc., Canton, Ohio, and its subsidiaries which include Aero-Mod, Incorporated, Manhattan, Kansas; Great Lakes Environmental, Inc., Addison, Illinois; Mass Transfer Systems, Inc., Fall River, Massachusetts; SanTech, Inc. dba Sanborn Technologies, Medway, Massachusetts; Water Equipment Technologies, Inc., West Palm Beach, Florida; and Waterlink Operational Services, Inc. dba Blue Water Services, Manhattan, Kansas.

Dated: February 26, 1997.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 97-5252 Filed 3-3-97; 8:45 am]

BILLING CODE 3510-DR-P

National Oceanic and Atmospheric Administration

[I.D. 011597A]

Pacific Salmon Fisheries off the Coasts of California, Oregon, Washington, Alaska and in the Columbia River Basin

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent; scoping meeting; extension of comment period.

SUMMARY: In the Federal Register of January 27, 1997, NMFS announced its intent to hold scoping meetings, prepare Environmental Assessments (EAs) and an Environmental Impact Statement (EIS) on ocean and in-river fisheries that may result in the incidental take of Pacific salmonids currently listed or proposed for listing under the Endangered Species Act. NMFS will hold an additional scoping meeting in Alaska and is also extending the comment period on the EIS and EAs.

DATES: Written comments will be accepted through March 21, 1997. The scoping meeting will be held on March 6, 1997, 1:30-3:30 p.m., Sitka, AK.

ADDRESSES: Written comments and requests to be included on a mailing list of persons interested in the EIS should be sent to Joseph R. Blum, Office of Protected Resources, Endangered Species Division (PR3), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

APPENDIX B

LIST OF WITNESSES APPEARING AT THE HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject	:	Steel Concrete Reinforcing Bars from Turkey
Inv. No.	:	731-TA-745 (Final)
Date and Time	:	February 26, 1997 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main hearing room 101, 500 E Street, S.W., Washington, D.C.

In Support of the Imposition of Antidumping Duties:

Brickfield, Burchette & Ritts, P.C.
Washington, D.C.
on behalf of

AmeriSteel Corporation
New Jersey Steel Corporation

Phillip Casey, Chairman and CEO, AmeriSteel Corporation

Neal McCullohs, Vice President, Sales, AmeriSteel Corporation

Stephen Spragale, Sales Representative, New Jersey Steel Corporation

Andrew R. Wechsler, Economist, Law & Economics Consulting Group, Incorporated

Vincent P. Duane)
Damon E. Xenopoulos)--OF COUNSEL
Christopher C. O'Hara)

In Opposition to the Imposition of Antidumping Duties:

Dickstein, Shapiro, Morin & Oshinsky LLP
Washington, D.C.
on behalf of

Colakoglu Metalurji A.S.
Ekinciler Demir Celik A.S.
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.

Daniel W. Klett, Principal, Capital Trade, Incorporated

Richard Pollan, President, Pollan Trade, Incorporated

Victor Gonzalez, President, Mateco, Incorporated

Francis J. Sailer--OF COUNSEL

White & Case
Washington, D.C.
on behalf of

Turkish Foreign Trade Undersecretariat
Iron and Steel Producers' Organization
Izmir Demir ve Celik Sanayi A.S.
Ege Metal Demir Celik Sanayi ve Ticaret A.S.
Cukurova Celik Endustrisi A.S.
Istanbul Celik ve Demir Izabe Sanayi A.S.

F.D. Baysal, President of SEBA International, Incorporated

Richard Boltuck, Economic Consultant, Trade Resources Company

Paul Zucker, Economic Consultant, Trade Resources Company

Richard G. King)
)--OF COUNSEL
Kristina Zissis)

APPENDIX C

SUMMARY DATA

Table C-1
Rebar: Summary data concerning the regional U.S. market, 1994-96

* * * * * * *

Table C-2
Rebar: Summary data concerning the total U.S. market, 1994-96

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

	Reported data			Period changes		
Item	1994	1995	1996	1994-96	1994-95	1995-96
U.S. consumption quantity:						
Amount	4,466,561	4,553,657	5,253,361	17.6	1.9	15.4
Producers' share (1):						
Producers inside the region	42.5	43.4	42.7	0.2	1.0	-0.8
Producers outside the region	50.2	46.0	46.1	-4.0	-4.1	0.1
Total	92.6	89.5	88.8	-3.9	-3.2	-0.7
Share of imports from (1)--						
Turkey	4.5	5.1	2.6	-1.9	0.6	-2.5
Other sources	2.8	5.4	8.6	5.7	2.6	3.2
Total imports	7.4	10.5	11.2	3.9	3.2	0.7
U.S. consumption value:						
Amount	1,346,563	1,398,569	1,572,762	16.8	3.9	12.5
Producers' share (1):						
Producers inside the region	42.3	42.8	41.5	-0.8	0.5	-1.3
Producers outside the region	50.8	47.4	48.4	-2.4	-3.4	1.1
Total	93.1	90.2	89.9	-3.2	-2.9	-0.3
Share of imports from (1)--						
Turkey	4.1	4.7	2.6	-1.5	0.6	-2.1
Other sources	2.8	5.1	7.5	4.7	2.3	2.4
Total imports	6.9	9.8	10.1	3.2	2.9	0.3
U.S. shipments of imports from Turkey:						
Quantity	202,463	232,779	138,445	-31.6	15.0	-40.5
Value	55,745	66,242	40,797	-26.8	18.8	-38.4
Unit value	$289	$285	$295	1.9	-1.6	3.6
Ending inventory quantity	6,398	12,512	12,556	96.2	95.6	0.4
U.S. imports from all other sources:						
Quantity	126,468	246,685	450,800	256.5	95.1	82.7
Value	37,321	71,057	117,595	215.1	90.4	65.5
Unit value	$295	$288	$261	-11.6	-2.4	-9.4
Ending inventory quantity	0	115	522	(2)	(2)	353.9
Total:						
Quantity	328,931	479,464	589,245	79.1	45.8	22.9
Value	93,066	137,299	158,392	70.2	47.5	15.4
Unit value	$292	$286	$269	-7.8	-1.8	-6.1
Ending inventory quantity	6,398	12,627	13,078	104.4	97.4	3.6
U.S. producers':						
Average capacity quantity	(3)	(3)	(3)	(3)	(3)	(3)
Production quantity	4,099,042	4,203,753	4,543,739	10.8	2.6	8.1
Capacity utilization (1)	(3)	(3)	(3)	(3)	(3)	(3)
U.S. shipments:						
Quantity	4,137,630	4,074,193	4,664,116	12.7	-1.5	14.5
Value	1,253,497	1,261,270	1,414,370	12.8	0.6	12.1
Unit value	$303	$310	$303	0.1	2.2	-2.0
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	257,904	456,583	358,791	39.1	77.0	-21.4
Inventories/U.S. shipments (1)	6.4	11.3	7.7	1.4	5.0	-3.6

Table continued on next page.

Table C-2--Continued
Rebar: Summary data concerning the total U.S. market, 1994-96

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data			Period changes		
	1994	1995	1996	1994-96	1994-95	1995-96
U.S. producers' (continued):						
Production workers	2,813	3,034	3,182	13.1	7.9	4.9
Hours worked (1,000s)	5,913	5,658	6,502	10.0	-4.3	14.9
Wages paid ($1,000s)	116,271	124,626	140,827	21.1	7.2	13.0
Hourly wages	$19.66	$22.03	$21.66	10.1	12.0	-1.7
Productivity (short tons per 1,000 hours)	439	476	439	0.1	8.6	-7.8
Unit labor costs	$45	$46	$49	10.0	3.2	6.6
Net sales:						
Quantity	3,942,498	3,747,990	4,047,532	2.7	-4.9	8.0
Value	1,176,636	1,167,262	1,226,633	4.2	-0.8	5.1
Unit value	$298.45	$311.44	$303.06	1.5	4.4	-2.7
Cost of goods sold (COGS)	1,062,070	1,034,244	1,106,138	4.1	-2.6	7.0
Gross profit or (loss)	114,566	133,018	120,495	5.2	16.1	-9.4
SG&A expenses	53,382	55,353	59,491	11.4	3.7	7.5
Operating income or (loss)	61,184	77,665	61,004	-0.3	26.9	-21.5
Capital expenditures	96,405	91,782	164,787	70.9	-4.8	79.5
Unit COGS	$269.39	$275.95	$273.29	1.4	2.4	-1.0
Unit SG&A expenses	$13.54	$14.77	$14.70	8.6	9.1	-0.5
Unit operating income or (loss)	$15.52	$20.72	$15.07	-2.9	33.5	-27.3
COGS/sales (1)	90.3	88.6	90.2	-0.1	-1.7	1.6
Operating income or (loss)/ sales (1)	5.2	6.7	5.0	-0.2	1.5	-1.7

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) Not available.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Table C-3
Rebar: Summary data concerning the regional U.S. market, excluding SMI Steel South Carolina, 1994-96

				Period changes		
	1994	1995	1996	1994-96	1994-95	1995-96
U.S. consumption quantity:						
Amount	1,999,353	1,895,610	2,149,832	7.5	-5.2	13.4
Producers' share (1):						
Producers inside the region	85.5	85.9	84.1	-1.4	0.4	-1.8
Producers outside the region	3.4	3.0	3.9	0.5	-0.4	0.9
Total	88.9	88.9	88.0	-0.9	0.0	-0.9
Share of imports from (1)--						
Turkey	7.9	8.4	5.2	-2.7	0.5	-3.2
Other sources	3.2	2.7	6.9	3.6	-0.5	4.2
Total imports	11.1	11.1	12.0	0.9	-0.0	0.9
U.S. consumption value:						
Amount	597,086	568,071	621,814	4.1	-4.9	9.5
Producers' share (1):						
Producers inside the region	86.0	86.6	84.5	-1.6	0.6	-2.1
Producers outside the region	3.3	3.0	3.9	0.6	-0.3	0.8
Total	89.3	89.6	88.3	-1.0	0.3	-1.3
Share of imports from (1)--						
Turkey	7.5	7.9	5.2	-2.3	0.4	-2.7
Other sources	3.1	2.5	6.4	3.3	-0.7	4.0
Total imports	10.7	10.4	11.7	1.0	-0.3	1.3
U.S. shipments of imports from:						
Turkey:						
Quantity	157,926	159,275	110,867	-29.8	0.9	-30.4
Value	44,935	44,891	32,548	-27.6	-0.1	-27.5
Unit value	288	282	294	2.1	-2.1	4.3
U.S. imports from all other sources:						
Quantity	64,721	51,355	147,972	128.6	-20.7	188.1
Value	18,794	14,102	40,039	113.0	-25.0	183.9
Unit value	290	275	271	-6.6	-5.2	-1.5
Total:						
Quantity	222,647	210,630	258,839	16.3	-5.4	22.9
Value	63,729	58,993	72,587	13.9	-7.4	23.0
Unit value	288	280	280	-2.8	-2.8	0.0
U.S. producers':						
Average capacity quantity	2,407,400	2,315,100	2,346,900	-2.5	-3.8	1.4
Production quantity	1,894,293	1,889,323	1,985,617	4.8	-0.3	5.1
Capacity utilization	78.2	78.4	81.6	3.4	0.2	3.2
U.S. shipments:						
Quantity	1,776,706	1,684,980	1,890,993	6.4	-5.2	12.2
Value	533,357	509,078	549,227	3.0	-4.6	7.9
Unit value	300	302	290	-3.3	0.7	-4.0
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	121,650	181,938	141,818	16.6	49.6	-22.1
Inventories/U.S. shipments (1)	6.4	9.9	7.0	0.6	3.5	-2.9
Production workers	1,809	1,673	1,668	-7.8	-7.5	-0.3
Hours worked (1,000s)	3,725	3,164	3,606	-3.2	-15.1	14.0
Wages paid ($1,000)	83,569	84,089	91,124	9.0	0.6	8.4
Hourly wages	22.43	26.58	25.27	12.7	18.5	-4.9
Productivity (short tons per 1,000 hours)	388	453	411	5.9	16.8	-9.3
Unit labor costs	$58	$59	$61	5.2	1.7	3.4

Table continued on next page.

Table C-3--Continued
Rebar: Summary data concerning the regional U.S. market, excluding SMI Steel South Carolina, 1994-96

	1994	1995	1996	Period changes 1994-96	Period changes 1994-95	Period changes 1995-96
U.S. producers' (continued):						
Net sales:						
Quantity	1,826,022	1,774,715	1,930,083	5.7	-2.8	8.8
Value	542,317	540,428	562,840	3.8	-0.3	4.1
Unit value	296.99	304.52	291.61	-1.8	2.5	-4.2
Cost of goods sold (COGS)	500,561	498,379	536,735	7.2	-0.4	7.7
Gross profit or (loss)	41,666	42,049	26,105	-37.3	0.9	-37.9
SG&A expenses	20,746	22,430	24,347	17.4	8.1	8.5
Operating income or (loss)	20,920	19,619	1,758	-91.6	-6.2	-91.0
Capital expenditures	63,918	60,263	60,593	-5.2	-5.7	0.5
Unit COGS	274.18	280.82	278.09	1.4	2.4	-1.0
Unit SG&A expenses	11.36	12.64	12.61	11.0	11.3	-0.2
Unit operating income or (loss)	11.46	11.05	0.91	-92.1	-3.6	-91.8
GOGS/sales (1)	92.3	92.2	95.4	3.1	-0.1	3.2
Operating income or (loss)/ sales (1)	3.9	3.6	0.3	-3.6	-0.3	-3.3

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

Source: Compiled form data submitted in response to questionnaires of the U.S. International Trade Commission and from official staistics of the U.S. Department of Commerce.

APPENDIX D

COMPAS ANALYSIS

ASSUMPTIONS

The COMPAS model is a supply and demand model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis and are used extensively for the analysis of trade policy changes both in partial and general equilibrium. Based on the discussion contained in Part II of this report, the staff selects a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., supply elasticity, demand elasticity, and substitution elasticity) in the U.S. rebar market. The model uses these estimates with data on market shares, Commerce's estimated margin of dumping, transportation costs, and current tariffs to analyze the likely effect of unfair pricing of subject imports on the U.S. like product industry.

FINDINGS

The estimated effects of the LTFV pricing of imports on U.S. production of rebar (percent reductions) are as follows:

Revenue	Price	Volume
2.2 to 4.8	0.2 to 0.8	1.8 to 4.2

More detailed effects of the dumping and modeling assumptions used for the full range of scenarios are shown in table D-1.

Table D-1
The effects of LTFV pricing of imported Turkish rebar

* * * * * * *

APPENDIX E

U.S. PRODUCERS' DATA ON A FIRM-BY-FIRM BASIS

Table E-1
Rebar: U.S. producers' capacity, by regions and by firms, 1994-96

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Table E-2
Rebar: U.S. producers' production, by regions and by firms, 1994-96

* * * * * * *

Table E-3
Percentage of rebar produced at U.S. producers' mills wherein rebar is produced as compared with the production of all other steel products produced within the mill, by firms and by mills, 1994-96

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Table E-4
Rebar: U.S. producers' shipments inside the region, by regions and by firms, 1994-96

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Table E-5
Rebar: U.S. producers' total U.S. shipments, by regions and by firms, 1994-96

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Table E-6
Rebar: U.S. producers' end-of-period inventories, by regions and by firms, 1994-96

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Table E-7
Average number of PRWs producing rebar, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, by regions and by firms, 1994-96

* * * * * * *

Table E-8
Income-and-loss experience of U.S. producers on their operations producing rebar, by regions and by firms, fiscal years 1994-96

* * * * * * *

APPENDIX F

SUMMARY DATA CONCERNING SMALL DIAMETER REBAR

The petition in this investigation requests that rebar be treated as one "domestic like-product" and, similarly, as one "class or kind" of merchandise for the purposes of this investigation.[1] In their prehearing and posthearing briefs, petitioners proposed that the Commission find two like-product classifications delineated by size: small diameter rebar, defined as Nos. 3-5 rebar inclusive, and large diameter rebar, defined as No. 6 rebar and higher.[2] In an effort to compile information on regional U.S. producers' operations pertaining to "small" and "large" rebar, the Commission requested that firms supply production, shipments, inventories, employment, and financial information pertaining to small rebar (information pertaining to large rebar could be obtained by subtraction). The information supplied by Connecticut Steel, which produces only small rebar, and Atlantic Steel, the only firm that was able to break out such information (***), is presented in table F-1. The combined production of these two firms represented *** percent of the regional industry's production of all rebar in 1996.

Table F-1
Small rebar: Summary data concerning the U.S. market, 1994-96

* * * * * * *

AmeriSteel responded to the Commission's request by stating:

* * * * * * *

New Jersey Steel also cited the above reasons as to why it was unable to respond to the Commission's request for information. Auburn Steel responded by stating:

* * * * * * *

Birmingham Steel also was not able to supply the requested information, noting ***.

[1] Petition, p. 5.

[2] Petitioners' prehearing brief, pp. 13 and 14, and posthearing brief, pp. 2 and 3.

APPENDIX G

PRICING DATA FOR U.S. PRODUCERS OUTSIDE THE REGION AND DATA FOR REBAR IN COILS

Table G-1
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers outside the Eastern tier region for product 1 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table G-2
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers outside the Eastern tier region for product 2 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table G-3
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers outside the Eastern tier region for product 3 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure G-1
Rebar: Weighted-average net f.o.b. prices for sales of product 1 to U.S. customers outside the Eastern tier region reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure G-2
Rebar: Weighted-average net f.o.b. prices for sales of product 2 to U.S. customers outside the Eastern tier region reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure G-3
Rebar: Weighted-average net f.o.b. prices for sales of product 3 to U.S. customers outside the Eastern tier region reported by U.S. producers and importers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table G-4
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers within the Eastern tier region, excluding Puerto Rico, for coiled products 1 and 2 reported by U.S. producers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Table G-5
Rebar: Weighted-average net f.o.b. prices and quantities for sales to unrelated U.S. customers within Puerto Rico for coiled products 1 and 2 reported by U.S. producers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure G-4
Rebar: Weighted-average net f.o.b. prices for sales of coiled products 1 and 2 to U.S. customers within the Eastern tier region, excluding Puerto Rico, reported by U.S. producers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

Figure G-5
Rebar: Weighted-average net f.o.b. prices for sales of coiled products 1 and 2 to U.S. customers within Puerto Rico reported by U.S. producers, by quarters, Jan. 1994-Dec. 1996

* * * * * * *

APPENDIX H

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

Response of U.S. producers to the following questions:

1. Since January 1, 1994, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of steel concrete reinforcing bars from Turkey?

* * * * * *

2. Does your firm anticipate any negative impact of imports of steel concrete reinforcing bars from Turkey?

* * * * * *

3. Does your firm increase its cash or cash equivalent position, pay down debt, make strategic capital investments, or make other financial adjustments during peak periods in its business cycle, to position itself for low periods in the business cycle?

* * * * * *