Barbed Wire and Barbless Wire Strand From Argentina

Investigation No. 731-TA-208 (Second Review)

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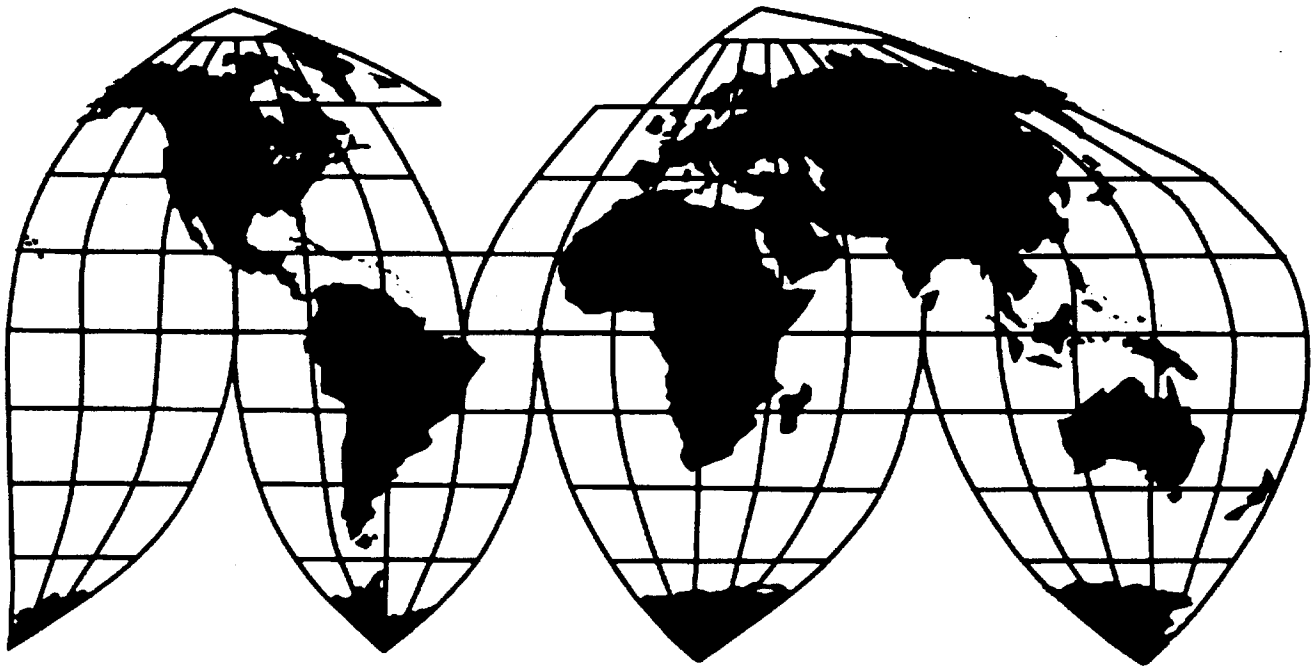
U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

GLOSSARY OF TERMS

Barbless wire strand	Loosely twisted double wire, suitable for fencing
C&F	Cost and freight
Commerce	U.S. Department of Commerce
Commission	U.S. International Trade Commission
Customs	U.S. Bureau of Customs and Border Protection
FR	*Federal Register*
HTS	Harmonized Tariff Schedule of the United States
Metric/English	1 metric ton=1.1023 short tons; 1 kilogram=2.2046 pounds
Response	Response to the Commission's Notice of Institution
TSUSA	Tariff Schedules of the United States (Annotated)
UN	United Nations

GLOSSARY OF FIRMS

Acindar	Acindar Insustria Argentina de Aceros S.A.
Bekaert	Bekaert Steel & Wire Co.
Burly	Burly Corp. of North America
CF&I	CF&I Steel Corp.
Continental	Continental Steel Corp.
Davis	Davis Wire Corp.
Forbes	Forbes Steel and Wire Corp.
Insteel	Insteel Industries, Inc.
Keystone	Keystone Steel & Wire Co.
Midwest	Midwest Air Technology
Nagle	Nagle Wire Corp. of Colorado
Northwestern	Northwestern Steel & Wire Co.
Oklahoma S&W	Oklahoma Steel & Wire Co., Inc.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-208 (Second Review)

Barbed Wire and Barbless Wire Strand from Argentina

DETERMINATION

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

BACKGROUND

The Commission instituted this review on April 1, 2004 (69 FR 17226) and determined on August 5, 2004 that it would conduct an expedited review (69 FR 47404).

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

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

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Act"), that revocation of the antidumping duty order covering barbed wire and barbless wire strand from Argentina would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[1]

This review covers barbed wire and barbless wire strand. Both barbed wire and barbless wire strand are galvanized steel fencing components produced from stranded wire drawn from steel wire rod. The wires are zinc-coated for corrosion-resistance, then twisted to form barbless wire strand (from two wires) or barbed wire (from three or four wires). Both barbed wire and barbless wire strand are used primarily in agricultural applications, although barbed wire also is used in industrial and, increasingly, security applications.[2]

The domestic industry producing barbed wire and barbless wire strand has consolidated over the past two decades. There are currently six firms known to produce barbed wire and barbless wire strand in the United States, compared to nine in 1984 and eight in 1997.[3] Three firms alone accounted for an estimated *** percent of domestic production in 2003.[4] As in 1997, domestic production accounted for more than 80 percent of the U.S. market for barbed wire and barbless wire strand during 2003. Imports of barbed wire and barbless wire strand from more than a dozen countries other than Argentina – primarily Mexico and Brazil – supplied the remainder of the U.S. market. In contrast, barbed wire and barbless wire strand from Argentina have been absent from the U.S. market since 1987.[5]

I. BACKGROUND

In October 1985, the Commission completed its investigation and determined that an industry in the United States was being materially injured by reason of imports of barbed wire and barbless wire strand from Argentina that were being sold at less than fair value.[6] In November 1985, the Department of Commerce ("Commerce") issued an antidumping duty order on imports of barbed wire and barbless wire strand from Argentina.[7] In December 1998, the Commission instituted its first five-year review pursuant to section 751(c) of the Act.[8]

In five-year reviews, the Commission first determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. In order to make this decision, the Commission first determines whether individual responses to the notice of institution are adequate. Next, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties --

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[1] Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson determine that revocation of the antidumping duty order would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See their dissenting views. They join in Sections I and II of these views.

[2] Confidential Report (as revised by memorandum INV-BB-103, August 13, 2004) ("CR") at I-6 to I-8, Public Report ("PR") at I-4 to I-5.

[3] The most recent full year of the original investigation period was 1984, and of the first five-year review period, 1997.

[4] CR at I-8 to I-9 & n.34, PR at I-7 & n.34.

[5] CR/PR at Table I-5; CR at I-10 to I-11; PR at I-8 to I-9.

[6] Barbed Wire and Barbless Wire Strand from Argentina, Inv. No. 731-TA-208 (Final), USITC Pub. No. 1770 (Oct. 1985) ("Original Determination") (Vice Chairman Liebeler dissenting).

[7] 50 Fed. Reg. 46808 (Nov. 13, 1985).

[8] 63 Fed. Reg. 66563 (Dec. 2, 1998).

domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) -- demonstrate a sufficient willingness among each group to participate and provide information requested in a full review. If the Commission finds the responses from both groups of interested parties adequate, or if other circumstances warrant, it will determine to conduct a full review.[9]

In the first five-year review, the Commission received a joint response, containing company-specific information, from three domestic producers: Davis Wire Corp. ("Davis"), Keystone Steel & Wire Co. ("Keystone"), and Oklahoma Steel & Wire Co., Inc. ("Oklahoma S&W"). The Commission conducted an expedited review, pursuant to section 1675(c)(3)(B) of the Act, and ultimately determined that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[10] Commerce published its notice of continuation of the antidumping duty order in August 1999.[11]

In April 2004, the Commission instituted the present review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.[12] The Commission received a joint substantive response containing company-specific information to the notice of institution from three domestic producers, Davis, Keystone, and Oklahoma S&W.[13] The participating domestic producers accounted for an estimated *** percent of U.S. production of barbed wire and barbless wire strand in 2003.[14] As in its first review, the Commission received no response from respondent interested parties.

In July 2004, the Commission determined that the response of the domestic interested party group was adequate and that the respondent interested party group response was inadequate. The Commission voted to conduct an expedited review.[15]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[16] 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 under this subtitle."[17] The imported product subject to the order under review consists of barbed wire and barbless fencing wire from Argentina, which is currently classifiable under Harmonized Tariff

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[9] See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

[10] Barbed Wire and Barbless Wire Strand from Argentina, Inv. No. 731-TA-208 (Review), USITC Pub. 3187 (May 1999) ("1999 Review") at 3.

[11] 64 Fed. Reg. 42653 (August 5, 1999).

[12] 69 Fed. Reg. 17226 (April 1, 2004).

[13] Collectively, we refer to these parties as the domestic producers. See Domestic Producers' response to notice of institution (May 21, 2004).

[14] CR at I-9; PR at I-7.

[15] 69 Fed. Reg. 43013 (July 19, 2004); see also CR/PR at App. B (Explanation of Commission Determination on Adequacy) (Commissioners Charlotte R. Lane and Daniel R. Pearson dissenting).

[16] 19 U.S.C. § 1677(4)(A).

[17] 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

Schedule (HTS) heading 7313.00.00. The HTS heading is provided for convenience and customs purposes. The written description remains dispositive.[18]

Barbed wire and barbless wire strand are galvanized steel products used in various fencing applications. Barbed wire is produced from low carbon steel wire rod having 0.08 to 0.22 percent carbon content by weight. The American Society for Testing and Materials (ASTM) identifies two major categories of barbed wire: low-tensile (also known as "Iowa" or standard) and high-tensile (also known as "Gaucho"). Low-tensile barbed wire was the original barbed wire used in the United States and is produced from low carbon steel rod, with a carbon content of 0.08 to 0.10 percent. High-tensile barbed wire, first produced in the United States in 1972, also is produced from low carbon steel rod, but with a carbon content of 0.18 to 0.22 percent. High-tensile barbed wire is lighter in weight than low-tensile wire. Except for the barbs, barbless wire strand is similar to the barbed wire and typically is used in applications in which barbs would cause harm to certain livestock, such as show horses.[19]

We find, based on the facts available, that the appropriate definition of the domestic like product in this expedited five-year review is the same as Commerce's scope and unchanged from the Commission's original determination and first five-year review.[20]

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[21] Accordingly, we find that the domestic industry includes all domestic producers of barbed wire and barbless wire strand.

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS REVOKED

A. Legal Standard In A Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[22] The SAA states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining

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[18] 69 Fed. Reg. 47404 (Aug. 5, 2004).

[19] CR at I-5 to I-7; PR at I-5.

[20] Original Determination at 5, 1999 Review at 4.

[21] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd 96 F.3d 1352 (Fed. Cir. 1996).

[22] 19 U.S.C. § 1675a(a).

effects on volumes and prices of imports."[23] Thus, the likelihood standard is prospective in nature.[24] The U.S. Court of International Trade has found that "likely," as used in the sunset review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[25] [26] [27]

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[28] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis [in antidumping investigations]."[29] [30]

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

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

[25] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int'l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int'l Trade Dec. 20, 2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int'l Trade July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

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

[27] Commissioner Hillman interprets the statute as setting out a standard of whether it is "more likely than not" that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of "probable" that the Court intended when the Court concluded that "likely" means "probable". See Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term "Likely", in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

[28] 19 U.S.C. § 1675a(a)(5).

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

[30] In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan examines all the current and likely conditions of competition in the relevant industry. He defines "reasonably foreseeable time" as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by

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Although the standard in a five-year review is not the same as the standard applied in an original antidumping investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated."[31] It directs the Commission to take into account its prior injury determinations, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[32]

Section 751(c)(3) of the Act and the Commission's regulations provide that in an expedited five-year review the Commission may issue a final determination "based on the facts available, in accordance with section 776 of the Act."[33] We have relied on the facts available - in other words, all the evidence on the record - in this review, which consist primarily of information from the original investigation and first review, information collected by the Commission since the institution of this second five-year review, information submitted by the domestic producers, and official Commerce statistics.

Although the information on the record in an expedited review is limited with respect to conditions subsequent to the imposition of the order, the absence of more complete evidence does not favor a determination that material injury is not likely upon revocation. In this case an important reason for the sparse data on recent conditions is that respondent interested parties provided no information in response to the Commission's notice of institution. The domestic interested parties, however, responded fully to the data requested in the Commission's notice of institution.[34] Consequently, while the record information is limited, we must determine whether the record information better supports the conclusion that material injury is likely or that material injury is not likely.

For the reasons stated below, we determine that revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.[35]

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[30] (...continued)
foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define "reasonably foreseeable time" by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

[31] 19 U.S.C. § 1675a(a)(1).

[32] 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886. Commerce has made no duty absorption findings for barbed wire and barbless wire strand.

[33] 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to "use the facts otherwise available" in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a).

[34] The notice requested that U.S. producers provide limited information on their operations in 2003, and to indicate their willingness to participate in the Commission's review. The notice did not request information on current price levels or the domestic industry's capacity, capacity utilization, or financial performance.

[35] Although Commissioner Lane recognizes that each Commission determination is *sui generis*, she notes that there were significant differences with respect to the conditions of competition in this review and in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), including
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B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if the order is revoked, the statute directs the Commission to evaluate all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[36] In performing our analysis under the statute, we have taken into account the following conditions of competition in the U.S. market for barbed wire and barbless wire strand.

At the time of the original investigation, there were nine firms producing barbed wire and barbless wire strand in the United States: Bekaert Steel & Wire Co.; CF&I; Continental Steel Corp.; Davis; Forbes; Keystone; Nagle Wire Corp. of Colorado; Northwestern Steel & Wire Co.; and Oklahoma S&W. However, the U.S. barbed wire industry has undergone numerous changes since the original investigation; several firms have exited the industry or were acquired by other firms. Currently, there are six known and operating U.S. producers of the domestic like product. Four of the U.S. producers, Davis, Keystone, Oklahoma S&W, and Bekaert, were in operation at the time of the original investigation. The two other firms, Burly and Midwest, entered the market after the original investigation.[37] On February 26, 2004, Keystone and its affiliated companies filed for Chapter 11 bankruptcy protection.[38]

Apparent U.S. consumption of barbed wire has not grown significantly in the years since the original determination. In 2003, apparent U.S. consumption was only slightly higher than apparent U.S. consumption in 1984 and 1997.[39] According to the domestic producers, despite the availability of other alternative fencing products (e.g., field fence, electric fence, and high-tensile smooth wire fencing), demand for barbed wire has improved recently, reportedly because of the general economic recovery and the increased use of barbed wire for security purposes.[40] In 2003, the U.S. industry's production levels were higher than in 1984 - the last full year examined in the original investigation - but lower than production levels in 1997.[41] The U.S. industry's market share in 2003 was higher than in 1984 but lower than in 1997.[42] Nonsubject import market share in 2003 was lower than in 1984 but slightly higher than

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[35] (...continued)
the record on price sensitivity, production levels of the U.S. industry, export markets, and apparent U.S. consumption.

[36] 19 U.S.C. § 1675a(a)(4).

[37] Northwestern Steel & Wire Co. ("Northwestern") is a former barbed wire producer which exited the fabricated wire products business, including barbed wire, in October 1998. It subsequently filed for bankruptcy in December 2000. We note that Northwestern's exit from the U.S. barbed wire industry occurred prior to the Commission's vote in the first five-year review. However, the data collected in the first five-year review was with respect to the year 1997, and thus did not reflect the fact that Northwestern had ceased barbed wire production. CR at I-8 to I-9; PR at I-6.

[38] CR at I-8 to I-9 & n.33; PR at I-6 & n.33.

[39] CR/PR at Table I-5; CR at I-12; PR at I-9. Total apparent U.S. consumption in 2003 was 95,057 short tons, compared with 93,801 short tons in 1997. In the original investigation, apparent U.S. consumption was 94,618 short tons in 1982, 109,982 short tons in 1983, and 93,756 short tons in 1984. CR at I-11; PR at I-9; CR/PR at Table I-5.

[40] CR at I-7; PR at I-5.

[41] CR/PR at Table I-3. The U.S. produced 78,298 short tons in 2003 compared with 71,609 short tons in 1982, 78,276 short tons in 1983, 62,996 short tons in 1984, and 82,000 short tons in 1997. Id.

[42] CR/PR at Table I-5. The U.S. industry's market share was 80.5 percent in 2003 compared with 80.5 percent in 1982, 73.4 percent in 1983, 69.8 percent in 1984, and 82.3 percent in 1997. Id.

in 1997.[43] In contrast to the original investigation period, subject imports were absent from the U.S. market in 1997 and 2003.[44]

The domestic market for barbed wire and barbless wire strand appears to be a mature one. Current technology and production methods are essentially unchanged from those described in the original investigation.[45] Further, the end uses and applications for barbed wire and barbless wire strand remain primarily agricultural, with other uses involving industrial and governmental security applications.[46]

The domestic producers characterize barbed wire and barbless wire strand as highly price sensitive products.[47] In the original determination and first five-year review, the Commission described barbed wire and barbless wire strand as a standardized product and listed no notable differences between the domestic product and subject imports.[48] As in the original investigation and first five-year review, the available evidence suggests that domestic and subject imported barbed wire and barbless wire strand are largely substitutable products and that price is an important consideration in purchasing barbed wire and barbless wire strand.

Based on the record evidence, we find that these conditions of competition in the barbed wire market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in this review, we find that current conditions in the barbed wire and barbless wire strand market provide us with a reasonable basis on which to assess the likely effects of revocation of the order in the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[49] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[50]

We conclude, based on the facts available,[51] that subject import volume is likely to increase significantly and would be significant if the order is revoked. In making this finding, we recognize that

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[43] CR/PR at Table I-5. Nonsubject import market share was 19.5 percent in 2003 compared with 19.0 percent in 1982, 23.1 percent in 1983, 26.2 percent in 1984, and 17.7 percent in 1997. Id.

[44] CR/PR at Table I-5.

[45] CR at I-6; PR at I-4 to I-5. Original Determination at 4; 1999 Review at 7.

[46] CR at I-7; PR at I-5.

[47] CR at I-8; PR at I-6.

[48] Original Determination at 4.

[49] 19 U.S.C. § 1675a(a)(2).

[50] 19 U.S.C. § 1675a(a)(2)(A)-(D). The record contains no information pertaining to existing unused foreign capacity to produce the subject merchandise or existing inventories of the subject merchandise. Domestic producers did not report the existence of barriers in other countries with respect to imports of barbed wire and barbless wire strand from Argentina.

[51] See 19 U.S.C. § 1677e(a).

no subject imports are currently in the domestic market.[52] In a five-year review, however, our focus is on whether subject import volume is likely to be significant within a reasonably foreseeable time if the antidumping duty order is revoked.

The record from the original investigation indicates that the Argentine barbed wire and barbless wire strand industry had the ability and willingness to establish quickly a significant presence in the U.S. market. Imports of barbed wire and barbless wire strand from Argentina increased substantially during the period examined in the original investigation, both in terms of volume and market share. Between 1982 and 1984, imports increased from 506 short tons to 3,739 short tons – more than a 600 percent increase.[53] At the same time, subject import market share increased from 0.5 percent of the U.S. market in 1982 to 4.0 percent in 1984.[54]

During the original investigation, Argentine production shifted significantly from domestic shipments to exports. Argentina's capacity to produce the subject merchandise remained constant at *** short tons during 1982-84, but its production increased in 1983 then decreased in 1984 to a volume *** higher than the 1982 volume. Although exports coincided with the production trends, Argentina's home market shipments decreased between 1982 and 1984 and Argentina's home market share of total shipments fell from *** percent in 1982 to less than *** percent in 1983 and 1984. *** was Argentina's largest export market for barbed wire and barbless wire strand during 1982-84, accounting for *** percent of such exports.[55]

The record shows that, after Commerce published its preliminary determination of dumping in May 1985, imports of barbed wire and barbless wire strand from Argentina quickly declined.[56] There have been no U.S. imports of barbed wire or barbless wire strand from Argentina since 1987, likely due to the restraining effects of the order.[57] [58]

At the time of the original investigation, Acindar Industria Argentina de Aceros S.A. ("Acindar") was the sole exporter of the subject products from Argentina and essentially the sole domestic supplier to the Argentine market.[59] Acindar is now part of Arcelor of Luxembourg ("Arcelor"), the largest manufacturer of steel products in the world.[60] Although there are no data available for current capacity, production, or shipments of barbed wire and barbless wire strand in Argentina, Acindar still produces barbed wire and barbless wire strand, and the record contains some evidence that Acindar continues to export these products.[61] Acindar has a total melting capacity of 1.35 million metric tons annually; wire rod rolling capacity of 610,000 metric tons annually; and wire production capacity of 130,000 metric tons annually.[62] Based on the facts available, we infer that, at a minimum, the industry in Argentina continues to have the production capacity identified in the original investigation. Moreover, given Acindar's total wiremaking capacity and its ability to shift production from other wire products to subject products, its

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[52] The record shows no imports from Argentina subject to the antidumping duty order in 2003. CR/PR at Table I-4.

[53] Original Determination at 8.

[54] Id.

[55] CR at I-13; PR at I-10.

[56] CR at I-11 & n.37; PR at I-8 & n.37. There were no subject imports reported for 1985 after June of that year. In 1986, there were 9 short tons of barbed wire (and no barbless wire strand) imported from Argentina. In 1987, there were 19 short tons of barbless wire strand (and no barbed wire) imported from Argentina.

[57] CR at I-10 to I-11; PR at I-8.

[58] CR at I-14; PR at I-11. We note that the record on current imports from Argentina is very limited.

[59] CR at I-13; PR at I-10.

[60] CR at I-13; PR at I-10.

[61] CR at I-13 & n.46; PR at I-10 & n.46.

[62] CR at I-13; PR at I-11.

capacity to produce the subject merchandise is potentially much greater. Moreover, its acquisition by Arcelor and its access to Arcelor's global network suggests that Acindar could readily resume shipments to the United States absent the order. This indicates that the Argentine industry has the ability to increase production to produce subject merchandise and to export significant volumes of barbed wire and barbless wire strand to the United States if the order is revoked.

Because of the similarity in the conditions of competition prevailing today and those existing prior to the imposition of the order, we find, based on the limited record, that significant volumes of barbed wire and barbless wire strand from Argentina are likely to be exported to the United States within a reasonably foreseeable time if the antidumping duty order is revoked. Consequently, we conclude that subject imports likely would increase to a significant level in the absence of the antidumping duty order and likely would regain significant U.S. market share absent the restraining effect of the order.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and if the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the price of domestic like products.[63]

The record in this expedited review contains a limited amount of pricing data. In the original determination, the Commission found that subject imports from Argentina consistently and significantly undersold the U.S. product during the period examined in the original investigation by margins ranging from a low of 9.1 percent to a high of 58.3 percent.[64] Moreover, the average unit value of imports from Argentina declined substantially from $580 per ton in 1982 to $395 per ton in 1984.[65]

The domestic producers characterize barbed wire and barbless wire strand as highly price sensitive products.[66] In the first five-year review, the Commission described domestic and imported barbed wire and barbless wire strand as substitutable products for which price is an important, if not critical, factor in customers' purchasing decisions.[67] There is no evidence in the current record to suggest these facts have changed. In light of these facts, it is likely that the Argentine producers would offer attractively low prices to U.S. purchasers in order to regain market share, as they did in the original investigation, if the antidumping duty order is revoked. Thus, we conclude that prices for domestically produced barbed wire and barbless wire strand would likely decline to a significant degree in response to the likely significant volumes of substitutable subject imports offered at lower prices.

Accordingly, we find that revocation of the antidumping duty order would be likely to lead to significant price effects, including significant underselling by the subject imports of the domestic like product, as well as significant price depression and suppression, within a reasonably foreseeable time.

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[63] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[64] Original Determination at 8-9.

[65] Id. at 9.

[66] CR at I-8; PR at I-6.

[67] 1999 Review at 9.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[68] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[69] As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.[70]

In the original determination the Commission found material injury to the domestic industry by reason of imports of barbed wire and barbless wire strand at less than fair value, which had increased both in absolute terms and relative to domestic consumption.[71] It found declines in production and in shipments and market share, as well as declines in capacity utilization and deterioration of the domestic industry's financial condition.[72]

Since the imposition of the antidumping duty order, the domestic industry's market share increased as subject imports exited the market, although in 2003, the industry's market share was at a lower level than in 1997.[73] The domestic industry, rather than nonsubject imports, gained the market share lost by the subject imports subsequent to imposition of the antidumping duty order.[74] The domestic market for barbed wire and barbless wire strand appears to be a mature one, and demand is unlikely to increase through product development or new technology.[75] Given the high level of substitutability, it is likely that any future increase in the market share of subject imports would be largely at the expense of the domestic industry.

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[68] 19 U.S.C. § 1675a(a)(4).

[69] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce determined that the revocation of the antidumping duty order would be likely to lead to the continuation or recurrence of dumping by the sole identified Argentine producer at a rate of 69.02 percent. It determined an "all others" margin of 69.02 percent as well. 69 Fed. Reg. 47404, 47405 (Aug. 5, 2004).

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

[71] Original Determination at 8-9.

[72] Original Determination at 6-7.

[73] CR/PR at Table I-5. In 2003, the domestic industry's market share was 80.5 percent, compared with 80.5 percent in 1982, 73.4 percent in 1983, 69.8 percent in 1984, and 82.3 percent in 1997.

[74] CR and PR at Table I-5. Nonsubject import market share was 19.0 percent in 1982, 23.1 percent in 1983, 26.2 percent in 1984, 17.7 percent in 1997, and 19.5 percent in 2003.

[75] CR at I-6; PR at I-4.

The domestic parties assert that the domestic industry is in a vulnerable state because Keystone, one of the largest U.S. producers of barbed wire and barbless wire strand, filed for bankruptcy protection in February 2004. They also contend that the domestic industry has experienced significant increases in raw material costs and transportation costs due to the sharp rise in oil and gas prices. According to the domestic parties, increasing production costs adversely affect the profit margins of their domestic sales of barbed wire and barbless wire strand because of these products' price sensitivity.[76]

In the first five-year review, the Commission did not find the domestic industry to be in a weakened state because the domestic producers' share of the U.S. market had increased and they asserted that prices had been stable over the past decade.[77] Since that first review, the domestic industry's market share, production levels, U.S. shipments, and unit values have all declined.[78] Further, domestic producer Keystone filed for bankruptcy earlier this year and the industry is facing increased raw material and transportation costs.[79] Thus, based on the record in this review, and in the absence of contrary evidence or argument, we find that the domestic industry is vulnerable to material injury if the antidumping order on subject imports from Argentina is revoked.[80]

As discussed above, based on the limited record in this review, we conclude that if the order is revoked, the likely volume of subject imports would be significant and that these imports would have significant adverse price effects. Given the substitutable nature of the product, we find that a significant volume of low-priced subject imports would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability and employment levels as well as its ability to raise capital and make and maintain necessary capital investments, particularly in light of the industry's increased costs. Accordingly, we conclude that if the antidumping duty order is revoked, the subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order covering barbed wire and barbless wire strand from Argentina would be likely to lead to continuation or recurrence of material injury to the domestic barbed wire and barbless wire strand industry within a reasonably foreseeable time.

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[76] Domestic Producers' response to notice of institution at A-4, B-4, and C-4.

[77] 1999 Review at 10 n.65.

[78] CR/PR at Tables I-3 and I-5.

[79] Citing rising costs such as the price of natural gas, the cost of scrap metal, and pressure from cheaper imported steel, Keystone filed for reorganization bankruptcy on February 26, 2004. Prior to its bankruptcy filing, Keystone had tried to renegotiate a contract with the Independent Steelworkers Alliance (ISA) but was unable to obtain concessions from the union. CR at I-9 n.33; PR at I-6 n.33.

[80] SAA at 885 ("The term 'vulnerable' relates to susceptibility to material injury by reason of dumped or subsidized imports. This concept is derived from existing standards for material injury and threat of material injury....If the Commission finds that the industry is in a weakened state, it should consider whether the industry will deteriorate further upon revocation of an order...").

DISSENTING VIEWS OF VICE CHAIRMAN DEANNA TANNER OKUN AND COMMISSIONER DANIEL R. PEARSON

Section 751(d)(2) of the Tariff Act of 1930, as amended ("the Act"), requires that the U.S. Department of Commerce ("Commerce") revoke a countervailing duty or an antidumping duty order in a five-year ("sunset") review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the U.S. International Trade Commission ("Commission") determines that material injury to a U.S. industry would be likely to continue or recur within a reasonably foreseeable time.[1] Based on the record in this second five-year review, we determine that material injury is not likely to continue or recur within a reasonably foreseeable time if the antidumping order on barbed wire and barbless wire strand ("barbed wire") from Argentina is revoked.

We join our colleagues' discussion regarding domestic like product and domestic industry. We write separately to discuss the legal standard governing sunset reviews, conditions of competition, and to provide our analysis of the statutory factors.

I. REVOCATION OF THE ANTIDUMPING ORDER ON BARBED WIRE AND BARBLESS WIRE STRAND IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order or termination of a suspended investigation "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[2] The Statement of Administrative Action (SAA) states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[3] Thus, the likelihood standard is prospective in nature.[4] The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[5] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will

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[1] 19 U.S.C. § 1675(d)(2).

[2] 19 U.S.C. § 1675a(a).

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

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

[5] 19 U.S.C. § 1675a(a)(5).

exceed the 'imminent' time frame applicable in a threat of injury analysis in antidumping and countervailing duty investigations."[6]

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated."[7] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[8]

B. Facts Available

The statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination.[9] We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties' suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. In general, the Commission makes determinations by "weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive."[10] In this case, not all interested parties participated in this review. Accordingly, we have relied on the facts available in this review, which consist primarily of the report and opinion in the original determinations, the report and opinions in the first five-year review, information collected by the Commission since the institution of this second five-year review, and information submitted by the domestic producers in this review.

We note that, in this review, we are basing our decision on a very limited record. Although the Commission does not issue questionnaires in expedited reviews, the Commission's Notice of Institution

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

[7] 19 U.S.C. § 1675a(a)(1).

[8] 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886. We note that no duty absorption findings have been made by Commerce.

[9] 19 U.S.C. § 1675(c)(3)(B); 19 CFR § 207.62(e). Section 751(c)(3) of the Act and the Commission's regulations provide that in an expedited five-year review the Commission may issue a final determination "based on the facts available, in accordance with section 776 of the Act." Section 776 of the Act, in turn, authorizes the Commission to "use the facts otherwise available" in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a).

[10] SAA at 869.

affords interested parties the opportunity to provide information that is relevant to this review. In this review, very little information was provided by interested parties that would inform the Commission's determination. In particular, with regard to the statutory factors the Commission is directed to consider under 19 U.S.C. § 1675a(a)(2), we lack information on the Argentine industry's capacity to produce barbed wire, its capacity utilization, its existing inventories of subject merchandise, and whether there is any potential for product shifting in the event of revocation of the order. Similarly, with regard to the statutory factors the Commission is directed to consider under 19 U.S.C. § 1675a(a)(3) and (4), we lack information on current price levels in the domestic barbed wire market, along with information on the domestic barbed wire industry's capacity, capacity utilization, and current financial condition. In reviews of "old" orders such as this one, updated data are particularly vital, given that with the passage of time, it is likely that significant changes would have occurred in both the structure of the domestic industry and the world market for the product in question.

We recognize that in expedited reviews, the Commission generally is faced with more limited data on the record than in a full review, but limited data do not relieve the Commission of its statutory obligation to examine the record evidence in support of its finding. In this review, we evaluate the impact of removing an order that is nearly two decades old. In those two decades, many significant events affecting the global market for steel products have occurred, including the creation of the Latin American common market, Mercosur, the unprecedented rise in basic steel prices since 2001, and the acquisition of Acindar (the sole Argentine exporter of barbed wire) by the international steel conglomerate Arcelor of Luxembourg. Consequently, we must examine the limited record in this review in the context of these events.

C. The "Likely" Standard

As noted above, the legal standard the Commission is to apply is whether revocation of an order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[11] In reviewing the Commission's application of the "likely" standard, the U.S. Court of International Trade has found that "likely," as used in the sunset review provisions of the Act, means "probable," and that a Commission affirmative determination in such a review would be deemed by the Court to be in error absent application of this standard.[12]

Pursuant to the Usinor Industeel and Usinor remand orders, the Commission issued remand determinations that applied the "probable" standard.[13] [14] Subsequently, the Court has stated that it "has

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[11] 19 U.S.C. § 1675a(a).

[12] See NMB Singapore Ltd. V. United States, 288 F. Supp. 2d 1306, 1352 (2003) ("'likely' means probable within the context of 19 U.S.C. §§ 1675(c)) and 1675a(a)"); Nippon Steel Corp., et al. v. United States, Slip Op. 02-153 at 7-8 (Dec. 24, 2002) (same) (Nippon); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 6 n.6 (Dec. 20, 2002) ("the court has not interpreted 'likely' to imply any particular degree of 'certainty'") (Usinor Industeel III); and Usinor v. United States, Slip Op. 02-70 at 43-44 (July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'") (Usinor).

[13] In its remand determination in Usinor Industeel (Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 6), the Commission (Chairman Okun and Commissioners Bragg and Miller) stated that the Commission, in rendering its initial determination in those reviews, did not equate "likely" with "probable" or "possible" for purposes of its determination of whether material injury was likely to recur. The Commission stated its view of the meaning of the word "likely" is found in the statutory language itself and the relevant explication of that text found in the SAA. The Commission noted that the SAA explains that a determination by the Commission in a five-year review "is inherently predictive." SAA at 883. As a

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not interpreted 'likely' to imply any degree of 'certainty,'" but it has indicated that the Court views "likely" to equal a standard of "more likely than not." Usinor Industeel III, Slip. Op. 02-152 at 6 n.6.[15] [16]

For the reasons stated below, we determine that revocation of the antidumping order on barbed wire and barbless wire strand from Argentina would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. While it may be *possible* that revocation of the order could lead to continuation or recurrence of material injury, a standard that the Commission has never applied under any interpretation of "likely," revocation of the order is not likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

D. Conditions of Competition

In evaluating the impact of subject imports on the domestic industry if the order is revoked, the statute directs the Commission to evaluate all the relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[17] The conditions of competition that inform our determination that revocation of the order is not likely to lead to continuation or recurrence of material injury to the domestic barbed wire industry within a reasonably foreseeable time follow.

Domestic interested parties describe barbed wire and barbless wire strand as price-sensitive products. In addition, they assert that raw material costs (primarily steel wire rod) and energy costs are

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[13] (...continued)
result of the inherently predictive nature of the inquiry, the SAA explains that "[t]here may be *more than one* likely outcome following revocation." SAA at 883 (emphasis added). Thus, the Commission stated that reading the term "likely" in conjunction with the SAA led it to conclude that "likely" captures a concept that falls in between "probable" and "possible" on a continuum of relative certainty.

Vice Chairman Hillman stated her separate view that "likely" means "more likely than not," which is the standard she understood the Court to prescribe when it used the term "probable." Separate Views of Vice Chairman Jennifer A. Hillman Regarding The Interpretation of the Term "Likely" at 2. Commissioner Koplan, in dissent, found no error in the Court's construction of the term. Dissenting Views of Commissioner Stephen Koplan Regarding the Interpretation of the Term "Likely" at 1 ("were I to select a synonym for 'likely,' I would accept the Court's conclusion that 'likely' is best equated with 'probable'").

[14] In reviewing the Commission's remand determination in Usinor Industeel, the Court rejected the Commission's interpretation that "likely" captures a concept that falls in between "probable" and "possible" on a continuum of relative certainty. Usinor Industeel III, Slip. Op. 02-152 at 5-6. (The Court, however, did not remand the matter to the Commission on those grounds, as the Commission explicitly adopted the Court's definition of "likely" for purposes of making that remand determination. Usinor Industeel III, Slip. Op. 02-152 at 4.) (Subsequent to Usinor Industeel III, Commissioners Hillman, Koplan, and Miller explicitly stated they were applying the court's definition of "likely" per Usinor Industeel, Usinor, and Nippon. Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 13 n.60 (Feb. 2003)).

[15] While Vice Chairman Okun does not concur with the Court's interpretation, she will apply the Court's standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue. Further, Vice Chairman Okun notes that the Court's standard means that the Commission must revoke an order unless the continuation or recurrence of material injury is "more likely than not." While this standard may not equate to a high level of certainty, there may be reviews in which there could be "more than one likely outcome," but the likelihood of continuation or recurrence of injury is not more likely than any other outcome. SAA at 883.

[16] While, for purposes of this review, Commissioner Pearson does not take a position on the correct interpretation of "likely," he notes that he would have made a negative determination under any interpretation of "likely" other than that equating "likely" with merely "possible."

[17] 19 U.S.C. § 1675a(a)(4).

increasing, which squeezes domestic firms' margins and operating profits.[18] These parties indicate that since 1997, there has been a slight decline in domestic demand for barbed wire owing to a general reduction in the number of cattle being raised in the United States and the gradual consolidation of the agricultural industry, although recent demand conditions have improved in line with the general economic recovery.[19] According to domestic interested parties, since 1997 there have been no significant changes in the technology for making barbed wire.[20] Finally, the record indicates some significant entries and departures from the U.S. barbed wire market since 1997, particularly the exit from the business and subsequent bankruptcy of Northwestern Steel and Wire Company, coupled with the entry into the market of Midwest Air Technologies, which has recently begun limited production of barbed wire.[21]

Based on the record, we find that conditions of competition have changed significantly in the U.S. barbed wire market, both when the current market is compared to the market at the time of the original investigation, and when it is compared to the market at the time of the first sunset review. In light of these changes, it is at best unclear whether such changes have rendered the domestic barbed wire industry more susceptible to injury in the event of revocation of the order.

With regard to changes in the market since 1997, the most significant change is the recent unprecedented surge in domestic steel prices.[22] Although this surge undoubtedly led to an increase in domestic producers' costs, there is no evidence on the record that domestic producers were unable to raise their barbed wire prices commensurately.[23] Similarly, a significant change in the conditions of competition is the acquisition of Acindar by the Luxembourg steel conglomerate Arcelor, which is currently the largest steel manufacturer in the world.[24] As noted below, however, there is no evidence on the record that indicates that simply being part of a large multinational steel conglomerate would make Acindar more likely to increase its exports to the United States in the event of revocation of the order. Indeed, as discussed below, record evidence regarding Acindar's declining volume of barbed wire exports and the evolution of Mercosur indicate that Acindar is more likely as part of the Arcelor group to specialize in serving its domestic and regional markets, as part of a global rationalization of production by Arcelor.

Finally, with regard to changes in the market since the time of the original investigation, we find it significant that domestic barbed wire producers have maintained their market share at a level comparable to that at the start of the original period of investigation, even though nonsubject imports are still an important factor in the marketplace. Specifically, domestic producers hold 80.5 percent of the market in 2003, which is identical to their share in 1982, the initial year for which data were collected in the original investigation.[25] Nonsubject imports currently hold approximately 20 percent of the U.S. market, which is comparable to their share in 1982.[26] Hence, the domestic industry is no worse off in terms of its market position currently than it was nearly two decades ago.

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[18] Domestic Parties' Response to Notice of Institution (Domestic Response), May 21, 2004, at A-4.

[19] Id. at A-8.

[20] Id. at A-9.

[21] Id.

[22] INV-BB-098, Staff Report to the Commission (confidential version) ("CR"), at I-8; Staff Report to the Commission (public version) ("PR"), at I-6.

[23] Domestic interested parties did not provide any information on current price levels for barbed wire, or on price trends since 1997.

[24] CR at I-13; PR at I-10.

[25] CR/PR at table I-5.

[26] Id.

E. Likely Volume of Subject Imports

The Commission is to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to production or consumption in the United States if the order under review were revoked. In so doing, the Commission shall consider "all relevant economic factors," including four enumerated in the statute: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise in countries other than the United States; and (4) the potential for product shifting if the production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[27]

Our focus in this review is whether subject import volume is likely to be significant in the reasonably foreseeable future if the antidumping order is revoked.[28] In performing our analysis, we have taken into account the Commission's previous volume findings with respect to the subject imports from Argentina. In the original determination, the Commission found that subject imports from Argentina had increased over sevenfold from 1982 to 1983, from 506 short tons in 1982 to 3,814 short tons in 1983, and then declined slightly in 1984.[29] It further found that the U.S. market share held by subject imports from Argentina rose from 0.5 percent in 1982 to 4.0 percent in 1984, by quantity.[30] In light of the fact that, as noted earlier, there have been significant changes in the market for barbed wire since the original investigation, our analysis concentrates on a comparison between the current market and the market at the time of the original investigation.

In this review, the Commission has little information addressing any of the statutory factors noted above. Domestic parties did not report the existence of any barriers facing Acindar in third-country markets.[31] There is no information on the record concerning Acindar's capacity to produce barbed wire, its capacity utilization, or barbed wire inventories. Domestic interested parties claim that Acindar is "export-oriented," and hence theorize that Acindar's status as part of the Arcelor family of steel companies means that it would have little trouble (presumably from a logistical perspective) resuming exports to the United States.[32] Information on the record, however, refutes domestic parties' claim that Acindar is export-oriented, at least with regard to barbed wire. Specifically, United Nations export statistics indicate that recent exports from Argentina of barbed wire have been minimal and have been limited to destinations within the Mercosur free-trade area.[33]

Information from the original investigation indicates that, at least at that time, Acindar had the ability and willingness to establish rapidly a presence in the U.S. market. It is not at all clear, however, that, even if it is assumed that Acindar would respond today as it did 20 years ago, injury to the domestic industry would necessarily recur. U.S. market share held by U.S. producers today is comparable to that at the start of the period examined by the Commission in the original investigation (1982).[34] With U.S. producers currently holding a market share of greater than 80 percent, any increased volumes of imports

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[27] 19 U.S.C. § 1675a(a)(2)(A-D).

[28] 19 U.S.C. § 1675a(a)(2).

[29] CR/PR at table I-5.

[30] Id.

[31] On the contrary, an outstanding finding against barbed wire from Argentina in Canada dating from 1985 was allowed to expire in 1990. CR at I-14, n.47; PR at I-10, n.47.

[32] Domestic Response at A-5.

[33] CR at I-14; PR at I-10-11. Argentina exported only *** short tons of barbed wire and barbless wire strand in 2002, all of which were exported to either full or associate members of Mercosur. Id.

[34] CR/PR at table I-5.

sufficient to gain a 4-percent market share would not be significant. Moreover, given the substantial market share held by nonsubject imports, it is likely that increased exports from Argentina would displace nonsubject imports as well as U.S. production. Finally, there is record evidence that tends to refute the assumption that Acindar would likely increase its exports to the United States to pre-order levels in the event of revocation, as in recent years it has exported minimal amounts of barbed wire to any destination, even to tariff-free destinations within Mercosur. To the extent that Acindar should decide to export its barbed wire production, it is more likely that it would do so in tariff-free markets closer to home where transportation costs are lower.

Therefore, we find that revocation of the antidumping order is not likely to lead to an increase in the volume of subject imports such that the likely volume of subject imports would be significant.

F. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping order is revoked, the Commission considers whether there is likely to be significant underselling by the subject imports as compared to domestic like product, and if the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.[35]

In performing our analysis, we have taken into account the Commission's previous price findings. In the original determination, the Commission found that barbed wire is a commodity product where small changes in price may have significant effects on volumes.[36] The Commission did not collect specific pricing data in this expedited review, nor did parties provide such data. In the original investigation, however, the Commission found that subject imports from Argentina showed significant margins of underselling during the period 1982-84.[37] Consequently, the Commission found that imports depressed domestic prices.

No current pricing data are available on the record in this review. Hence, we have no information that would enable us to evaluate whether subject imports, in the event of revocation of the order, would be likely to enter the United States at prices that would undersell the domestic like product. We acknowledge Commerce's determination that dumping is likely to continue or recur if the antidumping order is revoked as well as the commodity nature of barbed wire.[38] Our conclusions, however, regarding the likely price effects if the antidumping order is revoked, are drawn largely from our conclusions on likely subject volumes. As discussed in our volume analysis, subject imports are not likely to increase significantly if the antidumping order is revoked, even if subject imports return to pre-order levels. Consequently, we find that revocation of the antidumping order would not likely lead to significant underselling by the subject imports as compared to the domestic like product, or to significant price depression or suppression within a reasonably foreseeable time.[39] Therefore, we find that revocation of the order is not likely to lead to any significant price effects.

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[35] 19 U.S.C. § 1675(a)(3).

[36] USITC Publ. 3187 at 7, n.37 (Views of the Commission).

[37] Barbed Wire and Barbless Wire Strand from Argentina, Inv. No. 731-TA-208 (Final), USITC Pub. 1770 (Oct. 1985), at 8-9.

[38] 69 Fed. Reg. 47,404 (Aug. 5, 2004). We note, however, that the level of dumping margins, *per se*, tells us nothing about whether there is likely to be significant price underselling by subject imports or whether subject imports are likely to be sold at prices that depress or suppress U.S. prices for barbed wire.

[39] The record contains no current information on other price-related factors such as the channels of distribution used; the methods of contracting (such as spot sales or long-term contracts); and lead times for delivery of goods; discounts; and payment terms.

G. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping order is revoked, the Commission considers all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including, but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[40]

Subject imports are not likely to have a significant adverse impact on the domestic barbed wire industry if the order is revoked. Evidence on the issue of vulnerability of the domestic industry is, at best, mixed. Domestic parties claim that the industry's vulnerability is evidenced by rapidly rising production and energy costs, along with Keystone's February 2004 bankruptcy.[41] In July 2004, however, Keystone reached a tentative agreement with its union that will likely have a positive impact on its bankruptcy situation.[42] In addition, there is record evidence indicating that at least one new U.S. producer has entered the U.S. market since the first sunset review.[43] Moreover, as noted above, although the U.S. industry has been faced with increased costs, the record is devoid of evidence on the issue of whether the industry has been able to raise prices so as to pass along increased costs to its customers. Finally, we note that the domestic industry's production levels and market share are both as high or higher than they were at the time of the original investigation.[44]

Even were we to conclude that the industry is currently vulnerable, because we have concluded that, in the event of revocation, the volume of subject imports and their effect on U.S. prices would not likely be significant, we cannot conclude that such imports would be likely to have a significant impact on domestic barbed wire producers' cash flow, inventories, employment, wages, growth, ability to raise capital, or investment within a reasonably foreseeable time in the event the order is revoked. We therefore find that revocation of the order is not likely to lead to the continuation or recurrence of material injury to the domestic barbed wire industry within a reasonably foreseeable time.

CONCLUSION

Subject imports are not likely to have significant adverse volume or price effects in the event of revocation, and are therefore not likely to have a negative impact on the domestic industry. Thus, we find that material injury to the U.S. barbed wire and barbless wire strand industry is not likely to continue or recur within a reasonably foreseeable time if the antidumping order on barbed wire and barbless wire strand from Argentina is revoked.

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[40] 19 U.S.C. § 1675(a)(4).

[41] Domestic Response at A-4.

[42] Id.

[43] CR at I-9; PR at I-6.

[44] CR/PR at table I-3; CR/PR at table I-5.

INFORMATION OBTAINED IN THE SECOND REVIEW

INTRODUCTION

Background

On April 1, 2004, the U.S. International Trade Commission (Commission) gave notice that it had instituted a second five-year review to determine whether revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.[1] On July 6, 2004, the Commission determined that the domestic interested party group response to its notice of institution was adequate;[2] the Commission also determined that the respondent interested party group response was inadequate. The Commission found no other circumstances that would warrant conducting a full review. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)).[3] [4] The Commission voted on this review on August 23, 2004, and notified the U.S. Department of Commerce (Commerce) of its determination on August 30, 2004. Information relating to the background of the review is presented in table I-1.

Table I-1
Barbed wire and barbless wire strand: Chronology of investigation No. 731-TA-208 (Second Review)

Effective Date	Action
April 1, 2004	Commission institutes second five-year review (69 FR 17226)
April 1, 2004	Commerce initiates second five-year review (69 FR 17129)
July 6, 2004	Commission votes to conduct expedited second five-year review
July 6, 2004	Commission issues scheduling notice for second five-year review (69 FR 43013, July 19, 2004)
August 5, 2004	Commerce issues determination of expedited second five-year review (69 FR 47404)
August 23, 2004	Commission's vote
August 30, 2004	Commission's transmittal of determination and views to Commerce
Source: Cited *Federal Register* notices.	

[1] All interested parties were requested to respond to the notice by submitting information requested by the Commission. Copies of the Commission's *Federal Register* notices are presented in app. A.

[2] The Commission received one submission in response to its notice of institution for the subject review. On May 21, 2004, a substantive response was filed on behalf of Davis Wire Corporation (Davis), Keystone Steel and Wire Company (Keystone), and Oklahoma Steel and Wire Company, Inc. (Oklahoma S&W). Davis, Keystone, and Oklahoma S&W reportedly accounted for approximately *** percent of U.S. barbed and barbless wire strand production in 2003. *U.S. Producers' May 21, 2004 Response to the Notice of Institution* (*U.S. Producers' Response*), p. 6 of attachments A, B, and C.

[3] A copy of the *Explanation of Commission Determination on Adequacy* is presented in app. B.

[4] Commissioners Charlotte R. Lane and Daniel R. Pearson dissenting. Commissioners Lane and Pearson concluded that the domestic group response was adequate and the respondent group response was inadequate but that circumstances warranted a full review.

The Original Investigation and First Five-Year Review

The Commission completed its original investigation in October 1985, determining that an industry in the United States was materially injured by reason of imports of barbed wire and barbless wire strand from Argentina which Commerce determined were being sold, or were likely to be sold, at less than fair value (LTFV).[5] Commerce issued an antidumping duty order on the imports of such merchandise from Argentina on November 13, 1985.[6] On December 2, 1998, the Commission gave notice that it had instituted the first five-year review on barbed wire and barbless wire strand. In May 1999, the Commission determined that revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[7] A historical chronology of the original investigation and its first review is presented in table I-2.

Table I-2
Barbed wire and barbless wire strand: Selected historical actions taken by the Commission and Commerce

Effective Date	Action
	Investigation No. 731-TA-208 (Final):
November 7, 1985	Commission issues determination (50 FR 46366)
November 13, 1985	Commerce issues antidumping duty order (50 FR 46808)
	Investigation No. 731-TA-208 (Review):
December 2, 1998	Commission institutes review (63 FR 66563)
December 2, 1998	Commerce initiates review (63 FR 66527)
May 3, 1999	Commission issues determination (64 FR 24171, May 5, 1999)
May 12, 1999	Commerce issues continuation of antidumping duty order (64 FR 42653, August 5, 1999)
Source: Cited *Federal Register* notices.	

[5] *Barbed Wire and Barbless Wire Strand from Argentina: Inv. No. 731-TA-208 (Final),* USITC Pub. 1770, October 1985. The original investigation resulted from petitions filed on behalf of Forbes Steel and Wire Corp. (Forbes) on November 19, 1984, alleging that barbed wire and barbless wire strand from Argentina, Brazil, and Poland were, or were likely to be, sold in the United States at less than fair value. Subsequently, the petitioner withdrew its petitions with respect to imports from Brazil and Poland and the Commission published notices of termination in the *Federal Register* (50 FR 29770, July 22, 1985 for Poland and 50 FR 32775, August 14, 1985 for Brazil).

[6] 50 FR 46808, November 13, 1985. The order required the posting of a cash deposit equal to the estimated weighted-average antidumping duty margin of 69.02 percent for the reviewed firm, Acindar, and all other firms.

[7] *Barbed Wire and Barbless Wire Strand from Argentina: Inv. No. 731-TA-208 (Review),* USITC Pub. 3187, May 1999. Chairman Lynn M. Bragg and Commissioners Carol T. Crawford and Thelma J. Askey determined that revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would not be likely to lead to continuation or recurrence of material injury to an industry in the United States.

Related Investigations

Barbed wire and barbless wire strand had not been the subject of antidumping or countervailing duty investigations prior to 1985, but were among the products included in the Commission's investigation No. TA-201-51, *Carbon and Certain Alloy Steel Products*, completed in July 1984.[8] On the basis of information developed in that investigation, the Commission, on July 24, 1984, notified the President of its determination that certain products, including wire and wire products, were being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industries producing articles like or directly competitive with the imported articles.[9] President Ronald Reagan determined that import relief was not in the national economic interest. However, the President directed the United States Trade Representative (USTR) to take a series of steps, including the negotiation of "surge control" arrangements and the reaffirmation of existing measures with countries that had voluntarily restrained their exports to the U.S. market.[10]

The Commission has not conducted an antidumping or countervailing duty investigation relating to barbed wire and barbless wire strand since 1985. However, following receipt of a request from USTR on June 22, 2001, the Commission instituted investigation No. TA-201-73, *Steel,* under section 202 of the Trade Act of 1974 (19 U.S.C. § 2252) to determine whether certain steel products, including certain related carbon and alloy steel wire and wire products, were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported article.[11] On July 26, 2001, the Commission received a resolution adopted by the Committee on Finance of the United States Senate requesting that the Commission investigate certain steel imports under Section 201 of the Trade Act of 1974 (19 U.S.C. § 2251). Consistent with the Senate Finance Committee's resolution, the Commission consolidated the investigation requested by the Committee with the Commission's previously instituted investigation No. TA 201-73.[12] On December 20, 2001, the Commission issued its determinations and remedy recommendations. The Commission made negative determinations with respect to carbon and alloy steel wire as well as wire products, including strand, rope, cable, and cordage.[13]

Commerce's Final Results of Expedited Sunset Review

Effective August 5, 2004, Commerce issued its "Final Results of Expedited Sunset Review" concerning barbed wire and barbless wire strand from Argentina.[14] Commerce's review covers all manufacturers and exporters of barbed wire and barbless wire strand from Argentina. Commerce determined that dumping is likely to continue or recur if the antidumping duty order is revoked, and calculated likely margins of dumping to be 69.02 percent *ad valorem.*

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[8] *Carbon and Certain Alloy Steel Products: Inv. No. TA-201-51,* USITC Pub. 1553, July 1984.

[9] 49 FR 30307 (August 1, 1984).

[10] 49 FR 36813 (September 20, 1984).

[11] 66 FR 35267 (July 3, 2001). Barbed wire and barbless wire strand, however, were not included in the definition of the imported article.

[12] 66 FR 44158 (August, 22, 2001).

[13] 66 FR 67304 (December 28, 2001).

[14] 69 FR 47404 (August 5, 2004).

Distribution of Continued Dumping and Subsidy Offset Funds to Affected Domestic Producers

Qualified U.S. producers of barbed wire and barbless wire strand have been eligible to receive disbursements from the U.S. Bureau of Customs and Border Protection (Customs) under the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), also known as the Byrd Amendment.[15] CF&I Steel Corp. (CF&I), Davis, Forbes, and Oklahoma S&W have been eligible to receive such funds in recent years.[16] However, no firm has received CDSOA funds in federal fiscal years 2001, 2002, or 2003.[17]

THE PRODUCT

Scope

The merchandise covered by this review is barbed wire and barbless wire strand of iron or steel. Such merchandise is classified in the Harmonized Tariff Schedule of the United States (HTS) in heading 7313.00.00 and is free of duty regardless of country of origin.[18] This HTS heading covers subject merchandise as well as other steel and iron wire products, but predominately consists of barbed wire and barbless wire strand.[19]

Description

Barbed wire is produced from low carbon steel wire rod having 0.08 to 0.22 percent carbon content by weight. The American Society for Testing and Materials (ASTM) identifies two major categories of barbed wire: low-tensile (also known as "Iowa" or standard) and high-tensile (also known as "Gaucho"). Low-tensile barbed wire was the original barbed wire used in the United States and is produced from low carbon steel rod, with a carbon content of 0.08 to 0.10 percent. High-tensile barbed wire, first produced in the United States in 1972, also is produced from low carbon steel rod, but with a carbon content of 0.18 to 0.22 percent. High-tensile barbed wire is lighter in weight than low-tensile wire.[20]

In 1984, low-tensile barbed wire accounted for 67 percent (by quantity) of apparent U.S. consumption of barbed wire and barbless wire strand, combined, and high-tensile barbed wire and barbless wire strand accounted for 30 percent and 3 percent, respectively.[21] In the original investigation as well as the first review, the Commission determined that there was one domestic like product, barbed

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[15] 19 U.S.C. § 1675c, 19 C.F.R. 159.64(g).

[16] 69 FR 31162, June 2, 2004.

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

[18] Prior to 1989 under the Tariff Schedules of the United States (Annotated) (TSUSA), this merchandise was classified in items 642.02 and 642.11.

[19] The HTS classification for barbed wire and barbless wire strand also includes "twisted hoop or single flat wire." There are no data reflecting what share these products may account for of the total basket classification, but such imports, if any, are believed to be minimal.

[20] *Staff Report of October 11, 1985,* p. A-5.

[21] *Staff Report of April 2, 1999, p. I-5 (citing Staff Report of October 11, 1985,* p. A-4). At the time of the original investigation, questionnaire data were collected on low-tensile barbed wire, high-tensile barbed wire, and barbless wire strand. Separate official Commerce import data were also available at that time for barbed wire and for barbless wire strand. Since the 1989 conversion from the TSUSA to the HTS, barbed wire and barbless wire strand have been included in the same import category, and separate import data are no longer available.

wire and barbless wire strand, and that the domestic industry consisted of the domestic producers of barbed wire and barbless wire strand.[22]

ASTM specification A121 specifically provides for barbed wire in sizes of 12.5 gauge to 15.5 gauge with two or four barbed points. The barbed wire is packaged in spools of either 1,320 feet or 1,000 feet.[23] The breaking strength must not be less than 950 pounds.[24] As noted in the original investigation, the useful life of the low-tensile (typically 12.5-gauge) and high-tensile (typically 15.5-gauge) products is similar. Since 1997, there have been no changes in the technology or production methods for making barbed wire.[25] Except for the barbs, barbless wire strand is similar to the barbed wire and typically is used in applications in which barbs would cause harm to certain livestock, such as show horses.[26]

Uses

Barbed wire and barbless wire strand are galvanized steel products used in various fencing applications. At the time of the original investigation as well as the first five-year review, approximately 90 percent of barbed wire was consumed in agricultural applications and 5 percent each in industrial and Governmental security applications. The end uses and applications for barbed wire remain essentially the same today -- primarily agricultural. Since 1997, there has been a slight decline in domestic demand for barbed wire due to a general reduction in the number of cattle being raised and the gradual consolidation of the agricultural industry. Demand for barbed wire also has been affected by the introduction of some alternative fence products, such as field fence, electric fence, and high-tensile, smooth wire fencing. Demand for barbed wire reportedly has improved recently, however, as the result of the general economic recovery and the increased use of barbed wire for security purposes.[27]

Production Process

The production of barbed wire and barbless wire strand involves three principle stages. First, carbon steel wire rod is drawn into wire by passing it through successively smaller dies, thereby increasing the strength and ductility of the wire while diminishing its cross-sectional area. The same wire drawing machines can be used to produce both high- and low-tensile wires, although different dies are used and the machines are run at slower speeds when producing high-tensile wire. Second, the corrosion-resistant zinc coating is applied. Third, two strands of wire are fed into a barbed wire machine that evenly twists the wire under tension; the resulting product is twisted barbless wire strand. To make the barbs, a third wire (for 2-barbed) and fourth wire (for 4-barbed) are fed into the machine, wrapped around one or both of the twisted wires, and then cut to form the barbs. The barbs typically are spaced at

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[22] *Barbed Wire and Barbless Wire Strand from Argentina, Inv. No. 731-TA-208 (Final),* USITC Pub. 1770, October 1985, pp. 3-5 and *Barbed Wire and Barbless Wire Strand from Argentina: Inv. No. 731-TA-208 (Review),* USITC Pub. 3187, May 1999, p. 4.

[23] American Society for Testing and Materials, *Annual Book of ASTM Standards 2000, Volume 01.06* (West Conshohocken, PA, 2000), p. 16.

[24] American Society for Testing and Materials, *Annual Book of ASTM Standards 2000, Volume 01.06* (West Conshohocken, PA, 2000), p. 16.

[25] *U.S. Producers' Response*, pp. 8 and 9 of attachments A, B, and C.

[26] *Staff Report of April 2, 1999,* p. I-5 (citing *Staff Report of October 11, 1985,* pp. A-4 and A-5).

[27] *U.S. Producers' Response*, pp. 8 and 9 of attachments A, B, and C.

intervals of 4 or 5 inches. The barbed wire and barbless wire strand are then coiled onto reels and wrapped in a protective cover for shipment.[28]

Domestic producers report that raw material costs for the steel used in the production of barbed wire and barbless wire strand have increased dramatically in the year leading up to this review. Energy costs, particularly oil and natural gas prices, have increased dramatically as well, causing transportation costs to rise rapidly. Domestic producers characterize barbed wire and barbless wire strand as highly price sensitive products. As a result, the margins on domestic sales of these products are seriously impacted when production costs increase.[29]

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

There were nine firms producing barbed wire and barbless wire strand in the United States in 1984: Bekaert Steel & Wire Co. (Bekaert), CF&I, Continental Steel Corp. (Continental), Davis, Forbes, Keystone, Nagle Wire Corp. of Colorado (Nagle), Northwestern Steel & Wire Co. (Northwestern), and Oklahoma S&W.[30] In 1997, there were eight producing firms – two of the producers during the original investigation had exited the domestic industry, a new firm had begun barbed wire operations, and the barbed wire facilities of the petitioner, Forbes, were being operated by a new owner.[31]

There have been additional changes to the domestic industry in recent years. Insteel, which had acquired Forbes in 1989, sold its barbed wire business to Keystone in 1997. Davis acquired the wire-producing operations of CF&I in June 1997, and continues these operations today. Northwestern announced that it was exiting the fabricated wire products business, including barbed wire, in October 1998, and subsequently filed for bankruptcy in December 2000. By the summer of 2001, Northwestern had ceased operations, and it is no longer in business. The only new entrant into the market is Midwest Air Technology (Midwest), which began producing barbed wire in the United States in 2002 or 2003. The company also imports wire products from China; its production of barbed wire reportedly is very limited.[32]

Currently, there are six known and operating U.S. producers of the domestic like product: Davis, Keystone, Oklahoma S&W, Bekaert, Burly, and Midwest. On February 26, 2004, however, Keystone and its affiliated companies filed for Chapter 11 bankruptcy protection.[33]

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[28] *Staff Report of April 2, 1999,* p. I-6 (citing *Staff Report of October 11, 1985,* pp. A-5 and A-6).

[29] *U.S. Producers' Response*, p. 4 of attachments A, B, and C.

[30] *Staff Report of October 11, 1985,* p. A-8.

[31] *Staff Report of April 2, 1999,* p. I-7. Continental went bankrupt and ceased operation in 1986. Nagle exited the barbed wire and barbless wire strand business when its plant equipment was bought by Keystone in 1987. Burly Corp. of North America (Burly) began production in Burleston, TX, in 1987-88. Forbes' barbed wire assets were bought by Insteel Industries, Inc. (Insteel) in 1989.

[32] *U.S. Producers' Response*, p. 9 of attachments A, B, and C.

[33] Citing "costs beyond its control...such as the price of natural gas, the cost of scrap metal, and pressure from cheaper imported steel," as hampering the company's ability to do business, Keystone officials filed for reorganization bankruptcy on February 26, 2004. Prior to the bankruptcy filing, the company had tried to renegotiate a contract with the Independent Steelworkers Alliance (ISA) at its Bartinville, IL, mill. Attempts at achieving concessions from the union reportedly failed when production workers at the mill voted to reject tentative deals on two separate occasions -- one in January 2004 and one in February 2004. For several months, Keystone received interim relief from the bankruptcy court for health benefits and contributions to the retirement plan. In June 2004, a third round of negotiations between Keystone executives and ISA officials began. On July 16, 2004, a tentative

(continued...)

U.S. Capacity, Production, Shipments, and Employment

Three producers responded in a timely manner to the Commission's notice of institution in this review: Davis, Keystone, and Oklahoma S&W. These three firms reportedly accounted for an estimated *** of U.S. barbed wire and barbless wire strand production in 2003.[34] Information on the U.S. industry is therefore based on the data from these three firms. Information on the domestic industry's capacity, production, shipments, and employment during 1982-84, 1997, and 2003 is presented in table I-3.

Table I-3
Barbed wire and barbless wire strand: U.S. producers' capacity, production, shipments, and employment, 1982-84, 1997, and 2003[1]

Item	1982	1983	1984	1997[2]	2003[2]
Capacity *(short tons)*	171,310	179,536	171,293	(3)	(3)
Production *(short tons)*	71,609	78,276	62,996	82,000	78,298
Capacity utilization *(percent)*	41.8	43.6	36.8	(3)	(3)
U.S. shipments:					
Quantity *(short tons)*	76,153	80,710	65,457	77,200	76,564
Value *($1,000)*	(3)	(3)	(3)	56,600	52,246
Unit value *(dollars per short ton)*	(4)	(4)	(4)	733	682
Production and related workers	183	194	168	153	(3)

[1] Data for 1982-1984 are based on the staff report of October 11, 1985. Data for 1997 are based on the staff report of April 2, 1999. Data for 2003 are based on the U.S. producers' May 21, 2004 response to the Commission's notice of institution in this second five-year review.
[2] Data for 1997 were estimated by the Commission's staff by applying *** percent coverage ratio to the data reported by the three firms. Data for 2003 were estimated by the Commission's staff by applying *** percent coverage ratio to the data reported by the three firms. (See *Staff Report of April 2, 1999*, p. I-8, footnote 22 and *U.S. Producers' Response*, p. 6 of attachments A, B, and C.)
[3] Not available.
[4] The average selling price of *barbed wire* reported by domestic producers was $662 per short ton in 1982, $645 per short ton in 1983, and $639 per short ton in 1984. *Staff Report of October 11, 1985*, p. A-23.

Source: Compiled from data presented in the staff reports in the original investigation, the first five-year review, and the U.S. producers' May 21, 2004 response to the Commission's notice of institution in this second five-year review.

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[33] (...continued)
agreement was reached by both sides. Revisions to the agreement must be approved by ISA members and by a federal bankruptcy court before they become official. Information on the bankruptcy filing by Keystone was compiled from the following sources: "Keystone Steel schedules production shutdown" in AMM.com - Steel News - March 25, 2003; "Keystone looks to amend pact, warns of woes" in AMM.com - Steel News - Oct. 24, 2003; "Keystone labor ratification vote set for Jan. 20" in AMM.com - Steel News - Jan. 8, 2004; "Yoked by pact, Keystone files for Chapter 11" in AMM.com - Steel News - Feb. 27, 2004; "Keystone Steel, union take third trip to table" in AMM.com - Steel News - June 25, 2004; "Keystone reaches agreement" in pjstar.com - Peoria Journal Star - July 17, 2004.

[34] *U.S. Producers' Response*, p. 6 of attachments A, B, and C. Firms reported a range of shares of production of the domestic like product for the calendar year 2003 as follows: Davis produced *** short tons which was *** percent of U.S. production, Keystone produced *** short tons which was *** percent of U.S. production, and Oklahoma S&W. produced *** short tons which was *** percent of U.S. production.

U.S. IMPORTS AND CONSUMPTION

U.S. Imports

Table I-4 presents information on U.S. imports of barbed wire and barbless wire strand from Argentina during 1982-84, 1997, and 2003. Imports of barbed wire and barbless wire strand from Argentina increased from 1982 to 1983, and then decreased slightly in 1984. Subsequent to the initiation of the antidumping investigation, such imports decreased in the January-March 1985 period, amounting to only 39 percent of the quantity of imports from Argentina during the comparable period of 1984.[35] Commerce published its preliminary determination of dumping in May 1985,[36] and imports of barbed wire and barbless wire strand from Argentina quickly declined.[37] Although there were imports of barbed wire and barbless wire strand after the completion of the antidumping investigation, they were minimal compared with imports prior to the determination of dumping. In 1986, there were 9 short tons of barbed wire (and no barbless wire strand) imported from Argentina. In 1987, there were 19 short tons of barbless wire strand (and no barbed wire) imported from Argentina.[38] Since then, there have been no U.S. imports of barbed wire or barbless wire strand from Argentina.[39]

Table I-4
Barbed wire and barbless wire strand: U.S. imports, by source, 1982-84, 1997, and 2003

Source	1982	1983	1984	1997	2003
	Quantity *(short tons)*				
Argentina	506	3,814	3,739	0	0
	Value *(1,000 dollars)*				
Argentina (*landed, duty paid*)	337	1,753	1,766	0	0
Argentina (*customs value*)	294	1,461	1,477	0	0
	Unit value *(per short ton)*				
Argentina (*landed, duty paid*)	$666	$460	$472	(1)	(1)
Argentina (*customs value*)	580	383	395	(1)	(1)

[1] Not applicable; there were no U.S. imports from Argentina. However, according to *Official UN statistics*, exports from Argentina to other countries in 2002 had a unit value of *** per short ton.

Source: Compiled from data presented in the staff reports in the original investigation, the first five-year review, and official statistics of Commerce *(http://dataweb.usitc.govv/script/REPORT.asp)*.

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[35] *Staff Report of April 2, 1999,* p. I-9 (citing *Staff Report of October 11, 1985,* p. A-35).

[36] *Staff Report of April 2, 1999,* p. I-9 (citing *50 FR 18906, May 3, 1985).* The preliminary dumping margin was 64.44 percent and was based on the best information available.

[37] *Staff Report of April 2, 1999,* p. I-9. According to official Commerce statistics, there were no subject imports reported for 1985 after June of that year, and such imports during January-April 1985 accounted for 61 percent of the 908 short tons of barbed wire and barbless wire strand imported from Argentina in 1985. (*IM 146* for April 1985, June 1985, and December 1985.)

[38] *Barbed Wire and Barbless Wire Strand from Argentina: Inv. No. 731-TA-208 (Review),* USITC Pub. 3187, May 1999, p. I-7.

[39] Official statistics of Commerce *(http://dataweb.usitc.govv/script/REPORT.asp).*

In 2003, total U.S. imports of barbed wire were 18,493 short tons. Mexico and Brazil accounted for the vast majority of such imports. Other countries accounting for the balance of U.S. imports, in descending order of magnitude, include South Africa, Germany, India, Canada, Australia, the Czech Republic, China, France, Honduras, Poland, Japan, Chile, and Peru.[40]

Apparent U.S. Consumption

Table I-5 presents information on U.S. shipments of domestic product, U.S. imports, apparent U.S. consumption, and market shares of barbed wire and barbless wire strand during 1982-84, 1997, and 2003. Apparent U.S. consumption of barbed wire and barbless wire strand in 1997, although slightly higher than in 1984, was lower than in 1982-83. U.S. producers accounted for a higher share of consumption in 1997 than in any year during the original investigation.

Table I-5
Barbed wire and barbless wire strand: U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, 1982-84, 1997, and 2003

Item	1982	1983	1984	1997	2003
	Quantity *(short tons)*				
U.S. producers' domestic shipments[1]	76,153	80,710	65,457	77,200	76,564
U.S. imports[2] from:					
Argentina	506	3,814	3,739	0	0
All other sources	17,959	25,458	24,560	16,601	18,493
Total imports	18,465	29,272	28,299	16,601	18,493
Apparent U.S. consumption	94,618	109,982	93,756	93,801	95,057
	Share of U.S. consumption based on quantity *(percent)*				
U.S. producers' domestic shipments[1]	80.5	73.4	69.8	82.3	80.5
U.S. imports[2] from:					
Argentina	0.5	3.5	4.0	0.0	0.0
All other sources	19.0	23.1	26.2	17.7	19.5
Total imports	19.5	26.6	30.2	17.7	19.5

[1] U.S. producers' domestic shipments for 1997 and 2003 were estimated by the Commission staff using data provided in the U.S. producers' response to the Commission's notices of institution in the first and second review, respectively.
[2] The HTS classification for barbed wire and barbless wire strand also includes "twisted hoop or single flat wire." There are no data reflecting what share these products may account for of the total basket classification, but such imports, if any, are believed to be minimal.

Source: *Staff Report of April 2, 1999*, p. I-12 for 1982-84 and 1997 data (from which import data were official Commerce statistics). 2003 import data are from official Commerce statistics, while 2003 U.S. producers' shipments are estimated by Commission staff from the *U.S. Producers' Response*, p. 6 of attachments A, B, and C.

In 2003, apparent U.S. consumption of barbed wire and barbless wire strand was only slightly higher than apparent U.S. consumption in 1997. As previously noted, since 1997, there have been no

[40] Official statistics of Commerce *(http://dataweb.usitc.govv/script/REPORT.asp)*.

significant changes in the technology or production methods for making barbed wire and barbless wire strand, and the primary end uses and applications for barbed wire remain essentially the same.[41]

THE INDUSTRY IN ARGENTINA

During June 1, 1984 - November 30, 1984, the period of Commerce's original investigation, all sales of barbed wire by Acindar, a major steel producer in Argentina, were investigated by Commerce. According to the petition, Acindar accounted for substantially all of Argentina's known exports of barbed wire and barbless wire strand to the United States. During the time of the Commission's original investigation, Acindar was the sole exporter of these products from Argentina and almost the sole domestic supplier to the Argentine market.[42] Argentina's capacity to produce the subject merchandise remained constant at *** short tons during 1982-84, but its production increased in 1983, then decreased in 1984 to a volume *** more than the 1982 level. Although exports coincided with the production trends, domestic shipments decreased between 1982 and 1984 and the domestic market share of total shipments slipped from *** percent in 1982 to less than *** percent in 1983 and 1984. *** was Argentina's largest export market for barbed wire and barbless wire strand during 1982-84, accounting for *** percent of such exports.[43]

Acindar still produces barbed wire and barbless wire strand,[44] but is now part of Arcelor of Luxembourg, the largest manufacturer of steel products in the world.[45] Acindar has a melting capacity of 1.35 million metric tons annually, wire rod rolling capacity of 610,000 metric tons annually, and wire production capacity of 130,000 metric tons annually.[46] Domestic interested parties did not report the existence of barriers to the importation of the subject merchandise into countries other than the United States.[47] Nonetheless, in 2002, the last year for which data are available, Argentina exported only *** short tons of barbed wire and barbless wire strand, valued at ***; Bolivia and Paraguay accounted for nearly *** and nearly ***, respectively, of the quantity of these exports.[48] [49]

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[41] *U.S. Producers' Response*, p. 9 of attachments A, B, and C.

[42] *Staff Report of April 2, 1999,* p. I-11 (citing *Staff Report of October 11, 1985,* p. A-32).

[43] *Staff Report of April 2, 1999,* pp. I-11 and I-12 (citing *Staff Report of October 11, 1985,* p. A-33).

[44] *Iron and Steel Works of the World*, 15th ed., (Metal Bulletin Directories Ltd., Worcester Park, 2002), p. 1.

[45] Acindar webpage (*www.acindar.com.ar/nuestra_empresa/hisoria.asp#*); *U.S. Producers' Response*, p. 5 of attachments A, B, and C.

[46] Acindar Industria Argentina de Aceros S.A., Form 20-F, filed with the Securities and Exchange Commission on January 15, 2002, p. 22. Acindar report total wire and cable sales of 109,000 metric tons in the fiscal year ended June 30, 2000 (79 percent sold domestically) and 111,000 metric tons in the fiscal year ended June 30, 2001 (77 percent sold domestically). *Ibid*, p. 27. Acindar's domestic sales of wires and cables, however, declined by 17.7 percent between calendar year 2000 and calendar year 2002. Acindar Industria Argentina de Aceros S.A., Form 6-K, filed with the Securities and Exchange Commission on April 9, 2003, p. 1.

[47] In a decision dated August 1, 1990, the Canadian International Trade Tribunal declined to initiate a review of an outstanding finding against barbed wire from Argentina, Brazil, Poland, and Korea, allowing the finding (which dated from November 1985) to expire as of November 25, 1990.

[48] *Official UN statistics.* This information is copyrighted and not to be distributed outside the U.S. Government.

[49] Paraguay, like Argentina itself, is a member of Mercosur (Southern market), a common market among Argentina, Brazil, Paraguay, and Uruguay. Mercosur, initiated in 1991 with the signing of the Treaty of Asuncion, is a free trade area that applies a common external tariff to products originating outside of the union. According to USTR, "Mercosur became operative on January 1, 1995, and covers some 85 percent of intra-Mercosur trade, with each member allowed to maintain a list of sensitive products outside the FTA regime. Members aim to converge

(continued...)

The domestic interested parties that responded to the Commission's notice of the institution of its second five-year review contend that imports of barbed wire and barbless wire strand from Argentina stopped entering the U.S. market during the course of the original investigation, and there have been no imports since 1986.[50] They assert, however, that Acindar would have no difficulty resuming shipments of barbed wire to the United States as a result of its resources and connections to Arcelor's global network.[51] In addition, domestic interested parties point to recent reports that Acindar "exports much of its production."[52]

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[49] (...continued)
their individual tariff schedules to the CET (common external tariff) by January 1, 2006." Also, Bolivia, Chile, and Peru are existing associate members of Mercosur and participate in the free trade agreement, but not in the CET. *2004 Trade Policy Agenda and 2003 Annual Report of the President of the United States on the Trade Agreements Program*, Office of the U.S. Trade Representative, retrieved from *www.ustr.gov/reports/2004Annual/III-bilateral.pdf* on July 26, 2004. In addition, Venezuela became an associate member in July 2004. *See* "Venezuela Joins Mercosur Trade Bloc" in The State.com (retrieved July 30, 2004). For additional historical information, *see also* "Mercosur: Implications for Growth in Member Countries" in newyorkfed.com - Current Issues in Economics and Finance - May 1999 (intra-Mercosur trade as a share of member countries' total trade rose from roughly 12 percent in 1991 to 19 percent in 1994; intra-Mercosur exports increased from 11 percent of total exports in 1991 to 20 percent in 1996).

[50] *American Iron and Steel Institute, Annual Statistical Report* (1980-2003); *American Iron and Steel Institute, AIS Imports 3* (March 2004); *and U.S. Producers' Response,* p. 2 of attachments A, B, and C.

[51] *U.S. Producers' Response*, p. 5 of attachments A, B, and C.

[52] *http://biz.yahoo.com/rm/040510/financial_argentina-acindar-2.html*; *U.S. Producers' Response*, exhibit 4.

APPENDIX A
FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–208 (Review)]

Barbed Wire and Barbless Wire Strand From Argentina

AGENCY: International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on barbed wire and barbless wire strand from Argentina.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is May 21, 2004. Comments on the adequacy of responses may be filed with the Commission by June 14, 2004. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: April 1, 2004.

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

SUPPLEMENTARY INFORMATION:

Background.—On November 13, 1985, the Department of Commerce issued an antidumping duty order on imports of barbed wire and barbless wire strand from Argentina (50 FR 46808). Following five-year reviews by Commerce and the Commission, effective May 12, 1999, Commerce issued a continuation of the antidumping duty order on imports of barbed wire and barbless fencing wire from Argentina (64 FR 42653). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

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

(2) The *Subject Country* in this review is Argentina.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination and in its expedited five-year review determination, the Commission defined the Domestic Like Product as barbed wire and barbless wire strand.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination and in its expedited five-year review determination, the Commission defined the Domestic Industry as producers of barbed wire and barbless wire strand.

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

Participation in the review 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 review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

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

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

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 04–5–085, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

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

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 21, 2004. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is June 14, 2004. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

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

Information to be provided in response to this notice of institution: As used below, the term "firm" includes any related firms.

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

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

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

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

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

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 1997.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2003 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

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

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

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for

the firms which are members of your association.

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

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

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 1997, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

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

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

By order of the Commission.

Issued: March 25, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–7393 Filed 3–31–04; 8:45 am]

BILLING CODE 7020–02–P

Dated: June 20, 2004.

Donna E. Tegelman,

Regional Resources Manager, Mid-Pacific Region, Bureau of Reclamation.

[FR Doc. 04–16348 Filed 7–16–04; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group (AMWG), Notice of Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Adaptive Management Program (AMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The AMP includes a federal advisory committee (AMWG), a technical work group (TWG), a monitoring and research center, and independent review panels. The AMWG makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of Glen Canyon Dam consistent with the Grand Canyon Protection Act. The TWG is a subcommittee of the AMWG and provides technical advice and recommendations to the AMWG.

DATES: The AMWG will conduct the following public meeting:

Phoenix, Arizona—August 9–11, 2004. The meeting will begin at 10 a.m. and conclude at 5 p.m. on August 9, 2004, begin at 8 a.m. and conclude at 5 p.m. on August 10, 2004, and begin at 8 a.m. and conclude at 3 p.m. on August 11, 2004. The meeting will be held at the Hyatt Regency Phoenix, 122 N. 2nd Street, Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss results of the recent AMWG retreat, develop and prioritize resource questions and 2006 budget guidance, and discuss updates on the GCMRC Strategic Plan, Core Monitoring Plan, Long Term Experimental Plan, Humpback Chub Comprehensive Plan, FY04 deferred projects, environmental compliance progress on proposed actions, research and monitoring reports, basin hydrology, public outreach, as well as other administrative and resource issues pertaining to the AMP.

Time will be allowed for any individual or organization wishing to make formal oral comments (limited to 5 minutes) at the meeting. To allow full consideration of information by the AMWG members, written notice must be provided to Dennis Kubly, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah, 84138; telephone (801) 524–3715; faxogram (801) 524–3858; e-mail at *dkubly@uc.usbr.gov* at least five (5) days prior to the meeting. Any written comments received will be provided to the AMWG and TWG members.

FOR FURTHER INFORMATION CONTACT: Dennis Kubly, telephone (801) 524–3715; faxogram (801) 524–3858; or via e-mail at *dkubly@uc.usbr.gov.*

Dated: July 1, 2004.

Randall V. Peterson,

Manager, Environmental Resources Division, Upper Colorado Regional Office.

[FR Doc. 04–16347 Filed 7–16–04; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–208 (Second Review)]

Barbed Wire and Barbless Wire Strand From Argentina

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on barbed wire and barbless wire strand from Argentina.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* July 6, 2004.

FOR FURTHER INFORMATION CONTACT: Stephanie Jacobs (202–205–2383), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 6, 2004, the Commission determined that the domestic interested party group response to its notice of institution (69 FR 17226, April 1, 2004) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.[2]

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on August 2, 2004, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before August 5, 2004, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by August 5, 2004. However, should the Department

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

[2] Commissioners Charlotte R. Lane and Daniel R. Pearson dissenting.

[3] The Commission has found the responses submitted by Davis Wire Corp., Keystone Steel and Wire Co., and Oklahoma Steel and Wire Co., Inc., to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (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 review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: July 13, 2004.
By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–16273 Filed 7–16–04; 8:45 am]

BILLING CODE 7020–20–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–512]

In the Matter of Certain Light-Emitting Diodes and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation as to One Respondent on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") (Order No. 3) terminating the above-captioned investigation as to respondent American Opto Plus, Inc. ("AOP") on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3090. Copies of theALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 10, 2004, based on a complaint filed by OSRAM GmbH and OSRAM Opto Semiconductors GmbH, both of Germany. 69 FR 32609 (June 10, 2004). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diodes and products containing same by reason of infringement of claims 1, 3, 6, 7, and 10–13 of U.S. Patent No. 6,066,861; claims 1, 3, 6, 7, 10–13, and 15 of U.S. Patent No. 6,245,259; claims 1–2, 6–7, 11–12, and 15 of U.S. Patent No. 6,277,301; claims 1, 5–10, and 13–16 of U.S. Patent No. 6,376,902; claims 1 and 5–8 of U.S. Patent No. 6,469,321; claims 1, 5–8, 10–13, and 16–19 of U.S. Patent No. 6,573,580; claim 4 of U.S. Patent No. 6,576,930; claims 2–5, 7, and 10 of U.S. Patent No. 6,592,780; and claims 1, 3, 6–7, 10, 12–15, 17, and 21 of U.S. Patent No. 6,613,247. The complaint and notice of investigation named three respondents, including respondent AOP.

On June 8, 2004, complainants and respondent AOP filed a joint motion pursuant to Commission rules 210.21(a) and (b) to terminate the investigation as to AOP on the basis of a settlement agreement. The Commission investigative attorney supported the motion. On June 21, 2004, the ALJ issued the subject ID terminating the investigation as to AOP on the basis of a settlement agreement. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.
Issued: July 14, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–16353 Filed 7–16–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–506]

In the Matter of Certain Optical Disk Controller Chips and Chipsets and Products Containing Same, Including DVD Players and PC Optical Storage Devices; Notice of Commission Decision Not To Review an Initial Determination Amending the Complaint and Notice of Investigation To Add Nine Additional Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") amending the complaint and notice of investigation to add nine additional respondents.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3012. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 14, 2004, based on a complaint

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David__Rostker@omb.eop.gov.*

Dated: July 29, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04–17898 Filed 8–4–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–605, A–423–808, A–475–822, A–580–831]

Frozen Concentrated Orange Juice From Brazil and Stainless Steel Plate in Coils From Belgium, Italy, and the Republic of Korea; Extension of Final Results of Expedited Sunset Reviews of Antidumping Duty Order

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

ACTION: Notice of extension of time limit for final results of expedited sunset reviews: frozen concentrated orange juice from Brazil and stainless steel plate in coils from Belgium, Italy, and the Republic of Korea.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for its final results in the expedited sunset review of the antidumping duty orders on frozen concentrated orange juice ("FCOJ") from Brazil and stainless steel plate in coils ("SSPC") from Belgium, Italy, and the Republic of Korea. As a result of this extension, the Department intends to issue final results of these sunset reviews on or about August 30, 2004.

EFFECTIVE DATE: August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Hilary E. Sadler, Esq., Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4340.

Extension of Final Results

On April 1, 2004, the Department initiated sunset reviews of the antidumping duty orders of FCOJ from Brazil and SSPC from Belgium, Italy, and Korea. *See Initiation of Five-Year (Sunset) Reviews*, 69 FR 17129 (April 1, 2004). In these proceedings, the Department determined that it would conduct expedited sunset reviews of these orders based on responses from the domestic and respondent interested parties to the notice of initiations. The Department's final results of these reviews were originally scheduled for July 30, 2004.

In accordance with section 751(c)(5)(C)(ii) of the Tariff Act of 1930, as amended ("the Act"), the Department may treat sunset reviews as extraordinarily complicated if the issues to be considered are complex. In these reviews, the Department is analyzing the magnitude of dumping margins likely to prevail for several companies from multiple countries and additional issues surrounding import volume. Because the Department has determined that these issues are complex according to 751(c)(5)(C)(ii) of the Act, we are extending the deadline for issuance of the final results. The Department intends to issue the final results on or about August 30, 2004 in accordance with section 751(c)(5)(B) of the Act.

Dated: July 30, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–17920 Filed 8–4–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–405]

Barbed Wire and Barbless Fencing Wire From Argentina; Expedited Sunset Review of Antidumping Duty Order; Final Results

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

ACTION: Expedited sunset review of antidumping duty order on barbed wire and barbless fencing wire From Argentina; final results.

SUMMARY: On April 1, 2004, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on barbed wire and barbless fencing wire ("barbed wire") from Argentina. On the basis of the notice of intent to participate, and an adequate substantive response filed on behalf of the domestic interested parties and an inadequate response, *i.e.*, no response from respondent interested parties, the Department conducted an expedited (120-day) sunset review. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Final Results of Review."

DATES: *Effective Date:* August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2004, the Department initiated a sunset review of the antidumping duty order on barbed wire from Argentina pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").[1] The Department received Notice of Intent to Participate on behalf of Davis Wire Corporation, Keystone Steel & Wire Company, and Oklahoma Steel & Wire Company, Inc. ("domestic interested parties"), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of the subject merchandise. We received a complete response from the domestic interested parties within the 30-day deadline specified in the Department's regulations under section 351.218(d)(3)(i). However, we did not receive responses from any respondent interested parties as required in section 351.218(d)(3)(i) of the Departments regulations. As a result of receiving no responses from respondent interested parties, the Department conducted an expedited (120-day) sunset review of this order pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations.

The antidumping duty order remains in effect for all Argentine manufacturers, producers, and exporters of the subject merchandise.

Scope of the Order

The merchandise covered by this order is barbed wire and barbless

[1] *See Initiation of Five-Year (Sunset) Reviews*, 69 FR 17129 (April 1, 2004).

fencing wire from Argentina, which is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 7313.00.00. The HTS item numbers are provided for convenience and customs purposes. The written product description remains dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the "Issues and Decision Memorandum" ("Decision Memo") from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated July 30, 2004, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendations in this public memo, which is on file in room B–099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn*, under the heading "August 2004." The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order on barbed wire from Argentina would likely lead to continuation or recurrence of dumping at the following percentage weighted-average percentage margins:

Manufacturers/exporters/producers	Weighted-average margin (percent)
Acindar Industria Argentina de Aceros, S.A.	69.02
All Others	69.02

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

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

Dated: July 30, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–17922 Filed 8–4–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–007]

Continuation of Antidumping Duty Order: Barium Chloride From The People's Republic of China

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

ACTION: Notice of continuation of antidumping duty order: barium chloride from The People's Republic of China.

SUMMARY: The Department of Commerce ("the Department") has determined that revocation of the antidumping duty order on barium chloride from The People's Republic of China ("PRC"), would be likely to lead to continuation or recurrence of dumping. Therefore the Department is publishing notice of the continuation of the antidumping duty order on barium chloride from the PRC.

EFFECTIVE DATE: August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2004, the Department initiated and the International Trade Commission ("ITC") instituted a sunset review of the antidumping duty order on barium chloride from The People's Republic of China ("PRC"), pursuant to section 751(c) of the Act.[1] As a result of its review, the Department found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked.[2] On July 23, 2004, the ITC determined pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on barium chloride from the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Order

The merchandise covered by this order is barium chloride, a chemical compound having the formula $BaCl_2$ or $BaCl_2–2H_2$ 0, currently classifiable under item 2827.38.00 of the Harmonized Tariff Schedules (HTS). HTS items numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Determination

As a result of the determinations by the Department and ITC that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on barium chloride from the PRC. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than July 2009.

Dated: July 30, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–17933 Filed 8–4–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. A–570–836]

Glycine From The People's Republic of China: Rescission of Antidumping Duty New Shipper Review of Hebei New Donghua Amino Acid Co., Ltd.

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

SUMMARY: On May 6, 2003, the Department published the notice of initiation of the new shipper review of the antidumping duty order on glycine

[1] *See Initiation of Five-year ("Sunset") Reviews*, 69 FR 50 (January 2, 2004).

[2] *See Barium Chloride From The People's Republic of China; Final Results of the Sunset Review of Antidumping Duty Order*, 69 FR 3171 (June 7, 2004).

[3] *See Barium Chloride From China*, 69 FR 44059 (July 23, 2004), and USITC Publication 3702 (July 2004) (*Second Review*), Investigation No. 731–TA–149.

APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Barbed Wire and Barbless Wire Strand from Argentina, Inv. No. 731-TA-208 (Second Review)

On July 6, 2004, the Commission[1] determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received a joint response from U.S. producers Davis Wire Corp., Keystone Steel & Wire Co., and Oklahoma Steel & Wire Co., Inc. The Commission determined that the responses were individually adequate. The Commission also determined that the response represented an adequate domestic interested party group responses because the three producers account for a significant share of domestic production of the like product.

The Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party group response was inadequate. The Commission did not find any circumstances that would warrant conducting a full review. The Commission therefore determined to conduct an expedited review. A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (http://www.usitc.gov).

[1] Commissioners Charlotte R. Lane and Daniel R. Pearson dissenting.