

STEEL WIRE ROPE FROM CANADA

Determination of the Commission in
Investigation No. 731-TA-524
(Preliminary) Under the Tariff Act of
1930, Together With the Information
Obtained in the Investigation

USITC PUBLICATION 2409

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**United States International Trade Commission
Washington, DC 20436**



UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-524 (Preliminary)

Steel Wire Rope from Canada

Determination

On the basis of the record¹ developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of steel wire rope, provided for in subheading 7312.10.90 of the Harmonized Tariff Schedule of the United States, that are allegedly sold in the United States at less than fair value (LTFV).²

Background

On June 28, 1991, a petition was filed with the Commission and the Department of Commerce by The Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of steel wire rope from Canada. Accordingly, effective June 28, 1991, the Commission instituted preliminary antidumping investigation No. 731-TA-524.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of July 5, 1991 (56 F.R. 30765). The conference was held in Washington, DC, on July 18, 1991, and all persons who timely requested the opportunity were permitted to appear in person or by counsel.

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

² The imported steel wire rope covered by this investigation consists of ropes, cables and cordage, of iron or steel, other than stranded wire, not fitted with fittings or made into articles, and not made of stainless steel or brass plated wire. Such steel wire rope was previously provided for in item 642.16 of the former Tariff Schedules of the United States (TSUS)).

VIEWS OF THE COMMISSION

Based on the information obtained in this preliminary investigation, we unanimously determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of steel wire rope from Canada that are allegedly sold at less than fair value (LTFV).

I. The Legal Standard in Preliminary Investigations

The legal standard in preliminary antidumping investigations is set forth in section 733(a) of the Tariff Act of 1930, as amended.¹ That section requires the Commission to determine whether, based on the best information available at the time of the preliminary determination, there is a reasonable indication of material injury to a domestic industry, or threat thereof, or material retardation of establishment of an industry, by reason of the imports under investigation.²

In American Lamb v. United States,³ the United States Court of Appeals for the Federal Circuit addressed the standard for preliminary determinations. The Court held that the reasonable indication standard requires more than a finding that there is a possibility of material injury, and the Commission is to determine if the evidence obtained demonstrates that a reasonable indication exists. The Commission may render a negative preliminary determination only if "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material

¹ 19 U.S.C. § 1673b(a).

² Maverick Tube Corp. v. United States, 687 F. Supp. 1569, 1573 (Ct. Int'l Trade 1988). Material retardation of the establishment of an industry is not an issue in this investigation and will not be discussed further.

³ 785 F.2d 994 (Fed. Cir. 1986).

injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."⁴

Both of these requirements have been met in this investigation. The extensive record in this preliminary investigation contains clear and convincing evidence of no material injury or threat thereof. Further, the record is extremely thorough and complete, and we see no likelihood that contrary evidence would arise in any final investigation.

Like Product and Domestic Injury

In determining whether there is a reasonable indication of material injury or threat thereof to a domestic industry, the Commission must make threshold determinations with respect to "like product" and "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. . . ."⁵ "Like product" is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation"⁶

The Department of Commerce (Commerce) defines the imported merchandise that is subject to the investigation, and the Commission determines what domestic products are "like" the imports. The imported product subject to this investigation is steel wire rope from Canada. In its notice of initiation, Commerce has defined this product as follows:

⁴ Id. at 1001.

⁵ 19 U.S.C. § 1677(4)(A).

⁶ 19 U.S.C. § 1677(10).

The product covered in this investigation is steel wire rope. "Steel wire rope" encompasses ropes, cables, and cordage of iron or carbon steel (i.e., other than stainless steel), other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire. The three types of wire rope covered by this petition include bright, galvanized, and coated (textile, plastic) steel wire rope. Swaged (compacted) wire rope is also included within the scope of this investigation.⁷

While the Commission accepts Commerce's determination as to which merchandise is within the class of merchandise allegedly sold at less than fair value (LTFV), the Commission determines what domestic products are like the ones in the class defined by Commerce.⁸

The Commission's decision regarding the appropriate like product or products in an investigation is essentially a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.⁹ In analyzing like product issues, the Commission generally considers a number of factors including: (1) physical characteristics; (2) end uses; (3) interchangeability of the products; (4) channels of distribution; (5) production processes; (6) customer or producer perceptions of the products; (7) the use of common manufacturing facilities and production employees; and (8) price.¹⁰ No single factor is dispositive, and the Commission may consider other factors that it deems

⁷ 56 Fed. Reg 33905 (July 24, 1991).

⁸ Algoma Steel Corp., Ltd. v. United States, 688 F. Supp. 639 (Ct. Int'l Trade 1988), aff'd, 865 F.2d 240 (Fed. Cir. 1989), cert. denied, 109 S.Ct. 3244 (1989).

⁹ Asociacion Columbiana de Exportadores de Flores, et al. v. United States ("ASOCOFLORES"), 693 F.Supp. 1165, 1169 (Ct. Int'l Trade 1988).

¹⁰ See, e.g., Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-448-450 (Final) USITC Pub. 2312 (Sept. 1990) ("Sweaters") at 4-5; Certain Steel Pails from Mexico, Inv. No. 731-TA-435 (Final), USITC Pub. 2277 (May 1990) at 4.

relevant based upon the facts of a given investigation. The Commission has found minor product variations to be an insufficient basis for a separate like product analysis, and instead, has looked for clear dividing lines among products.¹¹

Steel wire rope is defined by the industry as a "machine" used to transmit force on earth-moving and materials-handling equipment such as clamshells, cranes, mining machines, hoists and conveyors. It is also used for elevators, for logging, for marine applications, for aircraft control cables, for fish net trawling, and for oil drilling and well servicing. A wire rope consists of three basic components: a core, wires that form a strand, and strands laid helically around a core.

The principal like product question that we must address in this preliminary investigation is whether the like product should be defined to include stainless steel wire rope. Petitioner, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, argues that there should be a single like product consisting of all carbon steel wire rope, whether or not covered with textile, plastic, or other nonmetallic coating. Petitioner further contends that stainless steel wire rope should not be included in the like product, on the grounds that carbon steel rope and stainless steel rope

¹¹ See, e.g., Industrial Nitrocellulose from Brazil, Japan, People's Republic of China, Republic of Korea, United Kingdom, and West Germany, Inv. Nos. 731-TA-439-444 (Final), USITC Pub. 2295 (June 1990) at 5-8; Phototypesetting and Imagesetting Machines and Subassemblies thereof from the Federal Republic of Germany, Inv. No. 731-TA-456 (Preliminary), USITC Pub. 2281 (May 1990) at 10-11; Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Inv. Nos. 303-TA-19 and 20, 731-TA-391-99 (Final), USITC Pub. 2185 (May 1989) ("Antifriction Bearings"), aff'd sub nom., The Torrington Co. v. United States, 747 F.Supp. 744 (Ct. Int'l Trade, 1990), aff'd, No. 91-1084 (Fed. Cir., July 3, 1991).

are not used for the same purposes, have different physical characteristics, and sell for vastly different prices.¹²

Petitioner also points to three collateral factors that it contends support its proposed like product definition. First, petitioner notes that the scope of the products under investigation does not include stainless rope. Second, petitioner indicates that the U.S. producers do not produce much stainless steel rope. Third, petitioner notes that the operating profitability of domestic stainless steel wire rope operations is considerably higher than that for most other types of domestic wire rope operations.

Respondents, Wire Rope Industries Ltd. (WRI) and Wrights Canadian Rope (WCR), suggest that the like product should include stainless steel rope. They point to the similarity of production processes and interchangeability of machinery and labor used for producing both carbon and steel rope.

In previous investigations of steel wire rope, we have found that carbon steel rope and stainless steel rope constitute one like product.¹³ We have reexamined this question in light of the scope of the instant preliminary investigation and the record created here and have determined again that the

¹² Transcript of Conference (July 18, 1991) ("Tr.") at 54.

¹³ Steel Wire Rope from Argentina, Chile, India, Israel, Mexico, The People's Republic of China, Taiwan, and Thailand, Invs. Nos. 701-TA-305 & 306 and 731-TA-476-482 (Preliminary) USITC Pub. No. 2343 (Dec. 1990) at 6-9; Steel Wire Rope from the Republic of Korea (Preliminary), No. 731-TA-112, USITC Pub. 1314 (Nov. 1982). In that preliminary investigation, the Commission determined that there was a reasonable indication that a U.S. industry was experiencing material injury by reason of dumped imports of steel wire rope from the Republic of Korea. The Department of Commerce subsequently issued a final negative determination in that investigation, finding no more than de minimis dumping margins for the Korean firms subject to the investigation. The Committee appealed Commerce's determination, but withdrew the appeal after the United States entered into a voluntary restraint agreement (VRA) with Korea.

like product includes all steel wire rope, whether stainless or carbon, regardless of end use.

As an initial matter, we address petitioner's suggestion that we should mold our like product definition to the scope of this investigation.¹⁴ The purpose of our like product inquiry is to determine those products that are like the products subject to investigation, so that we may define the relevant domestic industry and evaluate the impact of subject imports upon that industry. In so doing, the Commission can, and has in the past, defined the like product to be broader than the scope of the products evaluated by Commerce for its LTFV determination.¹⁵

Nor are we persuaded by petitioner's suggestion that stainless steel wire rope should be excluded from the like product because U.S. firms' stainless steel rope production operations are performing better than their overall steel wire rope operations. The Commission may not fashion its like product definition to reach a particular result.¹⁶

¹⁴ The scope of this preliminary investigation differs somewhat from the scope of the previous investigations in that the scope here specifically does not include stainless steel rope. It should be noted, however, that, although the scope of this investigation technically is narrower than that of the multicountry preliminary investigations, the imported products that were subject to the broader scope, in fact, included almost exclusively carbon steel. See Report at A-83, Table 28.

¹⁵ E.g., Generic Cephalixin Capsules from Canada, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (Aug. 1989) at 10, 13; Shock Absorbers and Parts, Components, and Subassemblies Thereof from Brazil, Inv. No. 731-TA-421 (Preliminary), USITC Pub. 2128 (Sept. 1988) at 7-16; 64K Dynamic Random Access Memory Components from Japan, Inv. No. 731-TA-270 (Final), USITC Pub. 1862 (June 1986) at 3-; Certain Natural Bristle Paint Brushes from the People's Republic of China, Inv. No. 731-TA-244 (Final), USITC Pub. 1805 (Jan. 1986) at 4-7.

¹⁶ ASOCOFLORES at 9.

Carbon steel rope and stainless steel rope generally are produced at the same facilities, using the same equipment, processes and employees.¹⁷ Most firms reported that the production processes were identical and that the machinery was interchangeable. Unlike previous investigations of other steel products in which the manufacturing facilities for carbon steel and stainless steel were not the same, most U.S. producers agree that the machinery employed in manufacturing both carbon and stainless steel wire rope is the same.¹⁸ The domestic steel wire rope producers purchase their wire rod, be it stainless or carbon, and begin the manufacturing process with the heat treatment of the rod, using the same machinery for each type of wire.

The channels of distribution for both compositions of rope are similar. For both domestic carbon steel and stainless steel wire rope, there is a mix between direct sales to end users and sales to distributors. For both types of rope, the majority of shipments were made through distributors or service centers.¹⁹

For a number of applications, either carbon steel rope or stainless steel may be used. For example, both types of rope are employed for industrial and machinery uses.²⁰ Both carbon and stainless steel can be fabricated into ropes of similar size and construction. To the extent the demands of a particular job require specific physical characteristics, e.g., rust resistance, carbon rope and stainless steel rope are not completely

¹⁷ Report at A-25 & 26.

¹⁸ Id.

¹⁹ Report at A-48.

²⁰ Report at A-16, Table 2.

interchangeable. Carbon steel, however, may be galvanized or otherwise coated to make it rust resistant.²¹

While there is a definite price difference between carbon steel and stainless steel rope,²² the Commission has been reluctant to consider price differences alone to be sufficient reason for finding separate like products.²³

On balance, we find that the commonality of production processes, facilities, and employees, producer and customer perceptions, and the overlap in general uses favor finding including stainless steel rope in the like product definition.

Although no party has raised the issue, we have also examined whether proprietary or specialty products should constitute a separate like product. We have determined that these products are not a separate like product.

Proprietary ropes are generally made of carbon steel using the same machinery and processes as other rope, but are then subjected to added processes such as swaging (i.e. compacting) or impregnating with plastic.²⁴ In many respects, these processes are analogous to the end processes that any rope must go through to meet customer specifications, such as galvanizing or

²¹ Report at A-8. Although steel wire ropes of different compositions are not interchangeable for all uses, the Commission has not required complete interchangeability to include products in one like product. See, e.g., Industrial Nitrocellulose from Brazil, Japan, People's Republic of China, Republic of Korea, United Kingdom, West Germany, and Yugoslavia, Inv. Nos. 731-TA-439 -445 (Preliminary), Pub. No. 2231 (Nov. 1989), at 6.

²² See, e.g., Report at A-51 (Table 7).

²³ E.g., Certain Steel Wheels from Brazil, Inv. No. 701-TA-296 (Final), USITC Pub. 2193 at 7 (May 1989).

²⁴ Report at A-29-30.

plastic coating. The mere fact that certain products are patented or custom-made does not mean they constitute a different like product.²⁵

Both proprietary products and nonproprietary products generally sell within a similar range of prices. Proprietary and nonproprietary wire rope products are basically substitutable, and are employed in the same end uses. Like other types of wire rope, proprietary rope covers a wide range of uses, making a like product distinction difficult.²⁶ Further, the disagreement among producers as to just what products are "proprietary," emphasizes the absence of a "clear dividing line" distinguishing proprietary rope from other types of rope.²⁷

Accordingly, we define the like product to consist of all steel wire rope, regardless of composition or end use. Concomitantly, the domestic industry is composed of all producers of steel wire rope.²⁸

²⁵ Generic Cephalixin Capsules from Canada, USITC Pub. 2211 at 7; Antifriction Bearings, USITC Pub. 2185 at 32; Certain Steel Wheels from Brazil, USITC Pub. 2193 at 5-8.

²⁶ See ASOCOFLORES, 693 F. Supp. at 1170; Polyethylene Terephthalate Film, Sheet, and Strip from Japan, the Republic of Korea, and Taiwan ("PET Film"), Inv. Nos. 731-TA-458 and 459 (Final), USITC Pub. 2383 (May 1991) at 8; Antifriction Bearings, USITC Pub. 2185 at 24, 27, 30,; Sewn Cloth Headwear from the People's Republic of China, Inv. No. 731-TA-405 (Final), USITC Pub. 2183 (May 1989) at 5. There reportedly are more than 2,000 varieties of steel wire rope. Report at A-128; Transcript of Preliminary Conference (Nov. 27, 1990) at 68-69.

²⁷ For example, the domestic producers do not define swaged rope as proprietary, whereas the Canadian producers do consider it to be a proprietary product. Report at A-27-28. Compare Tr. 56 with Tr. 104, 132.

²⁸ Although no party has raised a related party question, we have considered whether Bridon American should be excluded from the domestic industry as a related party either on the basis of its former corporate relationship with Canadian producer WRI, or on the basis of its relationship as an importer of steel wire rope from Canada. See 19 U.S.C. § 1677(4)(B). Inclusion or exclusion of its data does not skew the data for the rest of the industry. Nor does it appear that Bridon is importing in order to benefit from the unfair trade practice or that Bridon is "shielded" from the impact of the unfair imports. See (continued...)

II. Condition of the Domestic Industry²⁹

In assessing the condition of the domestic industry, the Commission considers, among other factors, domestic consumption, production, capacity, capacity utilization, shipments, inventories, employment, financial performance, capital investment, and research and development efforts.³⁰ We must evaluate these factors within the context of the business cycle and conditions of competition that are distinctive to the affected industry.³¹ For the purpose of this preliminary investigation, the Commission collected data bearing on the condition of the domestic industry for the period 1988 through 1990, as well as interim data for the first six months of 1990 and 1991. The comprehensive data collected and analyzed in this investigation indicates that the domestic industry is not suffering material injury.

Apparent domestic consumption of steel wire rope increased slightly from 198,913 short tons in 1988 to 203,211 in 1989, and then decreased to 190,539

²⁸(...continued)

Minivans from Japan, Inv. No. 731-TA-522 (Preliminary), USITC Pub. 2402 at 25-31; PET Film at 17-18; Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Canada, Japan, Malaysia and Taiwan, Inv. Nos. 701-TA-292, 731-TA-400, 402-404 (Final), USITC Pub. 2152 (1989). Accordingly, we have determined that appropriate circumstances do not exist to exclude Bridon as a related party.

²⁹ Acting Chairman Brunsdale joins in this discussion of the condition of the domestic industry. She does not, however, join in her colleagues conclusion that this information establishes that there is no material injury to a domestic industry. She does not believe that a discussion of the condition of the industry, taken alone, can establish that a domestic industry has not been materially injured by reason of dumped imports, which is the question the Commission is directed to consider. She does, however, find the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from the dumped imports is material. (For a discussion of the basis for her determination that there is no material injury by reason of the dumped imports, see her additional views, infra.)

³⁰ 19 U.S.C. § 1677(7)(C)(iii).

³¹ See id.

short tons in 1990.³² However, apparent consumption was slightly higher for the first six months of 1991 as compared to the same period for 1990. During the three year investigatory period, the U.S. producer's share of total apparent consumption moved in the opposite direction from consumption, decreasing slightly from 60.1 percent in 1988 to 59.4 percent in 1990, and then increasing to a period high of 62 percent in 1990.³³ The interim share for 1991 was lower than the interim share for 1990.

Domestic production of steel wire rope increased slightly during the three year investigatory period, from 126,820 short tons in 1988 to 129,874 short tons in 1990.³⁴ The capacity of U.S. producers of steel wire rope was basically steady throughout the period of investigation, with a slight (2.6 percent) increase reflecting sales and purchases of equipment.³⁵ Capacity utilization dipped slightly from 55 percent in 1988 to 52 percent in 1989, and then rose again to 55 percent in 1990. For the first six months of 1990, utilization was at a high of 58 percent, as compared to 51 percent for the first six months of 1991.³⁶

The quantity of U.S. producers' domestic shipments of steel wire rope remained relatively steady during the period of investigation, although the slight increases and decreases followed the opposite trends from production.³⁷ By value, U.S. producers' shipments increased during this period. In terms of

³² Report at A-83, Table 28.

³³ Report at A-84, Table 29.

³⁴ Report at A-50, Table 6.

³⁵ Report at A-50, Table 6.

³⁶ Report at A-50, Table 6.

³⁷ Report at A-51, Table 7.

both quantity and value, the U.S. producers' shipments were higher for interim 1990 than for interim 1991.

U.S. producers' inventories of steel wire rope decreased during the three-year period of investigation, and were lower in interim 1991 than in interim 1990.³⁸ There was a corresponding drop in the ratio of inventories to production for the three-year period, and a corresponding rise in interim 1991 as compared to interim 1990.

Employment indicators for the domestic industry were generally favorable.³⁹ The number of production and related employees rose slightly during the period of investigation, as did total compensation. As a result of renegotiated labor contracts, hourly wages were reduced from \$11.62 in 1988 to \$11.35 in 1989, but then rose to \$11.51 in 1990. The number of hours worked rose steadily during the investigation period, while labor productivity decreased.

Finally, the financial experience of U.S. producers for operations producing steel wire rope was positive.⁴⁰ Net sales, gross profits, and operating income levels all increased steadily from 1988 to 1990. During this investigation period, net sales increased from \$225 million to \$239 million, and gross profits rose from \$52.7 million to 63.4 million. This trend was also reflected in operating income, which increased markedly from \$6.4 million in 1988 to \$11.1 million in 1990. Gross profit margins, as a percentage of sales likewise increased throughout the three-year period, from 23.4 percent

³⁸ Report at A-54, Table 9.

³⁹ Report at A-55, Table 10.

⁴⁰ Report at A-59, Table 12. The domestic producers' financial experience for their overall operations was also positive. Report at A-57, Table 11.

of sales in 1988 to 26.6 percent in 1990. These financial indicators all were lower for the first three months of 1991 than they were for the first quarter of 1990, but even for interim 1991, gross profits, as a percent of sales were at a higher level than the 1990 level.⁴¹

Based on the foregoing, we find no reasonable indication that the domestic industry producing steel wire rope is presently experiencing material injury. Capacity, production, capacity utilization, domestic shipments, and the employment indicators were basically steady throughout the investigatory period, with slight dips and rises from year to year. At the same time, the financial indicators increased steadily. Although a comparison of the interim 1990 and 1991 data shows some downward movement, these changes are marginal, and seem typical of the slight up and down movement in trends during the three year investigatory period.⁴²

Nevertheless, we are mindful that a domestic industry's positive performance trends during a period of recovery may mask material injury caused by LTFV imports.⁴³ Even if we believed that it was proper to characterize the

⁴¹ Petitioner has argued that the sales of steel wire rope which were in the inventory acquired by some domestic producers when they purchased other firms should not be included in the net sales figure because this rope was not manufactured by the producers who ultimately sold the products. In this case, we have included the ultimate sales of acquired inventory in the net sales figure because the original transfers of the goods were not reported as sales by the firms that were purchased, the amounts are substantial, and the inventory was valued as fair market value by independent auditors.

⁴² Commissioner Lodwick does not join in the remainder of the discussion of the condition of the industry or in Section III of the Commission's opinion.

⁴³ See National Association of Mirror Manufacturers v. United States, 696 F.Supp. 642, 647 (Ct. Int'l Trade 1988); S. REP. No. 1385, 90th Cong., 2d Sess. Pt. 2, 11 (1968), reprinted in U.S. Code Congressional and Administrative News 4539, 4548 ("An industry which is prospering can be injured by dumped imports. . ."); S. REP. No. 71, 100th Cong., 1st Sess. 116 (1987) ("temporary trends can mask real harm caused by imports").

condition of the domestic industry as indicative of present material injury, we would make a negative determination based on the lack of causal nexus between the subject imports and any harm suffered by the domestic industry.

III. No Reasonable Indication of Material Injury by Reason of Subject Imports⁴⁴

In addressing whether there is a reasonable indication that any material injury suffered by the domestic industry is by reason of the subject imports,⁴⁵ the Commission assesses whether import volumes or increases in volume, either absolutely or relatively, are significant, whether there has been significant underselling by the imported products, whether imports otherwise significantly depress or suppress prices, and any other impact the subject imports may be having on the domestic industry.⁴⁶

After considering the record in this investigation, we find no causal link between the condition of the industry and the cumulated subject imports from Canada and the six other countries subject to final investigations.⁴⁷

⁴⁴ Acting Chairman Brunsdale does not join this section of the Commission's opinion. Her analysis is set forth separately in her Additional Views.

⁴⁵ 19 U.S.C. § 1673b(a).

⁴⁶ 19 U.S.C. § 1677 (7)(B) and (C).

⁴⁷ Steel Wire Rope from Argentina, India, Mexico, The People's Republic of China, Taiwan, and Thailand, Invs. Nos. 701-TA-305 (Final), 731-TA-476 and 478-482 (Final). In addressing causation for material injury purposes, the statute requires the Commission to cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with one another and with the like product of the domestic industry in the United States market. 19 U.S.C. § 1677(7)(C)(iv). We find that the requirements for cumulation are met with respect to subject imports from the seven countries under investigation. All the subject imports as well as the U.S. products are simultaneously present in the market, and all are sold nationwide or in overlapping geographic regions. See Report at A-81 and 83-85, Figure 6 and Tables 28 & 29. The imported and domestic ropes are sold mainly through distributorships, although some domestic rope and some of the imports are sold directly to end users. Report at A-48. The bulk of the products sold in the
(continued...)

The cumulated market share of the subject imports is relatively small and has been so throughout the period of investigation.

Moreover, there is no evidence of any casual relationship between the pattern of the increases and decreases in the subject imports and the performance of the domestic industry. During the three year investigatory period, both the domestic industry and the subject imports gained market share, at the expense of Korean imports,⁴⁸ which are not subject to a title VII investigation, and are therefore considered to be fairly traded. In the first six months of 1991, both domestic and subject producers lost some of this share back to the Koreans. In this regard, we note that the slight downward interim 1991 trends for the domestic industry corresponded to a substantial decrease in penetration by the subject imports and a substantial increase in Korean imports. These roughly parallel changes in the volume and market share of the domestic products and the subject imports belie any casual link between the volume of these imports and the performance of the domestic industry. Rather, the data reflect interplay between Korean imports on one hand and both the domestic and subject imports collectively on the other.

We also find no reasonable indication of adverse price effects by the cumulated subject imports. The evidence does not demonstrate that underselling of the imports has depressed prices. Notwithstanding evidence of some underselling by the imports, prices of the domestic products generally

⁴⁷(...continued)

United States, whether produced domestically or exported from each of the subject countries, fall within the bright carbon steel mid-size category. See Report at A-51, Table 7; B-64-68 (Tables F-1, F-2 and F-3). In addition, there is a significant overlap in end uses among the various imports and the U.S. products, indicating that they are competing for sales to the same customers. See Report at A-16, Table 2.

⁴⁸ Report at A- 83-85, Tables 28 & 29.

increased during the period of investigation.⁴⁹ This is especially so in the case of bright wire rope, which accounts for the bulk of U.S. production and shipments, by both quantity and value.⁵⁰

Finally, the allegations of lost sales and lost revenues were unconfirmed. In sum, even if we were to have found a reasonable indication that the domestic industry is suffering present material injury, there is no reasonable indication that any such injury is "by reason of" the subject imports.

IV. No Reasonable Indication of Threat of Material Injury by Reason of Allegedly LTFV Imports from Canada

Section 771(7)(F) of the Tariff Act of 1930 directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." We may not base an affirmative threat determination on mere supposition or conjecture.⁵¹

The factors the Commission must consider in its threat analysis are:

(I) if a subsidy is involved, 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 [GATT] Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

⁴⁹ Report at A-95, Table 30.

⁵⁰ Report at A-51, Table 7; A-95, Table 30.

⁵¹ See 19 U.S.C. § 1677(7)(F)(ii).

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate probability that importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports or both raw agricultural product (within the meaning of paragraph (4)(E)(iv) and any product processed from such raw agricultural product, the likelihood there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

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

In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign companies against the same class of merchandise suggest a threat of material injury to the domestic industry.⁵² Factors I, VIII and IX are inapplicable to this investigations, and there is no reported dumping of steel wire rope from any of the subject countries in third country markets.

⁵² 19 U.S.C. § 1677(7)(F)(iii).

In reaching its threat determination, the Commission may, "to the extent practicable," cumulate the price and volume effects of imports from different countries for the purposes of assessing market penetration and price suppression and depression.⁵³ For the purposes of the preliminary threat determination, petitioner urges the Commission to cumulate the imports from Canada with the imports of steel wire rope subject to ongoing final investigations involving steel wire rope from Argentina, India, Mexico, The People's Republic of China, Taiwan, and Thailand.

We note that the varying import trends among the products from the seven countries makes cumulation difficult.⁵⁴ Nonetheless, we have evaluated the relevant threat criteria on both a cumulative and an independent basis. We find no reasonable indication that the subject imports from Canada, whether evaluated cumulatively or independently, threaten the domestic industry with material injury.

Some of the data upon which we base our determination are business proprietary and can only be discussed in general terms. Capacity, production, capacity utilization, home market shipments, and inventories have remained relatively steady for the Canadian producers. To the extent there has been fluctuation in any of these factors, there is no indication that these fluctuations are related to increases or decreases in exports to the United States.

⁵³ 19 U.S.C. S 1677(7)(F)(i),(iv).

⁵⁴ See, e.g., Tart Cherry Juice and Tart Cherry Juice Concentrate from Germany and Yugoslavia, Invs. Nos. 731-TA-512 and 513 (Preliminary), USITC Pub. 2378 (May 1991) at 24.

When all imports are evaluated on a cumulative basis, their market share has been fairly low throughout the period of investigation in terms of quantity, and even more so in terms of value.⁵⁵ There has been no rapid increase in penetration of the subject imports. Both the volume and market share of subject imports decreased from 1989 to 1990, and decreased substantially for the first six months of 1991 as compared to the first six months of 1990.⁵⁶ Consequently, there is no reasonable indication that penetration of the subject imports will increase to injurious levels.

We reach the same conclusion if the volume and market penetration of Canadian imports are evaluated independently. Canadian market share has remained low and steady throughout the investigatory period.⁵⁷ There have been no rapid increases in Canadian imports.

On a cumulative basis, there is no indication that subject imports will have depressing or suppressing effects on U.S. prices. Although there is evidence of underselling by the subject imports, there is no indication that the prices of the subject imports have depressed or suppressed domestic prices, or that they will do so in the future. Even in the face of underselling by the imports, prices of the domestic products generally increased during the period of investigation.⁵⁸

On a noncumulative evaluation of potential pricing effects, it is even more apparent that the Canadian imports are unlikely to have depressing or

⁵⁵ Report at A-84-85, Table 29.

⁵⁶ Report at A-77-79, Table 27; A-83-85, Tables 28 & 29.

⁵⁷ Report at A-84-85, Table 29.

⁵⁸ Report at A-95, Table 30.

suppressing effects on U.S. prices. In 51 of 73 price comparisons between Canadian and U.S. products, the Canadian product oversold the U.S. product.⁵⁹ Most of the instances of underselling involved 3/4-inch diameter bright wire rope, a product for which U.S. prices increased during the period of investigation.⁶⁰

Further, the record does not indicate that there have been sales lost to, or revenues reduced as a result of, Canadian imports, whether viewed independently or cumulatively with other subject imports. Commission Staff contacted purchasers named in lost sales and lost revenues allegations involving Canada as well as the countries subject to the final investigations. The exact responses to these contacts are business proprietary, but, generally, the allegations were not borne out.⁶¹

Finally, there is no indication that Canadian imports, whether evaluated cumulatively or independently, will adversely impact upon domestic research and development efforts.⁶² The evidence in this investigation indicates that several domestic producers have actively engaged in development of high technology products.⁶³

CONCLUSION

Based on the information obtained in this preliminary investigation, we have determined that the record as a whole contains clear and convincing

⁵⁹ Report at A-109-110, Table 36.

⁶⁰ Report at A-95, Table 30; A-109-110, Table 36.

⁶¹ Report at A-114-115.

⁶² See Report at A-62 (Table 17). The data reflecting domestic research and development expenses are business proprietary.

⁶³ See, e.g., Tr. 92.

evidence that there is neither material injury nor threat of material injury by virtue of the allegedly LTFV imports from Canada. Moreover, there is no likelihood that contrary evidence will arise in any final investigation.

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ADDITIONAL VIEWS OF ACTING CHAIRMAN ANNE E. BRUNSDALE

Steel Wire Rope from Canada
Inv. No. 731-TA-524 (Preliminary)

In this investigation, I concur in the Commission's determination that there is no reasonable indication an industry in the United States is materially injured or is threatened with material injury by reason of imports of steel wire rope from Canada.¹

I agree with my colleagues that there is a single like product consisting of all steel wire rope, whether produced of carbon or stainless steel and whether of proprietary or non-proprietary design. I also join their determinations regarding the domestic industry, related parties, and the threat of future injury, as well as their description of the condition of the industry. Unlike my colleagues, however, I do not believe that an independent legal determination of material injury based on the condition of the industry is either required by the statute or useful to the determination of whether a domestic industry is materially injured by reason of dumped imports.²

¹ Material retardation is not an issue in this investigation and will not be discussed further.

² See Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989) at 10-15 (Views of Chairman Brunsdale and Vice Chairman Cass). I do, however, find the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from dumped imports is material.

Here I address several issues involving the like product and then set forth my views on cumulation and on the causation of material injury.

Like Product

While I agree that there is a single like product in this investigation, I employ a somewhat different approach in reaching that conclusion than my colleagues do. In my recent opinion in Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea, I outlined the principles I look to in defining like product.³ In that discussion, I called attention to the key question of whether dumping would induce significant substitution among the potential like products by either producers or consumers. By focusing on substitution among various domestic products, I can identify the types of domestic products that will be significantly affected by any dumping of the articles subject to investigation.

Here I apply these principles to determine the like product in this case. There are two questions to be addressed: First, is steel wire rope made of stainless steel the same like product as that made from carbon steel? Second, should proprietary steel wire rope products be included in the same like product as non-proprietary products?

³ Invs. Nos. 731-TA-458 and 459 (Final), USITC Pub. 2383 (May 1991) at 31-43 (Dissenting Views of Acting Chairman Anne E. Brunsdale).

Carbon and Stainless Steel. My conclusion that steel wire rope made from carbon steel and from stainless steel are parts of the same like product is based on the evidence that producers of carbon steel wire rope can easily shift their production to stainless steel wire rope. Several domestic producers of carbon steel wire rope also produce stainless steel wire rope.⁴ These producers use the same equipment, machinery, and employees to produce both types of wire rope, though some minor retooling may be required in converting equipment from production of carbon steel wire rope to the stainless steel product.⁵ The key difference between the two products is whether one starts with carbon steel rod or with stainless rod, either of which can be purchased on the open market. Because producers can easily shift between carbon and stainless steel wire rope, I would expect that the effects of any dumping of carbon steel rope would significantly affect the market for stainless steel rope. If dumping suppresses the price of carbon steel rope and therefore the profitability of producing it, producers might shift and start producing stainless rope, if that was more profitable.⁶

⁴ Staff Report at A-41, Table 3.

⁵ Staff Report at A-25 - A-26 and Transcript of Commission Meeting, August 8, 1991, at 4-6.

⁶ It appears that consumers would generally not substitute stainless steel wire rope for carbon steel rope. Stainless steel wire rope is several times more expensive than comparable carbon steel rope. Because of this, stainless steel rope is used primarily in situations where its corrosion-resistant properties are critical. (Staff Report at A-23, A-25.)

Proprietary Products. The primary reason I include proprietary steel wire rope products in the same like product as general purpose wire rope is that the two types of steel wire rope appear to be substitutable in use -- that is consumers could substitute one for the other. While proprietary ropes may provide longer life in some uses, the evidence suggests that general purpose ropes can be used in the same applications.⁷ Because the proprietary ropes provide longer life than the general purpose ropes, some purchasers buy them in spite of their higher price. The key consideration is the cost per unit of performance.⁸ If dumping leads to a reduction in the price of general purpose rope, this may make general purpose rope less costly per unit of performance than a higher-priced, longer-lived specialty product and thereby cause the purchaser to switch from the proprietary product to the general purpose rope. As a result, the effects of the dumping would be directly felt by producers of proprietary products as well as those producing the general use rope.⁹

⁷ Staff Report at A-27 - A-29.

⁸ See, e.g., the testimony of Daniel Goar, former mine manager of Magma Copper Company, at the Staff Conference in this investigation. (Conference Transcript at 94-102.)

⁹ There may also be some substitutability on the production side. The same basic equipment is used to produce proprietary and non-proprietary products. However, some additional equipment may be needed to complete production of the proprietary products. (Staff Report at A-29 - A-30.) The record does not indicate whether this additional equipment could be easily acquired and successfully put into operation by a firm that is not currently producing the proprietary product, and therefore I do not know whether producers of general purpose rope could begin production
(continued...)

Cumulation

In making my determination, I must decide whether to cumulate imports from Canada with imports of steel wire rope from Argentina, India, Mexico, the People's Republic of China, Taiwan, and Thailand that are currently subject to final investigations being conducted by the Commission (the "multi-country final investigations"). There are two issues involved here. First, do the Canadian imports compete with the imports from the other countries and with steel wire rope produced domestically? Second, should imports from any of these countries not be cumulated because they are "negligible and have no discernable adverse impact on the domestic industry"?¹⁰

As to the first issue, imported and domestic steel wire rope are not perfect substitutes.¹¹ However, I believe there is sufficient competitive overlap among the products from the U.S. and the various imports to require cumulation.

Considering the negligible-imports exception, I described my standards for applying this exception in my opinion in an earlier preliminary investigation involving steel wire rope, where I

⁹(...continued)
of proprietary products in response to a decline in the price of the general purpose product. I do know that if production of a particular product is covered by patents, it would not be possible for a producer of general purpose steel wire rope to switch to the proprietary product.

¹⁰ 19 U.S.C. 1677(7)(C)(v).

¹¹ See discussion at 38 infra.

concluded that countries that had not supplied more than 1.5 percent of U.S. apparent consumption at any time during the period of the Commission's investigation "were strong candidates for application of the negligible-imports standard even if the imports were fully fungible with the domestic like product".¹² I also noted evidence that the fungibility between imported and domestic steel wire rope was somewhat limited.¹³ As a result, I chose not to cumulate imports from four of the countries subject to the current final investigations -- Argentina, India, the People's Republic of China, and Thailand.¹⁴

Two issues related to this decision have arisen in the current investigations. First, the record in the current multi-country investigations shows that, on a quantity basis, imports from the People's Republic of China accounted for 1.8 percent of U.S. apparent consumption in 1990.¹⁵ Such a penetration level is sufficiently large that, for purposes of the present

¹² Steel Wire Rope from Argentina, Chile, India, Israel, Mexico, the People's Republic of China, Taiwan and Thailand, Invs. Nos. 701-TA-305 and 306 (Preliminary) and Nos. 731-TA-476-482 (Preliminary), USITC Pub. 2343 (December 1990) at 38 (Views of Chairman Anne E. Brunsdale). ("Multi-country Preliminary Opinion")

¹³ The evidence of limited substitutability has been confirmed in the present investigations. (See infra at 38.)

¹⁴ Multi-country Preliminary Opinion at 39.

¹⁵ Staff Report at A-84, Table 29. While imports from the PRC remained below 1.5 percent on a value basis, my discussion in the multi-country preliminary opinion was based on quantity, not value, figures and I therefore rely on the quantity figures in the present case.

investigation, I will not apply the negligible-imports standard to imports from the PRC.

Second, petitioner has argued that it is inappropriate to apply the negligible-imports provision to imports from India and Thailand because of common ownership of producers in those two countries.¹⁶ The principal producer and exporter of steel wire rope in Thailand, Usha Siam, is partially owned by the major producer in India, Usha Martin.¹⁷ While Usha Martin appears to be the largest stockholder in Usha Siam, it does not own a majority of the Thai firm.¹⁸ Further, while the evidence on this point is somewhat limited, Usha Martin does not appear to exercise extensive control over Usha Siam.¹⁹ Nor does it appear that Usha Martin and Usha Siam have a common marketing approach in attempting to sell in the United States.²⁰ Absent additional evidence that Usha Martin actively controls Usha Siam or evidence of a common marketing strategy by the two firms, I find that the relationship between Usha Martin and Usha Siam does not, in

¹⁶ Petitioner's Post-Hearing Brief in Multi-country Final Investigations at 11.

¹⁷ Staff Report at A-75.

¹⁸ Id.

¹⁹ Hearing Transcript in Multi-country Final Investigations at 118 (Testimony of Christopher Dunn, Counsel to Usha Martin and Usha Siam).

²⁰ See, e.g., Post-Hearing Brief of Respondents from India and Thailand in Multi-country Final Investigations at 12-13.

itself, make application of the negligible-imports provision to India and Thailand inappropriate.²¹

Given my previously stated standards on the issue of negligible imports and the considerations discussed above, I find that imports from Argentina, India, and Thailand are "negligible and have no discernable adverse impact on the domestic industry." I shall therefore only cumulate imports from the Peoples Republic of China, Mexico, and Taiwan with those from Canada in determining whether a domestic industry has been materially injured by reason of subject imports.²²

²¹ Counsel for the Thai and Indian respondents argues that, in considering the question of negligible imports, the Commission should only be concerned with common ownership of facilities in two or more countries if the imports from the commonly owned firms are handled by a common importer in the United States and if that importer is under the control of the foreign producers. (Post-Hearing Brief of Respondents from India and Thailand in Multi-country Final Investigations at 12.) I believe this argument is overly restrictive. If the Commission is going to concern itself with common ownership, its focus should be on whether the exports from the different countries are part of a common marketing plan. Evidence that affiliated firms choose to export to the United States through a common importer controlled by those firms could provide evidence of such a plan. However, evidence that exporters in different countries have the same owners could also provide such evidence. A single exporter may, for a variety of business reasons, choose to sell through a number of different importers. Such importers may or may not be related to the exporter. And it would be totally unreasonable to argue that imports from a single firm operating in a single country but marketed in the United States through a number of importers are not part of a marketing plan controlled by the foreign firm. I therefore do not believe that use of a common importer controlled by the foreign producers is necessary to show common control in cases involving related producers in different countries.

²² Of course, because I find imports from Argentina, India, and Thailand to have "no discernable adverse impact on the domestic industry", I would have still found no reasonable indication of
(continued...)

Material Injury by Reason of Dumped Steel Wire Rope

As in other Title VII cases that have come before the Commission, I have used the tools of economic analysis in arriving at my decision in this case. I have also examined the information in the record on changes in the performance of the domestic industry over the period of the investigation. However, an analysis of changes in the industry's condition does not permit me to separate the effect of dumped imports from the many other factors that may have had a positive or negative effect on the domestic industry.²³

Economic analysis allows me to gauge with reasonable certainty, using the information on the record, how producers and consumers have reacted to the changing conditions in the

²²(...continued)

material injury if I had cumulated the effect of these imports with the effects of imports from the other countries subject to investigation.

²³ The Commission has often noted the legislative history of the 1979 Act, which states that when determining whether there is material injury "by reason of" the imports subject to investigation, the Commission may consider factors other than imports, but does not weigh causes. See S. Rep. No. 249, 96th Cong., 1st Sess. 74-75 (1979). I understand this language to distinguish causation analysis in Title VII investigations, in which the "unfair" imports must cause material injury before there can be an affirmative determination, from the determination of whether imports are a "substantial" cause -- i.e., greater than any other cause -- of serious injury in Section 201 investigations. Under the language of Title VII, we still must find a causal connection between the imports and material injury -- i.e., the imports must cause material injury -- notwithstanding what other factors may be contributing to the state of the domestic industry. The language of the statute and the standard rules of English grammar permit no other reading.

marketplace brought about by the dumped or subsidized imports. In analyzing the effect of these imports, I must determine how the dumping or subsidies have affected demand for the domestic like product. I know from basic economic principles that the unfair imports will tend to reduce demand for the domestic product. However, the size of any reduction in a particular case will depend on the facts in that case. After determining how demand for the domestic product has been affected by the dumping, I can ascertain how the price of the domestic like product and the quantity that is sold is affected, as well as the effects on other indicators of industry performance such as employment, investment, and capacity utilization.

Market Penetration of Unfair Imports and the Dumping Margin. Two important factors in determining the effect of any dumping are the share of the domestic market accounted for by the unfairly priced imports and the size of the margins. If unfair imports have a larger market share, any change in their price will have a greater effect on the demand for the offerings of other producers. Thus, it is more likely, *ceteris paribus*, that domestic producers will be materially injured if the penetration of the unfairly traded imports is high.

The size of the dumping or subsidy margins is important because it provides information about the extent to which the price of the unfair imports is below fair levels. If the margins are large, the unfair importation of the subject imports is

likely to have had a relatively greater effect on the domestic industry. The larger the price reduction from dumping, the greater the resulting increase in sales of the imported product, ceteris paribus.

In the current case, the alleged dumping margins on imports of Canadian steel wire rope are quite substantial. According to petitioners, (1) the two Canadian producers, Wire Rope Industries and Wrights Canadian Ropes, charge prices in Canada that exceed their prices in the U.S. by up to 106.31 percent and 47.51 percent, respectively, and (2), the average dumping margin may be as high as 70.88 percent.²⁴ While these dumping margins are little more than petitioners' claims, they are the best information currently available concerning the level of the dumping and suggest that the price of imported Canadian steel wire rope may be significantly below "fair" levels.²⁵

Because I am cumulating the effects of imports from three of the countries subject to the multi-country final investigations with the Canadian imports, I must also consider the dumping

²⁴ Staff Report at A-40.

²⁵ Given the Court of International Trade's holding in American Lamb that the Commission is not to make a negative determination in a preliminary investigation unless there is no likelihood that evidence demonstrating material injury or threat thereof will be developed in any final investigation, it might seem that the absence of better data on dumping margins would preclude a negative finding in a preliminary investigation. I do not believe this is the case here. Petitioners have sufficient incentives to allege the highest margins that are supportable by any evidence at all so that I consider it extremely unlikely that any margins derived by the Department of Commerce would exceed those alleged by petitioners.

margins for those countries. For one of these countries -- Mexico -- the Department of Commerce's final dumping margin is 45.11 percent; for the other two, only preliminary determinations have been made. For the People's Republic of China and Taiwan, the preliminary margins are 24.44 percent and 16.07 percent, respectively.²⁶

As for market share, imports from Canada and from the four countries together were small throughout the period of investigation. On the basis of quantity, imports from Canada accounted for 2.7 percent of U.S. apparent consumption of steel wire rope in 1988, 3.2 percent in 1989, 2.8 percent in 1990, and 2.9 percent in the first half of 1991. For the four countries as a whole, the penetration of subject imports rose from 4.8 percent in 1988 to 7.8 percent in 1990, before falling to 5.7 percent in the first half of 1991. On a value basis, Canadian imports ranged from a low of 2.5 percent of U.S. apparent consumption to a high of 3.0 percent in 1989, and had a share of 2.6 percent in 1990 and 2.9 percent in the first half of 1991. Combining Canadian imports with those from the PRC, Mexico, and Taiwan, the cumulated share of the value of U.S. consumption ranged from a low of 4.3 percent in 1988 to a high of 6.6 percent in 1989, and had a share of 6.2 percent in 1990 and 4.7 percent in the first half of 1991.²⁷ These market shares are all quite low, suggesting that material injury is unlikely.

²⁶ Id. at A-39.

²⁷ Id. at A-84 - A-85, Table 29.

Effect on Prices and Volumes Sold by the Domestic Industry. Data on the dumping margin and on the volume of imports alone do not answer the central question in the investigation -- how the presence of the dumped imports affects the domestic industry. How many more sales would domestic producers have made if dumping had not occurred? How much higher would the price of the domestic product have been? It is to these questions that I now turn.

Dumping will generally not decrease the market share of the domestic industry by more than the share of the market captured by the dumped imports, even if these imports would not have been in the market except for their unfairly low price. Since imports from Canada and those countries being cumulated never exceeded 7.8 percent of sales in the U.S. market by quantity or 6.6 percent by value, it is unlikely that any dumping decreased U.S. producers' market share by more than this amount. In fact the effect is likely to have been even smaller, as the record demonstrates that there are limitations on the substitutability between imported and domestic steel wire rope, particularly in high-risk applications. As a result, imports appear to compete primarily with other imports suggesting that the effects of any dumping have been primarily to reduce sales of imports from other countries.²⁸ In addition, particularly for imports from China

²⁸ The data in this case are consistent with this expectation. As discussed in the Commission opinion, changes in imports from
(continued...)

and Taiwan where dumping margins are relatively small and the degree of substitutability is lower than for imports from Mexico and Canada, elimination of any dumping would not completely eliminate the imports from the U.S. market.

Examining the issue of substitutability in a little more detail, the record shows that, particularly for imports from Taiwan, the PRC, and the countries that I have found to have negligible imports, imported steel wire rope is generally used as secondary material and is concentrated in the more general use applications that require small and medium diameter ropes.²⁹ Where there are product liability concerns, imports may be avoided because of difficulties in making foreign producers assume liability in the event of a failure.³⁰ This is reflected in higher product liability rates that must be paid by distributors on sales of imported rope.³¹ There is also some indication that less after-sale service is available with imports and that it is more difficult to get imported rope replaced in the event it is defective.³² All of these concerns suggest some

²⁸ (...continued)
the subject countries have generally been offset by changes in imports from Korea. (See Commission Opinion at 17, supra.)

²⁹ Id. at A-32.

³⁰ Id. at A-89.

³¹ See Hearing Transcript in Multi-country Final Investigations at 104 (Testimony of Peter Schumann, President of Trefil Arbed, Inc.) and Post-Hearing Brief of Respondents from India and Thailand in Multi-country Final Investigations, Exhibit A at 7.

³² Staff Report at A-31 and A-89.

limitation on the substitutability of domestic and imported steel wire rope, particularly that imported from countries other than Mexico and Canada.³³

In order to fully evaluate the effect of dumping on the domestic industry, I must also consider how the price of the domestic product is affected by the presence of dumped imports. Even though the volume effect is small, the overall effect may be material if the small reduction in volume results in a large decrease in price. In this case, I am persuaded that the dumping has had no significant effect on the price charged by U.S. producers. It is competition among domestic producers, rather than the price of the unfair imports, that determines the price charged by U.S. producers. And, based on the evidence in the record, I conclude that the price of the domestic product would not be substantially higher in the absence of dumped imports. Domestic producers of steel wire rope had substantial excess capacity throughout the period of the investigation -- to be

³³ The degree of substitutability can be expressed quantitatively in a measure known as the elasticity of substitution, which is equal to the percentage change in relative sales of two products resulting from a 1 percent change in their relative prices. In this case, the Commission's Applied Economics Division places the elasticity of substitution between domestic and imported steel wire rope in the range of 2 to 4. (Economics Memorandum at 20.) I agree with this evaluation. However, because Chinese and Taiwanese ropes are less substitutable for domestic rope than are those from Canada and Mexico, I would not place the substitutability between domestic steel wire rope and that imported from Taiwan and China above 3.

specific, average capacity utilization for U.S. producers was never as high as 60 percent.³⁴

When an industry has substantial excess capacity, it can generally expand its output by a considerable amount without much increase in price. In the current case, the Commission's Applied Economics Division suggests that a 5 percent contraction in domestic production would cause price to fall at most 1 percent.³⁵ I agree with this estimate, and therefore conclude that elimination of dumping is likely to result in considerably less than a 1 percent increase in the price of domestic steel wire rope.³⁶

Other Effects on the Domestic Industry. In addition to considering the impact of dumping on the volume of sales made by the domestic industry and the price at which those sales occurred, the statute directs us to examine "the impact of such merchandise on domestic producers of like products".³⁷ In

³⁴ Staff Report at A-50, Table 6.

³⁵ Staff estimates that the elasticity of domestic supply is at least 5, meaning that a 1 percent increase (decrease) in price would lead domestic producers to expand (contract) their output by at least 5 percent. (Economics Memorandum at 8.)

³⁶ Any increase in the average price for steel wire rope will reduce the total quantity purchased. However, in the current case, the change in the total quantity would be very small. The Applied Economics Division submits that the elasticity of aggregate demand for steel wire rope is between 0.3 and 0.7. That is, a 1 percent increase in price would cause the total demand to decline by between 0.3 and 0.7 percent. (Economics Memorandum at 24.) I agree with this assessment.

³⁷ 16 U.S.C. 1677(7)(B)(i)(III).

conducting this examination, we are instructed to consider such factors as industry employment, investment, and utilization of capacity.³⁸

In general, the effect of dumping on these factors follows from the effect on volume and price. For example, the effect on industry employment is directly related to the effect on volume, since the employment level in an industry will generally rise or fall with changes in the quantity produced. In the current case, I do not believe the dumping had a material impact on employment because there was no material effect on industry output.

Investment levels depend on the expected future profitability of an industry. If dumping causes significant declines in industry prices or sales and if these declines are expected to persist into the future, firms may not find it profitable to engage in as much investment as they would absent the dumping. Again, in the present case I find no material impact on investment given the slight impact dumping had on volume and price. Even without any dumping, domestic producers of steel wire rope would have had substantial excess capacity and would therefore have been unlikely to invest in additional capacity. Finally, because there was no significant impact on production or investment, I determine that there was no significant effect on capacity utilization.

³⁸ 19 U.S.C. 1677(7)(C)(iii).

Conclusion

I find no reasonable indication that dumped imports of steel wire rope from Canada have caused material injury to an industry in the United States. In reaching this conclusion, I have considered the cumulative effects of allegedly dumped imports from Canada and of imports from the People's Republic of China, Mexico, and Taiwan that are subject to investigation as part of the ongoing multi-country investigations. I did not cumulate imports from Argentina, India, or Thailand, the other countries involved in the multi-country investigations, because I found them to be "negligible and [to] have no discernable adverse impact on the domestic industry."³⁹ Any dumping has reduced the quantity of steel wire rope sold by domestic producers only slightly and has had very little effect on the price domestic producers can charge for their products. Thus, the overall effect on domestic producers is small. And because there is no material effect on output, price, or revenue, there is no material effect on the other indicators of the impact on the domestic industry such as employment, investment, and capacity utilization. I therefore reach a negative determination in this investigation.

³⁹ 19 U.S.C. 1677(7)(C)(v).

INFORMATION OBTAINED IN THE INVESTIGATION

NOTICE

On July 16, 1991, the U.S. International Trade Commission (Commission) approved a waiver of its rules to allow for the consolidation of the staff report in Investigations Nos. 701-TA-305 and 731-TA-476 and 478 through 482 (Final), Steel Wire Rope from Argentina, India, Mexico, the People's Republic of China, Taiwan, and Thailand; and Investigation No. 731-TA-524 (Preliminary), Steel Wire Rope from Canada. Therefore, for information obtained in the investigation of steel wire rope from Canada, please refer to the Commission report entitled "Steel Wire Rope from Argentina and Mexico: Determinations of the Commission in Investigations Nos. 476 and 479 (Final)," USITC Publication 2410, August 1991.

