NEW STEEL RAILS FROM THE UNITED KINGDOM

Determination of the Commission in Investigation No. 731-TA-559 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

USITC PUBLICATION 2617

MARCH 1993

United States International Trade Commission
Washington, DC 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Don E. Newquist, Chairman

Peter S. Watson, Vice Chairman

David B. Rohr

Anne E. Brunsdale

Carol T. Crawford

Janet A. Nuzum

Robert A. Rogowsky
Director of Operations

Staff assigned:

Valerie Newkirk, Office of Investigations
Charles Yost, Office of Industries
William Shpiece, Office of Economics
Jerald Tepper, Office of Investigations
Cynthia Johnson, Office of the General Counsel

Vera Libeau, Supervisory Investigator

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

C O N T E N T S

CONTENTS

CONTENTS

CONTENTS

CONTENTS

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this repor Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-559 (Final)

NEW STEEL RAILS FROM THE UNITED KINGDOM

Determination

On the basis of the record[1] developed in the subject investigation, th Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is r materially injured or threatened with material injury,[2] and the establishmen of an industry in the United States is not materially retarded, by reason of imports from the United Kingdom of new steel rails,[3] provided for in subheading 7302.10.10 and heading 8548.00.00 of the Harmonized Tariff Schedu of the United States, that have been found by the Department of Commerce to sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective October 14, 199 following a preliminary determination by the Department of Commerce that imports of new steel rails from the United Kingdom were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of th notice in the Office of the Secretary, U.S. International Trade Commission,

---

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

[2] Chairman Newquist determines that an industry in the United States is materially injured by reason of imports from the United Kingdom.

[3] The merchandise covered by this investigation is new steel rails, except light rail and girder rail, of other than alloy steel, weighing over 30 kilograms per meter. New steel rails include standard and premium carbon steel tee rail, crane rail, and contact rail (electrical rail).

Washington, DC, and by publishing the notice in the Federal Register of November 12, 1992 (57 F.R. 53778). The hearing was held in Washington, February 16, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF VICE CHAIRMAN WATSON, AND
COMMISSIONERS ROHR, BRUNSDALE, CRAWFORD, AND NUZUM

Based on the record in this final investigation, we determine that tl industry in the United States producing new steel rails is neither materia injured nor threatened with material injury by reason of imports of new st rails from the United Kingdom.[1]

I. LIKE PRODUCT AND DOMESTIC INDUSTRY

In determining whether a domestic industry is materially injured or threatened with material injury by reason of the imports subject to investigation, we first define the "like product" and the domestic "indust Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevai domestic industry as "the domestic producers as a whole of a like product, those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product . . . ."[2] In turn, section 771(10) defines like product as "a product which is like, in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[3]

The Department of Commerce has defined the imports subject to this investigation as:

> new steel rail, except light rail and girder rail, of other than alloy steel, and over 30 kilograms per meter.[4]

New steel rails are used primarily to form railroad tracks. They di in size, weight, metallurgical composition, and end use. Carbon steel rai are characterized as either "standard" or "premium" on the basis of hardne Standard carbon steel rails are not heat-treated, whereas premium rails ar

---

[1] Material retardation of the establishment of an industry is not an issue this investigation and will not be discussed further.
[2] 19 U.S.C. § 1677(4)(A).
[3] 19 U.S.C. § 1677(10).
[4] 58 Fed. Reg. 9145 (February 19, 1993).

heat-treated (tempered) for increased hardness. Properties imparted to the rail by heat-treating can also be imparted by the use of alloy steel. Alloy steel rails have chromium and molybdenum (alloying agents) added to the carb steel at the melting stage in order to improve hardness and wearability.[5]

There are four common rail shapes: tee, crane, girder, and contact. Tee rails account for the vast majority of domestic consumption.[6] Standard tee rails ("standard rails") commonly are used on main and secondary tangent (straight) rail lines. Premium tee rails ("premium rails") are used for hea service, such as on curves and heavy use lines, because they have greater resistance to stress, abrasion, and weather extremes.[7] U.S. railroads are using more premium rail because of its longer useful life in comparison with standard rail. Most track now laid is of continuous-welded rail, and the use of 80-foot continuous-welded rails has largely superseded that of the bolted 39-foot sections, due to the former's lower installation costs and higher quality.[8]

In the preliminary investigation, we included all new steel rail, including girder rail and alloy rail, in a single like product. We also foun all shapes of rail to be a single like product. Similarly, we determined tha premium and standard rails were not separate like products.[9] The parties hav

---

[5] Report at I-5-7.
[6] Report at I-7. Much of our discussion centers on tee rail.
[7] Report at I-12.
[8] Id.
[9] We also found that the evidence on the record did not provide sufficiently clear dividing lines to support excluding girder rails from the like product. Finally, we included alloy rails in the like product on the basis of similarities in physical characteristics and uses between alloy rails and hea treated carbon steel rails, interchangeability, identical channels of distribution, and common production facilities and employees. New Steel Rail from Japan, Luxembourg, and the United Kingdom, 731-TA-557-559 (Preliminary), USITC Pub. 2524 at 4-12 (June 1992).

made no arguments in this final investigation regarding the definition of the like product. No new evidence has been obtained that causes us to change the like product definition adopted in the preliminary investigation. Therefore, we again find the like product to be all new steel rails.

Based on our like product definition, we find that the domestic industry consists of the two domestic producers of new steel rails, Steelton Rail Products & Pipe Division of Bethlehem Steel Corp. (Bethlehem) and CF & I Steel Corp. (CF & I).

II. CONDITION OF THE INDUSTRY

In assessing whether there is material injury to a domestic industry by reason of dumped imports, we consider "all relevant economic factors which have a bearing on the state of the industry in the United States . . . ."[10] These include production, shipments, inventories, capacity utilization, market share, employment, wages, productivity, financial performance, ability to raise capital, and research and development.[11] No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[12]

Apparent domestic consumption of all new steel rails declined from 1989 to 1990, and then increased steadily from 1990 to 1992. The 1992 levels were higher than 1989 levels.[13] Apparent domestic consumption of standard rails declined from 1989 to 1990, and then increased in 1991, and again in 1992. Domestic consumption of standard rails in 1992 was below 1989 levels.[14]

---

[10] 19 U.S.C. § 1677(7)(C)(iii).
[11] Id.
[12] Id.
[13] Report at C-4, Table C-7.
[14] Id.

Domestic consumption of premium rails increased throughout the period of investigation.[15]

Domestic production of all new steel rails decreased steadily from through 1991, and increased in January-to-September ("interim") 1992 comp with interim 1991. Domestic production of standard rails followed the sa trend, while domestic production of premium steel rails increased through the period of investigation.[16] U.S. producers' capacity to produce new st rails also increased steadily throughout the period. Capacity for premiu standard rails both increased overall. Capacity utilization for all new rails decreased steadily from 1989 to 1991, then increased in interim 199 compared with interim 1991. Capacity utilization for standard rails fluctuated similarly. Capacity utilization for premium rails increased throughout the period of investigation.[17]

U.S. producers' domestic shipments of all new steel rails decreased 1989 to 1990, and increased steadily from 1990 to 1992. The level of dom shipments in 1992 remained below that of 1989. Domestic shipments of sta rails followed the same trend. Domestic shipments of premium rails, howe increased steadily from 1989 to 1992.[18] [19]

With respect to employment, the number of production and related wo increased from 1989 to 1990, and then fell in 1991 to fewer workers than 1989; the number of workers in interim 1992 was higher than that in inter

---

[15] Id.
[16] Report at I-24.
[17] Id.
[18] Report at C-4, Table C-7.
[19] Rail mills produce steel rails upon receipt of an order, and consequent maintain little or no finished goods inventories. Inventories of new ste rails fluctuated during the period of investigation but remained small, b in actual tonnage and as a percentage of shipments. Report at I-26.

1991, and higher than the number of production and related workers in 198
The hours worked, however, fell from 1989 to 1991, and then rose in inter
1992 compared with interim 1991.[21] Wages paid to workers rose from 1989 t
1990 and fell slightly in 1991, but remained above the 1989 level.[22] Tota
workers' compensation declined from 1989 to 1991, and increased in interi
1992 compared with interim 1991.[23] Productivity declined from 1989 to 199
and then increased in 1991 though remaining below the level of 1989.
Productivity increased in interim 1992 compared with interim 1991.[24]

The financial data for the domestic industry producing new steel ra
show declining net sales from 1989 to 1991, and increasing net sales in
interim 1992 compared with interim 1991. The industry showed an operatin
loss in each full year under investigation. The operating loss increased
1989 to 1990, and then decreased in 1991. Operating income was higher in
interim 1992 compared with interim 1991, with the industry showing an
operating profit for interim 1992.[25] As a percentage of net sales, the
operating loss worsened from 1989 to 1990, then improved in 1991. The 19
loss was larger than the 1989 loss. The operating income margin improved
interim 1991 to interim 1992.[26] The cost of goods sold as a percentage of
sales increased from 1989 to 1990, and then declined in 1991 to close to
levels in 1989. The cost of goods sold as a percentage of net sales decl
in interim 1992 compared with interim 1991.[27]

---

[20] Report at I-26.
[21] Id.
[22] Id.
[23] Id.
[24] Id.
[25] Report at I-28.
[26] Id.
[27] Id.

Operating return on total assets declined in 1990, but returned in 19 to approximately the 1989 level. Operating return on total assets increase in interim 1992 compared with interim 1991.[28] Capital investment in the industry producing new steel rails fell from 1989 to 1990, rose in 1991 to a level below that in 1989, and declined in interim 1992 compared with interim 1991.[29] Research and development expenditures increased from 1989 to 1991, and declined in interim 1992 compared with interim 1991.[30] [31]

III. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS

In determining whether the domestic industry is materially injured by reason of the imports under investigation, the statute directs us to conside

> (I) the volume of imports of the merchandise which is the subject of the investigation,
>
> (II) the effect of imports of that merchandise on prices in the United States for like products, and
>
> (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States.[32]

In making this determination, we may consider "such other economic factors as are relevant to the determination . . . ."[33] Although we may consider information that indicates that injury to the industry is caused by

---

[28] Report at I-32.
[29] Id.
[30] Id.
[31] Commissioner Rohr notes the improvements in the performance of the domesti industry in 1992 and that at least some of the improvement was due, as a result of the ordering cycle of the railroads, to orders placed prior to initiation of the current investigation. While the issue is a close one, he nonetheless concludes that the industry is still experiencing material injur and thus will proceed to consider whether the imports under investigation ar a cause of the injury.
[32] 19 U.S.C. § 1667(7)(B)(i).
[33] 19 U.S.C. § 1677(7)(B)(ii).

factors other than LTFV imports, we do not weigh causes.[34] [35] [36] Finally, we

---

[34] Vice Chairman Watson notes that the courts have interpreted the statutory requirement that the Commission consider whether there is material injury "by reason of" the subject imports in a number of different ways. Compare, e.g., United Engineering & Forging v. United States, 779 F. Supp. 1375, 1391 (CIT 1989)("rather it must determine whether unfairly-traded imports are contributing to such injury to the domestic industry. Such imports, therefore need not be the only cause of harm to the domestic industry" (citations omitted)); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (CIT 1989)(affirming a determination by two Commissioners that "the imports were a cause of material injury"); USX Corporation v. United States, 682 F. Supp. 60, 67 (CIT 1988)("any causation analysis must have at its core, the issue of whether the imports at issue cause, in a non de minimis manner, the material injury to the industry. . .")

Accordingly, Vice Chairman Watson has decided to adhere to the standard articulated by Congress in the legislative history of the pertinent provisions, which states that the Commission must satisfy itself that, in light of all the information presented, there is a "sufficient causal link between the less-than-fair-value imports and the requisite injury." S. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979).

[35] Commissioner Rohr and Commissioner Nuzum note that the Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, 96th Cong., 1st Sess. 57 and 74 (1979). Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallverken Nederland, B.V. v. United States, 728 F. Supp. 730, 741 (CIT 1989); Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (CIT 1988).

[36] Commissioner Brunsdale and Commissioner Crawford note that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the allegedly LTFV imports. They find that the clear meaning of the statute is to require a determination on whether the domestic industry is materially injured by reason of LTFV imports, not by reason of LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports." S. Rep. No. 249 at 75. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. Id. at 74; H.R. Rep. No. 317 at 47. The Commission is not to determine if the allegedly LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the allegedly LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis supplied).

are directed to "evaluate all relevant factors . . . within the context business cycle and the conditions of competition that are distinctive to affected industry."[37]

A. Conditions of Competition

Rails primarily compete with other rails of the same shape and gra the rail market is somewhat segmented on these bases.[38] A unique conditi competition in this market, and one that is particularly relevant to our analysis, is the railroads' shift in demand from standard rails to premi rails.[39] As noted above, from 1989 to 1992, consumption of premium rails increased steadily, while consumption of standard rails generally declin Domestic producers were unable to supply enough premium rails to meet th quantity demanded by U.S. purchasers.[40] Our analysis of the domestic inc producing new steel rails takes into account the changing demand pattern within market segments in the industry.

In order to be chosen to supply commercial quantities of steel rai

---

[37] 19 U.S.C. § 1677(7)(C).

[38] We note that neither the statute nor the legislative history requires Commission to adopt any particular analysis when the market consists of several segments. Copperweld Corp. v. United States, 682 F. Supp. 552, (CIT 1988). Thus, the Commission has in the past evaluated a variety of segmented markets in light of the particular features of the industry. Mechanical Transfer Presses from Japan, Inv. No. 731-TA-429 (Final) USIT 2257 (February 1990) at 26 n.26 (Market consisting of two segments, one presses with a 1000-1500 ton capacity and a second for 3000 ton presses) Certain Telephone Systems and Subassemblies Thereof from Japan and Taiwa Invs. No. 731-426 & 428 (Final) USITC Pub. 2237 (November 1989) at 39-40 total market for SBTS and competitive services can be subdivided into se interrelated markets").

[39] Report at I-20.

[40] See e.g., Hearing transcript at 74. The domestic industry plans to increase its capacity to produce premium rails through a modernization o existing facilities. In order to shift production facilities from stand premium rails, current heat-treating capacity would have to increase. T earliest that any new plant or modernization effort is scheduled to come line, however, is in mid-1994. Report at I-17-19.

producer must first meet the purchaser's qualification requirements, which vary greatly among the different railroads. In most cases, samples are te in a laboratory, and small quantities are then field-tested to ascertain performance in actual use.[41]

More than 90 percent of new steel rails are purchased through a quot bid process. Class I railroads account for the majority of purchases of s rails in the United States. After a Class I railroad has determined the amount and types of rail needed, it solicits price and quantity bids from several rail producers approximately six months before the rail is actuall needed. After reviewing the initial quotes, the railroads generally conta the producers with the higher quotes to see whether they are willing to lo their prices. Further negotiations on aspects of the bid, such as changes rail requirements and types of rail, may also occur before a final price i agreed upon.[42]

The lowest quote does not always win the contract.[43] Class I railroa also consider such nonprice factors as geographical proximity, delivery schedules, quality differences, product availability, and alternative sourcing.[44] At least one railroad articulated a company policy to source domestically when possible.[45] Most transit authorities, which comprise ove 10 percent of the market for new steel rails, follow buy-American policies Further, a railroad representative stated that the domestic industry was sometimes unable to deliver enough product, or meet its delivery

---

[41] Report at I-42.
[42] Report at I-41-42.
[43] Id.
[44] Report at I-46.
[45] E.g., Hearing transcript at 53.
[46] Report at I-47.

requirements.[47] In order to foster price competition and to ensure a timely source of supply of new steel rail, Class I railroads often maintain two or more suppliers.[48] All of these considerations, plus British Steel's qualification difficulties, indicate that the subject imports are not highly substitutable with the domestic product.[49] [50]

B. Volume Effect

The volume of new steel rails imported from the United Kingdom was relatively small throughout the period of investigation. This was also true of premium and standard rails imports, considered separately.[51] Likewise, subject imports accounted for a small percentage of U.S. consumption of premium, standard, and all rails.[52] Imports of steel rails from countries that are not subject to the current investigation, particularly imports of premium rails, were substantially greater than subject imports throughout the period of investigation.[53]

The market share of subject imports did increase between 1989 and 1991 but then fell in 1992. The market share of subject standard rails followed

---

[47] Id.
[48] Petitioners' response to Commission questions at 14-15.
[49] Commissioner Rohr disagrees with this statement. He notes that these nonprice factors are part of the normal competitive conditions of this industry. Many of the participants in this market have had trouble qualifying their products to particular railroads and given the nature of their order books may have problems with deliveries at particular times. The conditions are inherently nonstable and do not in his view affect the general nature of the competition between the products.
[50] Commissioner Nuzum does not join this statement.
[51] The total volume of subject imports rose throughout the period of investigation. There were no imports of subject standard rail in 1989, (Respondent's prehearing brief at 65) the quantity of imports increased between 1990 and 1991, and then declined in 1992, though they remained above the 1990 level. Imports of subject premium rails declined from 1989 to 1990 and then rose consistently from 1990 to 1992. (Report at C-4, Table C-7.)
[52] Report at C-4, Table C-7.
[53] Id. In the latter portions of the period of investigation, imports of subject standard rails exceeded imports of nonsubject standard rails.

the same pattern, while the market share of subject premium rail imports decreased from 1989 to 1990, rose slightly in 1991, and rose again in 1992 to a level only slightly below the 1989 level.[54] We have evaluated the rate of increase in the volume and market share of subject imports during the period of investigation in light of the low level of imports at the start of the period.

Given the relatively small market share of subject imports and the considerable quantity of nonsubject imports in the market, we find that the volume of subject imports is not significant.[55] [56]

C. Price Effect

The Commission obtained comprehensive pricing information on the products that constitute the vast majority of rail consumption, namely

---

[54] Report at C-4, Table C-7.

[55] Commissioner Rohr rejects the view that the presence or absence of nonsubject imports should be used to assess the significance of the volume of the subject imports. In his view, to use nonsubject imports in this manner i to weigh causes in a manner that Congress has specifically prohibited. In hi view, in this particular investigation, the volume effects of the subject imports are not significant because of the relatively small absolute size, th high capacity utilization rate and capacity limitations existing on domestic production, and the observable improvements in the condition of the domestic industry while the imports increased.

[56] Commissioner Nuzum does not join her colleagues in this particular statement, in light of their emphasis on the role of nonsubject imports. Rather, she does not find the volume and increases in the volume of the subject imports to be significant due to the overall small subject import volume share and constraints on domestic capacity. In order to understand th real-world dynamics of a particular market, Commissioner Nuzum often finds it helpful to observe the role (including the volume trends) of nonsubject imports as well as subject imports. Nevertheless, she is extremely mindful o the statutory mandate under Title VII to examine the causal link between the subject imports and the domestic industry, not the effects of the subject imports vis-a-vis nonsubject imports and the domestic industry. To do the latter would be, in essence, to weigh alternative causes of injury, which is not the proper focus under Title VII. Moreover, just as, in her view, the mere presence of subject imports does not constitute evidence supporting an affirmative determination, so too the mere presence of nonsubject imports doe not constitute evidence supporting a negative determination.

standard rails and premium rails sold directly to Class I railroads. Th Commission considered quotes for premium rails independently from quotes standard rails. On balance, as shown below, the record does not support conclusion that either underselling, price depression, or price suppress the subject imports was significant.

There was a general increase in prices throughout the period of investigation. Both Class I railroads and U.S. producers reported that and selling prices for both standard and premium rails generally increas between 1990 and 1992. Similarly, British Steel's reported quotes and s prices increased during the period.[57]

Because of the small number of sales by respondent, we have been a examine in detail the sales of subject imports made during the period of investigation. A significant portion of the imports of premium rails fr United Kingdom were imported for test purposes, or had special circumsta surrounding their sale.[58] Petitioners themselves indicated that the pric test samples is typically lower than the price for a commercial sale.[59] British Steel has had difficulty meeting the qualification requirements several of the railroads, and there is additional record evidence of qua problems with some of the qualified U.K. premium product.[60] There were special circumstances surrounding the sale of one small shipment of the

---

[57] Report at I-44. We did not rely on postpetition price quotes which ma have been affected by this pending investigation.
[58] Hearing transcript at 153-54, Report at I-37.
[59] See, e.g., Report at I-42, Hearing transcript at 125.
[60] E.g., Respondent's posthearing brief at 5. We note that British Steel capacity to produce long length new steel rails required or preferred by railroads is somewhat constrained by the physical layout of its mill and large number of crane lifts needed to process the long length rails. As result of those constraints, British Steel had problems meeting long len orders in 1991 and the first half of 1992. Report at I-35-36.

imported product, in that it was part of a shipment that had been rejecte another purchaser.[61] With regard to the very few sales of qualified premi rails, neither British Steel quotes nor sales prices were consistently be those of other suppliers.[62]

We have also considered the small number of sales of standard rail imported from the United Kingdom that was made during the period of investigation. These sales were all to a single railroad, Burlington Northern. However, the record demonstrates that these sales did not resu significant adverse price effects. The initial quote and sales prices fo these imported standard rails were [***] than those offered by U.S. producers.[63] The prices domestic producers received on their sales of standard rails to this railroad were [***] than the prices they receive sales to other railroads where there was no competition from British Stee [***] the [***] in prices the domestic producers received on sales of standard rails to Burlington Northern between 1990 and 1992 were [***] average, than the [***] they received on sales to other railroads.[64] [***] the domestic producers continued to supply a significant portion Burlington Northern's requirements for standard rails.[65]

Regarding our analysis of price suppression, the record evidence sh that declines between initial quotes and final quotes for both standard a premium rails were not consistently lower when the domestic producers com solely against each other than when they competed with the subject import

---

[61] Report at I-47.
[62] Report at I-45-46. We did not rely on postpetition price quotes which have been affected by this pending investigation.
[63] See Report at I-46, Table 20.
[64] See Report at Appendix F.
[65] Report at I-46, Table 20.

In fact, the railroads were able to negotiate lower final quotes from suppliers even in the absence of any import competition. Also, although co of goods sold as a share of net sales increased from 1989 to 1990, it reced in 1991 to 1989 levels. In interim 1992, the percentage declined again, compared with interim 1991.[66] As this indicator declined in 1991 and 1992, prices nonetheless continued to rise.[67]

We have considered petitioners' argument that U.S. producers follow a "most favored nation" principle in their pricing practices, i.e., that contractual and/or "ethical" obligations require them to offer the same pri to all railroads for the same quantity of product offered.[68] Petitioners assert that, because of low quotes from British Steel, they have been force to lower their quotes to all customers. The record does not support this argument. U.S. producers' prices varied between the railroads and generall increased steadily. U.S. producers' reported quotes and selling prices als increased for all four of the railroads that reported quote information and had purchased subject imports.[69] There is also evidence in the record that

---

[66] Report at I-28.
[67] Commissioner Brunsdale does not believe that short-run changes in the relationship between prices and cost of goods provide evidence about price suppression. The relationship between prices and cost of goods sold can be affected in the short run by a variety of factors in addition to any price effect of dumping. For example, any increase or decrease in output relativ to capacity may lead to changes in this relationship. Since adjusting for t effect of such other factors is not possible, Commissioner Brunsdale does n believe that changes in this relationship can establish the presence or absence of price suppression or depression.
[68] E.g. Petitioners' prehearing brief at 36, Hearing transcript at 54.
[69] Report at I-44.

final purchase prices did not deviate from final quote prices.[70] [71]

D. Impact on the Domestic Industry[72]

In evaluating the impact of subject imports on the domestic industry, we consider relevant the fact that the domestic industry was unable to supply the domestic market, as its premium rail production facilities were producing at nearly full capacity throughout the period of investigation. Domestic producers' sales of premium rails were therefore constrained by existing levels of domestic capacity, and not significantly affected by rising import levels.[73] [74]

In addition, the railroads that purchased premium rails from British Steel also purchased from other foreign producers that are not subject to this investigation, and the prices paid for these other imported rails were not

---

[70] See Questionnaire responses.

[71] Commissioners Rohr and Nuzum conclude that the small number of sales, their relatively isolated circumstances, the relationship between the prices and the industry's cost of goods sold, and the lack of evidence that these sales have affected the price at which any other sales were made or the general price levels in the United States make it impossible to determine that the subject imports have had price depressing or suppressing effects.

[72] Commissioners Rohr and Nuzum do not join in this section of the opinion. Commissioner Rohr's conclusions with regard to the impact of the volume and price of the subject imports are contained respectively in the volume and price section of the opinion. Commissioner Nuzum's analysis is contained in her additional views.

[73] Petitioners allege that there is a separate market for premium rails made up of the "residual demand" after purchasers' preference for non-subject imports, particularly from Japan and Luxembourg, is taken into account. Petitioners' prehearing brief at 74-75. However, we note that the subject imports are manufactured using the same technology, i.e., in-line head hardening, as that used by the Japanese and Luxembourg manufacturers. Moreover, we note that the majority of U.S. purchasers buy from a number of manufacturers, and many wish to maintain alternative supply sources.

[74] Vice Chairman Watson has considered the impact of the subject imports in light of the domestic industry's impressive gains in operating income in the nine month interim 1992 period. He notes that those gains reflect a number of factors, including the surge in rail demand and a decline in manufacturing costs. He also notes the substantial effect that the [* * *]. Report at I-52, Table 7.

significantly above the prices paid for British Steel's rails.

The domestic industry accounts for the vast majority of the marke for standard rails and is unable to meet the demand for premium rails. discussed above, subject imports are not highly substitutable for the d like product and have no adverse effects on domestic prices. In additi presence of nonsubject imports in the market allows purchasers to choos the domestic like product, subject imports, and nonsubject imports. Th supports our conclusion that the impact of subject imports on the domes industry is minimal and does not justify a determination that the domes industry is materially injured by reason of subject imports.

E. Conclusion

Based on the changing patterns of demand in the market for new st rails, the domestic producers' inability to supply the quantity demande premium rails, and our evaluation of the volume and price effects of su imports, and their impact on the domestic industry, we conclude that th domestic industry is not materially injured by reason of the LTFV impor

IV. NO THREAT OF MATERIAL INJURY BY REASON OF LTFV IMPORTS

We further determine that there is no threat of material injury b reason of LTFV imports from the United Kingdom.[75]

---

[75] Under the statute, the Commission is required to consider the followi criteria.

> (I) if a subsidy is involved, such information as may be presente 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.
>
> (II) any increase in production capacity or existing unused capac the exporting country likely to result in a significant increase imports of the merchandise to the United States,
>
> (III) any rapid increase in United States market penetration and (contin

The statute directs us to determine whether an industry in the United States is threatened with material injury by reason of imports "on the basi of evidence that the threat of material injury is real and that actual inju is imminent." Our decision "may not be made on the basis of mere conjectur

---

[75](...continued)

likelihood that the penetration will increase to an injurious level,

(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 (whethe or not it is actually being imported at the time) will be the cause o actual injury,

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

(IX) in any investigation under this title which involves imports of both raw agricultural product (within the meaning of paragraph (4)(E)(iv) and any product processed from such raw agricultural produ 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, includin efforts to develop a derivative or more advanced version of the like product.

19 U.S.C. § 1677(7)(F)(i), as amended by 1988 Act sections 1326(b), 1329.In addition, the Commission must consider whether dumping findings or antidump remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. 19 U.S.C. section 1677(7)(F)(iii), as amended by 1988 Act section 1329.

or supposition."[76] [77]

We have considered all the statutory factors that are relevant to thi investigation. The record does not support the conclusion that existing underutilized capacity will be used to produce rails for the U.S. markets i such quantities as to cause material injury. The U.K. producer's capacity producing all new steel rails remained constant throughout the period of investigation, and there is no evidence that its capacity will increase in near future. Further, we note that U.K. capacity to produce long length rails, which is the length of rail generally sold in the United States, remains high.[78] [79]

Although subject imports from the United Kingdom have increased durin the period of investigation, we do not find that there is a likelihood that the import penetration will increase to an injurious level. As discussed above, the imported premium product has had problems qualifying with some U purchasers. Further, there is no evidence that the import levels of standa

---

[76] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. U.S., 744 F.Supp. 2 287 (CIT 1990), citing American Spring Wire, 8 CIT at 28, 590 F.Supp. at 12

[77] This antidumping investigation does not involve subsidies or agricultural products, any potential for product shifting due to other findings or order under the antidumping or countervailing duty laws, or dumping findings or remedies in third countries.

[78] Report at I-35.

[79] Capacity utilization remained relatively high during the period of investigation. Specifically, capacity utilization for all new steel rails increased from 1989 to 1990, and then declined in 1991 to levels below that for 1989. Capacity utilization also declined in the 1992 interim period. Capacity for producing standard rails was unchanged from 1989 to 1990, decreased from 1990 to 1991, and remained stable in the 1992 interim period Capacity utilization for standard rails increased from 1989 to 1990, and th decreased from 1990 to 1991. Capacity utilization for standard rails also decreased in the 1992 interim period. Capacity for producing premium rails increased from 1990 to 1991, and remained stable in the 1992 interim period Capacity utilization for premium rails increased from 1989 to 1991, and the declined in the 1992 interim period. Report at I-36.

rails, which are currently being purchased by one Class I railroad, will rise to an injurious level.[80] Moreover, we note that, while exports to other countries from the United Kingdom declined irregularly from 1989 to 1991, and declined again in the 1992 interim period, the U.K. manufacturer has achieved some success in establishing new relationships with several European railroads. There is evidence in the record which indicates that British Stee has a significant number of commitments and contractual obligations with EC customers for its standard rails. Those obligations will account for substantial tonnage over the next three years.[81]

We further determine that the record does not support a finding that imports will enter the United States at prices that will have a depressing or suppressing effect on domestic prices. As discussed above, the record does not support a finding of price depression or price suppression by the subject imports, or that this will change in the future.

We are also directed to consider any substantial increase in inventorie in the United States. We note that the importer does not maintain inventorie in the United States because shipments are made in response to specific orders. British Steel's inventories of all new steel rails in the United Kingdom declined irregularly throughout the period of investigation.

We find the domestic industry's development and production efforts are

---

[80] Report at I-46. We note that respondent has only sold standard rails to one U.S. customer, and has not bid on standard rails to others during the period of investigation. Respondent's prehearing brief at 4.

[81] Report at I-37-38. Vice Chairman Watson and Commissioner Brunsdale have noted Respondent's statement that continental Europe has become its most important export market. As noted by Respondent, as of January 1, 1993, all major EC railroads are required by law to implement an open tendering system for their purchases. These new procurement laws will at least broaden Respondent's export opportunities in the near future. Respondent's prehearir Brief at 9-10.

not adversely affected. Indeed, the record indicates that there are spec plans for expansion in the industry. We note that Oregon Steel Mills, In which filed a reorganization plan with the bankruptcy court to take over CF & I, intends to spend $165 million over a five-year period to upgrade steelmaking and rolling capabilities with one of the chief items to be th installation of in-line head-hardening capability in the CF & I mill in Pueblo, CO. Further, on October 28, 1992, Bethlehem approved a program t upgrade its rail products and pipe division, with a primary focus to incr capacity to produce premium rails and to lower unit costs. It is estimat that the planned program will total less than $100 million. Finally, a n rail mini-mill has been proposed to produce head-hardened rail up to 240 long, and is expected to be operating by mid-1994.[82]

Based on our analysis, we find that the domestic industry is not threatened with material injury by reason of the LTFV imports from the Uni Kingdom.

---

[82] Report at I-17-19.

ADDITIONAL VIEWS OF COMMISSIONER JANET A. NUZUM

My analysis of the record in this investigation is generally set fo above in the joint views of the Commission majority. I offer these additi views to provide further insight to my particular interpretation of the in of the subject imports on the condition of the domestic industry.

The conditions of competition in the market for new steel rails are that only rails of similar shape and hardness compete in the most direct s for the same sales. The vast majority of this competition takes place bet qualified suppliers bidding for annual railroad rail requirements. In thi investigation, the subject imports were accounted for entirely by one supplier, British Steel, and the competing domestic products were accounte for by two suppliers, Bethlehem and CF&I. During the period of investigat the subject imports competed with domestic products for only a small numbe sales opportunities involving an even smaller number of purchasers. In th context I closely examined the volume and price effects of the subject imp on the domestic industry as a whole.

British Steel exported both standard and premium tee rail to the Uni States in increasing volumes during the period of investigation. The star rail sales were to one U.S. railroad customer, Burlington Northern.[1] Pric appears to have played some role in this major purchaser's decision to gra portion of its standard rail business to British Steel. I do not find, however, that the loss of some of the Burlington Northern rail requirement a significant adverse effect on the domestic industry's position in the ma as a whole; there is no evidence of a trend of lost sales to other purcha No other railroad began sourcing standard rail from British Steel during t

[1] U.S. producers nevertheless retained a large share of Burlington North standard rail business.

period of investigation. U.S. producers retained a very large share of the overall U.S. market for standard tee rail.[2] As explained more fully in the majority's confidential price effects discussion, there is likewise no apparent "spill-over" onto other purchasers of any adverse price effect.

British Steel sold premium rail to several U.S. purchasers. A portion of these sales were of relatively small volumes and intended for qualificati purposes. It is not unusual for such sales to be offered with some type of price incentive to encourage the purchaser to consider the product.[3] The mer fact that qualifying sales usually involve smaller quantities and are often sold at lower than prevailing market prices does not mean that such sales would never have a significant adverse volume or price effect. In this case, however, I do not find that the number of qualifying sales, the volumes involved, or the prices quoted had such adverse effects. In the case of the very few sales of qualified premium rail, the volumes were again not large ar the record does not reflect a pattern of underselling. Another sale involvec a very small rejected shipment.

Considering the impact of the subject imports, standard and premium rai together, on the domestic industry as a whole, I have taken particular note c the rising trends in performance of the domestic industry since 1990. The fact that these increases came as the subject imports gained market share is not indicative of a causal link between the imports and the condition of the domestic industry. The industry experienced poor financial performance durin most of the period of investigation. I take note, however, that much of the growth in demand has been in premium rail,[4] where the U.S. industry operated

---

[2] Report at I-40, table 17.

[3] Report at I-42.

[4] See Report at 15, table 1.

at full capacity throughout the period.[5] The petitioners have argued that subject imports have impaired the industry's ability to make the investment necessary to meet U.S. demand for premium rail. Such investments have recently been announced, however.[6]

In my view, the record in this investigation lacks sufficient evidence of significant adverse effects on the domestic industry producing new steel rail by reason of the subject imports from the United Kingdom; I am therefore compelled to make a negative determination.

[5] See Report at 24, table 2.

[6] See Report at I-17-19.

DISSENTING VIEWS OF CHAIRMAN NEWQUIST

On the basis of the record developed in this final investigation, I determine that an industry in the United States is materially injured by reason of imports of new steel rails from the United Kingdom that have been found by the Department of Commerce to be sold in the United States at less-than-fair-value ("LTFV").

As I am alone in dissent, I feel obliged to briefly note that this was not a difficult or "close" vote for me. The record in this investigation, a discussed below, is similar to those developed in other investigations where reached affirmative determinations. The basis for my affirmative determination here is wholly consistent with the analysis I have employed in other investigations. Simply, I find there is sufficient evidence that the domestic industry is materially injured and that LTFV imports from the Unite Kingdom are a cause of this injury.

I. LIKE PRODUCT AND THE DOMESTIC INDUSTRY[1]

I concur with the majority that the appropriate like product[2] consists of all carbon and alloy new steel rail, irrespective of shape and hardness.[3] I also adopt the majority's general discussion concerning "premium" and "standard" rail, as well as carbon steel and alloy steel. Finally, I agree

---

[1] Unless otherwise noted, all data discussed herein are derived from the final Commission report in this investigation.

[2] 19 U.S.C. § 1677(10).

[3] This like product definition is consistent with the Commission's like product definition in New Steel Rails from Canada, Invs. Nos. 701-TA-297 and 731-TA-522 (Final), USITC Pub. 2217 (September 1989).

with the majority that the domestic industry consists of two domestic producers of the like product: Steelton Rail Products & Pipes Division Bethlehem Steel Corporation ("Bethlehem") and CF&I Steel Corporation ("

II. CONDITION OF THE DOMESTIC INDUSTRY[4]

Standard and premium tee rails account for substantially all dome carbon and alloy new steel rail production and consumption. Domestic production of standard tee rail far exceeded production of premium tee during the period of the investigation. Domestic consumption of standa rail was significantly greater than consumption of premium tee rail thr the period of the investigation, though the disparity consistently narr As such, though I do consider overall new steel rail data, my injury an causation analyses focus primarily on standard tee rails. I do note, h that petitioners and respondent agree that, to the extent there is a "g area" in the industry, it is in the production of premium tee rail.

Domestic production of all new steel rails declined significantly between 1989-91, increasing modestly between interim 1991 and 1992.[5] D consumption declined between 1989-90, then increased in both 1991 and 1 The domestic industry's share of consumption declined considerably betw 1989-91, increasing inconsequentially in 1992 to a level far below that 1989. Capacity utilization for all steel rails declined between 1989-9

---

[4] Most of the data concerning the condition of the domestic industr business proprietary information. Accordingly, much of my analysis may discussed only in general terms.

[5] Production and capacity utilization data are available only throu September 1992 (the "interim period"). Consumption and shipment data a available for the full year 1992.

again increasing slightly between the interim periods.

Data concerning standard tee rail which, as noted above, represents substantially larger portion of production and consumption than premium t rail, more accurately demonstrate the weakened condition of the domestic industry. Domestic production of standard tee rail declined each year, increasing only between the interim periods. Domestic consumption of sta tee rail dropped precipitously between 1989-90, increasing in 1991 and 19 levels remaining below those in 1989. Domestic share of consumption of standard tee rail declined between 1989-91, increasing somewhat in 1992. Standard tee rail capacity utilization declined markedly between 1989-91, improving modestly between the interim periods.

Most employment data for production and related workers declined irregularly throughout the period, with some marginal improvement in inte 1992. Unit labor costs, however, increased every year except interim 199

The domestic industry lost substantial sums of money on their new s operations between 1989-91, operating in the black only during one period the investigation -- interim 1992. This is true for all measures of profitability. These financial indicators were even more dismal for the domestic industry's standard tee rail operations. Operating losses on standard tee rail during the period were greater than operating losses on new steel rail.

Other measures of economic performance also point to severe problem the domestic industry. Both net and operating return on total assets wer negative throughout the period, except interim 1992. Capital investment the industry declined between 1989-90, increased slightly in 1991, then f off considerably between the interim periods. Research and development

expenditures increased only slightly between 1989-91, then declined betwee the interim periods.[6]

Based on this information, particularly the decline in production of standard tee rail and the petitioners' consistent and profoundly negative financial performance, I determine that the U.S. new steel rail industry i experiencing material injury.

III. MATERIAL INJURY BY REASON OF LTFV IMPORTS

In determining whether the domestic industry is materially injured b reason of the subject imports, the statute requires that the Commission consider:

> (I) the volume of imports of the merchandise which is the subject of the investigation;
>
> (II) the effect of imports of that merchandise on prices in the United States for like products; and
>
> (III) the impact of the imports of such merchandise on domestic producers of like products, but only in the context of production operations in the United States.[7]

In making this determination, the statute permits the Commission to conside "such other factors as are relevant to the determination . . . ," including those within the conditions of competition that are distinctive to the affected industry.[8] The Commission is not required to determine that LTFV imports are "the principal, a substantial or a significant cause of materia

---

[6] The domestic producers alleged that, as a result of their substantial and consistent losses, they were forced to forego, reduce, or delay planned capital investment in expansion of their premium rail operations.

[7] 19 U.S.C. § 1677(7)(B)(i).

[8] 19 U.S.C. §§ 1677(7)(B)(ii), 1677(7)(C).

injury."[9] Rather, a finding that LTFV imports are a cause of material injury is sufficient.[10]

The volume and market share of all imports of new steel rail from the United Kingdom increased significantly during the period of the investigation albeit from relatively low levels. Absolute volume levels increased slightly between 1989-90, jumped tremendously between 1990-91, and continued to increase between 1991-92. The market share captured by the subject imports increased modestly between 1989-90, nearly tripled between 1990-91, and declined marginally between 1991-92.

Particularly striking are the import trends for standard tee rail. Between 1989-91, imports of standard rail from the U.K. increased dramatically, as did the U.K.'s share of domestic consumption of standard rail. Again, this is significant in light of the fact that domestic production of standard tee rail accounts for the bulk of all U.S. rail production, and capacity utilization levels for standard tee rail were flat and declining throughout the period. While imports of standard tee rail from the U.K. declined in 1992, they remained at levels far above those in 1989 and 1990.

Approximately 70% of U.S. purchases of new steel rails are made by Class I railroads, 10% by smaller railroads, and the remaining 20% by transit authorities, distributors and contractors. More than 90% of all purchases are through a quote or bid procedure. In general, Class I railroads request

---

[9] S. Rep. No. 249, 96th Cong., 1st Sess. 57 and 74 (1979).

[10] See, e.g., Metallverken Nederland, B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista S.A. v. United States, 70 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

initial quotes for more than one type of rail for each project. The quo are requested approximately six months before the rail is needed. After reviewing the initial quotes, the railroad typically affords producers a opportunity to submit additional competitive quotes. The producer with lowest quote may not necessarily receive the entire contract, particular that producer cannot satisfy total amount or deliver at the desired time

Accordingly, my analysis of the price effects of the subject impor based upon this established industry purchasing practice. Quote compari between the subject imports and both domestic product and non-subject im reveal that U.K. rails had a depressing effect on prices. The record indicates that price increases for domestic new steel rail have been, at irregular and insignificant. In several instances, the subject imports quoted at prices preemptively below those of the domestic product (as we other non-subject imports). As such, the domestic industry faced a Hobs Choice: significantly reduce the price quoted the purchaser or effectiv forego all or part of a sale. In short, a lose-lose proposition.

In addition, there is some evidence that the domestic industry's p practice is to negotiate a most-favored-purchaser clause in sales contra with Class I railroads.[11] Such a contract clause generally requires that lower quote offered to a purchaser not a party to the particular contrac be offered as well to the purchaser who is a party to the contract.[12] Ev

---

[11] See, e.g., Hearing Transcript at 53-54.

[12] Thus, for example, if a domestic producer competing with LTFV impo for a sale to purchaser "A" offers purchaser "A" a quote which is lower the producer's "contract price" with purchaser "B," the producer would b obligated to offer the same price to purchaser "B," even in the absence competition from LTFV imports for the sale to purchaser "B."

without the most-favored-purchaser clause, however, the record indicates tha purchasers are routinely aware of prices offered by both domestic and foreig producers and, based on such knowledge, often demand the lower price. The available price data supports the conclusion that these purchasing practices driven by the subject imports, have contributed to price depression or suppression.

As yet another indication of price depression or suppression, the domestic industry has been unable to sell its product at prices sufficient t cover costs. For sales of all steel rail, the cost of goods sold (per ton) for domestic producers exceeded net sales (per ton) in every period except interim 1992. The disparity between cost of goods sold and net sales was eve greater for domestic standard rail.

Finally, I am not persuaded by arguments that the domestic industry's generally positive financial performance on their premium rail operations -- the "growth area" in the industry -- militates against an affirmative determination. Quite to the contrary, the domestic industry's inability to turn a profit on overall new steel rail operations, particularly standard tee rail operations, has substantially impeded investment in expanding premium rail capacity, thereby preventing the domestic industry from participating more fully in the premium rail market -- the acknowledged "growth area" and segment with the largest profit margins.

IV. CONCLUSION

For the foregoing reasons, I determine that the domestic new steel rail industry is materially injured by reason of imports of new steel rail from th United Kingdom sold in the United States at less than fair value.

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

Following a preliminary determination by the U.S. Department of Commerce that imports of new steel rails[1] from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value (LTFV), the U.S. International Trade Commission, effective October 14, 1992, instituted investigation No. 731-TA-559 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673(b)) (the act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the Commission's final investigation, and of the public hearing to be held in connection therewith, was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register on November 12, 1992 (57 F.R. 53778).[2] Also on November 12, 1992, Commerce published a notice in the Federal Register (57 F.R. 53692) informing the public that it was postponing the date of its final LTFV determination to no later than February 10, 1993. Therefore, on November 19, 1992, the Commission published a notice in the Federal Register (57 F.R. 54607) revising its schedule for the subject investigation and rescheduling the hearing. The hearing was held in Washington, DC, on February 16, 1993, at which time all interested parties were allowed to present information and data for consideration by the Commission.[3] The Commission's vote in this investigation was held on March 18, 1993.

A summary of the data collected in this investigation is presented in appendix C.

BACKGROUND

This investigation resulted from a petition filed by counsel on behalf of the Steelton Rail Products & Pipe Division of Bethlehem Steel Corporation (Bethlehem), Steelton, PA, and CF&I Steel Corporation (CF&I), Pueblo, CO, on May 1, 1992. The petition alleged that an industry in the United States was being materially injured and threatened with material injury by reason of LTFV imports of new steel rails from Japan, Luxembourg, and the United Kingdom. In response to that petition the Commission instituted investigations Nos. 731-TA-557-559 (Preliminary) under section 733 of the act (19 U.S.C. 1673b(a)) and, on June 15, 1992, determined that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of the subject imports from the United Kingdom. The Commission further determined that there was no reasonable indication that an industry in the

---

[1] The merchandise covered by this investigation is new steel rails, except light rail and girder rail, of other than alloy steel, weighing over 30 kilograms per meter. New steel rails include standard and premium carbon steel tee rail, crane rail, and contact rail (electrical rail), provided for in subheadings 7302.10.10 (statistical reporting numbers 7302.10.1010, 7302.10.1015, 7302.10.1035, 7302.10.1045) and 8548.00.00 of the Harmonized Tariff Schedule of the United States (HTS).

[2] Copies of cited Federal Register notices are presented in app. A.

[3] A list of witnesses who appeared at the Commission's hearing is presented in app. B.

United States was materially injured or threatened with material injury by reason of imports of new steel rails from Japan and Luxembourg.

PREVIOUS COMMISSION INVESTIGATIONS CONCERNING STEEL RAILS

There have been nine previous Commission subsidy and dumping investigations concerning steel rails. In October 1982 the Commission determined, pursuant to section 703(a) of the act (19 U.S.C. § 1671b(a)), that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of steel rails from the Federal Republic of Germany, France, the United Kingdom, and Luxembourg, upon which bounties or grants were alleged to be paid (investigations Nos. 701-TA-191-194 (Preliminary)). The Commission also determined, pursuant to section 733(a) of the act, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports from the Federal Republic of Germany, France, and the United Kingdom of steel rails that were alleged to be sold in the United States at LTFV (investigations Nos. 731-TA-104-106 (Preliminary)).[4] On October 21, 1982, representatives of the U.S. Government and the European Community (EC) concluded agreements with respect to imports into the United States of certain steel products from the EC (U.S.-EC arrangement on steel). The arrangement was predicated upon the withdrawal and termination of all countervailing duty and antidumping petitions, and an undertaking from all petitioners not to file any petitions seeking import relief on the arrangement products during the period in which the arrangement was in effect. Pursuant to the stipulations of the arrangement the petitions were withdrawn and there were no final investigations.[5]

Bethlehem and the United Steelworkers filed a section 201 petition with the Commission on January 24, 1984, which included steel rails. Following the Commission's investigation and recommendations, and after the recommendations of the U.S. Trade Representative, the President denied relief under section 203 of the Trade Act of 1974.[6] Subsequently, rails were included[7] in the voluntary restraint agreements (VRAs), which, having been extended, expired on March 31, 1992.

The most recent subsidy and dumping investigations were filed by Bethlehem on September 26, 1988, alleging that an industry in the United States was materially injured or threatened with material injury by reason of subsidized imports of new steel rails from Canada and sales in the United

---

[4] Steel Rails from the Federal Republic of Germany, France, the United Kingdom, and Luxembourg; investigations Nos. 701-TA-191-194 (Preliminary) and 731-TA-104-106 (Preliminary), USITC Publication 1301, Oct. 1982.

[5] Certain Steel Products from Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, the Netherlands, and the United Kingdom; Termination of Countervailing Duty and Antidumping Investigations (47 F.R. 42603, Oct. 29, 1982).

[6] Executive Communication 4046, H.R. Doc. No. 98-263, 49 F.R. 36814.

[7] Rails from Canada were not included.

States at LTFV. On September 8, 1989, the Commission determined[8] that an industry in the United States was threatened with material injury by reason of imports from Canada of new steel rails.[9] The determinations were affirmed by binational panels under chapter 19 of the U.S.-Canada Free-Trade Agreement.[10]

THE PRODUCT

Description

The imported articles that are the subject of this investigation are new steel rails weighing more than 30 kilograms per meter of length, of carbon, high carbon, or other quality steel, except alloy steel.[11] [12] Excluded from the scope of the investigation are light rails, which weigh 30 kilograms per meter of length or less; girder rails, which are generally imbedded in pavement and are used primarily for trolley transit systems; and rails of alloy steel. Because rails sold in the U.S. market must meet American Railway Engineering Association (AREA) or American Society for Testing Materials (ASTM) standards for chemical composition, hardness, and size/proportional tolerances, the imported and domestic products sold here are essentially similar.[13]

Rails are designed with heads for wheel treads and for guiding wheel flanges, webs for girder strength, and bases for fastening the rail to its support (figure 1). They differ in size, weight, metallurgical composition, and end use. Carbon steel rails are characterized as "standard" or "premium" on the basis of alloy content and hardness. Standard rails are made of carbon steel that has not been heat treated. For purposes of this investigation,

---

[8] Chairman Brunsdale, Vice Chairman Cass, and Commissioner Lodwick dissented.

[9] New Steel Rails from Canada; investigations Nos. 701-TA-297 (Final) and 731-TA-422 (Final), USITC publication 2217, Sept. 1989.

[10] New Steel Rails from Canada; Completion of Panel Review, 55 F.R. 38376 (countervailing decision on remand affirmed); 55 F.R. 41369 (antidumping determination affirmed).

[11] During the preliminary investigations, petitioners included alloy rail in their definition of the domestic like product. By including alloy rail, the petitioners defined like product more broadly than the class of articles subject to investigation. In its preliminary determination, the Commission found the like product to be new steel rails, including standard and premium tee rails, contact rails, crane rails, girder rails, and alloy rails. No party to the final proceeding has challenged the Commission's preliminary determination of "like product" and the final investigation has not resulted in any evidence contrary to that found in the preliminary investigations.

[12] Also included is "industrial" rail, which is new rail that does not meet rail specifications and has been downgraded. It is used as track at industrial sites such as steel mills.

[13] Transcript of the conference (conference TR), p. 10. However, some railroads and other purchasers have stricter requirements than AREA on the quality of steel rails. These railroads believe that the imported and domestic rails are different.

Figure 1
Rail shapes by type

RAILS

Bethlehem steel rails are used to form a continuous runway of track to carry moving wheel loads of railroad rolling stock, overhead and gantry cranes, transit vehicles, and miscellaneous mining and industrial equipment

Rails are designed with a *head* for contact with wheel treads and for guiding wheel flanges, a *web* for girder strength, and a *base* for bearing and for fastening the rail to its support. For various loading conditions, the size and proportion of the head, web and base will vary

The four general types of rail rolled by Bethlehem are

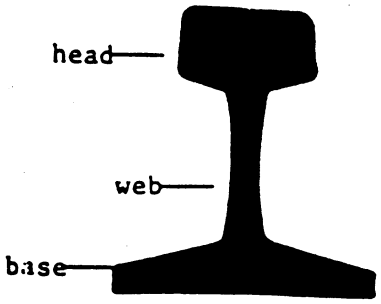
Standard Tee Rails—Rails having a nominal weight greater than 60 lb per yard and having a tee shaped configuration

Crane Rails—Rails with a shorter and thicker web, larger head, and thicker base than tee rails. Crane rails usually carry very heavy, concentrated loads at slow speeds

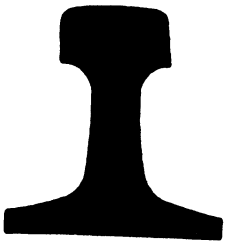
Girder Rails—Rails rolled with a raised lip which provides a channel for a moving wheel flange. Girder rails are generally imbedded in pavement and the lip guards against pavement encroachment

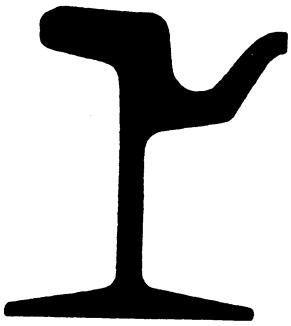
Contact Rails—Rails used to conduct current for electric transit systems. It is important that contact rails have a low electrical resistance

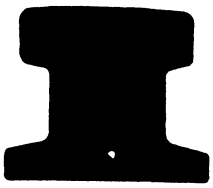
Guard Rails-
The three designs of Bethlehem's Hook-Flange Guard Rail are manufactured from rail sections that are rolled especially for this guard rail. In these sections, one flange is lowered to fit under the base of the running rail. This guard rail can be curved to any desired radius.

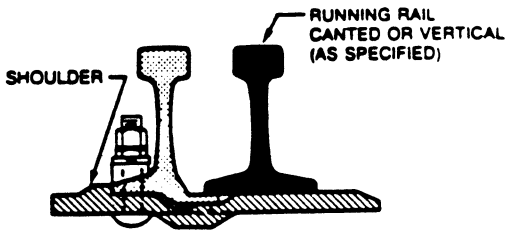


TEE RAIL


CRANE RAIL


GIRDER RAIL


CONTACT RAIL



SECTION AT END PLATES BETWEEN TIES

Source: Bethlehem Steel Corporation

Hook-Flange Guard Rails

premium rails are those made from carbon steel (but not "alloy" steel)[14] that have been heat treated (tempered) for increased hardness.

There are four common rail shapes: tee, crane, girder, and contact (figure 1). Tee rails (so named because they resemble the letter "T") are the most common and are used in mainline track construction. Tee rails generally weigh between 115 and 140 pounds per yard (roughly 57 to 69 kilograms per meter) and are commonly produced in lengths of 78 to 82 feet.[15] Tee rails also are produced in weights down to 85 pounds per yard, although 100 pound-per-yard rail is more common; this size is used for passenger rail lines. Tee rails are produced to AREA standards in both standard and premium qualities, although certain rail lines reportedly tighten AREA standards.[16]

Crane rails are similar in shape to tee rails, with variations in the configuration and dimensions of the head, web, and base. Crane rails are designed to carry heavy concentrated loads at slow speeds, and are produced to ASTM standards in both standard and premium qualities. Their principal use is on crane runways.

Girder rails differ from tee and crane rails in that they are not symmetrical in section. They have a beam-type base and a grooved head from which a flange projects to prevent encroachment by the pavement in which they are usually embedded. Girder rails are generally 60 to 62 feet in length, weigh 128 to 149 pounds per yard, and are produced to ASTM standards.[17] Bethlehem also produces hook-flange girder guard rails in lengths up to 39 feet (standard lengths are generally under 16-1/2 feet).[18] This product resembles a tee rail, but one side of the base is depressed (i.e., lower than the opposite base side) and the flange hooks under the base of the running tee rail (the load-bearing rail). Hook-flange guard rails typically are installed as an assembly in run-out sections of track to a switch or a meeting of two tracks, and the guard rail acts to prevent derailment. Although girder rails were included in the petition, Commerce specifically excluded them from the scope of the investigations at the request of the petitioners, who had not intended to include this product.[19] Data presented by Bethlehem indicated that ***.

Contact rails are defined as electrical apparatus; they are used to conduct electricity, not to bear loads or provide a wheel runway. Hence, contact steel rails' chemistry differs from that of other rails discussed earlier, and contact rails have a lower electrical resistance. Their shape resembles the letter "I," different from that of tee, crane, or girder rails.

---

[14] Alloy steel rails have chromium and molybdenum (alloying agents) added to the carbon steel at the melting stage in order to improve hardness and wearability.

[15] Until the mid-1980s, rails were commonly produced in 39-foot lengths.

[16] Petitioners' prehearing brief, p. 3.

[17] Technical literature attached to questionnaire response of Bethlehem.

[18] ***.

[19] "Notice of Initiation of Antidumping Duty Investigations: New Steel Rails, Except Light Rail and Girder Rail, from Japan, Luxembourg, and the United Kingdom" (57 F.R. 22457, May 28, 1992).

Rails are differentiated further by a number of quality-related criteria, including hardness, chemical composition, and metal cleanliness. Hardness is the principal criterion by which wear may be analyzed--the harder a rail or rail head is, the longer its service life. Hardness may be achieved through metallurgy (e.g., adhering to strict tolerance levels in carbon, molybdenum, chrome-vanadium, or silicon levels) or through a tempering treatment. Cleanliness is a measure of the nonferrous oxide inclusions in the rail, such as silicon or aluminum. Weight, measured by the industry in pounds per yard or kilograms per meter, is a function of the height and thickness of the head, web, and base of a rail. An increase in rail weight provides improved rail properties, such as greater strength and additional headwear. Hardness and cleanliness are to a great extent achieved in the basic steelmaking process, and weight and shape are achieved in rolling operations.[20]

Manufacturing Processes

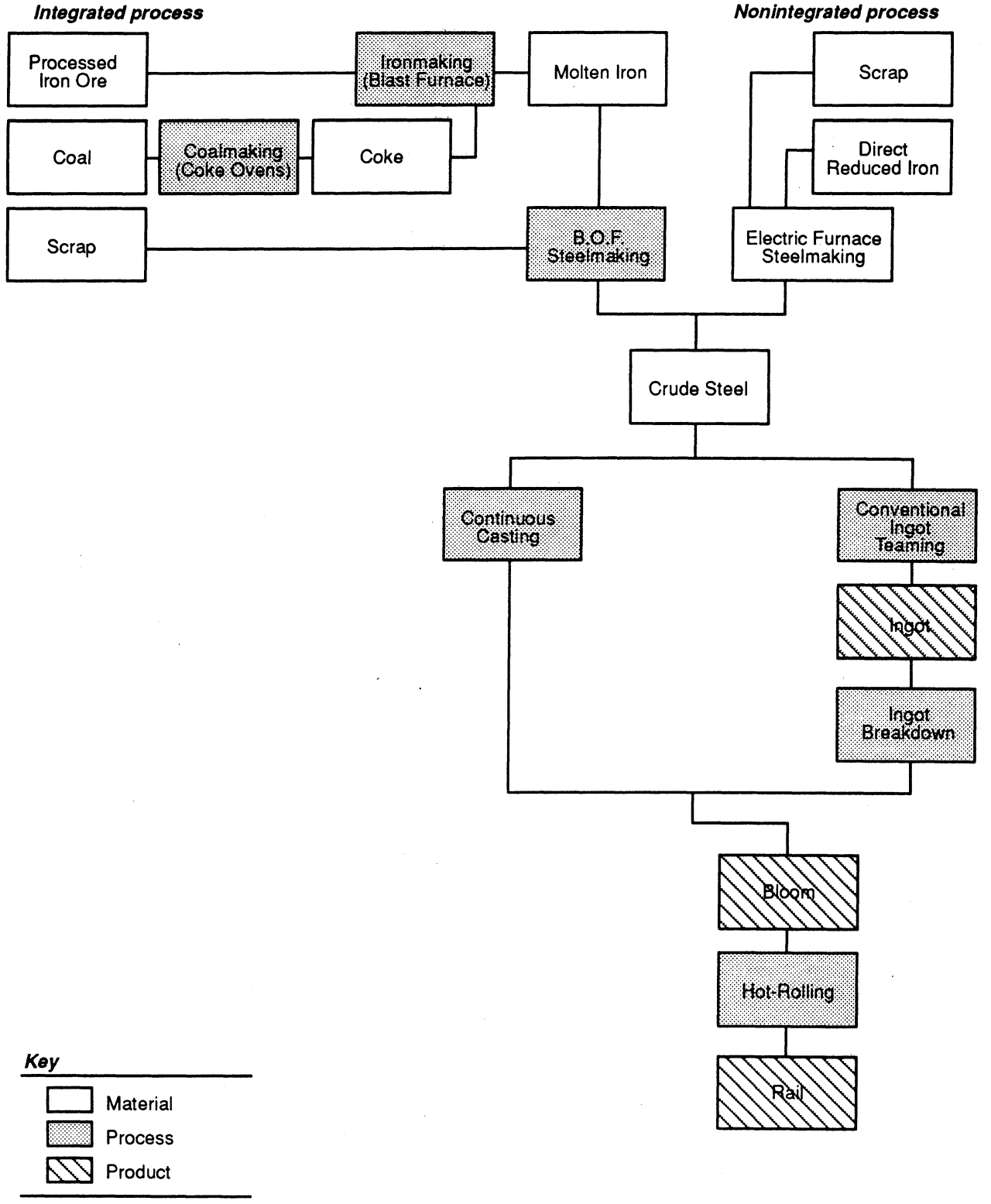
The manufacture of rails begins with the production of steel by either the integrated or nonintegrated process (figure 2). In the nonintegrated process, molten steel is produced by melting scrap in an electric furnace (termed an electric arc furnace (EAF)). In the integrated process, typically, iron ore and coke are smelted in a blast furnace to produce molten iron, which is subsequently poured into a steelmaking furnace, generally a basic oxygen furnace (BOF), together with scrap metal.[21] The hot metal is processed into steel when oxygen is blown into the metal bath. Lime is added to serve as a fluxing agent; it combines with impurities to form a floating layer of slag, which is later removed. Alloyed carbon steels (as well as "alloy steels") are produced by the additions of alloying agents (including chromium, nickel, and molybdenum) to the liquid steel to impart specific properties to finished steel products. After refining, the molten steel is tapped from the furnace into a large refractory-lined ladle, where further refining and deoxidation of the steel occurs. The molten steel is usually stirred with argon or nitrogen gas to promote a homogeneous mixing of additives, to fine-tune the steel chemistry, and to float out additional nonmetallic inclusions. The steel may also be vacuum degassed to rid it of hydrogen, oxygen, and nitrogen, a procedure that requires specialized equipment for maintaining molten steel in a vacuum.

---

[20] The AREA sets the standards for premium, or high strength, and standard grade rails based on the Brinell Hardness Number, a standard measure of hardness. (See app. D for an excerpt from the AREA "Specifications for Steel Rails," 1991 revision). To measure hardness, *** the Vickers Hardness Number, allegedly a more discriminating measure than the Brinell test. Both measures are indentation hardness tests that utilize different types of indenters, and there is a concordance between Brinell Hardness Numbers and Vickers Hardness Numbers.

[21] Both of the U.S. rail producers produce steel in EAFs. The rail producer in the United Kingdom produces steel in a BOF. (Petition, pp. 7, 9, and 12 and Exhibits 10 and 11).

Figure 2
Simplified railmaking flowchart



Source: Adopted from Steel Industry Annual Report, USITC 2436, September 1991.

Once molten steel with the correct properties has been produced, it is cast into a form that can enter the rolling process. Currently, the industry uses two principal methods of casting: ingot teeming and continuous casting. Ingot teeming is the traditional process in which steel is poured into individual molds, allowed to solidify, and then separated from the molds. The steel ingots are then placed in soaking pits where they are heated until they reach a uniform temperature. The reheated ingots are then ready to be processed, or rolled, into semifinished shapes. CF&I uses the ingot-based route for its production of rail. Bethlehem's Steelton facility (which melts steel in an EAF and casts blooms for its production of other types of rail) *** for the production of its contact rails.[22]

Continuous casting, the newer process, bypasses several steps of the conventional ingot-casting process and casts steel directly into semifinished shapes. Molten steel is poured into a reservoir (called a tundish) from which it is released into the molds of the casting machine. As the column of steel descends through the molds, sprays of water cool the cast steel, resulting in solidification. A moving torch cuts the blooms to length, and they may be charged into a soaking pit or directly into the rolling mill. The many benefits derived from this quicker casting method include increased yield, improved product quality, decreased energy consumption, and less pollution.[23] Bethlehem and British Steel continuously cast blooms for their production of rails.

Rails can be made directly from continuous-cast blooms or from blooms rolled from ingots.[24] In either case the rail section is hot formed by passing the product through a series of grooved rollers that progressively and gradually develop the rail into its desired contour and shape. In a typical mill, the bloom is roll-passed 10 to 15 times through a series of roughing, intermediate, and finishing stands. (The total number of passes varies with the equipment used.) After the rail exits the final pass, it is hot sawed to the desired length, cambered, and allowed to cool to 750-1,000 degrees Fahrenheit. It may then be charged into an insulated cooling box and control cooled to 300 degrees Fahrenheit. Control cooling helps eliminate hydrogen gas, which may cause internal fractures or ruptures in the rail. However, the vacuum degassing process (utilized in a ladle metallurgy station prior to casting) removes hydrogen gas from the molten steel and eliminates the need for control cooling. After control cooling for as much as 48 hours, the rail is unloaded from the control-cooling box, straightened by a roller straightener, and inspected by visual and ultrasonic means for surface and

---

[22] Fieldtrip to Bethlehem, Steelton, PA, Dec. 15, 1992.

[23] United States Steel, The Making, Shaping and Treating of Steel, 10th ed. (1985), p. 745.

[24] As railroads demand and producers make the longer length rails, the size and weight of the blooms increase, necessitating heavier materials and increased handling and rolling equipment.

internal defects, respectively. The rail is then sawed to length and inspected for straightness.[25]

The increased use of longer length rail has necessitated some changes in rolling and finishing operations by steelmakers. For example, Bethlehem's modernization program for its Steelton facility in 1986 included lengthening its cooling, inspection, and saw lines to handle 80-foot rails, among other things.

The rails may be heat treated (or tempered) to increase head or overall hardness and to improve wear capability. Because this process increases hardness, it allows the substitution of carbon rail for alloy rail. Heat treatment may involve heating the entire rail in a re-heat furnace (through-hardening), or the head only (head-hardening) by induction heating, followed by accelerated cooling of the heated portion by air quenching or by immersion in oil and/or water. An in-line tempering process, one that is part of the production line, is less costly than off-line tempering because of lower energy and process costs;[26] head-hardening processes are said to be less costly than through-hardening for the same reasons.

The United Kingdom's rail producer, British Steel, possesses an in-line tempering process. By contrast, U.S. producers currently use off-line processes for tempering. CF&I produces a head-hardened rail using an off-line induction heating process, and Bethlehem uses a re-heat furnace and oil quench process to produce a through-hardened rail, although Bethlehem's modernization plans for its Steelton facility include the construction of an in-line head-hardening unit.[27]

Uses

The service demands of a particular installation dictate the type of rail to be used by its purchaser. The principal engineering considerations are the type and wheel loads of the locomotive and cars to be used; the density and speed of traffic; and the physical characteristics of the line (e.g., track alignment, including degree of curvature, track gradients, and ballast conditions). U.S. railroads are upgrading mainlines and sections of mainlines with harder, more durable track in response to heavier axle loads (weights of cars and cargoes) and more frequent traffic along the rail routes.

Standard tee rails generally are considered to be the basic rail of the railroad industry, and are commonly used on main and secondary tangent (straight) rail lines. Most Class I railroads use 136-pound rail on their mainlines, one of the heaviest sections made. The hardness the railroads

---

[25] During the entire railmaking process, various chemical, mechanical, and internal tests are performed to insure the quality of the product. There is an ongoing emphasis by end users on upgrading the quality of purchased rail, so that the specifications of certain Class I railroads have become more restrictive than AREA specifications with respect to hardness, steel cleanliness, and the testing and inspection procedures used by the railmaking companies. (Conference TR, p. 10.)

[26] The term "in-line" is used interchangeably with the term "on-line."

[27] Fieldtrip to Steelton, PA, Dec. 15, 1992.

require has increased,[28] and U.S. railroads are using more heat-treated rail because of its longer useful life in comparison with standard carbon rail. Premium carbon steel rails and alloy rails are used for such heavy service as curves and heavy use lines because they possess greater resistance to stress, abrasion, and weather extremes.[29]

Most track now laid is of continuous-welded rail, and the use of 80-foot continuous-welded rails has largely superseded that of the bolted 39-foot rail sections[30] because of the former's lower installation costs. The railroads weld 80-foot rails together into quarter-mile-long sections of track at their own or contractors' weld plants and transport the strings of rail to the job site on specially designed articulated trains. The use of continuously welded track has helped achieve higher quality levels regarding end straightness, butt-end angles, and metallurgical quality in the section. According to the petitioner, "rail for tangent track is expected to have a life cycle of over one billion gross tons, while rail for curves (normally premium rail) may last 500 million gross tons depending on [the] degree of curves."[31]

Substitute Products

Rails made of alloy steel can be used in the same applications as heat-treated carbon steel rails. Properties imparted to the rail by heat treating, such as hardness, are also imparted by the use of alloy steel.

Relay (used) rails are the primary substitute for new steel rails. The railroads' track replacement programs "cascade" relay rail from current locations to other locations.[32] Before cascading the relay rail, the rail is reconditioned by grinding away imperfections and welding it into quarter-mile sections. Relay rail is graded to determine its capacity to handle traffic (freight density)--the higher the grade, the higher the freight density.

---

[28] Questionnaire response by ***.

[29] ***; fieldtrip to Steelton, PA, Dec. 15, 1992.

[30] Because of demand, long-length rail has largely replaced the production and use of short-length rail in the United States and Europe. Railroads in industrialized countries use long-length rail instead of short-length rail because of reduced cost and better performance; transcript of the hearing (hearing TR), p. 63, and Exhibit 3 of respondent's prehearing brief.

[31] Questionnaire response by ***.

[32] Railroads use most relay rail from their replaced mainline track in side tracks and industrial yards. Some relay rail is made available through distributors for purchase by short-line railroads and other industrial organizations, but the supply of such rail is declining. Thus it is not a significant source of supply for short-line railroads; hearing TR, pp. 105-106.

Although relay rail often is placed on rail lines with lower freight densities, 56 percent of all rail laid in 1991 was relay rail.[33]

U.S. Tariff Treatment

Imports from the United Kingdom of new steel rails are classified for tariff purposes in subheadings 7302.10.10 (tee rails and crane rails) and 8548.00.00 (contact rails) of the HTS. These imports are covered by statistical reporting numbers 7302.10.1010, 7302.10.1015, 7302.10.1035, 7302.10.1045, and 8548.00.0000.

The column 1-general (most-favored-nation) rate of duty for the subject rails, applicable to the imports from the United Kingdom, is 0.3 percent ad valorem for tee and crane rails and 3.9 percent ad valorem for contact rails under the respective subheadings mentioned above.

THE NATURE AND EXTENT OF SALES AT LTFV

On February 19, 1993, Commerce published notice in the Federal Register (58 F.R. 9145) of its final determination of sales at LTFV. It determined that new steel rails from the United Kingdom are being, or are likely to be, sold at LTFV. Commerce found dumping margins of 69.28 percent based on information supplied by British Steel plc, the only British producer/exporter of new steel rails. Commerce compared the U.S. price of new steel rails to the foreign market value of identical or similar new steel rails in the United Kingdom.

Commerce investigated sales during the period December 1, 1991, through May 31, 1992. Commerce examined U.S. sales of new steel rails from the United Kingdom totaling *** short tons with a total value of $***. All sales examined were found to be sold at LTFV.

---

[33] Association of American Railroads, "Railroad Ten-Year Trends," 1991. Relay rail is not a valid substitute for new steel rail in the vast majority of applications. Relay rail may not be suitable in some applications because the capability of handling load requirements is limited, or the rail does not meet AREA specifications. Areas requiring premium rail are unlikely to use relay rail as a substitute, whereas some areas requiring standard rail may use relay rail. However, the substitution of relay rail for applications requiring new standard rail has been declining. Railroad engineering departments decide whether to use relay rails prior to the decision to purchase new steel rails.

THE DOMESTIC MARKET

Apparent U.S. Consumption[34]

Consumption of rail is dependent upon new track programs (or rail line expansion), maintenance, replacement or upgrading of existing roadbeds and lines, changes in track usage (e.g., transportation system changes), and funding for rehabilitation of track. The continuing Class I railroad mergers and/or buyouts with the resulting consolidations and downsizing have reduced the annual demand for new rail consumption since 1980.[35] In addition, the improved, longer life of rails[36] has affected the demand for new steel rails.[37] In the United States and Europe, railway investments have slowed in recent years, and more efficient use is being made of new rails.[38]

---

[34] The Commission received questionnaire responses from the two producers in operation during 1989-Sept. 1992. The U.S. importers' questionnaire response (for product from the United Kingdom) and official import statistics from the U.S. Department of Commerce have been used in the calculation of apparent consumption.

[35] The Staggers Act deregulated the railroads on Oct. 1, 1980, liberalizing processes for abandoning and selling rail lines, and accelerating the spin-off of branch lines and mainline segments of Class I railroads, Railway Age, May 1986. This process continues as shown by declining miles of road and track owned, presented in a tabulation later in the report.

[36] Although the rails produced today have a longer life, the actual wear of rails is caused by the tonnage running over the track, not by time or rust. Rail tonnage has been increasing in recent years, especially in the United States, which may result in increasing demand for new rails for replacement programs; hearing TR, p. 209. Petitioners note that although track usage rates have increased in recent years, the average life of steel rails has increased at an even greater rate, due to increased rail hardness, improved micro-cleanliness of steel, greater use of premium rail, and improved rail maintenance; posthearing brief p. 7 and Exhibit 7; petitioners' responses to requests for information (responses), p. 14.

[37] Petitioners' testified at the hearing that demand for new steel rails is flat and predicted that demand will decline in the future; hearing TR, pp. 59-60 and 93-94. See also Exhibits 5 and 6 of petitioners' prehearing brief. On the other hand, Mr. Burns, a Railroad Industrial Consultant testifying on behalf of British Steel, stated that U.S. rail consumption grew by more than 30 percent in 1992 and predicted that U.S. demand for new steel rails will continue to grow by 8 to 10 percent in 1993 and years beyond; hearing TR, pp. 162-164. See also Exhibit 3 and Appendix C and D of respondent's prehearing brief and Exhibit 19 of their posthearing brief. Petitioners argue that these estimates are grossly overstated and fail to take into account the dynamic nature of the rail market and improvements in the rails in recent years; posthearing brief, p. 7; responses, pp. 13-14.

[38] Respondents testified at the hearing that British Steel is expanding its presence in the European market because of three factors, the effect of which will be to increase sales of new steel rail. One of these factors is a comprehensive EC-wide program calling for the construction of 9,000 kilometers of new high-speed rail lines and the upgrading of 15,000 kilometers of existing rail lines. To what extent and how fast the program will be implemented is unknown at this time; hearing TR, pp. 160-161.

Demand for new steel rails is directly related to the replacement of primary track for a railroad or a transit authority. The railroads' civil engineers regularly inspect the track to determine how much track needs to be upgraded. The amount of maintenance a railroad performs during a year depends upon track condition and the revenues of the railroad; if revenues go down, the budget for rail maintenance and rail purchases goes down. Thus, when revenues are limited, maintenance can be curtailed or deferred, concentrating only on critical areas of track. In situations where track replacement does not require new rail, the decision to use new rail depends, in part, upon several factors, including reducing the speeds and loads of trains transiting that section of track, the availability of good used rail, the revenues of a railroad, the budget allocated for rail maintenance, and the portion of the rail maintenance budget allocated for rail purchases. Railroads have a track program and a capital-budgeting process that imparts a seasonality to their purchases; they tend to conclude purchases in the third and fourth quarters for delivery in the first and second quarters of the following year, and for installation (primarily due to welding schedules) during March-September.

Data on apparent U.S. consumption of new steel rails are presented in table 1.[39] The table presents consumption of standard tee rails, premium tee rails, all other rails (i.e., crane, girder, contact, alloy, and industrial rails), and total consumption of all new steel rails.

Table 1
New steel rails: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, by products, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Total apparent U.S. consumption of new steel rails (on the basis of quantity) *** during 1989-91, from *** short tons in 1989 to *** short tons in 1991. During January-September 1991-92, total consumption *** short tons to *** short tons, or by *** percent.[40] Standard rail consumption also ***

---

[39] The data presented in the report include both nonalloy and alloy tee rails, as well as crane, girder, contact, and industrial rails. (Alloy and girder rails are excluded from Commerce's scope of investigation but are included here for purposes of calculation of consumption since the Commission determined that they were part of the like product in the preliminary investigations).

[40] Petitioners characterize the increase in consumption of new steel rails in interim 1992 as a one-time event, an out-of-trend increase in purchases of new rail for delivery during interim 1992 as a result of the railroads' catching up on deferred replacement programs. Petitioners do not expect the 1992 trend to continue in 1993; responses, p. 19. Respondent views the interim increase as part of a regular 25-year cycle for the replacement of rail based on the average life of the rail; they predict rail sales will continue to increase for several more years. See also respondent's posthearing brief, Exhibit 19.

during 1989-91, from *** short tons in 1989 to *** short tons in 1991. Such consumption *** percent during January-September 1992 as compared to the corresponding period in 1991. Premium rail consumption followed a different trend, *** between 1989 and 1991. Such consumption *** short tons in 1989 to *** short tons in 1991, or by *** percent. Apparent U.S. consumption of premium steel rails also *** in interim 1992, from *** short tons in January-September 1991 to *** short tons in the corresponding period of 1992. Consumption of premium rails relative to that of standard rails *** percent in 1989 to *** percent in 1991, and *** percent in January-September 1991 to *** percent in interim 1992.

Consumption of all other rails *** short tons in 1989 to *** short tons in 1991, or by *** percent. Such consumption continued to *** in interim 1992, *** percent between interim 1991 and interim 1992.

U.S. Producers

There are currently two U.S. producers of new steel rails: Bethlehem and CF&I. Bethlehem[41] produces steel rails[42] at its Steelton, PA, plant.[43] The Steelton facility was built in the 1860s, but the company has modernized the plant many times.[44] It eliminated the blast furnaces and coke ovens in 1960 by moving to a cold-charge, scrap and iron open-hearth operation. Three EAFs were installed during 1968-69, eliminating the open hearth; ladle metallurgy capability, allowing improved temperature and alloy control and lance stirring, was added in 1982; and a three-strand continuous bloom caster was added in 1983. Various improvements were made to the rail-finishing equipment as well: Bethlehem installed a roller-straightener in 1978, ultrasonic testing (to confirm the internal quality of the rail in nondestructive ways), and other inspection equipment. Bethlehem began producing "double-length" rail (80 feet) in 1986. During 1984-89, heat-treating capacity to produce a through-hardened rail was doubled.

---

[41] Bethlehem's total annual raw steel production capacity was 16 million tons at 5 facilities during 1989-91. Bethlehem has discontinued its Bar, Rod and Wire Division and has announced its plans to cease its iron and steelmaking operations at its Structural Products Division over the next several years. These actions are expected to reduce Bethlehem's raw steel capacity by approximately 10 to 20 percent. Bethlehem intends to sell its dormant Bar, Rod and Wire Division to Ispat Mexicana of Indonesia. Ispat will acquire steel bar and rod facilities in Johnstown, PA; Sparrows Point, MD; and Lackawanna, NY.

[42] Bethlehem produces standard and premium tee rails (used by freight and passenger railroads), contact rails (used by transit authorities as a conductor), crane rails (used for crane runways) and girder guard rails (used in the manufacture of hook-flange guard rails). It does not produce alloy steel rails.

[43] Bethlehem closed its rail mill at Lackawanna, NY, in 1977.

[44] The Rail Products and Pipe Division in Steelton includes 3 EAFs with a combined annual raw steel production capacity of 1.3 million tons. The primary (raw steelmaking) capacity for all products at Steelton is *** tons; capacity to produce new steel rails in 1991 was *** tons, which was limited by the mill's rolling and finishing capabilities.

Bethlehem produces an 80-foot (and shorter lengths) standard and premium through-hardened carbon steel rail.[45] The company has explored several processes that would allow it to go to an on-line hardening process to supplement or replace the through-hardening process. It is the only facility in the United States that rolls girder rails or girder guard rails. For several years Bethlehem considered a modernization program which included replacing its AC-based EAF with two DC-based EAFs, installing vacuum degassing, making improvements to the ladle metallurgy station, and the rolling, straightening, and inspection stations, and linking systems through automation. The primary focus of the program was to increase capacity to produce premium rails and to lower unit costs.[46] On October 28, 1992, Bethlehem approved a program to upgrade its Rail Products and Pipe Division, incorporating the elements described earlier as well as the installation of in-line head-hardening capabilities.[47] It is estimated that the planned program cost would total less than $100 million.[48] Construction will begin in the first quarter of 1993. Start-up of the new steelmaking facilities is scheduled to begin in March 1994, with commercial operations beginning in July 1994.[49]

Bethlehem entered into a labor agreement with the United Steelworkers of America in 1989 to increase productivity and reduce costs. In 1992, Bethlehem entered into a new competitive labor agreement with the union that provides more far-reaching provisions concerning flexibility in work systems, cooperation to increase productivity, reorganization of the workforce, and joint worker and mill management attention to enhancing product competitiveness.[50]

CF&I produces standard and premium carbon steel rails, and alloy steel rails at its plant in Pueblo, CO.[51] The company was incorporated on January 11, 1872, as the Central Colorado Improvement Co. Like Bethlehem, its steelmaking is EAF-based, but its rails are produced from ingots (Bethlehem

---

[45] Bethlehem's through-hardened rails meet the specifications of all Class I railroads except Union Pacific; questionnaire response and petitioners' prehearing brief, p. 36. Through-hardened rails may be preferred to other types of premium rail for certain low-temperature applications.

[46] ***; responses, p. 6.

[47] Press release, Bethlehem Steel, Oct. 27, 1992, and hearing TR, pp. 19-22.

[48] Mr. Futchko testified at the hearing that the cost for the technology and equipment necessary for the planned modernization is between $35 million and $40 million. The cost of installing a new 150-ton DC furnace, a new ladle arc refining furnace, and a vacuum degasser is about $40 million; hearing TR, p. 20. According to Mr. Futchko, the ability of Bethlehem to receive an acceptable return on this investment depends on correcting the depressed selling prices of new steel rails primarily caused by the LTFV sales of British Steel; hearing TR, pp. 20-21 and 24-29. ***; responses, pp. 9-11.

[49] Hearing TR, p. 20.

[50] Hearing TR, p. 23 and pp. 30-40.

[51] CF&I is the only U.S. producer of alloy (chromium-molybdenum) steel rails ("Cromorail") for high performance on curves and other areas of heavy use. It does not produce contact rails, crane rails, or girder rails.

casts blooms) and rolled on a universal mill.[52] The company has retrenched operations since 1983, decreasing steel melt capacity by more than 50 percent while retiring four blast furnaces, a coke battery, and two BOFs. Peripheral holdings such as land, water, and coal mining rights were sold, and product lines outside the rail niche were reduced or discontinued. CF&I has modernized by adding capacity to its two 150-ton EAFs,[53] a ladle treatment center and argon stirring (allowing accurate control of chemistry, deoxidation, temperature, and desulfurization), and a continuous caster currently used to produce semifinished products for pipe and wire rod. CF&I plans to replace its ingot-sourced product with a continuous-cast round shape.[54] Earlier improvements to the rolling and finishing equipment allowed the company to become one of the first in North America to produce long-length 80-foot rails. These included a computer-controlled 45-inch blooming mill, 36-inch breakdown mill, intermediate roller, controlled cooling boxes, roller straightener, and new enders and drills. CF&I completed the installation of a rail-hardening facility in 1986 that has the capacity to produce 30,000 tons of off-line head-hardened AREA rail per year.[55] Despite these efforts to modernize, CF&I filed for protection under Chapter 11 of the Bankruptcy Code on November 7, 1990. The principal reasons for the Chapter 11 filing were the company's pension plan obligation, which was underfunded by an estimated $145 million,[56] and health insurance costs.[57]

Oregon Steel Mills, Inc. (a Portland-based plate producer) filed a reorganization plan with the bankruptcy court[58] to take over CF&I and to spend $165 million over a 5-year period to upgrade its steelmaking and rolling capabilities with one of the chief items to be the installation of in-line head-hardening in CF&I's mill in Pueblo, CO. Reportedly, Oregon Steel first plans to upgrade the steelmaking, which includes the installation of an ultra-

---

[52] The rail mill was renovated and upgraded in a $60 million modernization in 1979 and has a capacity of *** tons per year. The rail mill modernization was the single largest capital improvement program ever carried out at CF&I; hearing TR, pp. 41-42.

[53] The two furnaces now have a raw steelmaking capacity of up to 1 million tons per year, operating on scrap iron and steel generated in the Rocky Mountain area. Brokers supply 75 percent of the scrap needed and CF&I's four subsidiary metal companies supply the remainder.

[54] CF&I also plans to purchase vacuum degassing equipment, install another ladle treatment station, modify the continuous caster, and install on-line heat treatment. Such improvements are estimated to cost approximately $80 million.

[55] Pueblo Railroad Service Co., in Pueblo, CO, was established by CF&I in 1989 to provide rail welding on new and used rail and other services to railroad customers. Welding services have been provided to such concerns as Santa Fe, Southern Pacific, Union Pacific, and the Denver and Rio Grande Western railroads. The Colorado & Wyoming Railway Co., in Pueblo and Trinidad, CO, also provides railroad services to CF&I and other customers.

[56] The Pension Benefit Guaranty Corp. assumed CF&I's pension plan in 1992; however the liability was $270 million, nearly double the level estimated by CF&I.

[57] According to CF&I, due to current market conditions, the company has ***.

[58] The bankruptcy court approved the plan on Jan. 27, 1993.

high-powered electric furnace, a ladle furnace, vacuum degasser, and a continuous bloom caster.[59]

A new rail mini-mill, Stafford Railsteel Corp., has been proposed to produce head-hardened rail up to 240 feet long (three times the current normal length) and is expected to be operating by mid-1994. The mill is expected to have a total annual steelmaking capacity of 450,000 tons. The intent is to create a highly efficient operation capable of producing up to 125 tons per hour of head-hardened rail.[60]

There have been several plant closings in recent years. The most recent was Wheeling-Pittsburgh's (W-P), Monessen, PA, decision to cease production of rails in December 1986. W-P's shipments stopped in April 1987, about 2 years after it entered bankruptcy proceedings. Following W-P's bankruptcy petition, ownership of the rail rolling mill in Monessen was returned to the Economic Development Administration (EDA), a part of Commerce, which had guaranteed construction bonds of about $100 million to build the mill. Bethlehem purchased this part of the facility for $20 million at yearend 1988, but has never operated the rail-rolling mill.[61]

Steel of West Virginia also produces rails. It started operations in the third quarter of 1982 and produces light rails (i.e., weighing less than 60 pounds per yard) for the mining and quarrying industries.

U.S. Importers

British Steel, Inc. is the only importer into the United States of new steel rails from the United Kingdom. ***.

Channels of Distribution

In the U.S. market, sales of new steel rails by U.S. producers and importers are primarily made to end users. The largest end-user market for domestically produced steel rails (80 percent) is the rail transportation

---

[59] American Metal Market, Oct. 19, 1992. The closing on the Oregon Steel purchase was finalized on Mar. 3, 1993 (telephone conversation with ***, Mar. 3, 1993). The timetable for acquiring the new technology and equipment to implement the plan calls for the new facility to be on stream in 36 months, but the new DC electric furnace and an additional ladle refining station are scheduled to be on stream in about 15 months; hearing TR, p. 43.

[60] According to Richard J. Stafford III, "What makes it right to build a new rail steel mill at this time is a combination of two factors: the market has shrunk to typical mini-mill size of some 500,000 tons per year and (the) increasing needs of the railroads to have a domestic source of premium quality long-wearing rail product." American Metal Market, Oct. 20, 1992. I-19

[61] Bethlehem has announced that it will begin actively seeking buyers abroad for the rolling mill equipment at Monessen.

industry,[62] mainly for maintenance. Most rails consumed domestically are for the replacement, or upgrading, of worn track. ***. U.S. producers sell primarily to ***.

Rail consumers are increasing their demand for high-quality rail; consequently, there is an increased use of head-hardened or through-hardened (premium) rail for mainline use. Mr. Marshall (CF&I) testified at the hearing that U.S. production of premium rail has been constrained due to lack of capital for investment, and that total U.S. capacity to produce premium rail is not enough to supply the current demand.[63] However, with the previously discussed capital investments, the two U.S. producers will be more than able to supply the total premium rail market in the United States in the future.[64] Counsel for British Steel argued at the hearing that there is not sufficient domestic capacity to supply the market demand for premium rail in the time frame needed by the purchaser.[65]

Before buying, railroads measure the speed, the degree of curvature, and the gross tonnage on a particular section of railroad and determine, based on the pricing differential between standard rail and premium rail, the most

---

[62] At the request of the Commission during the preliminary investigations, Bethlehem provided information on Class I, regional, and other types of railroads (based on Association of American Railroads (AAR) data). The AAR classifies those freight-hauling systems with annual operating revenues of at least $94.4 million as Class I railroads. AAR identified 14 Class I railroads, 30 regional railroads, 285 local linehaul railroads, and 160 switching and terminal railroads. The Class I railroads are: Atchison, Topeka and Santa Fe Railway Co.; Burlington Northern Railway Co.; Chicago and North Western Transportation Co.; CSX Transportation; Consolidated Rail Corp. (Conrail); Denver and Rio Grande Western Railroad; Florida East Coast Railway; Grand Trunk Western Railroad Corp.; Illinois Central Gulf Railroad; Kansas City Southern Railway; Norfolk Southern Corp.; C&P Rail (Soo Line); Southern Pacific/DRGW Companies; and Union Pacific Railway. Class I railroads accounted for 91 percent of freight revenue in 1991.

[63] ***; responses, p. 2.

[64] Hearing TR, p. 74. It is estimated that the new in-line technology will give the U.S. industry the capability to produce *** tons of premium rail annually. Counsel for the U.S. producers argued that although they are not able to currently supply total U.S. demand for premium rail, they do have sufficient capacity to supply the "residual demand" created by certain Class I railroads' preference for in-line premium rail from Japan and Luxembourg; hearing TR, p. 75 and pp. 197-198; responses, pp. 4-5.

[65] Dr. Button, Vice President of Economic Consulting Services, testifying on behalf of British Steel, stated that, especially in the key months of the railroad program year, the domestic industry has no spare premium rail capacity; hearing TR, p. 171.

cost-effective application of standard or premium rail.[66] Within the steel rail industry there are significant differences in customer perceptions of standard and premium rail,[67] and other rails, as well as differences in the marketing and distribution of such rails.[68] In general, premium and standard rails are sold directly by the rail producers to Class I railroads, to rail contractors, to transit districts, and to distributors for resale to short line and regional railroads (as mentioned earlier in the report, British Steel plc sells rail to the railroad lines through its sales agent in the United States), whereas crane and contact rails tend to be sold through distributors who, in turn, sell to port authorities and warehouses. Class I railroads generally do not purcahse relay rail for use in mainline track. Instead, such rail tends to be taken up and relaid on less used sections within the same railroad[69] or sold to a distributor for resale.[70] Class I railroads prefer to maintain input into the production and quality control processes, which is only possible at a producer's facility.

Sales are made through a bidding process by both the railroads and the municipal transit authorities. Both systems utilize prequalification requirements in terms of material specifications, origin of manufacture, and bidder; some distributors may also be asked to bid. Generally quotes are made with a specific price for a specified quantity and shipment schedule on a delivered basis (or f.o.b. producer's facility with a freight allowance

---

[66] Purchasers' questionnaires and hearing TR, pp. 44-45. Mr. Meares testified at the hearing that the Engineering Department of the Santa Fe Railroad determined how many tons of standard and premium rail it required for its rail replacement program for the following year. It was the responsibility of the Engineering Department to make the cost/benefit analysis of the amount of each type to be purchased, based on its evaluation of wear rates on curves versus tangent track under the traffic conditions of the various segments of its railroad; hearing TR, pp. 54-55.

[67] CSX, a major U.S. purchaser of steel rails, testified at the conference in the preliminary investigations (and in its postconference brief) that premium rails and standard rails are neither interchangeable with nor substitutable for each other. Rather, they are separate, discrete products used for different applications (standard rails are normally chosen by its engineering department for low-wear sections of track, whereas premium rail is chosen for high-wear applications of track, including high curvature sections of track or lines carrying high volumes of trains and high tonnages); conference TR, pp. 100-101 and postconference brief, pp. 2-3.

[68] Railroads prefer to purchase from sources geographically close to them and to source from more than one supplier; purchasers' questionnaires.

[69] During the last 2 to 3 years there has been no relay rail available from U.S. producers that could be used by the Class I railroads; fieldtrip conversation with ***.

[70] Hearing TR, p. 105.

factored into the quote).[71] The Class I railroads request written and verbal bids directly from producers and some distributors, and negotiate directly with the most competitive bidder that can meet quality requirements and the delivery schedules of the railroads following submission of the bids.

The majority of rail is purchased in the third quarter of the year for delivery in the first and second quarters of the next calendar year.[72] Each purchaser's delivery time depends on the project's (welding) work schedule and the seasonal nature of rail laying. Municipal transit authorities normally conduct open bids with material specifications, service, and price as determinants for preselection.[73] In addition, municipal governments and transit authorities may have "Buy American" provisions that either eliminate foreign sourcing altogether or specify that the foreign source must be at least 10 to 25 percent, or more, lower in cost than the lowest available bid by a domestic producer.[74] Recent trends in the transit authority sector indicate that Federal funds have increased and transit procurements are predicted to be an opportunity for growth in the coming years.

The railroads are heavily dependent upon hauling bulk commodities, such as coal,[75] steel, chemicals, automobiles, and grains. Congress passed legislation limiting the use of the Nation's highways by longer combination vehicles (LCVs),[76] and a special board was appointed in April 1991 to settle a

---

[71] According to most purchaser questionnaire responses, two of the most important factors considered by Class I railroads when selecting a vendor are the quality of the product (i.e., the ability of the rail to meet its specifications, which include such factors as head hardness, ability to withstand heavy tonnage, longevity, and maintenance requirements) and the ability to satisfy the railroad's delivery requirements to meet the work schedule. The railroads ensure continuous supply and reduce inventory requirements by affording suppliers long lead-times and by obtaining multiple sources of supply; petitioners' posthearing brief, p. 3.

[72] During the second and third quarters of the year preceding the rail replacement program year, the railroads' engineering and maintenance departments put their budgets together in terms of rail requirements for both standard and premium rail.

[73] Suppliers that meet these specifications are then asked to submit a sealed bid.

[74] Telephone conversations with several importers and purchasers of steel rails during the preliminary investigations confirmed that very little imported product is sold to the transit authorities because of the "Buy American" policies of Federal and State Governments.

[75] The transporting of low-sulfur coal is seen as a growth commodity in the 1990s, "1992 Outlook--A record year for rails?," Railway Age, Dec. 1991, pp. 27-33. Coal is the industry's leading commodity, comprising about 41 percent of total railroad tonnage in 1990.

[76] This benefited the railways by preventing large losses of high-rated traffic and allowing the growth of rail intermodal, "Midyear report: Is the worst over?," Railway Age, July 1991; and "1992 outlook: A record year for rails?," Railway Age, Dec. 1991. Norfolk Southern and Conrail have announced plans to combine their truck-train intermodal services in a subsidiary to regain business in the Northeast, Southeast, and Midwest currently supplied by trucking companies. The plan is designed to compete not only with over-the-road trucking operations, but also with growing truck-rail partnerships.

3-year dispute between rail labor and management. The resulting contract should lead to future gains in productivity. The railroads will likely focus their efforts in 1992 upon matters like the Federal Employers' Liability Act, the Railroad Retirement System, and other laws unique to railroads.[77] Also, as the U.S. economy emerges from the recession, demand for rail will increase as railroads make up for rail purchases deferred in lean years. This is reflected in the 1993 demand projections of U.S. railroads, which reflect improved financial performance in 1993.[78]

Purchases of new rail are made pursuant to capital expansion programs and/or track maintenance programs (which are tied to the amount of tonnage moving over the tracks). The 263,000-pound weight-on-rail limit is no longer valid. Loads are going to 286,000 pounds and will probably go higher.[79] Today's rails are sustaining greater tonnages mainly due to the longer service life of hardened rail and alloy rail. Railroad maintenance programs, particularly in-place head grinding and wheel flange and track lubrication, also contribute to increased service life. The following tabulation presents data on miles of road and track owned on December 31 of the specified years, as well as the tons of new rail laid by Class I railroads during 1986-91:

Year	Miles of road owned[1]	Miles of track owned[2]	Tons of new rail laid	Tons of relay rail laid
1986	140,061	233,205	456,066	681,660
1987	132,220	220,518	377,282	661,238
1988	127,555	213,669	357,371	520,477
1989	124,236	208,322	348,186	407,209
1990	119,758	200,074	338,867	461,767
1991	116,626	196,081	299,385	384,041

[1] Miles of road owned represents the aggregate length of roadway, excluding yard tracks, sidings, and parallel lines. The decline in miles of road and track owned in recent years reflects the many "lost" Class I railroad miles that have been sold to non-Class I railroads.

[2] Miles of track owned differs from miles of road owned in that it includes multiple main tracks, yard tracks, and sidings.

Source: American Association of Railroads, Railroad Facts, 1991 and 1991 Railway Progress Institute; telephone conversation with *** of Railway Progress Institute, Jan. 20, 1993.

CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

The data appearing in this section of the report are for the two rail mills that provided information in response to the Commission's producer

[77] Railway Age, Dec. 1991.
[78] Respondent's posthearing brief, pp. 2-3 and Exhibit 19.
[79] Railway Age, Mar. 1992.

questionnaires.[80] Bethlehem and CF&I were the only U.S. mills producing new steel rails, over 30 kilograms per meter, between January 1989 and September 1992.

U.S. Capacity, Production, and Capacity Utilization

The Commission requested U.S. producers to provide data on their full production capability[81] to produce all steel rail products, standard tee rails, premium tee rails, crane rails, girder rails, industrial rails, contact rails,[82] and alloy rails, for 1989-91, January-September 1991, and January-September 1992. These data are presented in table 2.[83]

Table 2
New steel rails: U.S. capacity, production, and capacity utilization, by products, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Total steel rail end-of-period capacity *** percent during 1989-91, *** from *** short tons to *** short tons. The January-September interim figures show *** in capacity of *** percent in 1992 over the corresponding period in 1991. Bethlehem reported that its end-of-period capacity to produce steel rails *** throughout the period of investigation, while CF&I's reported annual capacity to produce steel rails was *** short tons.[84] Both firms reported operating ***.[85]

The mills' standard rail end-of-period capacity utilization *** percent in 1989 to *** percent in 1991. Such capacity utilization then *** percent in interim 1991. Premium rail capacity utilization *** during 1989-91, *** percent in 1989 to *** percent in 1991. Such capacity utilization *** percent in January-September 1991 to *** percent in the corresponding period of 1992.

---

[80] Data include both nonalloy and alloy rails, as well as girder rails.

[81] Full production capability was defined as the maximum level of production that the plant could reasonably expect to attain under normal operating conditions.

[82] ***.

[83] Monthly capacity, production, and capacity utilization data for 1991 are presented in appendix C.

[84] CF&I's capacity to produce standard rail *** short tons in interim 1992 and its capacity to produce premium rail *** short tons.

[85] It is recognized that the reported capacity for each mill is an average for the year and that the rolling mills operate at higher levels in the fourth quarter and peak in the first quarter of the year. Timothy Demma (Bethlehem) testified at the conference in the preliminary investigations that during the heavy demand period, the first quarter in particular, they will frequently run at or near the capacity of the rolling mill. Operations taper off in the second quarter and during the third quarter there may be periods that the mill is rolling rail just for heat treating; conference TR, pp. 71-73.

U.S. Producers' Shipments

Total U.S. shipments[86] of U.S. rail mills (based on quantity) *** during 1989-91, *** short tons in 1989 to *** short tons in 1991 (table 3). Total U.S. shipments *** percent in interim 1992, *** short tons in January-September 1991 to *** short tons in the corresponding period of 1992.[87] U.S. producers' shipments of standard rails *** percent during 1989-91 and then *** percent during interim 1992 compared to the corresponding period in 1991. Shipments of premium rails *** short tons in 1989 to *** short tons in 1991. Such shipments *** percent between January-September 1991 and January-September 1992. Bethlehem and CF&I shipped *** short tons of rails in 1991, of which *** percent was premium head-hardened or through-hardened rail.

Table 3
New steel rails: Shipments by U.S. producers, by products and by types, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

The unit value of standard rails *** throughout the period, from $*** per short ton in 1989 to $*** per short ton in January-September 1992. The unit value of premium rails *** during 1989-91, *** per short ton in 1989 to $*** per short tons in 1991. Such unit values *** per short ton in interim 1991 to $*** per short ton in the corresponding period of 1992.

* * * * * * *

U.S. Producers' Inventories

Rail mills produce steel rails upon receipt of an order and consequently maintain little or no finished goods inventories. At times the mills produce small production overruns or accumulate industrial rails, which may be sold to distributors or held until an order is received. The following tabulation presents U.S. new steel rail inventories[88] based on questionnaire responses:

[86] U.S. shipments equal company transfers plus domestic shipments.

[87] Shipments are typically concentrated in the fourth, first, and second quarters, with both production and shipments peaking in the first quarter.

[88] With the exception of *** inventories of steel rails.

Date	Inventories (short tons)	Ratio to domestic shipments (percent)
December 31--		
1989	***	***
1990	***	***
1991	***	***
September 30--		
1991	***	***[1]
1992	***	***[1]

[1] Based on annualized shipments.

U.S. Employment, Wages, Compensation, and Productivity

Table 4 presents data collected in the Commission's producer questionnaires. In the preliminary investigations, U.S. producers stated that they were unable to separate workers by the type of new steel rail produced because most of the workers were involved in producing all new steel rails. Therefore, in the final investigation the Commission requested employment data for all new steel rails combined. Both firms are represented by the United Steelworkers of America.

Table 4
Average number of production and related workers in U.S. establishments wherein new steel rails are produced, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, by products, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

The number of production and related workers (PRWs) producing new steel rails *** during 1989-91, *** PRWs in 1989 to *** PRWs in 1991. The number of PRWs *** from January-September 1991 to January-September 1992. The number of hours worked by PRWs *** during 1989-91 and *** in interim 1992 compared with the same period a year earlier.

Wages paid to PRWs *** during 1989-91 (by *** percent) and by *** percent from January-September 1991 to January-September 1992. Total compensation paid to PRWs *** during 1989-91, and then *** percent between January-September 1991 and January-September 1992. Average hourly wages *** per hour in 1989 to $*** per hour in 1991. Interim hourly wages *** per hour in 1991 to $*** per hour in 1992.[89]

In its questionnaire, the Commission requested new steel rail producers to provide detailed information concerning reductions in the number of PRWs

[89] ***; petitioners' prehearing brief, p. 61.

producing rails since 1989, if such reductions involved at least 5 percent of the workforce or 50 workers. Both firms reported reductions during January 1989 to September 1992 due to ***, but neither firm provided specific information on the dates of such reductions or the number of workers involved.[90]

Financial Experience of U.S. Producers

Both producers (Bethlehem and CF&I) supplied income-and-loss data on the overall operations of their establishments in which new steel rails are produced and, separately, on their operations producing all types of new steel rails. In addition, separate income-and-loss data on standard, premium, crane, contact, girder, alloy, and industrial rails were provided by the producers. A breakdown of the type of product, by producer, for 1991 is shown in the tabulation below (in percent of sales value):

* * * * * * *

After reviewing the data submitted by the two producers and in light of the fact that both producers were verified by Commission staff during the 1989 investigation of new steel rails from Canada, the Commission did not conduct an on-site verification of either producer in this investigation.

Overall Establishment Operations

Bethlehem also manufactures *** in its Steelton, PA, plant. Bethlehem's sales of new steel rails accounted for *** percent of its overall establishment sales in 1991.[91]

CF&I also produces *** in its Pueblo, CO, establishment. New steel rails accounted for *** percent of its overall establishment sales in 1991. In November 1990, CF&I filed a petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code. "The principal reason for the Chapter 11 filing was the Company's pension plan obligations which is underfunded by an estimated $145 million."[92]

The aggregate overall establishment operations of the producers are presented in table 5.

Operations on New Steel Rails

The combined income-and-loss experience of both producers is presented in table 6. Net sales of new steel rails *** percent from $*** in 1989 to $*** in 1990. In 1991, sales were $***, a *** percent from 1990. Operating

---

[90] ***.

[91] Bethlehem defined its "establishment" as those operations directly related to steel rail production, rather than the whole Steelton plant.

[92] CF&I Annual Report for 1990, p. 2.

Table 5
Income and loss experience of U.S. producers on the overall operations of their establishments wherein new steel rails are produced, fiscal years 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Table 6
Income and loss experience of U.S. producers on their new steel rail operations, fiscal years 1989-91, January-September 1991, and January-September 1992

* * * * * * *

*** in 1989, $*** in 1990, and $*** in 1991. Operating income/(loss) ratios, as a share of net sales, were *** percent in 1989, *** percent in 1990, and *** percent in 1991. Bethlehem *** in all three years, but CF&I only had ***.

Interim 1992 sales were $***, an *** percent over interim 1991 sales of $***. Operating *** were $*** in interim 1991 but an operating *** of $*** was achieved in interim 1992. Operating income/(loss) margins were *** percent in interim 1991 and *** percent in interim 1992. Bethlehem *** in both interim periods but CF&I *** in both.

Interim Period Data

Petitioners cited four reasons why profitability improved in interim 1992.[93] These are summarized below:

1. Volume was higher because the new rail buys for 1992 represented deferred replacement programs from prior years. The higher volume resulted in lower unit costs, and thus profitability improved.[94]

---

[93] Hearing TR, pp. 49-50.

[94] Parties disagree as to whether the increased activity in 1992 is representative of the outlook for the industry. Petitioners claim that the increased demand in 1992 does not portend a new trend. Hearing TR, pp. 93-96. Respondent argues that 1992 is part of a new replacement cycle. Ibid, pp. 206-209. CF&I's reorganization plan portrayed the rail market as follows:

"The rail market has dropped from 1 million tons per year in the 1970's to between 400,000 and 600,000 tons per year today and is not expected to change significantly. The reasons for the drop in demand include deregulation of the railroads resulting in reduced miles of track, higher quality rail and improved track maintenance resulting in the almost doubling of expected rail life. CF&I's major market is the replacement of existing track in the Class 1 western railroads. These railroads have 55% of the track and generate 61% of

(continued...)

2. CF&I put into effect in 1992 some improved process controls that helped increase productivity and further reduce unit costs.

3. CF&I experienced a reduction in the cost of scrap with which it feeds its electric furnaces.

4. CF&I's pension plan (for current employees) was terminated in March 1992, so there was not a full year's charge for pension costs in 1992. However, in interim 1992, the company did accrue an additional pension expense based upon a possible resumption of such a benefit when the Oregon Steel transaction is completed.[95]

Mr. Marshall (General Manager of Railroad Sales, CF&I) described these factors as "some exceptional, one-time circumstances [that] combined to lift our (CF&I) operations into modest profitability."[96] Higher volume and lower raw material costs may be temporary factors enhancing profitability, whereas productivity improvements could be either temporary or permanent.

In its posthearing brief, respondent stated that "The domestic industry's improving trends and increasing U.S. demand preclude any finding of vulnerability. In addition, CF&I's release from the substantial burden of its unfunded pension liabilities and Bethlehem's new labor contract, reducing costs and enhancing productivity, further bolster the domestic industry's prospects for the future.[97]

Past-Service Expenses

As with several other major steel companies, both Bethlehem and CF&I have incurred large expenses for past-service pension and retiree health insurance costs, due to the downsizing of the industry. These liabilities are one of the major financial problems affecting the steel industry. They are primarily caused by the contraction of the industry that has resulted in an increasing ratio of retirees to the number of current employees, and the inability of the industry to fund its pension plans because of low profitability. At the time of its bankruptcy filing, CF&I had a ratio of over three retirees to one current worker. As of October 31, 1992, current employees totaled 1,500 compared to the 1981 figure of 5,700 current employees.[98] In its 1991 annual report, Bethlehem's statistical data showed

---

[94] (...continued)
the revenue-ton miles in the United States. The western market, while decreasing because of the factors listed above, has positive market factors including increased coal shipments, population growth, and further increase in the use of low sulphur coal available only in the west. The use of low sulphur coal in power plants in the United States should increase in the future for environmental reasons. This is already evidenced by the 22% growth in revenue-ton miles in the west since 1979." CF&I reorganization plan, disclosure statement, exhibit 2, p. 10, Dec. 1, 1992.

[95] ***.

[96] Hearing TR, p. 49.

[97] Respondent's posthearing brief, p. 12.

[98] CF&I Bankruptcy Plan, Dec. 1, 1992, p. 6 of disclosure statement.

that at the end of 1987 it had 67,600 retirees and 34,400 current employees, a ratio of 1.97 to 1. At the end of 1991, it had 70,200 retirees and current employees of 27,500, a ratio of 2.55 to 1.[99] "Bethlehem's annual pension costs are substantially higher on a per ton basis than those of most other domestic steel producers and put Bethlehem at competitive disadvantage with respect to such costs compared to such other producers."[100]

***. "On March 19, 1992, the Pension Benefit Guaranty Corporation (PBGC) terminated the Pension Plan of CF&I Steel Corporation and Certain Subsidiaries (The Master Plan)."[101] The PBGC is an independent U.S. Government agency. CF&I paid cash and stock to the PBGC and other creditors, based on the relative amounts of their claims.[102]

CF&I is one of several steel companies that have filed for bankruptcy. Bethlehem noted in its 1991 Form 10-K report that:

> The intense competitive conditions within the domestic steel industry have been aggravated by the bankruptcy filings of a number of other steel producers. Currently, approximately 20% of the production capability of the domestic industry is in or has gone through reorganization under chapter 11 of the United States Bankruptcy Code. These proceedings result in reduced costs for those of Bethlehem's competitors that are in or have gone through reorganization under chapter 11 and tend to promote the continued operation and modernization and upgrading of marginal facilities perpetuating the existing overcapacity in certain product lines in the industry. As a result of such filings, such competitors may achieve certain cost savings that would permit them to price their steel products at levels below those at which it would be profitable for Bethlehem to sell its products.[103]

In addition to past-service pension costs, both Bethlehem and CF&I are responsible for their retiree health expenses.[104] These amounts are ***.

A summary of the estimated past-service pension and retiree health expenses and their effect on operating income (loss) for each firm is shown in table 7.

---

[99] Bethlehem's 1991 annual report, Five-Year Financial and Operating Summaries, p. 30. Ratios calculated by Commission staff.

[100] Bethlehem's 1991 Form 10-K, p. 7.

[101] CF&I Form 10-Q, Sept. 30, 1992, p. 4, footnote #3 to the Consolidated Financial Statements.

[102] CF&I Bankruptcy Plan, Dec. 1, 1992, p. 27 of disclosure statement.

[103] Bethlehem's 1991 10-K report, p. 3.

[104] The PBGC is not responsible for the assumption of retiree health costs of bankrupt companies.

Table 7
Summary of past-service expenses and their effect on operating income or (loss), by firms, fiscal years 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Fixed and Variable Costs

Reported fixed and variable costs for new steel rails for each producer, in 1991, are shown in the tabulation below (in thousands of dollars, and percent of the total cost of goods sold):

* * * * * * *

Both companies indicated that raw materials are a variable cost. Labor and overhead costs are part fixed and part variable.

Income-and-Loss Operations By Rail Type

An income-and-loss summary, by rail type, for each producer is presented in table 8. A summary of the quantities, revenues and costs, on a per ton basis, by producer is presented in table 9.

***. This is shown in the tabulation below, on a dollars per ton basis:

* * * * * * *

Table 8
Income and loss summary of U.S. producers on new steel rails, by producers and rail types, fiscal years 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Table 9
Summary of quantities sold, unit revenues, and costs of goods sold, on a per ton basis, by producers and rail types, fiscal years 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Investment in Productive Facilities

U.S. producers' investment in property, plant, and equipment and returns on investment are shown in table 10.

Table 10
Assets and return on assets of U.S. producers as of the end of fiscal years 1989-91, September 30, 1991, and September 30, 1992

* * * * * * *

Capital Expenditures

Capital expenditures by U.S. producers are shown in table 11.

Table 11
Capital expenditures by U.S. producers, fiscal years 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Research and Development Expenses

Research and development expenses are shown in the following tabulation (in thousands of dollars):[1]

* * * * * * *

Impact of Imports on Capital and Investment

The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of new steel rails from the United Kingdom on their growth, investment, ability to raise capital, and existing development and production efforts (including efforts to develop a derivative or improved version of new steel rails). Their responses are shown in appendix E.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

> In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the merchandise, the Commission shall consider, among other relevant economic factors[105]--
>
> (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 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,
>
> (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 the probability that the 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,

---

[105] Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

> (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 701 or 731 or to final orders under section 706 or 736, are also used to produce the merchandise under investigation,
>
> (IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that 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.[106]

Subsidies (item (I)) and agricultural products (item (IX)) are not issues in this investigation; information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of Alleged Material Injury to an Industry in the United States." Available information follows on U.S. inventories of the subject product (item (V)); foreign producer's operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets.

Inventories of U.S. Importers

As discussed earlier in the report, the U.S. importer, British Steel Inc., generally acts as a selling agent for British Steel plc and therefore, *** in inventory.

---

[106] Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

Ability of the British Producer to Generate Exports and the Availability of Export Markets Other Than the United States

The Commission requested certain information from counsel for the producer in the United Kingdom. The information discussed below was supplied by petitioners and by counsel for British Steel plc. British Steel plc is the only producer of new steel rails in the United Kingdom.[107] British Steel produces rails at its Workington plant and exports rails from Workington, Middlesborough (Teesside), Liverpool, and London.[108] The Workington plant produces standard and premium rails, industrial rails, crane rails, contact rails, and trackwork. Blooms for rolling are produced in the British Steel plant in Teesside using a BOF converter and continuous caster. The Workington mill has an on-line head-hardening facility that enables production of heat-treated rail in 120-foot lengths.

British Steel's capacity to produce new steel rails was *** short tons during 1989-91, and *** short tons in interim 1991 and interim 1992[109] (tables 12-15 present data for standard, premium, all other, and total new steel rails, respectively).[110] British Steel projects its capacity to produce rails to remain at *** short tons during 1992 and 1993.[111] The company's rail facilities operated at *** percent of capacity in 1989, *** percent in 1990, *** percent in 1991, *** percent in interim 1991, and *** percent in interim 1992. British Steel's standard rail capacity utilization was *** percent in 1989-90 and *** percent in 1991. Interim capacity utilization *** percent in 1992 and is projected to *** percent in 1993. Premium rail capacity utilization *** percent in 1991. Such capacity utilization *** in the interim periods, from *** percent in 1992, but is projected to *** percent in 1993.

Mr. Grierson, Finance Controller of British Steel Track Products and Engineering, testified at the hearing that British Steel's capacity to produce long-length rail is constrained by the physical layout of its mill that

---

[107] ***.

[108] ***.

[109] British Steel argues that these capacity figures do not accurately measure its production capability to ship rails to the United States because they include its ability to produce short-length rail that is not sold to the United States. Rather, its capability to produce rails for sale to the United States and the world is more accurately measured by its ability to produce long-length rails (defined by British Steel as rails of greater than 18 meters (60 feet)) between October and March, which it estimates to be *** short tons per annum. British Steel estimates its capacity to produce long-length rail during the most recent October to March period to be *** short tons. British Steel's production of such rails during that time period was approximately *** short tons; British Steel's foreign producer questionnaire response, p. 11, and posthearing brief, pp. 6-7. British Steel's long-length capacity utilization for 1992 was *** percent; posthearing brief, Exhibit 17, Appendix A.

[110] ***.

[111] British Steel projects a capacity utilization rate of *** percent in 1992 and *** percent in 1993; foreign producer questionnaire submitted by British Steel.

Table 12
Standard rails: United Kingdom's production, inventories, and shipments, 1989-91, January-September 1991, January-September 1992, and projected 1992-93

* * * * * * *

Table 13
Premium rails: United Kingdom's production, inventories, and shipments, 1989-91, January-September 1991, January-September 1992, and projected 1992-93

* * * * * * *

Table 14
All other rails: United Kingdom's production, inventories, and shipments, 1989-91, January-September 1991, January-September 1992, and projected 1992-93

* * * * * * *

Table 15
All new steel rails: United Kingdom's capacity, production, inventories, capacity utilization, and shipments, 1989-91, January-September 1991, January-September 1992, and projected 1992-93

* * * * * * *

creates a bottleneck in its long-length rail production.[112] In 1992, the British Steel rail plant was modified to handle 120-foot rails by extending the physical structure of the mill to provide sufficient run-out space for the longer rails. This involved dividing the long-length finishing, inspection, and dispatch area in two. Two cranes are used to move the rails from this area over the plant extension. British Steel's constraint is the large number of crane lifts required to process long-length rails through 8 bay operations, which led to problems in it meeting its long-length orders in 1991 and the first half of 1992.[113]

---

[112] As noted earlier in the report, world demand for long-length rail has replaced demand for short-length rail over the past few years.

[113] Hearing TR, pp. 142-149 and 266-267; Exhibit 10, Appendix A of respondent's prehearing brief.

End-of-period inventories of steel rails *** short tons in 1989 to *** short tons in 1990, and then *** short tons in 1991. Inventories *** percent in the interim periods. Exports to the United States *** short tons in 1989 to *** short tons in 1991, representing an *** percent.[114] Exports *** in the interim periods from *** short tons in January-September 1991 to *** short tons in the corresponding period in 1992.[115] Exports to the United States accounted for *** percent of British Steel's total export shipments in 1989, *** percent in 1990, *** percent in 1991, *** percent in interim 1991, and *** percent in interim 1992.

Total British Steel exports *** short tons in 1989 to *** short tons in 1990 and then *** short tons in 1991. Exports *** short tons in interim 1991 to *** short tons in interim 1992.[116] British Steel's projected rail exports to the United States in 1992 will ***, while 1993 rail exports are projected to ***. Exports to other countries *** irregularly between 1989 and 1991 and continued to *** in the interim periods. British Steel has had some recent success in establishing new relationships with several European railroads. ***.[117] ***.

* * * * * * *

Mr. Grierson testified at the hearing that British Steel's principal growth market at the present time is continental Europe, which is also a long-

---

[114] During the preliminary investigations, counsel for British Steel argued that the 1991 increase in imports from the United Kingdom was a replacement of declines in other imports from the EC, principally as a result of a withdrawal of German rail producers from the U.S. market; postconference brief, p. 2.

[115] Exports of premium steel rails to the United States accounted for *** percent of British Steel's U.S. exports in 1989, *** percent in 1990, *** percent in 1991, *** percent in interim 1991, and *** percent in interim 1992. Mr. Grierson of British Steel testified at the hearing that in 1989, Burlington Northern (its main U.S. purchaser of premium rail) rejected a shipment of premium rail and refused to accept additional shipments. British Steel then resumed its sales of standard rail to Burlington Northern to maintain its relationship with the firm. British Steel shipped a trial shipment (sales of rails for purposes of qualification can range from 500 tons to 5,000 tons depending on the size of the railroad) of premium rail to Burlington Northern in 1992 and has recently obtained qualification from Burlington Northern as a supplier of premium rail; hearing TR, pp. 153-154. British Steel has attempted without success to obtain qualification for its premium rails from *** U.S. Class I railroads in recent years; foreign producer questionnaire; hearing TR, pp. 154-155; and posthearing brief, p. 5 and Exhibit 5. Except for a small quote of 500 tons of premium rail to Chicago Northwestern in 1990, British Steel has not quoted prices for premium rail to any U.S. purchasers except Burlington Northern and Norfolk Southern since 1989; hearing TR, p. 156. ***; British Steel's importer questionnaire.

[116] Exports of steel rails are projected to ***.

[117] Exhibit 10 of respondent's prehearing brief and Exhibit 9 in the posthearing brief.

length rail market.[118] Based on existing contracts and outstanding tender offers,[119] it anticipates that its rail shipments to Europe will increase sharply in 1993-94.[120] Several new and planned projects were cited, including a major European high-speed rail program involving the construction of 9,000 kilometers of new rail lines (and the upgrading of 15,000 kilometers by the year 2010) of which British Steel predicts it will have a portion.[121]

CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY

U.S. Imports

U.S. imports of new steel rails are presented in table 16. Concerns were raised during the preliminary investigations that ***. Therefore, because British Steel is the only U.S. importer of rails from the United Kingdom, U.S. imports from the United Kingdom are calculated from data provided by British Steel in its importer questionnaire, and imports of steel rails from all other countries are from official Commerce statistics.[122]

The HTS did not have subheadings for non-heat-treated (standard) rails and heat-treated (premium) rails until 1990. Therefore, Commission staff determined the percentages of 1990 imports from nonsubject countries of standard rails and premium rails (as reported in official statistics) and applied these percentages to imports in 1989 to estimate the quantity and value of standard rail and premium rail imports from nonsubject countries in

---

[118] The European market is predominantly a market for standard rail because the Europeans do not run as heavy axle tonnages as in the United States and generally only use premium rail on sharp curves; Exhibit 3 of respondent's prehearing brief. Petitioners note that British Steel has invested in both in-line and off-line heat-treatment technology, although virtually no premium rail is consumed in the EC. Rather, the United States is the world's largest market for premium rail and the likely destination for a proportion of British Steel's production; posthearing brief, p. 9.

[119] Exhibit 10, Appendix H of respondent's prehearing brief.

[120] Posthearing brief, pp. 8-9. In addition to British Steel, there are other rail producers already competing in the European market, the largest of which are Usinor-Sacilor (France), Metallurgique et Miniere de Rodange-Athus (Luxembourg), Thyssen Stahl (Germany), and Voest-Alpine (Austria). There are also smaller competing rail producers in Spain, Sweden, Poland, Ukraine, and Russia; petitioners' posthearing brief, Exhibit 9.

[121] Hearing TR, pp. 149-151 and 157-161; Exhibit 3, Appendix F of respondent's prehearing brief provides a list of projects under construction or to be constructed within the next five years. Exhibit 10, Appendix I, contains various articles describing numerous railway projects in Europe. Petitioners' posthearing brief (Exhibit 10) provides an excerpt from Panorama of EC Industries, 1991, which forecasts a growth rate of 2 percent per year in the ECs' rail services.

[122] Commerce statistics are thought to accurately reflect U.S. imports of steel rails from other sources in that such imports are believed to be mostly, if not entirely, new rails. Official U.S. import statistics include the subject products (premium and standard rails and other new steel rails), but may also include some relay rails from Canada; hearing TR, pp. 59-60.

Table 16
New steel rails:[1] U.S. imports, by sources, 1989-91, January-September 1991, and January-September 1992

Item	1989	1990	1991	Jan.-Sept.-- 1991	1992
	Quantity (short tons)				
United Kingdom	***	***	***	***	***
Japan	21,678	73,820	82,937	61,275	52,143
Luxembourg	18,012	17,725	11,911	6,212	13,336
Belgium	342	32	189	169	227
Germany	12,127	8,987	3,763	2,863	3,527
Canada	11,641	34	1,729	1,287	2,417
France	9,629	247	2,841	423	4,230
Other sources	6,865	5,752	5,232	5,068	5,960
Total	***	***	***	***	***
	Value (1,000 dollars)[2]				
United Kingdom	***	***	***	***	***
Japan	12,168	42,850	48,101	35,533	31,011
Luxembourg	10,200	10,645	7,328	3,981	7,909
Belgium	168	20	119	107	139
Germany	6,486	4,964	1,823	1,362	1,762
Canada	4,420	14	476	330	730
France	4,598	153	1,683	239	2,537
Other sources	3,289	3,660	2,358	2,226	3,829
Total	***	***	***	***	***
	Unit value (per short ton)				
United Kingdom	$***	$***	$***	$***	$***
Japan	561.32	580.47	579.97	579.90	594.73
Luxembourg	566.29	600.58	615.25	640.80	593.07
Belgium	490.28	641.96	628.19	634.13	611.39
Germany	534.83	552.37	484.45	475.83	499.56
Canada	379.73	418.05	275.12	256.56	302.16
France	477.55	619.16	592.36	565.50	599.93
Other sources	479.02	636.19	450.68	439.22	642.49
Average	***	***	***	***	***

[1] Includes standard and premium tee rails, industrial rails, crane rails, girder rails, contact rails, and alloy rails. However, all imports from the United Kingdom were "subject" products for purposes of this investigation (i.e., there were no imports of girder or alloy rails).

[2] C.i.f. duty-paid value.

Note.--Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures.

Source: Figures for the United Kingdom are compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and figures for other sources are from official statistics of the U.S. Department of Commerce.

1989. Approximately *** percent of U.S. tee rail imports in 1991 from the United Kingdom were head-hardened rails.

Imports of new steel rails from the United Kingdom *** short tons in 1989 to *** short tons in 1991, or by *** percent.[123] Such imports were *** short tons in January-September 1991 and *** short tons in the corresponding period of 1992. Imports of standard rails from the United Kingdom *** percent between 1990 and 1991 and *** between interim 1991 and 1992. Imports of premium rails *** percent during 1989-91, and *** percent during interim 1992.[124]

Market Penetration of LTFV Imports

The shares of apparent consumption based on U.S. shipments of domestic product and U.S. imports of new steel rails are presented in table 17.[125] Market penetration (based on quantity) by imports of new steel rails from the United Kingdom *** percent in 1989 to *** percent in 1991. Market penetration of such imports *** percent in interim 1991 to *** percent in the corresponding period of 1992.

Table 17
New steel rails: Shares of apparent consumption based on U.S. shipments of domestic product and U.S. imports, by products, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

U.S. producers' share of apparent consumption (based on quantity) *** percent in 1989 to *** percent in 1991. U.S. producers' market share *** percent in January-September 1991 to *** percent in the corresponding period of 1992. Market shares by value followed similar trends but were generally somewhat lower for both U.S. producers and imports from the United Kingdom.

---

[123] British Steel apparently increased its exports to the United States in 1991 by using Germany's quota under the VRAs; respondent's postconference brief, p. 4.

[124] Respondent's posthearing brief, Exhibit 2. British Steel's exports of standard rail to the United States are projected to *** in 1993 since Burlington Northern (its only U.S. purchaser of standard rails) has recently qualified British Steel's premium rail; posthearing brief, p. 3 and Exhibit 3.

[125] The Commission also collected consumption/market share data for full-year 1992. Such data, along with those for 1989-91, are presented in app. C., table C-7.

Prices

Marketing Considerations

Class 1 railroads account for the majority of all sales of steel rails in the United States. Approximately 70 percent of the annual sales are made to these railroads, 10 percent are sold to smaller railroads, and the remaining 20 percent are sold to transit authorities, distributors, and contractors. Both U.S. producers, CF&I and Bethlehem, sell rails to all classes of purchasers while the importer of rails from the United Kingdom, British Steel, sells almost exclusively to Class 1 railroads.[126]

More than 90 percent of new steel rails are purchased through a quote or bid process. New steel rail prices generally vary with weight requirements, the quantity ordered, and whether the rail is standard carbon, alloy, through-hardened, or head-hardened. Premium carbon steel rails (through-hardened and head-hardened) and alloy rails are more expensive than standard carbon steel rails.[127] The higher-priced premium rails are used on curves, grades, and in areas with heavy traffic because they are more resistant to stress, abrasion, and weather extremes than the less expensive standard rails. New steel rails that are off-specification, whether containing defects or not of the required length, are priced at a discount.

CF&I, Bethlehem, and British Steel market both premium and standard rail to the Class 1 railroads for use in their track maintenance programs. Although the uses of premium and standard rails overlap, to some extent, railroads generally do not regard these products as close substitutes. While premium rail can physically substitute for standard rail, it is unlikely to do so in applications where premium rail is not required due to the price differential between the two rail types. Similarly, even though standard rail is less expensive than premium rail, it typically cannot be used for applications that require premium rail. Eight of the 12 Class 1 railroads that completed purchasers' questionnaires stated that premium and standard rail cannot be used interchangeably. Two others indicated that standard rail can be substituted for premium rail in certain circumstances, depending upon the location of the track and the degree of curvature required. Two railroads did state that standard and premium rails are interchangeable in use. However, both of these railroads ***.[128]

After a Class 1 railroad has determined the amount and type of rail needed, it solicits price and quantity quotes from several rail producers approximately six months before the rail is actually needed. Depending upon the railroad's requirements, the purchase quantity can range from a small amount of less than 1,000 tons (4 to 5 miles of track) to a large purchase of more than 10,000 tons (50 miles of track). Railroads often request quotes for two or three types of rail for each specific project. A railroad's request for a quotation usually includes a set of specifications and criteria for the rails. The rail producers estimate the likely production costs for the length and type of track and submit a quote, offering a quantity and price commitment

---

[126] ***.

[127] Currently, CF&I is the only U.S. producer of head-hardened rails; Bethlehem's premium rail is through-hardened.

[128] ***.

to obtain all or a portion of the contract. Typically, a quote takes one to two months to prepare.

After reviewing the initial quotes, the railroads generally contact the producer with the higher quote to see whether they want to be more competitive. Further negotiations on aspects of the bid, such as changes in rail requirements and types of rail, may also occur before a final price is agreed upon. Generally, a railroad will not reveal the names of the competing suppliers, but since there are so few suppliers, supplying firms are usually aware of their competition. The producer with the lowest quote does not necessarily receive the contract if it cannot deliver the steel rails at the times required. Railroads often prefer to divide their purchases among competing suppliers rather than rely exclusively on a single supply source.

Transit authorities, such as quasi-public agencies, generally handle rail purchases somewhat more formally. After a transit authority details the scope of a job and requests bids from rail producers, it sets a specific date that sealed bids should be received from all competitors. There are no second bids or additional negotiations and selection is based upon price unless the delivery schedule cannot be met by the lowest bid producer. When the delivery schedule cannot be met, the firm that made the next lowest bid is offered the contract.

To be chosen to supply commercial quantities of steel rails, a producer must first meet the railroad's or transit authority's qualification requirements. The stringency of these requirements varies greatly among the different railroads. In most cases, a railroad requires test samples from new suppliers to determine whether the rail meets AREA specifications and any additional internal lab testing requirement imposed by the railroad. The rail is then generally field tested to determine how it performs in actual use. This field test will entail a small sample of rail product from a supplier, approximately 1,000 to 2,000 tons. The price for these test samples is typically less than the price for a commercial sale to serve as an incentive for the railroad to conduct the qualification process. The entire qualification process can take from as little as two months to as much as a year, or even several years, depending upon the railroad's requirements. Once the qualification process has been completed the new supplier is eligible to compete for contracts with other qualified suppliers.

Questionnaire data from the Class 1 railroads indicate that both U.S. producers are qualified suppliers of standard rail to all Class 1 railroads and are qualified suppliers of premium rail to most Class 1 railroads. Eleven of 12 Class 1 railroads have qualified Bethlehem's premium rail, whereas seven railroads have qualified CF&I's premium rail. Union Pacific is the only major Class 1 railroad that has not qualified a domestic source for premium rail. At present, Union Pacific has approved only *** as qualified suppliers of premium rail.

Only *** Class 1 railroads, ***, have designated British Steel as a qualified supplier of premium new steel rails.[129] [130] While British Steel has

---

[129] Only *** reported that British Steel has also qualified its standard rail.

[130] ***.

also sold test quantities of premium rail to *** during the past three years, its rails did not meet the qualification requirements of either railroad.

In making their purchasing decision for new steel rails, Class 1 railroads reported that they typically consider the product quality of the rail and the timeliness in meeting delivery schedules as more important criteria than the price of the rail product.[131] Moreover, 11 of the 12 Class 1 railroads reported that the lowest price will not always win the contract. Some railroads also indicated the importance of maintaining a relationship with several sources of supply.

None of the Class 1 railroads ranked transportation costs as a major factor in their purchasing decisions, but both U.S. producers consider these costs to be important when competing for contracts. CF&I benefits from its proximity to four of the five western railroads that all have tracks into Pueblo, CO where CF&I has its rail production facility: the Atchison, Topeka and Santa Fe, the Burlington Northern, the Denver, Rio Grande, and Great Western, and the Union Pacific railroads.[132] This allows CF&I to deliver rail to these railroads with relatively low transportation costs. Similarly, Bethlehem has a transportation advantage over CF&I in the eastern half of the country and the *** are to eastern railroads.[133] When competing for sales to western railroads, Bethlehem typically quotes on an f.o.b. Chicago basis, where the western railroads have tracks. Bethlehem charges transportation costs of $*** per ton for shipments to Chicago.[134]

* * * * * * *

Questionnaire Price Data

The Commission requested Class 1 railroads, U.S. producers, and the U.S. importer of steel rail from the United Kingdom to report the details of bid competition for all contracts of new steel rails to Class 1 railroads awarded since 1990. Class 1 railroads were requested to provide initial and final price quotes and the value of contracts awarded to all suppliers, including imports from sources other than the United Kingdom. Both U.S. producers and the U.S. importer of steel rail from the United Kingdom were requested to provide similar data on their quotes. Nine Class 1 railroads that received questionnaires, both U.S. producers, and the U.S. importer of new steel rail from the United Kingdom provided detailed information on specific projects.[135]

---

[131] Eight Class 1 railroads reported following just-in-time practices.

[132] The primary market for CF&I rail is the major western railroads that accounted for over 60 percent of the revenue ton miles in the United States during the period 1981-90, according to the American Association of Railroads.

[133] For example, Bethlehem has its own short-haul line which is located less than 10 miles from the Conrail headquarters. ***.

[134] ***.

[135] An additional Class 1 railroad, ***, provided detailed purchase information but was not able to break out the bid and quote information in the manner requested in the questionnaire.

Price Trends

Class 1 Railroads' Pricing Information.--Overall, the 9 Class 1 railroads reported receiving 222 quotes from all suppliers of steel rail since 1990: 144 quotes from U.S. producers, 9 quotes from British Steel, and 69 quotes from U.S. importers of new steel rails from Austria, Canada, Germany, Japan, and Luxembourg.[136] All of the reporting Class 1 railroads reported receiving quotes from U.S. producers, five reported receiving quotes from British Steel,[137] and eight reported receiving quotes from U.S. importers of new steel rail from non-subject countries.

The Class 1 railroads reported that quote and selling prices from U.S. producers of new steel rail generally trended upward for both standard and premium rail during 1990-92 (table 18).[138] U.S. producers' quote and selling prices also trended upward for all four of the railroads that had purchased the subject imported product and reported quote information.[139]

Table 18
New steel rails: Quote and selling price trends by U.S. producers on contracts to Class I railroads, submitted by Class I railroads, for shipment during 1990-92 and after 1992

* * * * * * *

Only *** Class 1 railroads, ***, received more than one quote for steel rails from British Steel. British Steel's quote and selling prices for steel rails offered to these railroads increased during 1990-92. Similarly, U.S. importers' quote and selling prices for imported steel rails from non-subject countries also trended upward during 1990-92.

U.S. Producers' and Importer's Pricing Information.--U.S. producers and the U.S. importer of new steel rails from the United Kingdom also reported details of bid competition for all contracts of new steel rails to Class 1

---

[136] One Class 1 railroad, ***, also reported two quotes of relay rail from a U.S. distributor.

[137] These were Burlington Northern, Norfolk Southern, CSX, Chicago and Northwestern, and Union Pacific.

[138] See appendix F for complete pricing information reported by the 9 Class 1 railroads.

[139] Petitioners have argued that U.S. producers follow a "most favored nation" principle in their pricing practices, i.e., quoting the same price to all railroads for the same quantity of product offered. They allege that, due to this practice, U.S. producers had to lower their price quotes to all of their customers, not only to customers that received quotes from British Steel. This allegation is very difficult to confirm or disprove because of the varying quantities and types of rail being offered to the different railroads. As shown in table 18, U.S. producer prices varied between the different railroads but tended to trend upward.

railroads awarded since 1990. U.S. producers reported making *** quotes to *** Class 1 railroads since 1990 while the U.S. importer of steel rails from the United Kingdom reported making *** quotes to *** Class 1 railroads.

Aggregate information on price quotes for major contracts reported by producers and importers for sales of new steel rails to Class 1 railroads is presented by rail type, year, and producing country in table 19. Of *** individual quotes for standard rail, U.S. producers received all of the business on *** quotes and a portion of the business on *** quotes. Of *** individual quotes for premium rail to Class 1 railroads, U.S. producers received all of the business on *** quotes and a portion of the business on *** quotes.[140] The total volume awarded to U.S. producers over this period was *** tons of standard rail valued at $*** and *** tons of premium rail valued at $***.

Table 19
New steel rails: Aggregate quote information to Class I railroads, submitted by U.S. producers and the importer of steel rail from the United Kingdom, by rail type, 1990-92 and after 1992[1]

* * * * * * *

British Steel reported that it offered standard rail contract quotes ***.

Similar to the information provided by Class 1 railroads, U.S. producers' quote and selling prices to individual railroads for both premium and standard new steel rails also trended upward during 1990-93.[141] U.S. producers' quote and selling prices for new steel rail also increased for all *** of the railroads that had received a quote from British Steel. The average unit value for all contracts of standard rail awarded to U.S. producers steadily increased from $*** per ton for shipments in 1990 to $*** per ton for shipments after 1992. Likewise, the average unit value for contracts of premium rail awarded to U.S. producers also increased from $*** per ton for shipments in 1990 to $*** per ton for shipments in 1992, but then slightly declined to $*** per ton for shipments after 1992. British Steel's quote and selling prices also rose during the period, although ***.

* * * * * * *

[140] U.S. producers reported that they received more than the initial volume they quoted on *** of their standard rail quotes and *** of their premium rail quotes.

[141] See appendix G for price quotes reported by both U.S. producers and British Steel. The price quotes are arranged by railroad, rail type, and supplier to more clearly show any trend.

Price Comparisons from Class 1 Railroads Pricing Information[142] [143]

As noted earlier, Class 1 railroads reported that the quality of the rail product and its timely delivery were more important factors than price for their purchase decisions of new steel rails. They stated that the lowest price did not always receive the rail business. In reporting quote price competition among all suppliers, the railroads were requested to provide specific reasons when they did not purchase rail from only the lowest priced competitor. Reasons for purchasing a higher priced product include: avoiding single source suppliers to maintain a competitive supply base, the lowest bidder could not meet the delivery schedule, the quoted lower price was not firm, the availability of the product, and maintaining relationships. Two of the largest Class 1 purchasers, ***, reported that they spread their business among all suppliers to insure continuity of supply and future competition.[144]

*** Class 1 railroads, ***, reported receiving price quotes from British Steel and purchasing the imported product. Only *** railroads, *** reported purchasing commercial quantities (not for testing purchases) of new steel rails from British Steel.[145] ***. Price quote competition involving the U.S. importer of steel rails from the United Kingdom is shown in table 20.

Table 20
New steel rails: Summary table on quote price competition involving imported new steel rails from the United Kingdom submitted by Class I railroads, for shipment during 1990-92 and after 1992[1]

* * * * * * *

In the following sections, detailed discussions of quote competition are presented for individual railroads. The discussion is ordered in terms of the importance of the railroad as a purchaser of imports from the United Kingdom. Since Burlington Northern has been the largest purchaser of steel rails from the United Kingdom, it is discussed first, followed by Norfolk Southern, CSX, Chicago and Northwestern, and Union Pacific.

---

[142] Price comparisons are only presented for the information provided by Class 1 railroads, because it provides the most direct comparison of price quotes from all of the competing suppliers (including importers of non-subject product) for specific contracts. Matching U.S. producers' quotes to the U.S. importer's quotes is more difficult because of differences in bid or shipment dates, and variations in reported quantities. Moreover, U.S. producer and importer pricing information do not provide a complete picture of sales competition because they do not include quotes from importers of steel rail from non-subject countries.

[143] ***.

[144] The division of business between many suppliers is clearly shown in the price quote competition reported by Class 1 railroads in appendix F.

[145] ***.

Burlington Northern.--Burlington Northern is the largest Class 1 railroad (by track miles) in the United States. Since 1990, Burlington Northern has awarded contracts for ***.

* * * * * * *

Norfolk Southern.--Norfolk Southern is the fourth largest Class 1 railroad (by track miles) in the United States. Since 1990, Norfolk Southern has awarded contracts for ***.

* * * * * * *

CSX.--CSX is the third largest Class 1 railroad (by track miles) in the United States. Since 1990, CSX awarded contracts for ***. John Nevin, director of purchasing for CSX, reported that CSX could not get additional quantities of premium rail from U.S. producers during the November to April delivery time frame that CSX required and that it was necessary to purchase from sources overseas.[146]

* * * * * * *

Chicago and Northwestern.--Chicago and Northwestern is the eighth largest Class 1 railroad (by track miles) in the United States. Chicago and Northwestern awarded contracts for ***.

Chicago and Northwestern awarded the contract ***. As shown in table 20, ***.

Union Pacific.--Union Pacific is the second largest Class 1 railroad (by track miles) in the United States. Since 1990, Union Pacific awarded contracts for ***.

Union Pacific reported ***.

Bid Competition with Transit Authorities

The two U.S. producers commented that they ***.[147]

*** reported that they did not quote the transit market because most U.S. transit systems follow buy-American policies. Transit authorities who receive federal funds are subject to buy-American policies that require the purchase of domestic product unless the price of the foreign rail is 25 percent below the price of the domestic product. In New York State, the foreign price must be 7 percent below the domestic bid price to allow foreign purchases.

---

[146] Conference TR, pp. 99-105 and postconference brief of CSX.

[147] Distributors buy in large quantities and take advantage of volume discounts and other discounts such as accepting a certain percentage of shorter rails. The distributors then pass some of their savings to their customers that need smaller quantities and undersell U.S. producers.

Spot Market Sales to Distributors and End Users[148]

Spot market sales of premium, standard, and industrial rail by rail producers are made to both distributors and end users. Distributors often compete with rail producers for spot sales to end users. Class 1 railroads make spot purchases of rail for one of two reasons--if there is an unexpected need for rail such as is caused by derailments, or if the railroad failed to provide for enough rail in its yearly contracts. Typically spot sales are small, with quantities usually below 1,000 tons. Class 1 railroads and distributors have indicated that spot market sales do not affect the quote competition to Class 1 railroads. Many spot market sales are made to smaller railroads, transit authorities, and industrial sites with small rail lines. ***.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the currency of the United Kingdom fluctuated in relation to the U.S. dollar over the period from January-March 1990 through July-September 1992 (table 21).[149] During this period, the nominal value of the pound appreciated 14.9 percent. When adjusted for movements in producer price indexes in the United States and the United Kingdom, the real value of the United Kingdom currency appreciated by 25.8 percent.

[148] Spot sales represent less than 10 percent of the market for new steel rails.

[149] International Financial Statistics, December 1992.

Table 21
Exchange rates:[1] Indexes of nominal and real exchange rates of the United Kingdom currency, and indexes of producer prices in the United States and the United Kingdom,[2] by quarters, January 1990-September 1992

Period	U.S. producer price index	United Kingdom		
		Producer price index	Nominal exchange rate index	Real exchange rate index[3]
1990:				
January-March....	100.0	100.0	100.0	100.0
April-June.....	99.8	102.1	101.0	103.3
July-September...	101.6	103.1	112.3	113.9
October-December.	104.7	104.2	117.4	116.9
1991:				
January-March....	102.5	106.2	115.2	119.3
April-June.....	101.5	108.1	103.0	109.7
July-September...	101.4	108.8	101.7	109.1
October-December.	101.5	109.3	107.1	115.3
1992:				
January-March....	101.3	110.9	106.9	117.0
April-June.....	102.3	112.1	109.0	119.5
July-September...	102.8	112.5	114.9	125.8

[1] Exchange rates expressed in U.S. dollars per unit of foreign currency.
[2] Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.
[3] The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and the United Kingdom.

Note.--January-March 1990 = 100. The real exchange rates, calculated from precise figures, cannot in all instances be derived accurately from previously rounded nominal exchange rates and price indexes.

Source: International Monetary Fund, International Financial Statistics, December 1992.

APPENDIX A

FEDERAL REGISTER NOTICES OF THE U.S. INTERNATIONAL TRADE COMMISSION AND THE U.S. DEPARTMENT OF COMMERCE

[A-412-812]

Preliminary Determination of Sales at Less than Fair Value: New Steel Rail, Except Light Rail, from the United Kingdom

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

EFFECTIVE DATE: October 16, 1992.

FOR FURTHER INFORMATION CONTACT: Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0922.

PRELIMINARY DETERMINATION: We preliminarily determine that imports of new steel rail, except light rail, (steel rail) from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on May 21, 1992, (57 FR 22457, May 28, 1992), the following events have occurred.

On June 15, 1992, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case. Two other concurrent proceedings, involving imports of steel rail from Japan and Luxembourg, were terminated at the same time because the ITC's preliminary determinations were negative.

On June 23, 1992, the Department of Commerce (the Department) presented an antidumping duty questionnaire to British Steel plc (British Steel). This respondent accounted for at least 60 percent of the exports of the subject merchandise to the United States.

British Steel responded to the sales questionnaire on July 14 and 28, 1992. We issued a deficiency letter on August 27, 1992, and received a response on September 11, 1992.

Scope of the Investigation

The merchandise subject to this investigation is new steel rail, except light rail and girder rail, of other than alloy steel, and over 30 kilograms per meter. Standard and premium carbon steel T rail, crane rail and contact rail (electrical rail) covered by the scope of these investigations are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7302.10.1010, 7302.10.1015, 7302.10.1035, 7302.10.1045, and 8548.00.0000, although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is December 1, 1991, through May 31, 1992.

Such or Similar Comparisons

We have determined that the products covered by this investigation constitute three categories of such or similar merchandise: railroad rail, crane rail, and contact rail. Where, within a such or similar category, there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of (1) Class; (2) Type; (3) Profile; (4) Size; (5) Hardness; (6) Length Category; and (7) Length.

Although profile originally was not a matching criterion, our questionnaire instructed respondent to explain what factors it thought should be considered in selecting the most similar merchandise. British Steel responded that, besides those listed in our questionnaire, three additional criteria (profile, presence or absence of welding, and presence or absence of drilled holes) should be considered when matching similar merchandise. Respondent also contended that profile should precede size in the hierarchy, and provided information on the profile category of each model.

We agree that profile is an important characteristic. Based on our analysis of the information presented, we further agree that profile should outweigh size when determining the most appropriate product for matching purposes. In developing the matching instructions in preparation of the questionnaire, we failed to recognize that certain railroad rail is not necessarily standard railroad rail. As a result, the matching criteria listed did not account for all important characteristics of that such or similar category of merchandise. Within that category, a rail's profile (defined as symmetric or asymmetric) is, on its face, an important physical characteristic. Further, symmetric rail is usually a finished product while asymmetric rail is generally a semi-finished product that is suitable for manufacture into other products. Accordingly, we have concluded that it is appropriate to revise our matching criteria to take profile into account, and have done so. With respect to welding and drill holes, we view these characteristics as too minor to include as matching criteria. Any cost differences attributable to these factors will be captured in the difference in merchandise adjustment, where appropriate.

Fair Value Comparisons

To determine whether sales of steel rail from the United Kingdom to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States before importation and because exporter's sales price methodology was not indicated by other circumstances.

We calculated purchase price based on prices to unrelated customers. We made deductions, where appropriate, for the following movement charges: foreign brokerage, deadfreight, demurrage, foreign dunnage, cargo superintendent fees, ocean freight, marine insurance, U.S. duty, wharfage, U.S. brokerage, and U.S. dunnage.

In accordance with section 772(d)(1)(C) of the Act, we added to USP the amount of value-added tax (VAT) that would have been collected had the merchandise not been exported.

Foreign Market Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as viable basis for calculating FMV, we compared, within each such or similar category, the volume of home market sales of the subject merchandise to the volume of third country sales of subject merchandise, in accordance with section 773(a)(1) of the Act.

We calculated FMV based on prices charged to unrelated customers in the home market. In accordance with 19 CFR 353.58, we compared U.S. sales to home market sales made at the same level of trade, where possible. We made deductions, where appropriate for complaint credits, billing adjustments, rebates, and inland freight. Where appropriate, we added to FMV post-sale price increases and extra charges that were not included in the gross price.

Pursuant to 19 CFR 353.56, we made circumstance-of-sale adjustments for differences in credit expenses, quota rights fees, and VAT. We also made an adjustment for physical differences in the merchandise, in accordance with 19 CFR 353.37.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. price quotations as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify all information that we determine is acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of steel rail from the United Kingdom that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice. The LTFV margins are as follows:

Producer/manufacturer/ exporter	Weight-average margin percentage
British Steel plc	71.84
All Others	71.84

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than November 9, 1992, and for rebuttal briefs no later than November 16, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case of rebuttal briefs. Tentatively, the hearing will be held on November 18, 1992, at 2 p.m. at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-009, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination by December 22, 1992.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15(a)(4).

Dated: October 8, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-25173 Filed 10-15-92; 8:45 am]

BILLING CODE 3510-DS-M

[Investigation No. 731-TA-559 (Final)]

New Steel Rails From the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice to the institution of final antidumping investigation No. 731-TA-559 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry to the United States is materially retarded, by reason of imports from the United Kingdom of new steel rails,[1] provided for in subheading 7302.10.10 and the heading 8548.00.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: October 14, 1992.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202-205-3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of new steel rails from the United Kingdom are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on May 1, 1992, by counsel on behalf of Steelton Rail Products & Pipe Division, Bethlehem Steel Corp., Steelton, PA, and CF&I Steel Corp., Pueblo, CO.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties in this investigation upon the expiration of the period for filing entries of appearance.

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

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on December 10, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

[1] The merchandise subject to this investigation is new steel rails, except light rail and girder rail, of other than alloy steel, and over 30 kilograms per meter. New steel rails include standard and premium carbon steel T rail, crane rail, and contact rail (electrical rail).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on December 23, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 15, 1992. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 17, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is December 17, 1992. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is January 4, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 4, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

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

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: November 2, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-27371 Filed 11-10-92; 8:45 am]

BILLING CODE 7020-02-M

[A-412-812]

Postponement of Final Antidumping Duty Determination: New Steel Rails from the United Kingdom

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

ACTION: Notice.

EFFECTIVE DATE: November 12, 1992.

FOR FURTHER INFORMATION ON ANTIDUMPING DUTY INVESTIGATIONS CONTACT: Erik Warga or Michelle Frederick, Office of Antidumpting Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone numbers: (202) 482-0922 or 482-0186, respectively.

Notice of Postponement

The Department of Commerce (the Department) is postponing the date of its final determination in this investigation until February 10, 1993.

Case History

Since the Department issued its preliminary determination in this investigation (57 FR 47450, October 16, 1992) the following events have occurred.

Verification of British Steel plc (PLC)'s responses occurred October 19-21, 1992, in the United Kingdom and October 29, 1992, in Schaumburg, Illinois. On October 23, 1992, PLC made its request to postpone the final determination 50 days, as provided for in 735(a) of the Tariff Act of 1930, as amended (the Act).

A-7

Postponement of Final Determination

Since an affirmative preliminary determination was issued in this investigation and respondent in this investigation accounts for a significant proportion of imports of the subject merchandise from the United Kingdom, respondent is able to request that the final determination be postponed under section 735(a) of the Act. In response to respondent's request, the Department is postponing the final determination in this investigation until February 10, 1993.

Public Comment

In accordance with 19 CFR 353.38(b), at both petitioners' and respondent's request, we will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing schedule will remain as announced in the notice of preliminary determination.

This notice is published pursuant to 19 CFR 353.20(b).

Dated: November 5, 1992.

Rolf Th. Lundberg,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-27409 Filed 11-10-92; 8:45 am]

BILLING CODE 3510-DS-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-559 (Final)]

New Steel Rails From the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: November 10, 1992.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202-205-3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION: On October 14, 1992, the Commission instituted the subject investigation and established a schedule for its conduct (53 FR 53778, November 12, 1992). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from December 22, 1992, to February 10, 1993 (53 FR 53692, November 12, 1992). The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than February 5, 1993; the prehearing conference will be held at the U.S. International Trade Commission Building on February 9, 1993; the prehearing staff report will be placed in the nonpublic record on February 2, 1993; the deadline for filing prehearing briefs is February 9, 1993; the hearing will be held at the U.S. International Trade Commission Building on February 16, 1993; and the deadline for filing posthearing briefs is February 24, 1993.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: November 13, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-28089 Filed 11-18-92; 8:45 am]

BILLING CODE 7020-02-M

APPENDIX B

CALENDAR OF THE PUBLIC HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject	:	NEW STEEL RAILS FROM THE UNITED KINGDOM
Inv. No.	:	731-TA-559 (Final)
Date and Time	:	February 16, 1993 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101 of the United States International Trade Commission, 500 E St., S.W., Washington, D.C.

OPENING REMARKS

Petitioner (Mr. Eugene Stewart)

Respondent (Ms. Susan Esserman)

In support of Imposition of
Antidumping Duties:

Stewart and Stewart
Washington, D.C.
On behalf of

Steelton Rail Products & Pipe Division,
Bethlehem Steel Corporation

CF&I Steel Corporation

Andrew Futchko, President
Pennsylvania Steel Technologies, Inc.

Ike Henry Gittlen, President
Local Union 1688, United Steelworkers of America

G. E. Marshall, General Manager
Railroad Sales, CF&I Steel Corporation

William C. Meares, retired
Former Vice President, Purchasing
Atchison, Topeka & Santa Fe Railroad Company

- more -

In support of Imposition of
Antidumping Duties:

Laird D. Patterson, Esq.
Bethlehem Steel Corporation

Michael W. Coriden, Esq.
CF&I Steel Corporation

Eugene L. Stewart)
)--OF COUNSEL
John F. Breen)

In Opposition to the Imposition of
Antidumping Duties:

Steptoe & Johnson
Washington, D.C.
On behalf of

British Steel plc

D. Kenneth Grierson, Finance Controller and
Deputy Managing Director, British Steel Track
Products and Engineering

David R. Burns, Consultant of
Railroad Industrial Engineering

Dr. Kenneth R. Button, Vice President,
Economic Consulting Services

Richard Cunningham)
Susan Esserman)--OF COUNSEL
Robert Sokota)

- end -

APPENDIX C

SUMMARY TABLES

Table C-1
Standard tee rails: Summary data concerning the U.S. market, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Table C-2
Premium tee rails: Summary data concerning the U.S. market, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Table C-3
New steel rails excluding standard and premium tee rails: Summary data concerning the U.S. market, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Table C-4
New steel rails: Summary data concerning the U.S. market, 1989-91, January-September 1991, and January-September 1992

* * * * * * *

Table C-5
Standard tee rails: Monthly U.S. capacity, production, and capacity utilization, 1991

* * * * * * *

Table C-6
Premium tee rails: Monthly U.S. capacity, production, and capacity utilization, 1991

* * * * * * *

Table C-7
New steel rails: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, by products, 1989-92

* * * * * * *

APPENDIX D

AMERICAN RAILWAY ENGINEERING ASSOCIATION SPECIFICATIONS FOR STEEL RAILS, 1991

AMERICAN RAILWAY ENGINEERING ASSOCIATION

[1]Part 2

Specifications

[1]SPECIFICATIONS FOR STEEL RAILS

(Reapproved with revisions 1991)

1. Scope

1.1 These specifications cover steel tee rails for use in railway track.

1.2 Supplementary requirements S1 and S2 shall apply only when specified by the purchaser.

2. Manufacture

2.1 The steel shall be made by any of the following processes: open hearth, basic oxygen, or electric furnace.

2.2 The steel shall be cast by a continuous process, in hot topped ingots, or by other methods agreed by purchaser and manufacturer.

2.3 Sufficient discard shall be taken from ingots and blooms rolled from ingots to insure freedom from injurious segregation and pipe.

3. Chemical Composition

3.1 The chemical composition of the standard rail steel determined as prescribed in 3.3 shall be within the following limits:

	Chemical Analysis Weight Percent Nominal Weight lb/yd		Product Analysis Weight Percent Allowance Beyond Limits of Specified Chemical Analysis	
Element	90 to 114	115 & Over	Under Min.	Over Max.
Carbon	0.67-0.80	0.72-0.82	0.04	0.04
Manganese	0.70-1.00	0.80-1.10*	0.06	0.06
Phosphorus, Max.	0.035	0.035	—	0.008
Sulfur, Max.	0.037	0.037	—	0.008
Silicon	0.10-0.50	0.10-0.50	0.02	0.02**

*The upper manganese limit may be extended to 1.25% by the manufacturers to meet the hardness specifications. When the manganese exceeds 1.10% the residual alloy contents will be held to 0.25% max. Ni, 0.25% max. Cr, 0.10% max. Mo., and 0.03% max V.

**Product analysis for continuously cast steel shall be 0.05% over maximum limit for Silicon.

3.1.1 Finished material representing the heat may be product tested. The product analysis shall be within the limits for product analyses specified in the Table of 3.1.

[1]References. Vol. 3, 1902, pp. 204, 208; Vol. 5, 1904, pp. 465, 469; Vol. 6, 1905, pp. 183; Vol. 7, 1906, pp. 549, 573, Vol. 10, 1909, part 1, pp. 374, 393; Vol. 11, 1910, part 1, pp. 237, 255; Vol. 12, 1911, part 1, p. 467, Vol. 12, 1911, part 2, p. 12; Vol. 13, 1912, pp. 853, 1017; Vol. 14, 1913, pp. 181, 1103; Vol. 15, 1914, pp. 158, 375; Vol. 16, 1915, pp. 1117; Vol. 21, 1920, pp. 1070, 1447; Vol. 26, 1925, pp. 619, 1413; Vol. 31, 1930, pp. 1455, 1770; Vol. 32, 1931, pp. 347, 816; Vol. 34, 1933, pp. 606, 821; Vol. 37, 1936, pp. 426, 991; Vol. 38, 1937, pp. 216, 635; Vol. 40, 1939, pp. 596, 738; Vol. 43, 1942, pp. 575, 704; Vol. 47, 1946, pp. 373, 625; Vol. 52, 1951, pp. 596, [illegible] 1952, pp. 501, 768; Vol. 64, 1963, pp. [illegible] pp. 521, 851; Vol. 68, 1967, p. 408; Vol. 69, 1968, p. 356; Vol. 71, 1970, p. 202; Vol. 75, 1974, p. 479; Vol. 80, 1979, p. 82; Vol. 85, 1984, p. 13; Vol. 87, 1986, p. 69; [illegible] Vol. 92, 1991, p. 58.

[1]Latest page contains: 1 (1991); 2 [illegible] 5 (n.d.) [illegible]

3.2 The chemical composition of alloy high strength rail will be subject to agreement of the purchaser and manufacturer.

3.3 Separate analysis shall be made from test samples representing one of the first three and one of the last three ingots or continuously cast blooms preferably taken during pouring of the heat. Determination may be made chemically or spectrographically. Any portion of the heat meeting the chemical analysis requirements of 3.1 may be applied. Additionally, any material meeting the product analysis limits shown in 3.1 may be applied after testing such material.

3.4 Upon request by the purchaser, samples shall be furnished to verify the analysis as determined in 3.3.

3.5 The first analysis shall be recorded as the official heat analysis, but the purchaser shall have access to all chemical analysis determinations.

4. Hardness Properties

4.1 Rails shall be produced as specified by the purchaser within the following limits:

	Standard Rail		High Strength Rail
	90-114 lb./yd.	115 and over lb./yd.	
Brinell Hardness	248 min.	285 min.	341-388*

*A maximum hardness of 388 BHN may be exceeded provided a fully fine pearlitic structure is maintained.

4.2 A Brinell hardness test shall be performed on a rail or a piece of rail at least 6 inches long cut from a rail of each heat of steel and a report furnished to the purchaser.

4.2.1 The test shall be made on the side or top of the rail head, after decarburized material has been removed, to permit an accurate determination of hardness.

4.2.2 The test shall otherwise be conducted in accordance with the American Society for Testing and Materials (ASTM) Standard Method of Test for Brinell Hardness of Metallic Materials E10 latest version.

4.3 If any hardness test fails to meet the specifications, two additional checks shall be made, one on each side of the point first measured. If both checks meet the specified minimum hardness as ordered, the heat shall have met the hardness requirement. If either of the additional checks fails, two further rails in the heat shall be checked with each of these two rails meeting the minimum ordered for the heat to be accepted. If any one of these two checks fails, individual rails may be tested for acceptance.

4.4 If for heat treated rails a test fails to meet the requirements of 4.1, the rails may be retreated, at the option of the manufacturer, and such rails may be retested in accordance with 4.2 and 4.3.

5. Section

5.1 The section of the rails shall conform to the design specified by the purchaser subject to the following tolerances on dimensions:

	Inches (Thousandths) Plus	Minus
5.1.1 height of rail (measured within 1 ft. from end)	0.040	0.015
5.1.2 width of rail head (measured within 1 ft. from end)	0.030	0.030
5.1.3 thickness of web	0.040	0.020
5.1.4 width of either flange	0.040	0.040
5.1.5 width of base	0.050	0.050
5.1.6 Base concavity shall not exceed 0.010". Convexity is not permitted.		
5.1.7 No variation will be allowed [illegible] of the joint bars, except that the fishing templet may stand out not to exceed 0.060" laterally.		

5.2 Verification of tolerances shall be made using appropriate gages, as agreed upon by purchaser and manufacturer.

6. Branding and Stamping

6.1 Branding shall be rolled in raised characters on the side of the web of each rail at a minimum of every 16 ft. in accordance with the following requirements:

6.1.1 The data and order of arrangement of the branding shall be as shown in the following typical brand, the design of letters and numerals to be optional with the manufacturer.

132 (Weight)	RE (Section)	CC (Method of Hydrogen Elimination if indicated in Brand)	Manufacturer (Mill Brand)	1982 (Year Rolled)	III (Month Rolled)

6.2 The web of each rail shall be hot stamped at a minimum of every 16 ft. on the side opposite the brand, and shall not occur within two feet of either end of rails of standard lengths, and in accordance with the following requirements:

6.2.1 The data shall be shown in the following typical stamping. The height of the letters and numerals shall be 5/8".

297165 (Heat Number)	ABCDEFGH (Rail Letter)	12 (Ingot Number) or (Strand & Bloom Number)	BC (Method of Hydrogen Elimination, if indicated in stamping)

6.2.2 The top rail from each ingot shall normally be hot stamped "A" and succeeding ones "B", "C", "D", "E", etc., consecutively.

6.2.2.1 The top rail from each hot topped ingot may be hot stamped "B" and succeeding ones "C", "D", "E", etc. consecutively, when agreed between purchaser and manufacturer.

6.2.3 Ingots shall be numbered in the order cast.

6.2.4 Rails from continuous cast blooms shall be identified by a designation for heat number, strand number, and bloom number.

(Note strand and bloom numbers may be joined or may be coded at the manufacturer's option).

The rail shall be identified by an alphabetical designation beginning with "P", and succeeding "R", "S", "T", etc., consecutively, or any other identification of the position of the rail within the cast, as agreed between the purchaser and manufacturer.

6.2.5 Stamping shall be legible and not injurious to the rail. The characters shall be of a uniform depth not exceeding 1/16 inch and approximately centered on the web.

6.2.6 High strength rail shall be identified in accordance with Section 15.1.

7. Hydrogen Elimination

7.1 The rail shall be free from shatter cracks.

7.2 The above shall be accomplished by at least one of the following processes:

Control Cooling of Rails (CC) (See Appendix 1)

Control Cooling of Blooms (BC)
Vacuum Treated (VT)
Such other processes as will meet the conditions of 7.1 (OP)

7.3 The mill brand or stamp shall identify the process used by the initials in parentheses shown in Section 7.2.

8. Ultrasonic Testing

8.1 Rails shall be ultrasonically tested for internal imperfections subject to the provisions of 8.2 through 8.8.

8.2 Full length of the rail shall be tested using in line ultrasonic testing equipment provided by the manufacturer except, if agreed to between purchaser and manufacturer, rails may be tested in accordance with Supplementary requirement S2. The rail shall be free from rough surfaces, loose scale or foreign matter which would interfere with the ultrasonic detection of defects. Testing shall be done when the rail temperature is below 150°F.

8.3 The calibration test rail shall be a full section rail of the same section as that being tested. The test rail shall be long enough to allow calibration at the same rate of speed as the production rail.

8.4 The size, shape, location and orientation of calibration references to be placed in the test rail shall be agreed upon by the purchaser and manufacturer. At least one reference shall be put into the test rail to represent each search unit in the system.

8.4.1 The in-line testing system sensitivity level, using the calibration rail, shall be adjusted to detect a minimum 3/32 in. diameter defect anywhere in the sound path in the head, a minimum of 1/16 in. diameter in the web, and longitudinal imperfections exceeding 1/2 in. length and greater than 1/16 in. depth occuring in the base.

8.4.2 Any indication equal to or greater than the references specified in 8.4.1 when scanning the rail at the production speed shall be cause for initial rejection. A record shall be made of each suspect rail. This record shall be available to the purchaser's inspector.

8.5 The calibration rail shall be run through the ultrasonic testing equipment at the start of each shift or at least once each 8 hour operating turn and additionally at any section change or at any indication of equipment malfunction. A record shall be maintained by the manufacturer of each time the calibration test rail is run through the test system. This record shall be available to the purchaser's inspector.

8.6 In the event of a calibration failure, all rails processed since the last successful calibration shall be retested.

8.7 The suspect rail may be retested using manual non-destructive testing techniques before final rejection. The testing criteria of the manual non-destructive retesting shall be in accordance with Section 8.4. The method of inspection shall be agreed to between purchaser and manufacturer.

8.8 Rejected rails shall be cut back to sound metal as indicated by the ultrasonic [illegible] length restrictions in Section 11. The cut shall be [illegible]

9. Interior Condition/Macroetch Standards

9.1 Sample Location and Frequency

9.1.1 Ingot Steel - A test piece representing the top end of the top rail from one of the first three, middle three, and last three ingots of each heat shall be macroetched.

9.1.2 Continuous Cast Steel - A test piece shall be macroetched representing a rail from each strand from the beginning of each sequence and whenever a new ladle is begun, which is the point representative of the lowest level in the tundish (i.e. the point of lowest ferrostatic pressure.) One additional sample from the end of each strand of the last heat in the sequence shall also be tested. A new tundish is considered to be the beginning of a new sequence.

9.1.3 Upon receipt the purchaser has the right to examine any rail from any part of a heat at his option, and if the purchaser determines that the rail sample selected is rejectionable, the entire heat shall be re-evaluated according to Section 9.4.

9.2 Sample Preparation

9.2.1 A full transverse section of the rail can be cut by abrasive or mechanical means as long as care is maintained in preventing metallurgical damage.

9.2.2 The face to be etched shall have at least a 125 microinch finish.

9.2.3 The sample shall be degreased and totally immersed in a hot (160° to 180°F) one to one mixture, by volume, of concentrated hydrochloric acid (38 volume percent) and water to sufficiently etch the specimen. Etching time shall be between ten and twenty minutes. The solution surface shall be at least one inch above the etched surface.

9.2.4 Upon removal from the bath, the sample shall be rinsed and brushed under hot water and dried. The sample shall not be blotted dry. A rust inhibitor shall be applied to the etched face.

9.3 Macroetch Evaluation

9.3.1 According to Figure 9.1, the areas of cross section shall be defined as head, web, and base.

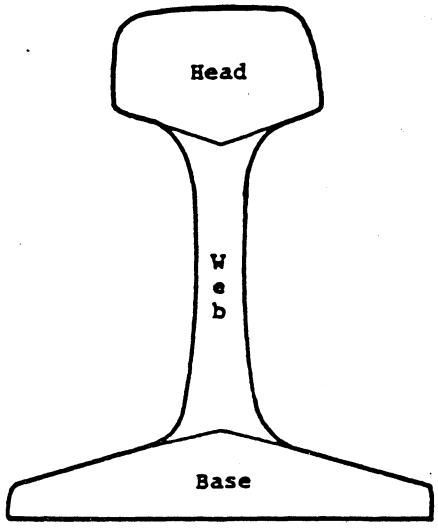


Figure 9.1 Definition of Rail Cross Sectional Areas for Macroetch Evaluation

9.3.2. Rejectionable Condition - Continuous Cast

9.3.2.1 Hydrogen flakes (Fig. 9.2)

9.3.2.2 Pipe: any size (Fig. 9.3 & 9.4)

9.3.2.3 Central web streaking extending into the head or base (Figs. 9.5, 9.6)

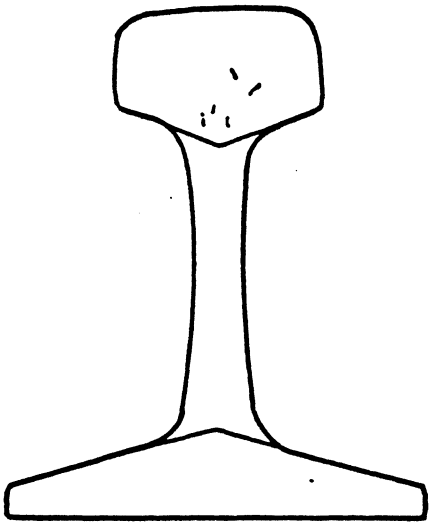


Figure 9.2 Hydrogen Flakes

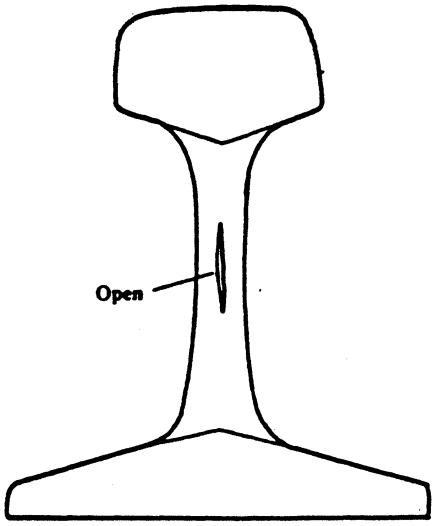


Figure 9.3 Pipe

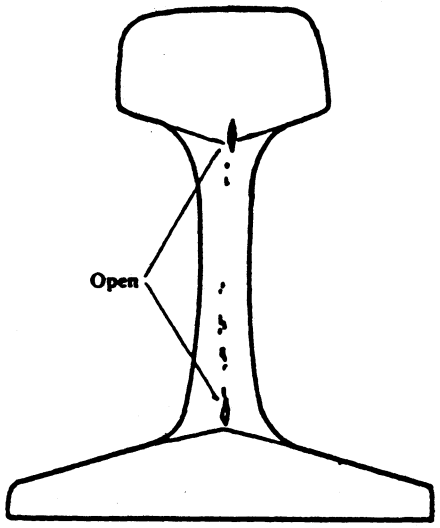


Figure 9.4 Pipe

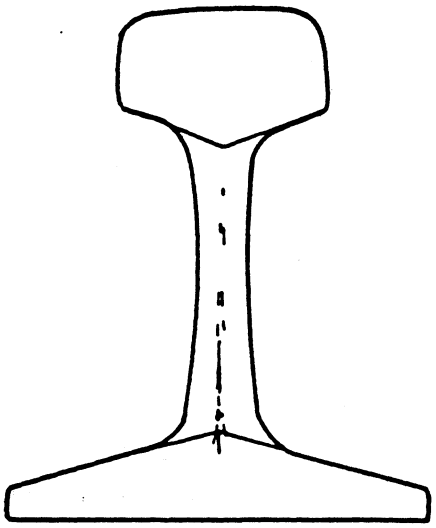


Figure 9.5 Central Web Streaking Extending into Base

1988

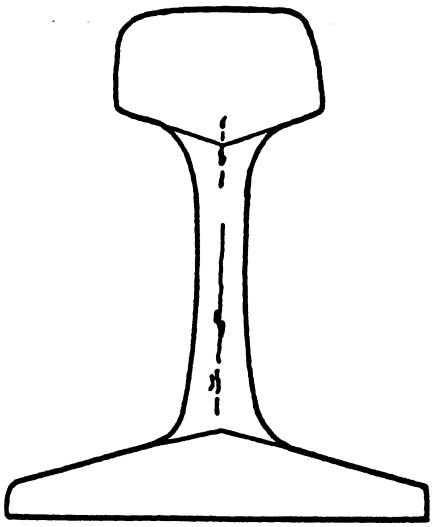


Figure 9.6 Central Web Streaking Extending into Head

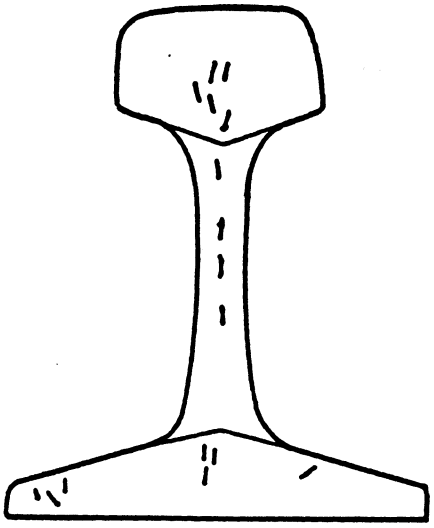


Figure 9.7 Scattered Central Web Streaking Extending into Head and Base

1988

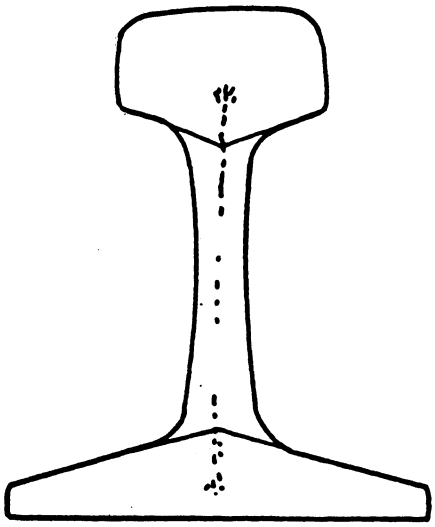


Figure 9.8 Scattered Segregation

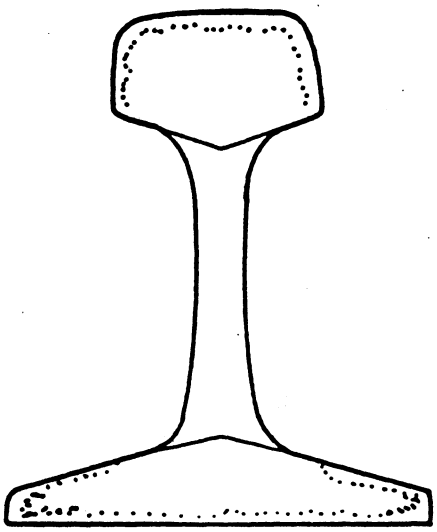


Figure 9.9 Subsurface Porosity

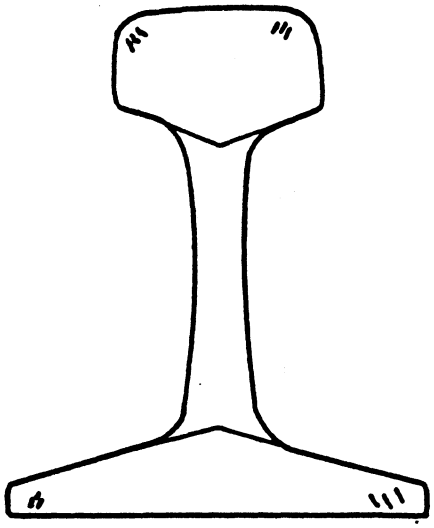


Figure 9.10 Radial Streaking

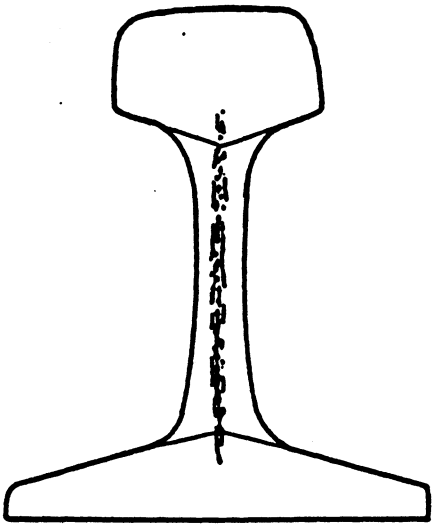


Figure 9.11 Scattered Central Web Segregation

9.3.2.4 Streaking greater than 2-1/2 in. in length

9.3.2.5 Scattered central web streaking from the web into the head and base. (See Fig. 9.7)

9.3.2.6 Scattered segregation extending more than one inch into the head or base (Fig. 9.8)

9.3.2.7 Subsurface porosity (Fig. 9.9)

9.3.2.8 Radial streaking (see Fig. 9.10).

9.3.2.9 Inverse or negative segregation having a width greater than 1/4 in. and extending more than 1/2 in. into the head or base.

9.3.2.10 Streaking greater than 1/8 in. in the head from internal bloom cracking:
Radial cracks
Halfway cracks
Hinged cracks

9.3.2.11 Other defects that could cause premature failure (i.e., slag, refractory, etc.)

9.3.3 Rejectionable Condition - Ingot Cast

9.3.3.1 Hydrogen Flakes (Fig. 9.2)

9.3.3.2 Pipe, any size (Fig. 9.3 & 9.4)

9.3.3.3 Segregation extending into the head or base

9.3.3.4 Segregation greater than 1/8 in. wide in the head or base

9.3.3.5 Scattered central web segregation extending into the head and base as shown in Fig. 9.11.

9.3.3.6 Subsurface porosity (Fig. 9.9)

9.3.3.7 Inverse or negative segregation having a width greater than 1/4 in. and extending more than 1/2 in. into either the head or base.

9.3.3.8 Other defects that could cause premature failure (i.e., slag, refractory, etc.)

9.4 Retests

9.4.1 If any specimen fails to meet the macroetch standard for interior quality, two additional samples of rail representative of the same strand or one adjacent lower sample from the ingot shall be obtained.

9.4.2 These retests shall be taken from positions selected by the manufacturer and the material from between the two retest positions shall be rejected.

9.4.3 If any retest fails, testing shall continue until acceptable internal quality is exhibited.

9.4.4 All rails represented by failed tests shall be rejected.

9.4.5 Short Rails - If finished rail from the ingot process or the beginning of a strand shows defects, it shall be cut back through successive rails to sound metal and accepted as short rail, subject to the requirements of Section 11.

9.5 Magnified Inspection

In the event that there is a question of the seriousness of the indication, further examination may be performed at higher magnification.

9.5.1 Inspect sample with stereo microscope up to 5X.

9.5.2 A polished sample may be inspected at 100x for metallographic interpretation.

10. Surface Classification.

Rails which do not contain surface imperfections in such number or of such character as will, in the judgement of the purchaser, render them unfit for recognized uses, shall be accepted.

10.1 Hot Marks

10.1.1 Rails with hot marks such as from shearing, scabs, pits, or hot scratches greater than 0.020 in. in depth shall be rejected.

10.1.2 Rails with guide marks in the head greater than 0.020 in. deep or greater than 0.062 in. wide shall be rejected.

10.2 Cold Scratches

10.2.1 Rails with longitudinal cold scratches, formed below 700°F, exceeding 36 in. in length and 0.010 in. in depth shall be rejected.

10.2.2 Rails with transverse cold scratches, formed below 700°F, which exceed 0.010 in. in depth shall be rejected.

10.3 Protrusions

10.3.1 Rails with any protrusion of excess metal extending from the surface of the rail, such as could be caused by a hole in the roll or a roll parting in the web shall be rejected if the protrusion affects the fit of the joint bar or causes the fishing template to stand out more than 1/16 in laterally.

10.3.2 Rails with any protrusion in the web greater than 1/16 in. high and greater than 1/2 square inch in area shall be rejected.

10.3.3 No protrusion of excess metal shall be allowed on the head or the base of the rail.

11. Length

11.1 The standard length of rails shall be 39 ft. and/or 80 ft., when corrected to a temperature of 60°F. Other standard lengths may be specified by the purchaser.

11.2 Up to 15 percent of 80 ft. or 9 percent of 39 ft. rail of the total tonnage accepted from each individual rolling will be accepted in shorter lengths as follows: 79'-78'-77'-75'-70'-65'-60'-39'-38'-37'-36'-33'-30'-27'-25'.

11.3 A variation of plus or minus 7/16 in. on 39 ft. rails or plus or minus 7/8 in. on 80 ft. rails from the specified length will be permitted.

11.4 Standard short length variations other than those set forth in 11.2 and 11.3 may be established by agreement between the purchaser and manufacturer.

11.5 Lengths of rails shall be designated with proper color paint as set forth in Section 15.

12. Drilling

12.1 The purchaser's order shall specify the amount of right-hand drilled and left-hand drilled rails, drilled-both-end rails and undrilled (blank) rails desired. The right-hand or left-hand end of the rail is determined by facing the side of the rail on which the brand (raised characters) appears.

12.1.1 When right-hand and left-hand drilling is specified, at least the minimum quantity of each indicated by the purchaser will be supplied.

12.1.2 Disposition of short rails which accrue from left-hand drilled, right-hand drilled, and undrilled (blank) rail production, and which are acceptable in accordance with 12.2 shall be established by agreement between the purchaser and the manufacturer.

12.2 Circular holes for joint bolts shall be drilled to conform to the drawings and dimensions furnished by the purchaser.

12.2.1 A variation of nothing under and 1/16 in. over in the size of the bolt holes will be permitted.

12.2.2 A variation of 1/32 in. in the location of the holes will be permitted.

12.3 Fins and burrs at the edge of bolt holes shall be eliminated. The drilling process shall be controlled so as not to mechanically or metallurgically damage the rail.

13. Workmanship

13.1 Rails shall be straightened cold in a press or roller machine to remove twists, waves and kinks until they meet the surface and line requirements specified, as determined by visual inspection.

13.2 When placed head up on a horizontal support, rails that have ends higher than the middle will be accepted, if they have a uniform upsweep, the maximum ordinate of which does not exceed 3/4" in any 39 ft. as illustrated in Fig. 13.1.

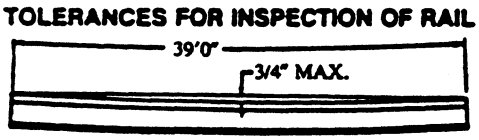


FIG. 13.1. Side Elevation of Rail Uniform Upsweep Tolerance per Section 13.2

13.3 The uniform surface upsweep at the rail ends shall not exceed a maximum ordinate of 0.025" in 3 ft. and the 0.025" maximum ordinate shall not occur at a point closer than 18" from the rail end as illustrated in Fig. 13.2.

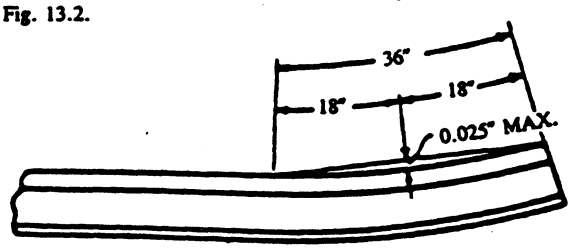


FIG. 13.2 Side Elevation of Rail Uniform Upsweep Tolerance at Rail Ends per Section 13.3

13.4 Surface downsweep and droop shall not be accepted.

13.5 Deviations of the lateral (horizontal) line in either direction at the rail ends shall not exceed a maximum mid-ordinate of 0.030 inches in 3 feet using a straight edge and of 0.023 inches at the end quarter point as illustrated in Figure 13.3.

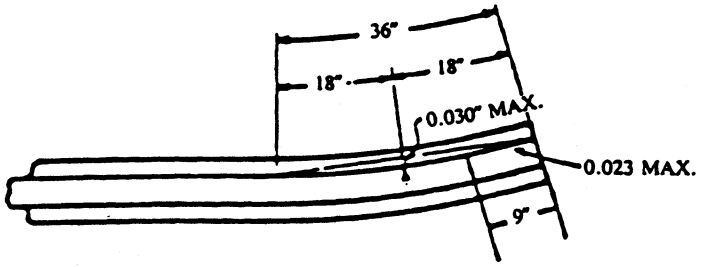


FIG. 13.3. Top View of Rail Lateral (Horizontal) Line Tolerance at Rail Ends

13.6 Uniform lateral sidesweep in any 39 feet shall not exceed 3/4 inch as illustrated in Figure 13.4.

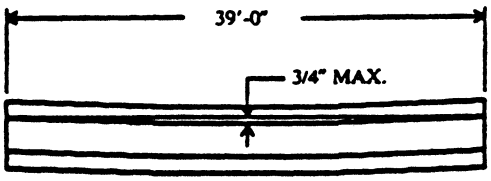


FIG. 13.4. Top View of Uniform Lateral Sidesweep Tolerance per Section 13.6.

13.7 When required, proof of compliance with Section 13.2 shall be determined by string (wire) lining, and a straightedge and taper gauge shall be used to determine rail end surface and line characteristics specified in Sections 13.3, 13.4, and 13.5.

13.8 Rails shall be hot sawed, cold sawed, milled, abrasive wheel cut, or ground to length, as specified by purchaser on purchase order, with a variation in end squareness of not more than 1/32 in. allowed. The method of end finishing rails shall be such that the rail end shall not be metallurgically or mechanically damaged.

13.9 If the rail shows evidence of twist while being laid head up on the final inspection bed, it will be checked by inserting a taper or feeler gage between the base and the rail skid nearest the end. If the gap exceeds 0.090 in. the rail will be rejected. Alternatively, a twist gage may be used and if the rail exceeds 1.5° in 39 feet the rail will be rejected. Rejected rails may be subject to straightening.

14. Acceptance

14.1 To be accepted, the rails offered must fulfill all the requirements of these specifications.

14.2 Only A-rails produced on the purchaser's order will be accepted.

14.3 Rails accepted shall be shipped and invoiced based on the calculated weight per yard for the rail section.

15. Markings

15.1 High-strength rails shall be marked by either a metal plate permanently attached to the neutral axis, hot stamped, or in the brand which gives the manufacturer, type and/or method of treatment. Heat treated rail shall be paint-marked orange and alloy rail shall be paint-marked aluminum.

15.2 "A" rails shall be paint-marked yellow.

15.3 Rails except for those 80 ft. or 39 ft. shall be paint-marked green.

15.4 Individual rails shall be paint-marked only one color, according to the order listed above, or as agreed upon by purchaser and manufacturer.

15.5 Paint markings will appear on the top of the head at one end only, at least 3 ft. from the end.

15.6 All short length rails produced shall have the length identified in a manner acceptable to the purchaser and manufacturer on the top of the head approximately one foot from each end.

16. Loading

16.1 All rails shall be handled carefully to avoid damage and shall be loaded with the branding on all rails facing the same direction. Rails of different markings shall not be intermixed in loading, but shall be segregated and loaded head up. If there are not enough rails of one marking for a full car, smaller groups consisting of tiers of different markings as approved by the purchaser, may be loaded onto one car.

SUPPLEMENTARY REQUIREMENTS

The following supplementary requirements shall apply only when specified by the purchaser in the inquiry, order, and contract.

S1. End Hardening

S1.1 The drilled ends may be specified to be end hardened. When so specified, end hardening and chamfering shall be in accordance with S1.1.1 through S1.1.7.

S1.1.1 End-hardened rails may be hot stamped with letters "CH" in the web of the rail ahead of the heat number.

S1.1.2 Water shall not be used as a quenching medium except in oil-water or polymer-water emulsion process approved by the purchaser.

S1.1.3 Longitudinal and transverse sections showing the typical distribution of the hardness pattern produced by any proposed process shall, upon request of purchaser, be submitted for approval before production on the contract is started.

S1.1.4 The heat-affected zone defined as the region in which the hardness is above that of the parent metal shall cover the full width of the rail head and extend longitudinally a minimum of 1-1/2 in. from the end of the rail. The effective hardness zone 1/2 in. from the end of the rail shall be at least 1/4 in. deep.

S1.1.5 The hardness measured at a spot on the center line of the head 1/4 in. to 1/2 in. from the end of the rail shall show a Brinell hardness number range of 341 to 401 when decarburized surface has been removed. A report of hardness determination representing the product shall be given to the purchaser or his representative.

S1.1.6 The manufacturer reserves the right to retreat any rails which fail to meet the required Brinell hardness number range.

S1.1.7 Chamfering rail ends shall be done in such a manner as will avoid formation of grinding cracks.

S2. Manual Ultrasonic Testing

S2.1 The rail may be specified by the purchaser to be ultrasonically tested for internal imperfections subject to the provisions of S2.2.

S2.2 Manual Ultrasonic Test of Web at the Rail Ends for Weld Plant Application.

S2.2.1 Manual End testing shall be performed using standard ultrasonic testing equipment acceptable to the purchaser and manufacturer.

S2.2.2 The search unit shall be a standard dual element crystal or similar transducer acceptable to the purchaser and manufacturer.

S2.2.3 The calibration test block shall be of the following characteristics: Material 4340 AISI Steel/Nickel plated, manufactured in accordance with ASTM E428. As an alternate, reference standards may be fabricated from a section of rail as agreed upon between the purchaser and manufacturer.

S2.2.4 Dimensions of the calibration test block and calibration references shall be agreed upon by the purchaser and manufacturer. (For calibration reference the recommended thickness of the block should approximate the thickness of the rail web and contain a 1/16 flat bottom hole drilled to one-half the thickness.)

S2.2.5 Calibration of the instrument shall be performed before the commencement of testing, every 100 rail ends thereafter, and after any test delay exceeding 30 minutes.

S2.2.6 When the search unit is coupled to the calibration test block, the indication height from the calibration reference shall serve as a reference level for the test. (Recommended reference levels should appear from 40% to 80% of the maximum height on the cathode ray tube graticule.)

S2.2.7 Couplant shall be distributed over the entire web area at least 12" from the end of the rail and the search unit moved over the entire area in vertical and/or horizontal sweeps.

S2.2.8 An indication equal to or exceeding the reference level shall be cause for rejection.

S2.2.9 Rejected rails may be cut back to sound metal as indicated by the ultrasonic testing, subject to the length restrictions in Section 11.

APPENDIX 1

Inasmuch as the controlled cooling of rails has proved a successful method for the elimination of hydrogen, the following procedure is presented as one which will meet the requirements of Section 7.1.

1. All rails shall be cooled on the hot beds or runways until full transformation is accomplished and then charged immediately into the containers. In no case should the rail be charged at a temperature below 725°F.

2. The temperature of the rails before charging shall be determined at the head of the rail at least 12 in. from the end.

3. The cover shall be placed on the container immediately after completion of the charge and shall remain in place for at least 10 hours. After removal or raising of the lid of the container, no rail shall be removed until the temperature of the top layer of rails has fallen to 300°F or lower.

4. The temperature of an outside rail or between an outside rail and the adjacent rail in the bottom tier of the container, at a location not less than 12 in. nor more than 36 in. from the rail end, shall be recorded. This temperature shall be the control for judging rate of cooling.

5. The container shall be so protected and insulated that the control temperature shall not drop below 300°F in 7 hours for rails 100 lbs. per yd. in weight, or heavier from the time the bottom tier is placed in the container and 5 hours for rails of less than 100 lbs. per yd. in weight. If this cooling requirement is not met, the rails shall be considered control-cooled, provided that the temperature at a location not less than 12 in. from the end of a rail at approximately the center of the middle tier does not drop below 300°F in less than 15 hours.

6. The purchaser shall be furnished a complete record of the process for each container of rails.

APPENDIX E

COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS OF NEW STEEL RAILS FROM THE UNITED KINGDOM ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND EXISTING DEVELOPMENT EFFORTS

The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of new steel rails from the United Kingdom on their growth, investment, ability to raise capital, and existing development and production efforts (including efforts to develop a derivative or improved version of new steel rails).

Actual Negative Effects

Bethlehem

* * * * * * *

CF&I

* * * * * * *

Anticipated Negative Effect

Bethlehem

* * * * * * *

CF&I

* * * * * * *

Influence on the Scale of Capital Investments

Bethlehem

* * * * * * *

CF&I

* * * * * * *

APPENDIX F

PRICE QUOTE INFORMATION FOR 1990-92 FROM CLASS I RAILROADS

Table F-1
New steel rails: Quote information on contracts to Burlington Northern, submitted by Burlington Northern, for shipment during 1990-92 and after 1992

* * * * * * *

Table F-2
New steel rails: Quote information on contracts to Norfolk Southern, submitted by Norfolk Southern, for shipment during 1990-92 and after 1992

* * * * * * *

Table F-3
New steel rails: Quote information on contracts to CSX, submitted by CSX, for shipment during 1990-92 and after 1992

* * * * * * *

Table F-4
New steel rails: Quote information on contracts to Chicago and Northwestern, submitted by Chicago and Northwestern, for shipment during 1990-92 and after 1992

* * * * * * *

Table F-5
New steel rails: Quote information on contracts to Atchison, Topeka, and Santa Fe, submitted by Atchison, Topeka, and Santa Fe, for shipment during 1990-92 and after 1992

* * * * * * *

Table F-6
New steel rails: Quote information on contracts to CP Rail System (Soo Line), submitted by CP Rail System (Soo Line), for shipment during 1990-92 and after 1992

* * * * * * *

Table F-7
New steel rails: Quote information on contracts to Conrail, submitted by Conrail, for shipment during 1990-92 and after 1992

* * * * * * *

Table F-8
New steel rails: Quote information on contracts to Kansas City Southern, submitted by Kansas City Southern, for shipment during 1990-92 and after 1992

* * * * * * *

Table F-9
New steel rails: Quote information on contracts to Southern Pacific, submitted by Southern Pacific, for shipment during 1990-92 and after 1992

* * * * * * *

APPENDIX G

PRICE QUOTE INFORMATION TO CLASS I RAILROADS FOR 1990-92 FROM U.S. PRODUCERS AND THE IMPORTER OF NEW STEEL RAILS FROM THE UNITED KINGDOM

Table G-1
New steel rails: Quote information to Burlington Northern submitted by U.S. producers and the importer from the United Kingdom for shipment during 1990-92 and after 1992

* * * * * * *

Table G-2
New steel rails: Quote information to Norfolk Southern submitted by U.S. producers and the importer from the United Kingdom for shipment during 1990-92 and after 1992

* * * * * * *

Table G-3
New steel rails: Quote information to Union Pacific submitted by U.S. producers and the importer from the United Kingdom for shipment during 1990-92 and after 1992

* * * * * * *

Table G-4
New steel rails: Quote information to Chicago and Northwestern submitted by U.S. producers and the importer from the United Kingdom for shipment during 1990-92 and after 1992

* * * * * * *

Table G-5
New steel rails: Quote information to CSX submitted by U.S. producers and the importer from the United Kingdom for shipment during 1990-92 and after 1992

* * * * * * *

Table G-6
New steel rails: Quote information to Atchison, Topeka, and Santa Fe and Kansas City Southern submitted by U.S. producers for shipment during 1990-92 and after 1992

* * * * * * *

Table G-7
New steel rails: Quote information to CP Rail Systems (Soo Line) and Southern Pacific submitted by U.S. producers for shipment during 1990-92 and after 1992

* * * * * * *

Table G-8
New steel rails: Quote information to Grand Trunk, Conrail, and Florida East Coast submitted by U.S. producers for shipment during 1990-92 and after 1992

* * * * * * *