

HOT-ROLLED CARBON STEEL PLATE FROM ROMANIA, BELGIUM, AND BRAZIL

**Determinations of the Commission
in Investigation No. 731-TA-51
(Preliminary) Under Section 733(a)
of the Tariff Act of 1930, and
Investigations Nos. 701-TA-83
and 701-TA-84 (Preliminary)
Under Section 703(a)
of the Tariff Act of 1930**

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigations Nos. 701-TA-83, 701-TA-84, and 731-TA-51 (Preliminary)

HOT-ROLLED CARBON STEEL PLATE FROM BELGIUM,
HOT-ROLLED CARBON STEEL PLATE FROM BRAZIL, AND
HOT-ROLLED CARBON STEEL PLATE FROM ROMANIA

Determinations

On the basis of the record 1/ developed in investigation No. 701-TA-83 (Preliminary), the Commission determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury 2/ by reason of imports from Belgium of hot-rolled carbon steel plate, provided for in item 607.6615 of the Tariff Schedules of the United States Annotated (1981), which are alleged to be subsidized by the Government of Belgium.

On the basis of the record 1/ developed in investigation No. 701-TA-84 (Preliminary), the Commission determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury 3/ by reason of imports from Brazil of hot-rolled carbon steel plate, provided for in item 607.6615 of the Tariff Schedules of the United States Annotated (1981), which are alleged to be subsidized by the Government of Brazil.

On the basis of the record 1/ developed in investigation No. 731-TA-51 (Preliminary), the Commission determines that there is a reasonable indication that an industry in the United States is materially injured or threatened

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

2/ Chairman Alberger and Commissioner Frank determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Belgium of hot-rolled carbon steel plate which are alleged to be subsidized by the Government of Belgium.

3/ Chairman Alberger and Commissioner Frank determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of hot-rolled carbon steel plate which are alleged to be subsidized by the Government of Brazil.

with material injury 1/ by reason of imports from Romania of hot-rolled carbon steel plate, provided for in item 607.6615 of the Tariff Schedules of the United States Annotated (1981), which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On November 18, 1981, the U.S. International Trade Commission received advice from the U.S. Department of Commerce that it was initiating countervailing duty investigations on imports of hot-rolled carbon steel plate from Belgium and Brazil and an antidumping investigation on imports of hot-rolled carbon steel plate from Romania. Accordingly, effective November 18, 1981, the Commission instituted investigations pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671t(a) and § 1673t(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise which is the subject of the investigations by the Department of Commerce.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was duly given by posting copies of the notices at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notices in the Federal Register of November 25, 1981 (46 F.R. 57784). The conference was held in Washington, D.C., on December 14, 1981, and all persons who requested the opportunity were permitted to appear in person or by counsel.

1/ Chairman Alberger and Commissioner Frank determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Romania of hot-rolled carbon steel plate which are alleged to be sold in the United States at less than fair value.

VIEWS OF THE COMMISSION

After considering all available information, we conclude: (1) there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of hot-rolled carbon steel plate from Romania allegedly sold at less than fair value (LTFV); (2) there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly subsidized imports of hot-rolled carbon steel plate from Belgium; (3) there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly subsidized imports of hot-rolled carbon steel plate from Brazil. 1/

In the following analysis we will first define the domestic industry pursuant to section 771(4)(A) of the Tariff Act of 1930. We will then examine the state of the domestic industry in terms of the relevant economic indicators set forth in section 771(7)(C)(iii). Finally, we will examine the causal relationship between the state of the domestic industry and the dumped or subsidized imports on a country by country basis. 2/ 3/

1/ Chairman Alberger and Commissioner Frank, having found a reasonable indication of material injury with respect to imports from Romania, Belgium and Brazil, do not reach the issue of threat in any of the three investigations.

2/ Commissioner Paula Stern fully joins the views of the Commission on carbon steel plate. In her separate views on Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701-TA-85, she has discussed in detail issues of interest in all these cases.

3/ Commissioner Frank notes that the statute and legislative history require the Commission in its preliminary determinations in both antidumping and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could possibly be suffering injury, threat thereof, or material retardation. H.R. Rep. No. 96-317, 96th Cong., 1st sess., 52 (1979).

Domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "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." Section 771(10) defines "like product" as a product which is like, or in the absence of like, most similar in characteristics and uses with the article under investigation.

In its Notice of Initiation, the Department of Commerce defined the scope of the countervailing duty and antidumping investigations regarding carbon steel plate as follows:

For the purposes of this investigation, the term "hot rolled carbon steel plate" covers steel not alloyed; not pickled and not cold rolled; not in coils; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over eight inches in width, as currently provided for in item 607.6615 of the Tariff Schedules of the United States Annotated. 4/ 5/

The information obtained in these preliminary investigations shows that imported Belgian, 6/ Brazilian and Romanian hot-rolled carbon steel plate and

4/ 46 F.R. 56635 (Nov. 18, 1981).

5/ One Belgian manufacturer, Cockerill Sambre, S.A., argued that the Commerce Department improperly included cut-to-length hot-rolled steel band in the investigation. Transcript of Public Conference, pp. 192-94. Cockerill contends that the Commerce Department incorrectly defined the imported articles subject to this investigation by TSUS numbers, rather than according to commercial practice. According to Cockerill, this confusion resulted in the mistaken inclusion of hot-rolled steel band in the investigation. We believe that the resolution of this issue should be left to the Department of Commerce.

6/ A Belgian firm, Forges de Clabecq, argued that the great majority of its plate falls within certain combinations of width and thickness that cannot be economically manufactured by U.S. mills. Clabecq's mill is a somewhat unusual combination of a reversing mill followed by a four stand finishing mill. According to Clabecq, the mill can produce certain thinner gages of plate in widths exceeding 84 inches. Clabecq alleges that plate in these gages and widths can be produced in U.S. mills, but at a much higher cost.

(Footnote continued)

domestic hot-rolled carbon steel plate consists of a variety of widths, lengths and thicknesses. There are no clear dividing lines between the characteristics and uses of different sizes and shapes of plate. 7/

Accordingly, for purposes of this preliminary investigation, the like product consists of all hot-rolled steel plate, not alloyed, not pickled and not cold-rolled; not coated or plated with metal and not clad; not in coils; 0.1875 inch or more in thickness and over 8 inches in width.

Condition of the domestic industry

It is clear from a review of the relevant economic indicators set forth in section 771(7)(C)(iii) that there is a reasonable indication that the domestic hot-rolled carbon steel plate industry is experiencing severe difficulties. The domestic industry's production, capacity utilization, and employment, while fluctuating from year to year, have shown sharp overall declines during the period under investigation. Thus production fell from 6,094,000 tons in 1979 to 5,750,000 tons in 1980. 8/ During the first 9 months of 1981, production remained at low levels comparable to those reached in 1980.

(Footnote continued)

The advantage of the wider plate lies in the lower number of welds required to cover a given surface area. According to Clabecq, the narrower U.S. plate requires more welds, thus increasing the cost of covering a given area. Clabecq did not furnish information as to how, if at all, the alleged width-thickness differences affect the uses of the imported article.

For purposes of this preliminary investigation, we conclude that hot-rolled steel plate of all widths is "like" the Belgian imported article. There is information indicating that the wider varieties of Belgian plate can be cut into smaller sizes. Such smaller sizes are produced in the United States. Furthermore, U.S. products in narrower widths can be welded together in a processor to form plate of widths and thicknesses equivalent to that of the allegedly unique Belgian plate.

7/ See Stainless Clad Steel Plate from Japan, Inv. No. 731-TA-50 (Preliminary), USITC Pub. 1196 (1981).

8/ Staff Report at A-22, Table 8.

Capacity declined markedly from 1979 to 1980 from 10,096,000 tons to 9,683,000 tons. This trend continued in 1981 with a further decline in practical domestic capacity. 9/ While capacity utilization remained relatively stable from 1978-81, showing only a slight decline from 61.5 percent utilization in 1978 to 59.8 percent utilization in January-September 1981, such stability is misleading. 10/ The industry's practical capacity declined significantly from 1979 to the present. Although there have been some additions to practical capacity, notably at Bethlehem Steel's Chesterton, Indiana facilities in 1978, there have been a number of closures of carbon steel plate facilities during the period, most recently in February 1981 the permanent shutdown of Jones & Laughlin Steel's only plate mill and a hot strip mill at its Pittsburgh, Pa., plant. 11/

Employment of production and related workers in the carbon steel plate sector fell from 17,909 workers in 1979 to 17,096 workers in 1980 and 16,612 workers in January-September 1981. 12/ The 2.8 percent decline in the carbon steel plate sector during January-September 1981 compared to the same period in 1980 is noteworthy because overall employment in facilities in which carbon steel plate was produced rose during the same period. 13/

9/ Id.

10/ Id. at A-22.

11/ Id. at A-10 to A-11.

12/ Id. at A-26, Table 11.

13/ Id. Commissioner Frank notes that it is reasonable to presume such recent levels of capacity utilization are not sufficient per se to enable the industry to return to a more healthy condition in view of its capital intensive nature. He also finds it appropriate to observe in this context that continuance of these capacity utilization levels surely would affect industry management decisions as to the nature, magnitude and timing of future capital investment in productive facilities, aside from other economic and financial considerations.

Part of the industry's problems can be attributed to shrinking demand. During the period under investigation, U.S. consumption of carbon steel plate showed a significant overall decline. Consumption fell from 8,467,000 tons in 1978 to 7,683,000 tons in 1980. 14/ While consumption rose slightly in the first 9 months of 1981, it remained significantly below levels attained in 1978-79. Shipments by domestic producers also showed a declining trend, falling by 8 percent in 1980 and by another 2 percent in January-September, 1981. 15/

Throughout the period under investigation, profitability in the carbon steel plate industry remained extremely low. The industry showed a ratio of operating profit to net sales of 4.0 percent in 1978 and 3.7 percent in 1979. 16/ In 1980 the industry's performance deteriorated, recording an operating profit to net sales ratio of only 1.4 percent. The industry turned a profit in 1981, but the January-September 1981 operating profit to net sales ratio of 3.1 percent hardly qualifies as grounds for optimism. Indeed, three U.S. producers reported operating losses for the partial accounting year ending in September 1981. 17/

Reasonable Indication of Material Injury By Reason of Imports

We turn now to the impact of the allegedly dumped or subsidized imports on the state of the domestic industry. We will discuss the reasons for our

14/ Id. at A-21, Table 7.

15/ Id. at A-23.

16/ Id. at A-31, Table 16.

17/ Commissioner Frank notes that steel industry association data cite certain productivity statistics, e.g., tons per hour, that indicate that this industry manifests greater productivity than Belgian, Brazilian and Romanian producers. He believes that, if final Commission investigations are conducted, the Commission should independently obtain relevant comparative productivity data from domestic and Belgian, Romanian, and Brazilian producers.

affirmative determinations on a country-by-country basis because we find a reasonable indication of material injury due to the imports of each country individually, rather than cumulatively. 18/

1. HOT-ROLLED CARBON STEEL PLATE FROM ROMANIA

Introduction

Our determination that there is a reasonable indication that allegedly dumped hot-rolled carbon steel plate from Romania has caused or threatens to cause 19/ material injury to the domestic industry is based principally on the dramatic rise in imports of Romanian plate during 1980-81, lost sales, and the large margins of underselling. There are preliminary indications that underselling attributable to Romanian imports has caused both price suppression and depression in the U.S. steel market. Our finding that there is a reasonable indication of a threat of material injury 19/ by reason of imports from Romania rests on the likelihood that imports of Romanian plate will continue at their current penetration levels during a period in which the domestic industry is particularly vulnerable to injury.

18/ Commissioner Frank, while not cumulating the impact of allegedly subsidized imports from Belgium and Brazil as a principal factor in reaching his determinations in these preliminary investigations, notes, based on the record developed to date, the appropriateness of Commerce's self-initiated investigations against these countries inasmuch as aggregated imports of carbon steel plate represent overall over 32% of total carbon steel plate imports for consumption by quantity and value as of September 1981. He did consider, however, the cumulative impact of such imports (including Romanian imports) as an adjunct to his analyses in reaching his determinations in these preliminary investigations.

19/ See footnote 1.

Volume of Imports

The information developed in our preliminary investigation reveals a dramatic rise in imports of Romanian hot-rolled carbon steel plate. Imports remained below 1 percent of apparent U.S. consumption from 1978-80, accounting for a mere 0.6 percent of apparent U.S. consumption in 1978, 0.2 percent in 1979, and 0.4 percent in 1980. 20/ This relatively low level of import penetration changed in 1981 with a sudden increase in the first nine months of 1981 to 3.1 percent. Imports from Romania totaled 35,000 tons during 1980. In the first 9 months of 1981, imports jumped to 184,000 tons. 21/ Thus imports for the first three quarters of 1981 are more than five times the level attained over an entire year in 1980. We see indications that this increase has materially disturbed domestic markets at a time of declining overall domestic plate demand.

Impact on prices

Preliminary indications of possible price suppression or depression form an additional linkage between the state of the domestic industry and the alleged dumping of Romanian plate. For the reasons set forth in the Staff Report it is difficult to make price comparisons between imported and domestic plate. 22/ Some quarterly price comparisons, however, are available for 1980

20/ Staff Report at A-41 to A-42, Table 20.

21/ Id. at A-41 to A-42, Table 19.

22/ Id. at A-46. Commissioner Frank points out that there are some differences in handling freight, transportation costs, and other considerations which affect net prices to end users and domestic purchasers, making price comparisons difficult in some circumstances.

and the first three quarters of 1981. The Romanian product undersold at significant margins the domestically produced hot-rolled plate in six of the seven quarters. 23/

The Commission was also able to confirm that the domestic industry lost sales to Romanian imports. 24/ Price was the determining factor in every case. Purchasers reported that Romanian offering and selling prices were as much as 100 dollars per ton below domestic producers' published prices. We conclude that the information available on pricing and lost sales indicates a reasonable possibility of price suppression.

The underselling by Romanian producers may have broader implications. The carbon steel plate industry appears to be highly price-sensitive, and even more so during periods of stagnant or declining demand. According to information obtained by the Commission, buyers generally are aware of prevailing market prices and are able to play off competing domestic and foreign offers. Hence the low prices of one firm, foreign or domestic, may have a broad-ranging effect on the market. The margins of underselling attributable to possibly dumped imports may be suppressing or depressing domestic prices. 25/

Accordingly, we conclude that there is a reasonable indication that the domestic industry has incurred material injury by reason of allegedly LTFV imports.

23/ Id. at A-51, Table 26.

24/ Id. at A-51 to A-52.

25/ Id. at A-51, Table 26; A-52, Table 27.

Threat of material injury 26/

We further determine that there is a reasonable indication that the domestic industry is threatened with material injury by reason of allegedly dumped imports of hot-rolled carbon steel plate from Romania. The issue of whether there is a reasonable indication of a threat of material injury turns on the "likelihood of a particular situation developing into actual material injury." 27/ The threat must be real and imminent, not a mere possibility based on supposition and conjecture. 28/ Information available in this preliminary investigation reasonably indicates that Romanian exporters have the capacity, the export capability and the financial incentive to direct large and increasing quantities of hot-rolled plate to the U.S. market.

Romania's capacity for producing hot-rolled carbon steel plate has increased and will continue to increase. Capacity rose substantially from 1979-80 to January-October, 1981. 29/ As a new plant constructed by Combinat Siderurgica Galati (CSG) comes on stream, capacity is projected to increase further in 1985. 30/ Since there was substantial unused capacity in 1981, the Romanian steel industry has the ability to substantially increase its production and its exports to the United States. The dramatic increase in Romanian plate imports during January-September 1981 demonstrates that Romania has the ability to increase rapidly its exports to the United States.

26/ See footnote 1.

27/ H.R. Rep. No. 96-317, 96th Cong., 1st Sess. 47 (1979).

28/ Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780 (Ct. Int'l Trade 1981).

29/ Staff Report at A-57.

30/ Id.

We also note that there are preliminary indications that Romania is currently experiencing a shortage of hard currency. This appears to be a particular problem for the steel industry, since the rolling mill equipment for the new CSG plant was purchased with a U.S. Export-Import Bank loan which must be repaid in dollars. 31/ Until the loan is repaid, it would appear that the Romanian steel industry has reason to export in order to obtain U.S. currency. 32/ Representatives of the Romanian industry argued that rising Romanian demand will absorb projected increases in steel production, thus removing the threat of future Romanian imports. However, they also stated that they could not be "precise" about when and to what extent demand will increase. 33/ This claim can be investigated in our final investigation.

We conclude that the capacity, export capability, and financial needs of the Romanian steel industry establish a reasonable indication of a real and imminent threat of material injury by reason of imports of hot-rolled plate from Romania.

2. HOT-ROLLED CARBON STEEL PLATE FROM BELGIUM

Introduction

We conclude that there is a reasonable indication that the domestic industry has suffered or is threatened with 34/ material injury by reason of allegedly subsidized imports of hot-rolled carbon steel plate from Belgium. Our determination is based, among other things, on the continued significant

31/ Transcript at 226-27.

32/ Id.

33/ Id. at 240.

34/ See footnote 1.

volume of Belgian imports, lost sales, and a consistent pattern of underselling.

Volume of imports

During January 1978-September 1981, Belgium was the largest exporter of hot-rolled plate to the United States, accounting for 17 percent of total imports. ^{35/} While Belgian imports have fluctuated in terms of tonnage, ^{36/} they have consistently accounted for a sizeable share of domestic consumption. After falling from 4.6 percent of apparent domestic consumption in 1978 to 2.7 percent in 1979, Belgian imports rose to 3.7 percent of apparent domestic consumption in 1980 and 3.9 percent in January-September, 1981. During January-September, 1981, imports totaled 232,000 tons, as opposed to 200,000 tons during the comparable period of 1980. This represents an increase of 16 percent.

Price

Pricing data collected by the Commission show that imported Belgian plate consistently undersold domestic plate. On sales to service center distributors underselling occurred in every quarter, with the margin of underselling ranging as high as 18 percent. ^{37/} Sales to end-user customers also showed repeated instances of underselling, although at somewhat smaller margins.

^{35/} Staff Report at A-41.

^{36/} Id. at A-41, Table 19.

^{37/} Id. at A-50, Table 24. The underselling was particularly marked in the Northeast and Southeast areas.

The Commission was able to confirm instances of lost sales to imports from Belgium. 38/ In each case, the purchaser stated that price was the principal reason for its decision to purchase Belgian plate over a competing domestic offer. Furthermore, in several situations, domestic producers lowered their prices to avoid losing sales to Belgian competitors. 39/ Thus, the information developed in this preliminary investigation suggests that imports of Belgian hot-rolled plate have contributed to price suppression or depression in the U.S. market. 40/ 41/

The continued significant volume of Belgian imports of hot-rolled plate, coupled with underselling and confirmed lost sales, establishes a reasonable indication that allegedly subsidized Belgian imports have caused material injury to the domestic industry. 42/

Threat of material injury 43/

The Belgian steel industry has significant plate-making capacity.

38/ Id. at A-51.

39/ Id. at A-52, Table 27.

40/ Commissioner Frank notes that during the 1980 to September 1981 period there also appears to be an indication of possible price distortions in both domestic and imported hot-rolled carbon steel plate which warrants further scrutiny should a final Commission investigation in this matter be undertaken.

41/ Commissioner Frank notes that the U.S. Department of Commerce, in announcing its self-initiated countervailing duty investigation specifically indicated those government programs which it intends to investigate that are listed in the Report on pages A-6 through A-7. He also observes that Under Secretary of Commerce Olmer in his testimony at the Commission's public conference disclosed that the Commerce Department had already made an estimate of the per ton value of just two of the government programs of nearly \$40 per ton in some cases and indicated the total value of subsidization under all such programs to be determined after a thorough investigation could be much higher.

42/ Commissioner Frank believes it should be emphasized that such pricing patterns, trends and indications of impact should be scrutinized per se totally independent of such impacts on Trigger Price Mechanisms in effect, which for the purpose of this subsidy investigations are not relevant.

43/ See footnote 1.

Capacity utilization has remained relatively low, ranging from 47.4 percent in 1979 to 59.5 percent in January-September 1981. 44/ Hence it is possible for the Belgian steel producers to increase greatly their production of hot-rolled plate. Furthermore, according to data supplied by the Belgian government, almost all Belgian plate is exported. In 1979, exports of 1,323,000 tons exceeded Belgian production of 1,314,000 tons. 45/ During January-September 1981, Belgian production of 1,188,000 tons barely exceeded exports of 1,148,000 tons. After falling to 214,000 tons in 1979, imports from Belgium rose in 1980 and in January-September 1981. 46/ It is clear from past import patterns that the Belgian producers are capable of exporting significant quantities of plate to the United States. For these reasons, there is a reasonable indication that imports from Belgium pose a threat of material injury.

3. HOT-ROLLED CARBON STEEL PLATE FROM BRAZIL

Introduction

The sharp increase in imports of hot-rolled plate from Brazil, indications of underselling, and confirmed lost sales form the principal bases for our determination that there is a reasonable indication that allegedly subsidized Brazilian imports have caused or threaten 47/ to cause material injury to the domestic hot-rolled carbon steel plate industry.

44/ Id. at A-54, Table 28.

45/ Id.

46/ Id. at A-41, Table 19.

47/ See footnote 1.

Volume of imports

The volume of imports of hot-rolled plate from Brazil rose consistently during the period under investigation. Brazilian imports totalled 80,000 tons in 1978. 48/ They increased to 206,000 tons in 1979 and 323,000 tons in 1980. This trend continued in 1981. In January-September 1981, 228,000 tons of imported Brazilian plate entered the United States, as opposed to 218,000 tons during the comparable period of 1980. 49/

These increases in volume were accompanied by equivalent increases in import penetration. Thus, the ratio of Brazilian imports to domestic consumption went from 0.9 percent in 1978 to 2.6 percent in 1979 and 4.2 percent in 1980. 50/ Accordingly, Brazilian plate played an increasing role in the U.S. market during a period in which the health of the domestic industry declined.

Price

The pricing data regarding Brazil are mixed. There are repeated, albeit irregular, indications of underselling at margins ranging from 2 to 7 percent. 51/

Furthermore, the Commission was able to confirm instances in which potential purchasers of hot-rolled plate selected the Brazilian product over a competing domestic offer. 52/ Each purchaser cited the lower price of the Brazilian plate as the basis for its decision to purchase the imported article.

48/ Staff Report at A-41, Table 19.

49/ Id.

50/ Id. at A-41, Table 20.

51/ Id. at A-50, Table 25.

52/ Id. at A-51.

The steel market is highly price sensitive, particularly during periods of stagnant or declining demand. There is information available which indicates that buyers generally are aware of prevailing market prices and are able to play off competing domestic and foreign offers. Hence the low prices of one firm, foreign or domestic, may have a broad-ranging effect on the market.

There are preliminary indications that Brazilian imports, by virtue of a competitive advantage allegedly derived from government subsidization, are taking sales away from domestic manufacturers and may be materially suppressing or depressing prices in the U.S. market. 53/ 54/ Accordingly, we conclude that there is a reasonable indication of material injury by reason of allegedly subsidized imports from Brazil. 55/

Threat of material injury 56/

Section 771(7)(E)(i) of the Tariff Act of 1930 provides:

53/ Commissioner Frank notes that the U.S. Department of Commerce in self-initiating its countervailing duty investigation has indicated its intention to investigate participation by the Brazilian industry in certain export incentive programs as well as other governmental programs that may provide countervailable benefits which are described in the Report on pages A-7 to A-8. He notes additionally that Commerce has currently estimated a total ad valorem benefit of up to 27 percent for three principal programs which have been found countervailable in previous cases; and further, he notes that Commerce has indicated that it does not currently have sufficient information to estimate the ad valorem value of other possible countervailable assistance, which may be substantial.

54/ Commissioner Frank notes that during the 1980 to September 1981 period there also appears to be an indication of possible price distortions in both domestic and imported hot-rolled carbon steel plate which warrants further scrutiny should a final Commission investigation in this matter be undertaken.

55/ Commissioner Frank believes it should be emphasized that such pricing patterns, trends and indications of impact should be scrutinized per se totally independent of such impacts on Trigger Price Mechanisms in effect, which for the purpose of this subsidy investigation are not relevant.

56/ See footnote 1.

(i) Nature of subsidy.--In determining whether there is a threat of material injury, the Commission shall consider such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement) provided by a foreign country and the effects likely to be caused by the subsidy.

In its Notice of Investigation, 57/ the Department of Commerce alleged that certain of the Brazilian subsidies under investigation are specifically directed at stimulating exports. Exports have accounted for an increasing portion of Brazil's hot-rolled plate production, with the bulk of these exports directed at the United States. Approximately 55 percent of Brazilian plate exports entered the United States in 1979 and 68 percent in 1980. During the period under investigation, Brazil's exports of carbon steel plate to the United States have more than doubled from 177,000 tons in 1979 to 389,000 tons in 1980. 58/

Information obtained in the course of this preliminary investigation indicates that the Brazilian industry's plate capacity may increase as the two facilities currently under construction begin production. 59/

Hence, the Brazilian steel industry appears to have the capacity and the financial incentive to increase its shipments to the United States over present levels. Such shipments would further injure a domestic industry that is already weakened.

57/ 46 F.R. 56636-37 (Nov. 18, 1981).

58/ Staff Report at A-55. Table 29..

59/ Id. at A-55 to A-57.

NOTE

The Commission conducted antidumping investigation No. 731-TA-51 (Preliminary), Hot-Rolled Carbon Steel Plate from Romania, concurrently with countervailing duty investigations Nos. 701-TA-83 and 701-TA-84 (Preliminary), Hot-Rolled Carbon Steel Plate from Belgium and Brazil. The information obtained in all three of these investigations is presented in U.S.I.T.C. publication No. 1207 (Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Romania), January 1982. A copy of this publication can be obtained from the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

