U.S. International Trade Commission

CERTAIN STEEL WIRE ROD
Investigation No. TA-201-69
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PART I

DETERMINATION AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. TA-201-69

CERTAIN STEEL WIRE ROD

DETERMINATION

On the basis of the information in the investigation, the Commission --

(1) was equally divided on the question of whether certain steel wire rod[1] is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury to the domestic industry producing an article like or directly competitive with the imported article pursuant to section 202(b) of the Trade Act of 1974;[2]

(a) Chairman Lynn M. Bragg, Vice Chairman Marcia E. Miller, and Commissioner Stephen Koplan made an affirmative determination;[3]

(b) Commissioners Carol T. Crawford, Jennifer A. Hillman, and Thelma J. Askey made a negative determination. In light of their negative determination, Commisssioners Crawford, Hillman, and Askey do not believe any import relief is appropriate in this investigation;

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[1] The imported article covered by this investigation is defined as hot-rolled bars and rods, in irregularly wound coils, of circular or approximately circular solid cross section, having a diameter of 5 mm or more but less than 19 mm, of non-alloy or alloy steel, except such bars and rods of free-machining steel or of alloy steel containing by weight 24 percent or more of nickel. Free-machining steel is any steel product containing by weight one or more of the following elements, in the specified proportions: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium. Certain steel wire rod is provided for in subheadings 7213.91, 7213.99, 7227.20 and 7227.90.60 of the Harmonized Schedule of the United States (HTS). The scope of this investigation does not cover concrete reinforcing bars and rods, or bars and rods of stainless steel or tool steel, which are provided for in other HTS subheadings.

[2] Section 330(d)(1) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)) provides that when the Commission is equally divided on the question of injury under section 202(b) of the Trade Act of 1974, "then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the Commission."

[3] Chairman Lynn M. Bragg made an affirmative determination of threat of serious injury. Vice Chairman Marcia E. Miller and Commissioner Stephen Koplan made an affirmative determination of serious injury. Commissioners Carol T. Crawford, Jennifer A. Hillman, and Thelma J. Askey made a negative determination.

(2) makes negative findings,[4] pursuant to section 311(a) of the North American Free-Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3371(a)), with respect to imports of certain steel wire rod from Canada and Mexico.

RECOMMENDATIONS WITH RESPECT TO REMEDY

Vice Chairman Marcia E. Miller and Commissioner Stephen Koplan recommend:

(1) that the President impose an additional duty on imports of certain steel wire rod that are the subject of this investigation, as follows:

First year: 15.0 percent *ad valorem*;

Second year: 13.0 percent *ad valorem*;

Third year: 11.0 percent *ad valorem*; and

Fourth year: 9.0 percent *ad valorem*;

(2) that the additional duty apply to imports of certain steel wire rod from beneficiary countries of the Caribbean Basin Economic Recovery Act;

(3) that the additional duty not apply to certain specialty steel wire rod items, specifically, tire cord quality wire rod, pipe wrap quality wire rod, and valve spring quality wire rod;

(4) having made negative findings with respect to imports of certain steel wire rod from Canada and Mexico under section 311(a) of the NAFTA Implementation Act, that such imports be excluded from the additional duty; and

(5) that the additional duty not apply to any imports of certain steel wire rod entered duty-free from beneficiary countries under the Andean Trade Preference Act, or to imports of certain steel wire rod from Israel.

Chairman Lynn M. Bragg recommends:

(1) that the President impose a duty, in addition to the current rate of duty, for a four-year period, on all imports of steel wire rod that are the subject of this investigation without exclusion except as provided below, as follows:

First year: 7 percent *ad valorem*;

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[4] Chairman Lynn M. Bragg dissenting with respect to Canada. Only Commissioners making an affirmative determination, i.e., Chairman Bragg, Vice Chairman Marcia E. Miller, and Commissioner Stephen Koplan, were required to make findings with respect to imports of certain steel wire rod from Canada and Mexico.

Second year: 6.5 percent *ad valorem*;

Third year: 6.0 percent *ad valorem*; and

Fourth year: 5.5 percent *ad valorem*;

(2) that the additional duty described above apply to imports of steel wire rod from Canada under section 311(a) of the NAFTA Implementation Act;

(3) having made a negative finding with respect to imports of steel wire rod from Mexico under section 311(a) of the NAFTA Implementation Act, that such imports be excluded from the increase in duty described above;

(4) that the additional duty described above apply to imports of steel wire rod entered duty-free from beneficiary countries under the Caribbean Basin Economic Recovery Act, but that it not apply to imports of steel wire rod entered duty-free from beneficiary countries under the Andean Trade Preference Act or imports of steel wire rod from Israel.

BACKGROUND

Following receipt of a properly filed petition on January 12, 1999, by counsel on behalf of Atlantic Steel Industries, Inc., Atlanta, GA; Birmingham Steel Corp., Birmingham, AL; Connecticut Steel Corp., Wallingford, CT; Co-Steel Raritan, Perth Amboy, NJ; GS Industries, Inc., Georgetown, SC; Keystone Steel & Wire Co., Peoria, IL; North Star Steel Co., Minneapolis, MN; North Star Steel Texas Inc., Beaumont, TX; Northwestern Steel & Wire Co., Sterling, IL; the Independent Steel Workers Alliance, Bartonville, IL; and the United Steelworkers of America AFL-CIO, Pittsburgh, PA, the Commission instituted investigation No. TA-201-69, *Certain Steel Wire Rod*, under section 202 of the Trade Act of 1974 to determine whether certain steel wire rod is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Notice of the institution of the Commission's investigation and of the scheduling of public hearings to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of January 27, 1999 (64 F.R. 4123). The hearing in connection with the injury phase of the investigation was held on April 15, 1999, and the hearing on the question of remedy was held on June 8, 1999. Both hearings were held in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS ON INJURY OF CHAIRMAN LYNN M. BRAGG, VICE CHAIRMAN MARCIA E. MILLER AND COMMISSIONER STEPHEN KOPLAN

Introduction

Pursuant to section 202(b) of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2252(b)), we make an affirmative determination in this investigation. Vice Chairman Miller and Commissioner Koplan determine that steel wire rod is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic steel wire rod industry, and Chairman Bragg determines that steel wire rod is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to that industry.

In making determinations under section 202, the Commission analyzes the three criteria set forth in the statutory standard. Specifically, the Commission must find that–

(1) imports of the subject article are in *increased quantities* (either actual or relative to domestic production);

(2) the domestic industry producing an article that is like or directly competitive with the imported article is *seriously injured or threatened with serious injury*; and

(3) the article is being imported in such increased quantities as to be a *substantial cause* of serious injury or threat of serious injury to the domestic industry.

Thus, the Commission must find that all three criteria are satisfied to make an affirmative injury determination.

In addition, pursuant to section 311(a) of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3371(a)), we find that imports of steel wire rod from Mexico do not account for a substantial share of total imports and do not contribute importantly to the serious injury or the threat of serious injury. We find that imports of steel wire rod from Canada account for a substantial share of total imports. Vice Chairman Miller and Commissioner Koplan find that such imports from Canada do not contribute importantly to the serious injury, and Chairman Bragg finds that imports from Canada do contribute importantly to the threat of serious injury.

Background

The Commission instituted this investigation effective January 12, 1999, following receipt of a petition filed by nine domestic producers of steel wire rod and the United Steelworkers of America, AFL-CIO, and the Independent Steel Workers Alliance. The petition alleged that certain steel wire rod is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury to the domestic steel wire rod industry.

Steel wire rod is a hot-rolled intermediate steel product.[1] Its production involves four stages: (1) steelmaking, where the steel's chemistry is fixed; (2) casting the steel into a semi-finished shape (billet); (3) hot-rolling the billet into rod on a multistand, high-speed rolling mill; and (4) coiling and controlled cooling of the steel wire rod as it is passed along a specialized conveyor (known as a Stelmore deck).[2] Steel wire rod sold in the United States is categorized by "quality" according to end use.[3] The majority of steel wire rod consumed in the United States is "industrial" quality steel wire rod, which is intended for drawing into industrial or standard quality wire that in turn is used for the manufacture of such products as coat hangers, wire mesh, and chain link fencing.[4]

Steel wire rod is produced in over 70 countries. In 1998, the largest sources of U.S. imports were Canada, Japan, and Trinidad and Tobago. Although the types and qualities of imported steel wire rod may vary among country sources, in general, steel wire rod is imported within the same range of grades and is used for the same general end uses by the same end users as the domestic product.[5]

Domestic industry

Like or directly competitive product

Statutory framework and Commission practice. Section 202(b)(1)(A) of the Trade Act requires that we determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to "the domestic industry producing an article that is like or directly competitive with the imported article."

The term "like or directly competitive" is defined in the legislative history of the Trade Act. The term "like" means those articles which are "substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.)," and the term "directly competitive" means those articles which are "substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor."[6] The decision regarding like or directly competitive product is a factual determination.[7]

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[1] The steel wire rod that is the subject of this investigation is defined in the Commission's Notice of Investigation as hot-rolled bars and rods, in irregularly wound coils, of circular or approximately circular solid cross-section, having a diameter of 5 mm or more but less than 19 mm, of non-alloy or alloy steel, but not rods and bars of free-machining steel or alloy steel containing by weight 24 percent or more of nickel. The scope of the investigation does not cover concrete reinforcing bars and rods (rebar), or bars and rods of stainless or alloy tool steel.

[2] *Certain Steel Wire Rod, Report on Investigation No. TA-201-69* (hereinafter "Report") at II-5, 7.

[3] End-use categories are broad descriptions in which there is an overlap of metallurgical quality, chemistry, and physical characteristics. Report at II-5.

[4] Report at II-7.

[5] Report at II-5.

[6] *Trade Reform Act of 1973, Report of the Committee on Ways and Means. . . on H.R. 10710,* H.R. Rep. No. 571, 93rd Cong., 1st Sess. 45 (1973); *Trade Reform Act of 1974, Report of the Committee on Finance. . . on H.R.. 10710,* S. Rep. No. 1298, 93rd Cong., 2d Sess., at 121-122 (1974).

[7] *See, e.g., Wheat Gluten*, Inv. No. TA-201-67, USITC Pub. 3088 (March 1998) at II-9.

In determining what constitutes the like or directly competitive domestic product, the Commission traditionally has taken into account such factors as the physical properties of the article, customs treatment, where and how it is made (e.g., in a separate facility), uses, and marketing channels.[8] Each of the factors is relevant, but the weight given to each particular factor will depend upon the facts in the particular case and whether the Commission is applying a like product analysis or a directly competitive product analysis. Physical properties, customs treatment, and where and how a product is made, are particularly relevant to like product analysis, while uses and channels of distribution are more instructive in an analysis of which products are "directly competitive" with the subject imports. In determining what is the like or directly competitive product, the Commission traditionally has looked for clear dividing lines among possible products, and has disregarded minor variations.[9]

Finding. We find that domestic steel wire rod is "like" the imported steel wire rod that is the subject of this investigation and that there is one like product. The facts in this investigation support a finding that domestic steel wire rod is substantially identical to imported steel wire rod in its inherent and intrinsic characteristics. In terms of physical properties, imported and domestic steel wire rod as a group share the same basic physical attributes and are generally interchangeable.[10] The evidence indicates that, in general, steel wire rod is imported within the same range of grades as domestic steel wire rod.[11] The evidence also indicates that there is relatively little differentiation between foreign and domestic steel wire rod on the basis of quality.[12] The evidence further indicates that there is a relatively high degree of substitution between steel wire rod produced by domestic and foreign sources.[13]

There does not appear to be a high degree of differentiation between foreign and domestic steel wire rod based on production processes.[14] The evidence indicates that there is little or no difference among the steel wire rod rolling mills in the United States, or between U.S. mills and their foreign competitors.[15]

Also, imported steel wire rod is used for the same general end uses by approximately the same end users as the domestic product.[16] Most responding purchasers of steel wire rod (64 percent) reported that there were no steel wire rod applications for which the domestic or imported product was uniquely

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[8] *See* Views of Chairman Watson and Commissioners Crawford and Bragg in *Fresh Winter Tomatoes*, Inv. No. TA-201-64 (Provisional Relief Phase), USITC Pub. 2881 (April 1995) at II-7. *See also* Views of Vice Chairman Nuzum and Commissioners Rohr, Newquist, and Bragg in *Broom Corn Brooms*, Inv. No. NAFTA-302-1 (Provisional Relief Phase), USITC Pub. 2963 (May 1996) at II-14.

[9] *See, e.g., Stainless Steel Table Flatware*, Inv. No. TA-201-49, USITC Pub. 1536 (June 1984) at 4-5, where the Commission concluded that differences in weight, length, gauge, grading, finish, knife construction and refinement, alloy of stainless steel used, and price of stainless steel table flatware did not constitute sufficient differences in characteristics to warrant a finding of different like products.

[10] Report at II-5.

[11] Report at II-5.

[12] Report at II-5.

[13] Report at II-47.

[14] Report at II-5.

[15] Report at II-7.

[16] Report at II-5.

suitable for their needs.[17] Imported and domestic steel wire rod are sold through the same channels of distribution, in that virtually all (about 99 percent in each case) commercial shipments went to end users.[18]

We do not view any of the specialty types of steel wire rod to be separate like products. Rather we find the various qualities of steel wire rod, from industrial quality to the specialty qualities, to be part of a broad continuum of steel wire rod products, and that there is no clear dividing line between any particular products within the continuum. While domestic firms tend to concentrate on some products, all of them produce some significant amount of industrial quality steel wire rod.[19] The evidence indicates that most domestic producers can produce a range of steel wire rod products in the same facilities and on the same equipment, from industrial quality steel wire rod through pipe wrap.[20] The differences in qualities (metallurgical properties) in the various types of steel wire rod are the result of adjusting the chemistry in steelmaking as well as by varying the rolling and cooling practices.[21] [22]

In view of the above, we find that domestically produced steel wire rod is "like" the imported steel wire rod, and that there is one domestic like product consisting of the various qualities of steel wire rod.

Domestic industry

Statutory framework and Commission practice. The term "domestic industry" is defined in section 202(c)(6)(A)(i) of the Trade Act to mean "the domestic producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article."[23]

In this part of its analysis the Commission focuses on which firms and workers produce the like or directly competitive product. If the Commission has found that there is domestic production of one like or directly competitive product, it will find a single domestic industry and weigh the impact of the pertinent imports on the facilities and workers producing the pertinent like product.

Finding. Having found one like product, we find that there is one domestic industry producing steel wire rod like the imported steel wire rod. We find that this industry includes the firms and workers producing steel wire rod.

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[17] Report at II-47.
[18] Report at II-11.
[19] Transcript of injury hearing at 108-09 (Mr. Verrill).
[20] Report at II-7. *See also* transcript of injury hearing at 52 (Mr. Essig), and at 108 (Mr. Verrill).
[21] Report at II-7.
[22] Chairman Bragg does not believe the Commission's like product findings in the 1994 and 1997-98 antidumping and countervailing duty investigations under title VII of the Tariff Act of 1930 are in any way binding in the present case, even though those investigations covered a similar scope of imported steel wire rod products. The statutory definitions in section 201 and title VII, as well as the factors to be considered, are not the same, nor are the facts and arguments of the parties in the record of this investigation the same as those in the title VII investigations.
[23] Section 202(c)(6)(A)(i).

Increased imports

Statutory framework and Commission practice. The first of the three statutory criteria is that imports must be in "increased quantities." Under section 202 of the Trade Act, imports have increased when the increase is "either actual or relative to domestic production." In global safeguards investigations, the Commission considers imports from all sources in determining whether imports have increased. The Commission traditionally has considered import trends over the most recent 5-year period. There is no minimum quantity by which imports must have increased. A simple increase is sufficient.

Finding. We find that total imports[24] of steel wire rod that are the subject of this investigation have increased in both actual terms and relative to domestic production. In actual terms, imports increased from 1,776,350 short tons in 1994 to 2,537,404 short tons in 1998, an increase of 42.8 percent.[25] The quantity of imports increased in each of the years covered by the investigation, with almost 60 percent of this increase occurring since 1996.[26] The ratio of imports to domestic production also increased during the period of investigation, from 32.2 percent in 1994 to 44.3 percent in 1998.[27]

In view of the above, we find that imports are in increased quantities.

Serious injury or threat[28]

Statutory framework. The second of the three statutory criteria concerns whether the domestic industry is seriously injured or threatened with serious injury. Section 202(c) defines "serious injury" as "a significant overall impairment in the position of a domestic industry,"[29] and "threat of serious injury" as "serious injury that is clearly imminent."[30]

The statute sets out the economic factors that we are required to take into account. With respect to serious injury, we must consider (1) a significant idling of productive facilities in the domestic industry,[31] (2) the inability of a significant number of firms in the industry to carry out domestic production operations at a reasonable level of profit, and (3) significant unemployment or underemployment within the domestic industry. With respect to threat of serious injury, we must consider (1) a decline in sales or market share, a

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[24] Including imports from NAFTA countries and the speciality products that petitioners would exclude from the remedy.

[25] Table 4, Report at II-14-16.

[26] Table 4, Report at II-14-16.

[27] Report at II-16.

[28] As noted above, Chairman Bragg found that steel wire rod is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic steel wire rod industry. Accordingly, she does not join the remainder of these views. Her views relating to threat of serious injury and causation are set forth in separate additional views that follow.

[29] Section 202(c)(6)(B).

[30] Section 202(c)(6)(D). This definition is also consistent with the 1974 legislative history, which defines a "threat" of serious injury to exist "when serious injury, although not yet existing, is clearly imminent if imports [sic] trends continued unabated." *Trade Reform Act of 1974, Report of the Committee on Finance. . . on H.R.. 10710,* S. Rep. No. 1298, 93rd Cong., 2d Sess., at 121 (1974).

[31] The statute provides that the term "significant idling of productive facilities" includes the closing of plants or the underutilization of production capacity. Section 202(c)(6)(B).

higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment) in the domestic industry, (2) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development, and (3) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.[32]

The Commission is not limited to consideration of these factors, and it considers all economic factors that it finds relevant. The presence or absence of any of the statutory factors is not "necessarily dispositive" of whether there is serious injury or threat of serious injury.[33]

Finding. For the reasons set forth below, we find that the domestic industry is seriously injured.

–Overview of the domestic steel wire rod industry

In 1998, there were 16 domestic producers of steel wire rod, the same number as in 1994, although the makeup of producing firms changed somewhat during the period of investigation.[34] While there is little or no difference among the steel wire rod rolling mills in the United States,[35] there is some difference in the level of integration of these firms. Some domestic steel wire rod producers purchase billets, while others have their own steelmaking capabilities and thus can produce their own billets.[36] Some domestic steel wire rod producers sell a significant portion of their production to affiliated end-users, while others sell all their production in the merchant market. As discussed further below, domestic capacity and production both increased during the period of investigation. While production peaked in 1997, capacity was at its highest level in 1998.[37]

–Analysis of factors

Production of domestic steel wire rod increased irregularly during the first 4 years of the investigation period from 5.5 million short tons in 1994 to 6.0 million short tons in 1997, then declined in

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[32] Section 202(c)(1).

[33] Section 202(c)(3).

[34] During the period of investigation, one consolidation occurred (in 1995), one producer ceased operations (Laclede Steel in 1996), and one new producer commenced operations (Cascade Steel Rolling Mills in 1997). An additional producer, Atlantic Steel Industries, ceased operations at the end of 1998. Report at II-23. None of the parties argued that Laclede's closing was related to imports. The closing of Atlantic in December 1998 appears to be largely related to a desire to take advantage of the appreciated value of the real estate the plant occupied in midtown Atlanta. The site was sold for the construction of a shopping center. However, according to Atlantic, the firm planned to construct a new mill at a different location, but has postponed such plans because of the surge in low-priced imports. Report at II-18, n. 39. *See also* transcript of injury hearing at 63-64 (Mr. Webb).

[35] Report at II-7.

[36] Report at II-5, 7. As indicated above, the manufacturing process for steel wire rod consists of four basic stages: (1) steelmaking, (2) casting the steel into a semifinished shape (billet), (3) hot-rolling the billet into steel wire rod, and (4) coiling and controlled cooling.

[37] Table 6, Report at II-19.

1998 to 5.7 million short tons.[38] The quantity and value of domestic shipments similarly increased irregularly during 1994-1997, and then declined in 1998. The value of domestic shipments between 1997 and 1998 declined at a greater rate (9.7 percent) than the quantity of domestic shipments (3.7 percent).[39]

Capacity utilization in the industry declined during the investigation period, and there is some evidence the industry experienced a significant idling of productive capacity. Capacity utilization, after rising slightly from 85.0 percent in 1994 to 85.1 percent in 1995, its highest level during the period, declined each year thereafter. It reached its lowest level in 1998 at 76.0 percent, falling by 6.2 percentage points from 1997.[40] Domestic firms canceled plans to build new facilities, reduced shifts, and implemented shutdowns in 1998 and early 1999, and there is also evidence that two relatively new dual-use steel wire rod/rebar plants were partially idled on their steel wire rod operations.[41]

We considered whether declines in production, shipments, and capacity utilization might be explained by other factors, such as increases in industry capacity or by plant or equipment outages for maintenance or other reasons. The evidence relating to these factors provides at most only a partial explanation. While industry capacity increased by over 1 million short tons, or 16 percent, between 1994 and 1998,[42] domestic consumption of steel wire rod increased by nearly as much (14 percent).[43] Thus, the capacity increase appears to have generally tracked the increase in the size of the domestic market. The Commission also considered capacity utilization data net of outages. This allowed us to determine the extent to which capacity utilization levels may have been affected by events unrelated to wire rod orders, such as planned maintenance, plant modernization, and unplanned events such as equipment failure and weather conditions. However, we do not find evidence of unusual outages that would explain the recent decline in capacity utilization levels.

A significant number of steel wire rod firms have been unable to operate at a reasonable level of profit. After healthy operating income of 6.1 and 6.6 percent in 1994 and 1995, respectively, the industry experienced a loss in 1996 of 0.5 percent, had a relatively small operating income of 2.3 percent in 1997, and then had a significant operating loss of 5.3 percent in 1998.[44] In 1998, 9 of 14 domestic wire rod producers, accounting for 74 percent of industry production, reported operating losses.[45]

Respondents have suggested that steel wire rod financial performance was understated due to low transfer prices to affiliates, a failure to capture scrap cost declines because of accounting methods, or because of start-up costs. The evidence does not support these allegations. Both firms selling to affiliates and those that do not had operating losses in 1998.[46] Commission staff verified the transfer pricing of one of the firms that sells to affiliates and found transfer prices to be equivalent to those charged to independent customers. The record also indicates that, even though scrap prices declined in the second half of 1998,

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[38] Table 6, Report at II-19.
[39] Table 7, Report at II-20.
[40] Table 6, Report at II-19.
[41] Petitioners' posthearing brief on injury at 14-15; *see also* transcript of injury hearing at 43 (Mr. Thompson), and at 61 (Mr. Zetzsche).
[42] Table 6, Report at II-19.
[43] Table 3, Report at II-12.
[44] Table 10, Report at II-23.
[45] Based on questionnaire responses; Table 10, Report at II-23.
[46] Table 11, Report at II-24.

overall material costs did not decline in 1998.[47] Finally, most start-up costs in the industry were incurred early in the period. Start-up costs, as evidenced by capital expenditures, peaked at $273.8 million in 1995 and have declined each year since. Capital expenditures were at their lowest levels in 1997 and 1998, totaling $95.9 million and $78.6 million, respectively.[48]

The number of production and related workers (PRWs) and total hours worked declined during 1994-98, but only marginally. The overall number of PRWs declined by *** percent, from an average of *** in 1994 to an average of 4,301 in 1998.[49] Data for 1998 do not reflect the permanent layoff of 180 workers at North Star in November 1998[50] or the layoffs of workers at Atlantic Steel, which closed at the end of 1998. Also, 12 of 14 domestic producers reported reductions in their shifts as a result of a lack of orders in 1998.[51]

Most steel wire rod is produced to meet specific customer orders and is not sold out of inventory. U.S. producers' inventories of steel wire rod relative to production and shipments have changed only slightly since 1995, and were a relatively small 4.4 percent in 1998.[52] Industry productivity increased irregularly over the period, but declined slightly in 1998 from the 1997 level.[53] As indicated above, industry capital expenditures declined significantly during the period, and were at their lowest level in 1998. Capital expenditures were $144.4 million in 1994 and then increased sharply to $273.8 million in 1995; capital expenditures have declined each year since 1995, and totaled $78.6 million in 1998.[54] R&D expenses, which were small relative to capital expenditures, varied only slightly from year to year and rose marginally during the period from $8.0 million in 1994 to $8.2 million in 1998.[55]

In view of the recent declines in production, shipments, and capacity utilization, the sharp deterioration in the financial situation of the industry, evidence of unemployment, and the decline in capital expenditures, we find that the domestic steel wire rod industry is seriously injured.

Causation

Statutory overview. Under the third criterion we must determine whether the subject article is being imported in such increased quantities as to be a "substantial cause" of serious injury or threat of serious injury. The term "substantial cause" is defined in section 202(b)(1)(B) to mean "a cause which is important and not less than any other cause."[56] Thus, the increased imports must be both an important cause of the serious injury or threat of serious injury *and* a cause that is at least equal to any other cause.

In determining whether increased imports are a substantial cause of serious injury or threat of serious injury, the statute directs that we take into account all relevant economic factors, including but not

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[47] Table 10, Report at II-23.
[48] Table 14, Report at II-26.
[49] Table 9, Report at II-21.
[50] Transcript of injury hearing at 42 (Mr. Thompson).
[51] Report at II-21. *See also* petitioners' posthearing brief on injury at 19.
[52] Table 8, Report at II-20.
[53] Table 9, Report at II-21.
[54] Table 14, Report at II-26.
[55] Table 14, Report at II-26.
[56] Section 202(b)(1)(B).

limited to ". . . an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers."[57] The statute also directs that we are to consider "the condition of the domestic industry over the course of the relevant business cycle". We may not aggregate the causes of declining demand associated with a recession or economic downturn in the U.S. economy into a single cause of serious injury or threat of injury.[58] Also, the statute directs that we examine factors other than imports that may be a cause of serious injury or threat of serious injury to the domestic industry and include such findings in our report. Neither the statute nor the legislative history rules out consideration of any other possible causes of injury.[59]

Finding. For the reasons set forth below, we determine that increased imports are both an important cause of the serious injury and not less important than any other cause. We find therefore that increased imports are a "substantial cause" of serious injury to the domestic industry. First we describe several relevant conditions of competition.

–Conditions of competition

There are a number of factors that affect the competitiveness of domestic and imported steel wire rod in the U.S. market, including factors related to the product itself, the degree of substitutability between the domestic and imported articles, changes in world capacity and production, market conditions in other consuming countries, and exchange rates. These factors affect prices and other considerations taken into account by purchasers in determining whether to purchase the domestic or imported article. As indicated above, producers, importers, and purchasers generally agree that there are no substitutes for steel wire rod. This lack of substitutable products supports a low degree of price sensitivity for steel wire rod.[60] Thus, the overall demand for steel wire rod will not change significantly in response to changes in the price of steel wire rod. Furthermore, foreign-produced steel wire rod generally is interchangeable with U.S.-produced steel wire rod, and competes within the same or similar qualities.[61]

Foreign capacity in the major producing and supplying countries as a whole rose faster than production during 1994-98 (10.5 percent for capacity vs. 8.5 percent for production),[62] indicating a potential for greater foreign production. There was a decline in the real exchange rates vis-a-vis the U.S. dollar of the currencies of countries located in the Asian region and countries formerly part of the Soviet Union. These exchange rate changes may have encouraged producers in countries such as Indonesia and Ukraine to increase their focus on the U.S. market while also helping more traditional suppliers such as Japan become more competitive suppliers.[63] [64]

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[57] Section 202(c)(1)(C).

[58] Section 202(c)(2)(A).

[59] Section 202(c)(2)(B). The legislative history of the Trade Act includes examples of other causes "such as changes in technology or in consumer tastes, domestic competition from substitute products, plant obsolescence, or poor management," which, if found to be more important causes of injury than increased imports, would require a negative determination. *Trade Reform Act of 1974, Report of the Committee on Finance. . . on H.R.. 10710,* S. Rept. 93-1298, 93d Cong., 2d Sess. (1974), at 121.

[60] Report at II-47-48.

[61] Report at II-5.

[62] Report at II-27.

[63] For example, during the period 1994-98, the currencies of Indonesia, Ukraine, and Japan depreciated in real

(continued...)

–Analysis of causation

In determining that increased imports are an important cause of serious injury, we considered the amount of the increase in imports in both actual terms and relative to domestic production, and the share of the domestic market held by imports. Having concluded that increased imports are an important cause of serious injury, we then considered whether there were other possible causes and whether any of those other causes might be a more important cause of serious injury than increased imports.

Imports of steel wire rod increased in both actual terms and relative to domestic production during the period. The quantity of steel wire rod imports increased by 42.8 percent, and the value of such imports increased by 30.9 percent over the same period.[65] Imports increased in each year and were at their highest level, in terms of both quantity and value, in 1998.[66] The bulk of the increase in imports, 59.5 percent, has occurred since 1996.[67] Imports increased by 150,000 tons in 1998 over 1997 levels despite a concurrent decline in domestic consumption of 59,000 tons.[68] Domestic producers absorbed the entire decline in domestic consumption that occurred in 1998. The quantity of imports of steel wire rod also increased relative to domestic production from 32.2 percent to 44.3 percent during the investigation period.[69]

The share of the U.S. market held by imports also increased during 1994-98. In terms of quantity, the share of the U.S. market held by imports increased by 6.3 percentage points from 24.4 percent in 1994 to 30.7 percent in 1998, and in terms of value, the share of the U.S. market taken by imports increased by 5.4 percentage points from 25.4 percent in 1994 to 30.8 percent in 1998.[70]

The Commission collected pricing data from U.S. and foreign producers for four specific steel wire rod products. In general, prices for U.S.-produced steel wire rod fluctuated during 1994-97 without a clear trend, but these prices declined during 1998 and reached their lowest levels in the fourth quarter of 1998. Prices for imported steel wire rod also generally fluctuated and were lower in 1998 than in the beginning of the period in those instances in which a complete series of data were available.[71]

Using shipment data, unit values reached their highest level in 1995, at an average of $374.95 per ton. Unit values then declined each year thereafter, falling to an average of $365.33 per ton in 1996, $356.22 per ton in 1997, and $342.64 per ton in 1998.[72] The largest decline, in both dollar and percentage

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[63] (...continued)
terms against the U.S. dollar by 23.2, 99.9, and 16.2 percent, respectively. Table 23, Report at II-52. See also transcript of hearing on injury at 225 (Mr. Leonard).

[64] Non-traditional suppliers may have also increased shipments in the latter part of the investigation period as more wire producers sought new supply sources during the 1997 antidumping and countervailing duty investigations. See, e.g., transcript of hearing on injury at 214 (Mr. Cronin) and 225 (Mr. Leonard).

[65] Report at II-13.

[66] Table 4, Report at II-14-16.

[67] Based on data in Table 5, Report at II-17.

[68] Table 20, Report at II-40-41.

[69] Table 5, Report at II-17.

[70] Table 19, Report at II-38-39.

[71] Report at II-55, based on information in Tables 24-27, Report at II-54-55.

[72] Table 4, Report at II-14-16.

terms, occurred in 1998. These declines, particularly in 1997 and 1998, coincided with the greatest increase in imports.

We also considered other possible causes of serious injury to the domestic industry, including respondents' claim that domestic industry actions, not increasing imports, was the most important cause of the industry's falling prices and reduced profitability in 1998.[73] In particular, we considered the increase in domestic capacity and start-up costs associated with bringing that capacity on line. We also considered raw material costs, in light of respondents' argument that falling scrap prices in the second half of 1998 caused the decline in steel wire rod prices in 1998. However, we do not view any of these other possible causes of serious injury, as a more important cause than the increase in imports.

Respondents argue that expanded domestic industry capacity, falling raw material costs (for scrap), and start-up costs at three domestic firms explain the falling prices and reduced profitability that the domestic industry experienced in 1998.[74]

We considered whether the capacity expansion in the domestic industry was a more important cause of serious injury than the increased imports. We find that it is not. As we stated above, the expansion was generally in line with the increase in domestic steel wire rod consumption. Domestic capacity increased by 16 percent during the period, while domestic consumption increased by 14 percent during the same period.[75] When consumption declined slightly in 1998 after three straight years of increases, imports continued to increase, and domestic production fell. Thus, although the domestic industry increased capacity substantially, the increase tracked consumption. In contrast, imports increased at a rate three times the rate of the increase in consumption (42.8 percent vs. 14 percent). Accordingly, we find that increased industry capacity is not a more important cause of serious injury than increased imports.

We also considered respondents' argument that falling rod prices related to decreasing scrap costs may have been a more important cause of serious injury, or the extent to which falling scrap prices might explain the decline in steel wire rod prices. Scrap prices fell sharply beginning in mid-1998.[76] In a competitive market, falling raw material prices may lead to downward pressure on steel wire rod prices. However, company financial data show that the cost of goods sold remained unchanged in 1998 from the 1997 level,[77] such that increased costs of other inputs offset the decline in scrap prices. It should also be noted that some steel wire rod steelmaking operations use scrap in combination with direct reduced iron (DRI) or pig iron in their steelmaking operations, further limiting the effects of a reduction in scrap prices.[78] There is no evidence to indicate that the raw material prices for foreign suppliers differed in any significant way from the raw material prices for domestic producers. Further, there is evidence that there is little or no difference between the production process of U.S. firms and their foreign competitors. Thus, we

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[73] Transcript of hearing on injury at 202 (Mr. Malashevich).

[74] Transcript of hearing on injury at 202 (Mr. Malashevich).

[75] Tables 3, 6, Report at II-12, 19.

[76] *American Metal Markets*, Mar. 30, 1999, at 10.

[77] Table 12, Report at II-24.

[78] For example, 48 to 62 percent of the metallics charge at GS's Georgetown, S.C., mill is DRI, but Georgetown does not use any DRI at its Kansas City mill. Transcript of injury hearing at 145 (Mr. Essig). Cascade Steel does not use DRI, but uses pig iron instead. Transcript of injury hearing at 146 (Mr. Zetzsche).

find that the decline in scrap prices in the second half of 1998 was not a more important cause of serious injury.

We also considered whether start-up costs may have been a more important cause of serious injury. We considered such costs to relate to the extra overhead and lower initial capacity utilization associated with bringing new mills and mill expansions into full operation. As stated above, the evidence indicates that most of the start-up costs in the industry were incurred early in the investigation period. Furthermore, only three of the 16 domestic producers, Birmingham (a mill expansion), Cascade (a new mill), and North Star (an additional mill) were in the start-up stage during any part of the investigation period, further indicating that start-up costs were not likely to have had a significant impact on overall industry financial health.

In view of the above, we find that increased imports are a substantial cause, and a cause no less important than any other cause, of serious injury to the domestic steel wire rod industry. Our finding is based on the increase in imports and subsequent increase in the share of the domestic market held by imports, and the declines in domestic production, shipments, and capacity utilization, the negative profitability of the industry, evidence of unemployment, and the decline in industry capital expenditures. Accordingly, we make an affirmative determination.

Finding with respect to NAFTA country imports

Statutory framework. Section 311(a) of the NAFTA Implementation Act[79] provides that if the Commission makes an affirmative injury determination in an investigation under section 202 of the Trade Act, or if the Commission is equally divided, the Commission must also find whether–

(1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and

(2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.

Section 311(b)(1) states that imports from a NAFTA country "normally" will not be considered to account for a substantial share of total imports if that country is not among "the top 5 suppliers of the article subject to the investigation, measured in terms of import share during the most recent 3-year period." Section 311(c) defines "contribute importantly" to mean "an important cause, but not necessarily the most important cause." In determining whether imports have contributed importantly to the serious injury or threat of serious injury, the Commission is directed to consider "such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports from a NAFTA country or countries.[80] Imports from a NAFTA country or countries "normally" will not be considered to contribute importantly to the serious injury or threat "if the growth rate of imports from such

[79] 19 U.S.C. 1371(a).
[80] Section 311(b)(2) of the NAFTA Implementation Act.

country or countries during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period."[81]

Finding. We have made negative findings with respect to imports of steel wire rod from both Mexico and Canada. Mexico has not been among the top five suppliers during the most recent 3-year period; Mexico was the 11th largest supplier in 1998. Mexico has accounted for 3 percent or less of total imports of steel wire rod during the 3 most recent years, and its imports during this period declined.[82] Petitioners agreed that imports from Mexico do not meet the statutory threshold.[83] Based on the evidence, we find that imports from Mexico do not account for a substantial share of total imports and imports from Mexico do not contribute importantly to the serious injury.

Canada has been the largest individual source of imports in each of the most recent 3 years, and accounted for 21.9 percent of total imports (quantity) in 1998.[84] Accordingly, we find that imports from Canada account for a substantial share of total imports. However, imports from Canada have declined during the most recent 3 years in both actual terms and relative to total U.S. imports. Imports from Canada declined from 659,962 short tons in 1996 to 555,942 short tons in 1998, or by 15.8 percent, while imports from all sources (including Canada) increased from 2,084,519 short tons in 1996 to 2,537,404 short tons in 1998, or by 21.2 percent during the same period.[85] Imports from Canada also declined as a share of total U.S. imports, from 31.7 percent in 1996 to 21.9 percent in 1998.[86] Thus, during the most recent 3 years of the investigation period, there has been a substantial decline in steel wire rod imports from Canada, while the growth rate of all steel wire rod has increased. Furthermore, Commission pricing and other data do not support a finding that imports from Canada are contributing importantly to the serious injury. Pricing data show Canada to be a relatively high priced supplier to the U.S. market. For the three steel wire rod products in the Commission's pricing series in which there were imports from Canada during most of the calendar quarters surveyed, prices of the Canadian product were higher than those for the domestic product.[87] In two of the product areas (products 1 and 2), the Canadian imports were priced above the domestic product in all four quarters of 1998, and more than *** percent above the domestic product in three of the four quarters of 1998.[88] Finally, we took into account petitioners' request that the Commission make a negative determination respecting imports from Canada.[89] In view of the evidence, we find that steel wire rod imports from Canada did not contribute importantly to the serious injury suffered by the domestic industry.

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[81] Id.

[82] Table 20, Report at II-40-41.

[83] Petitioners' posthearing brief on injury at 25.

[84] Table 4, Report at II-14-16.

[85] Table 4, Report at II-14-16.

[86] Table 4, Report at II-14-16.

[87] Tables 24, 25, 27, Report at II-54-55.

[88] Product 1 involves industrial quality wire rod, grade C1006, 5.5 mm through 12 mm in diameter, for hangers, chain link fencing, collated nails and staples, grates, and other formed products. Product 2 involves industrial quality wire rod, grades C1008 through C1010, 5.5 mm through 12 mm, for hangers, also for chain link fencing, collated nails and staples, grates, and other formed products. *See* 1998 data in Tables 24 and 25, Report at II-54.

[89] Petitioners' posthearing brief on injury at 25.

SEPARATE VIEWS ON INJURY OF CHAIRMAN LYNN M. BRAGG

As noted, I join in the background discussion for this investigation, as well as the analysis of the domestic like product and the domestic industry, with my two colleagues who determined that steel wire rod is being imported in such increased quantities as to be a substantial cause of serious injury to the domestic steel wire rod industry. I further join in the analysis of the first of the three statutory criteria, i.e. that imports have entered the United States in "increased quantities." However, because I find that the domestic industry is threatened with serious injury, and because I find that imports from Canada both account for a substantial share of total imports and contribute importantly to the threat of serious injury, I set forth my separate analysis below.

Threat of Serious Injury

Statutory framework. The second of the three statutory criteria concerns whether the domestic industry is seriously injured or threatened with serious injury. The term "serious injury" is defined in the statute to mean "a significant overall impairment in the position of a domestic industry,"[1] and the term "threat of serious injury" is defined to mean "serious injury that is clearly imminent."[2]

The statute sets out certain economic factors that must be taken into account. With respect to the threat of serious injury, these factors are: (1) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment) in the domestic industry; (2) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development; and, (3) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.[3] These factors are not exclusive; the statute instead directs consideration of all economic factors that are found to be relevant, including the listed factors. Also, the statute directs that the presence or absence of any of these factors shall not be considered "necessarily dispositive".[4]

The Commission has developed no set formula for determining whether an industry is seriously injured or threatened with serious injury, but instead has examined the relevant facts in the record of each investigation and made its determination on the basis of the totality of these facts. The Commission examines data for the entire period of investigation ("POI"), focusing in particular on the most recent data so as to assure itself whether the domestic industry is in fact seriously injured or threatened with serious injury at the time it makes its determination.[5]

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[1] Section 202(c)(6)(B).

[2] Section 202(c)(6)(D). This definition is also consistent with the 1974 legislative history, which defines a "threat" of serious injury to exist "when serious injury, although not yet existing, is clearly imminent if imports [sic] trends continued unabated." 1974 Finance Committee Report at 121.

[3] Section 202(c)(1).

[4] Section 202(c)(3).

[5] *See, e.g., Wheat Gluten,* Inv. No. TA-201-67, USITC Pub. 3088 (Mar. 1998), at I-12.

Finding. As described below, I find that the domestic industry is threatened with serious injury, i.e. I find that serious injury is clearly imminent.

–Overview of the domestic steel wire rod industry

In 1998, there were 16 domestic producers of steel wire rod, the same number as in 1994, although the makeup of producing firms changed somewhat during the POI.[6] There is also some difference in the level of integration among these firms; some domestic steel wire rod producers purchase billets, while others have their own steelmaking capabilities and thus can produce their own billets.[7] Some domestic steel wire rod producers sell a significant portion of their production to affiliated end-users, while others sell all of their production to unaffiliated end-users. However, there is little or no difference among the steel wire rod production facilities in the United States.[8] As discussed further below, domestic capacity and production both increased during the period of investigation, and capacity was at its highest level in 1998, while production peaked in 1997.[9]

–Analysis of factors

First, with regard to market share, I note that as measured by quantity, the share of U.S. apparent consumption held by domestic producers declined from 75.6 percent in 1994 to 69.3 percent in 1998; commensurately, total import market share increased from 24.4 percent to 30.7 percent during this period.[10] Similarly, as measured by value, the share of U.S. apparent consumption held by domestic producers declined from 74.6 percent in 1994 to 69.2 percent in 1998, while total import market share increased from 25.4 percent to 30.8 percent.[11] Specifically with regard to the latter part of the POI, I note that as measured by quantity, U.S. producers' market share declined by 2.1 percentage points from 1997 to 1998; as measured by value, this decline was 2.4 percentage points.[12]

Second, with regard to inventories, I note that end-of-period inventories for U.S. producers increased from 171,163 short tons in 1994 to 252,006 short tons in 1998, which represents an increase of 47.2 percent.[13] Between 1997 and 1998, however, U.S. producers' inventories actually declined by 2.1 percent.[14] I further note that the Commission requested information from importers on end-of-period inventories; although not all responding importers reported end-of-period inventory levels for imported steel

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[6] During the period of investigation, one consolidation occurred (in 1995), one producer ceased operations (in 1996), one new producer commenced operations (in 1997), one producer opened a second production facility (in 1997), and one producer ceased operations at the end of 1998. Report at II-18.

[7] Report at II-5, 7. The manufacturing process for steel wire rod consists of four basic stages: (1) steel production; (2) casting the steel into a semifinished shape (billet); (3) hot-rolling the billet into steel wire rod; and (4) coiling and controlled cooling.

[8] Report at II-7.

[9] Table 6, Report at II-19.

[10] Table 19, Report at II-38-39.

[11] *Id*.

[12] *Id.*

[13] Table 8, Report at II-20.

[14] *Id.*

wire rod, of those who did,[15] inventories of imports from all countries increased from 70,441 short tons in 1994 to 135,695 short tons in 1998, which represents an increase of 92.6 percent.[16] Between 1997 and 1998 alone, reported inventories of imports increased by 71.7 percent.[17]

Third, with regard to production, I note that production of steel wire rod by U.S. producers increased from 5,518,766 short tons in 1994 to 5,731,539 short tons in 1998, which represents an increase of 3.9 percent.[18] Between 1997 and 1998, however, U.S. production actually decreased by 3.9 percent. This decrease during the latter part of the POI occurred at the same time that the domestic industry was expanding its capacity; thus, U.S. producers' capacity utilization net of outages declined from 84.6 percent in 1997 to 78.1 percent in 1998.[19] Although apparent U.S. consumption also declined between 1997 and 1998, it did so by only 0.7 percent (as measured by quantity), while at the same time U.S. producers' shipments declined by 3.5 percent.[20]

Fourth, with regard to profits, wages, productivity, and employment in the domestic industry, I note that overall profitability declined over the period of investigation; specifically, gross profits declined by 101.6 percent between 1994 and 1998, while operating income declined by 185.9 percent and operating margins declined by 186.9 percent.[21] These declines in gross profits, operating income, and operating margins, were sharpest during the most recent 1997-1998 period, resulting in a substantial operating loss for the domestic industry as a whole in 1998.[22]

During the entire POI, wages paid increased by *** percent while productivity increased by *** percent.[23] However, these factors trended downward during the latter part of the POI; specifically, between 1997 and 1998, wages paid declined by 0.5 percent while productivity declined by 0.3 percent.[24]

Finally, the number of production and related workers during the POI declined by *** percent, from *** in 1994 to *** in 1998.[25] Between 1997 and 1998 alone, the number of production and related workers declined by 1.6 percent.[26] Significantly, however, these figures are annual averages; as such, they do not fully reflect the impact of recent layoffs by North Star Steel Company in November 1998, and the fact that Atlantic Steel Industries ceased production and terminated all workers in December 1998.[27]

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[15] For 1994, 38 of 66 responding importers reported end-of-period inventories; for both 1997 and 1998, 42 of 66 responding importers reported end-of-period inventories.

[16] Table 18, Report at II-36.

[17] *Id.*

[18] Table 6, Report at II-19.

[19] *Id.*

[20] Table 3, Report at II-12.

[21] *See* Table 10, Report at II-23.

[22] The industry as a whole sustained a negative operating margin of 5.3 percent in 1998. Table 10, Report at II-23. In particular, I note that 9 out of 14 domestic producers sustained operating losses in 1998 (while only 5 out of 14 sustained operating losses in 1997). Table 11, Report at II-24.

[23] *See* Table 9, Report at II-21.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] "North Star Steel cuts 185 jobs", *American Metal Market* (September 24, 1998), retrieved from internet, May 11, 1999; Transcript (Injury) at 42; Report at II-21 n.41.

Fifth, with regard to capital expenditures for plant and equipment, as well as research and development expenses, I note that capital expenditures declined by 45.5 percent during the POI, while research and development expenses increased by 2.5 percent.[28] Between 1997 and 1998, capital expenditures declined by 18.0 percent, while research and development expenses increased by 1.5 percent.[29]

Sixth, I note that barriers to steel wire rod imports in third country markets do not at present appear to be causing a significant diversion of foreign exports to the United States. In July 1998, Mexico implemented an import monitoring system on articles falling within 74 tariff classifications (including steel wire rod), which is designed to prevent dumping and under-invoicing of imports into Mexico; imports priced outside the normal price range may be subject to a temporary bond while the information provided by the importer is verified.[30] In December 1997, Colombia imposed an antidumping duty order on imports of low carbon steel wire rod from Trinidad and Tobago.[31] India has levied antidumping duties on Russian exports of alloy steel bars and rods.[32] Finally, China requires import licenses for steel wire rod.[33]

Seventh, I note in addition that while prices for U.S. produced steel wire rod fluctuated between 1994 and 1997, these prices fell significantly in 1998.[34] For example, the average unit value of U.S. producers' domestic shipments increased by 1.4 percent between 1994 and 1997, from $354.68 per short ton in 1994 to $359.82 per short ton in 1997, before declining to $339.98 per short ton in 1998 (a 5.5 percent decline from 1997).[35] I find that the financial performance of the domestic industry worsened in 1998 due largely to falling prices.

Indeed, for each of the four products for which the Commission collected pricing data, prices generally reached their lowest levels in the fourth quarter of 1998 with the sharpest price declines occurring in 1998.[36] Specifically, between the fourth quarter of 1997 and the fourth quarter of 1998, U.S. producers' prices for Product 1 declined 9.2 percent; prices for Product 2 declined 18.8 percent; prices for Product 3 declined 19.0 percent; and prices for Product 4 declined 14.2 percent.[37] With regard to Products 2, 3, and 4, the prices for October-December 1998 were the lowest quarterly prices calculated for the entire POI.[38] With regard to Product 1, the fourth quarter 1998 price was only 1.0 percent greater than the lowest

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[28] Table 14, Report at II-26.

[29] *Id.*

[30] Report at II-30.

[31] Report at II-33.

[32] *Wire Journal International* at 12, April 1999.

[33] "Chinese demand boosts CIS exports," *Metal Bulletin* at 19, (March 8, 1999). There are, in addition, other *potential* barriers to imports of steel wire rod in third country markets. For example, the European Union has import agreements with Russia and the Ukraine, although the applicable quotas for steel wire rod have not nearly been filled. *See* internet address *http://sigl.cec.eu.int*. The European Union is also currently investigating imports of mesh quality wire rod from Turkey. "Eurofer targets Turkish wire rod," *American Metal Market* at 16, (April 7, 1999). In 1998, Indonesia initiated antidumping actions against imports of wire rod from India and Turkey. Report at II-31. Finally, Nigeria is reportedly preparing to investigate alleged dumping of imported rebar and wire rod from Russia, Ukraine, and Southeast Asia. *Metal Bulletin* at 22, (February 22, 1999).

[34] Report at II-54-55.

[35] *See* Table 7, Report at II-20.

[36] *See* Report at II-54-55.

[37] *See* Tables 24-27, Report at II-54-55.

[38] *Id.*

quarterly price for the entire POI (which was registered in the second quarter of 1998).[39] Such price declines occurred in the face of essentially flat raw materials costs and a slightly increasing total cost of goods sold ("COGS").[40]

In sum, the record reflects broad declines over the course of the POI in U.S. producers' market share (as measured by both quantity and value), profitability (as measured by precipitous drops in gross profits, operating income, and operating margins), capital expenditures, the number of production and related workers, and increases in both U.S. producers' inventories and importers' inventories. Moreover, an examination of the latter part of the POI in particular indicates that between 1997 and 1998 there were significant declines in U.S. producers' market share (as measured by both quantity and value), production levels, shipment levels, capacity utilization net of outages, profitability (as measured by precipitous drops in gross profits, operating income, and operating margins), wages paid, productivity, the number of production and related workers, capital expenditures, and an increase in importers' inventories.

In light of the precarious financial condition of the domestic steel wire rod industry in 1998, as evidenced by the significant and increasing number of domestic producers which sustained operating losses in 1997 and 1998 as well as the extent of such losses, and the contraction in the domestic industry evidenced particularly in November and December 1998, I find that the indicia discussed above demonstrate that the domestic steel wire rod industry is threatened with serious injury–that is, I find that serious injury is clearly imminent.

Causation

Statutory framework. The third statutory criterion concerns whether the subject article is being imported in such increased quantities as to be a "substantial cause" of serious injury or threat thereof. The term "substantial cause" is defined in section 202(b)(1)(B) to mean "a cause which is important and not less than any other cause."[41] Thus, increased imports must be both an important cause of the serious injury or threat thereof *and* a cause that is equal to or greater than any other cause.

In determining whether increased imports are a substantial cause of serious injury or threat thereof, the statute instructs that all relevant economic factors be taken into account, including but not limited to "an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers."[42] In addition, the statute directs that the condition of the domestic industry be considered over the course of the relevant business cycle.[43] The statute further directs the Commission to "examine factors other than imports" that may be a cause of serious injury or threat to the domestic industry, and to include such findings in the Commission's report.[44]

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[39] *Id.*

[40] Table 12, Report at II-24. Raw materials costs increased from $187 per short ton in 1994 to $189 per short ton in 1997 and 1998. *Id.* Total COGS increased from $321 per short ton in 1994 to $334 per short ton in 1997, and $338 per short ton in 1998. Table 12, Report at II-24.

[41] Section 202(b)(1)(B).

[42] Section 202(c)(1)(C).

[43] Section 202(c)(2)(A).

[44] Section 202(c)(2)(B). The legislative history of the Trade Act includes examples of other causes "such as changes in technology or in consumer tastes, domestic competition from substitute products, plant obsolescence, or

(continued...)

Finding. As described below, I find that increased imports of steel wire rod are both an important cause of the threat of serious injury and a cause that is not less than any other cause. Thus, I find that increased imports of steel wire rod are a "substantial cause" of the threat of serious injury to the domestic steel wire rod industry under section 202(b)(1)(B).

–Conditions of competition

There are a number of factors that affect the competitiveness of domestic and imported steel wire rod in the U.S. market, including factors related to the product itself, the degree of substitutability between the domestic and imported articles, changes in world capacity and production, market conditions in other consuming countries, and exchange rates. These factors affect prices and other considerations taken into account by purchasers in determining whether to purchase the domestic or imported article. Producers, importers, and purchasers generally agree that there are no known substitutes for steel wire rod; this absence of substitute products supports a low degree of price sensitivity for steel wire rod.[45] Thus, the overall demand for steel wire rod will not change significantly in response to changes in price. Furthermore, foreign-produced steel wire rod generally is interchangeable with U.S.-produced steel wire rod, and competes within the same or similar qualities.[46]

Evidence before the Commission indicates that foreign capacity in the major producing and supplying countries as a whole rose faster than production during the period of investigation ("POI") (i.e. 10.5 percent for capacity versus 8.5 percent for production),[47] indicating a growing potential for increased import penetration in the U.S. market. Financial crises in several Asian countries and in Russia and other countries formerly part of the Soviet Union have reduced demand for steel products in home and regional markets formerly supplied by producers in those countries, forcing those producers to find new markets for their products.[48] These crises have also contributed to a decline in the real exchange rates of the currencies of countries located in these regions vis-a-vis the U.S. dollar.[49] These factors have induced producers in countries such as Indonesia and Ukraine to become new major suppliers to the U.S. market, and have also promoted the competitive position of more traditional suppliers, such as producers in Japan.

–Analysis of causation

I have found that the financial performance of the domestic industry worsened in 1998 due largely to falling prices. For the reasons set forth below, I find that increasing volumes of imports contributed significantly to this price decline, and that future increases in import volume are likely to be the chief cause

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[44] (...continued)
poor management," which, if found to be more important causes of injury than increased imports, would require a negative determination. *Trade Reform Act of 1974, Report of the Committee on Finance . . . on H.R.. 10710*, S. Rept. 93-1298, 93d Cong., 2d Sess. (1974), at 121.

[45] Report at II-44.

[46] Report at II-5.

[47] Report at II-27.

[48] Report at II-30, 33-34.

[49] For example, during the period 1994-1998, the currencies of Indonesia, Ukraine, and Japan, depreciated in real terms against the U.S. dollar by 23.2 percent, 99.9 percent, and 16.2 percent, respectively. Table 23, Report at II-52.

of further negative effects on the domestic industry's prices, shipment volumes, and financial condition, in the imminent future.

First, I find that increased imports are an important cause of the threat of serious injury to the domestic steel wire rod industry. For those foreign producers who responded to the Commission's questionnaires, exports to the United States increased by 38.8 percent in actual terms between 1994 and 1998, and are projected to increase an additional 9.4 percent in 1999 and 2.9 percent in 2000.[50] Pricing data compiled in the Commission Report permit 446 quarterly pricing comparisons between domestic and imported product during the POI, of which there are 285 instances (i.e. 63.9 percent of comparisons) where the imported product undersold the domestic product.[51] Importantly, during the most recent year of the POI (i.e. 1998), 50 out of 88 quarterly pricing comparisons (i.e. 56.8 percent) indicate underselling by imports.[52] Reported quarterly prices for imported steel wire rod were generally lower in the fourth quarter of 1998 than in the beginning of the POI,[53] and were generally lower in 1998 versus the same period in 1997.[54]

Given the relatively high level of interchangeability between most grades of foreign and U.S.-produced steel wire rod,[55] and the importance of maximizing production in order to spread fixed costs over the broadest possible production base in this capital-intensive industry, domestic producers are constrained to lower prices in response to the availability of lower-priced imports (as long as variable costs are still being covered), in order to maintain or limit the loss of market share.[56] I am satisfied that domestic prices for steel wire rod have declined to the point where the domestic industry is clearly threatened with serious injury, and if sustained, will quickly result in serious injury, and, in light of the import trends evidenced in the record, I find that increased imports are an important cause of this threat of serious injury.

Second, I find that increased imports are not less than any other cause of the threat of serious injury to the domestic steel wire rod industry. In this regard, I have considered each of the alternative explanations posited by Respondents for the deteriorating condition of the domestic steel wire rod industry, i.e. the decline in the cost of scrap metal which began in August 1998; alleged overcapacity among domestic producers; and outages, strikes, and start-up or expansion costs, experienced by domestic producers. Upon review, I find that they are not more important than increased imports in causing the threat of serious injury to the domestic industry.

Although Respondents attribute the decline in prices for steel wire rod in the U.S. market to competition arising from a precipitous decline in the cost of scrap metal which began in August 1998,[57] I note that total raw materials costs actually increased from $187 per short ton in 1994 to $189 per short ton

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[50] *See* Table 16, Report at II-28. Between 1997 and 1998 alone, exports to the United States from responding foreign producers increased 8.4 percent. *See id.*

[51] Report at II-56.

[52] *See* Tables 24-27, Report at II-54-55.

[53] Report at II-54-55.

[54] Out of 60 possible comparisons, quarterly prices for imports were lower in 36 instances in 1998 (i.e. 60 percent) versus the same period in 1997. *See* Tables 24-27, Report at II-54-55.

[55] See Report at II-5.

[56] Transcript (Injury) at 84, 91-92, 148.

[57] *American Metal Market* at 12, (May 11, 1999).

in 1997 and 1998.[58] This overall increase reflects the fact that scrap metal is but one of several raw materials used in the production of steel wire rod, and the fact that individual producers rely upon various mixes of raw materials in their production processes.[59] More probative is the fact that U.S. producers' total cost of goods sold increased from $321 per short ton in 1994 to $334 per short ton in 1997, and $338 per short ton in 1998.[60] Thus, price declines for steel wire rod in the U.S. market cannot be attributed to the impact of the decline in scrap metal prices which began in mid-1998, as Respondents suggest.

Respondents also argue that price declines in the U.S. market are attributable to overcapacity among domestic producers. While U.S. producers' production capacity did increase by 16.2 percent over the POI (between 1997 and 1998 alone domestic capacity increased by 4.1 percent),[61] such increases were in line with increased apparent U.S. consumption during the period.[62] It is also true that U.S. producers' production capacity throughout the POI was insufficient to satisfy U.S. apparent consumption[63] (notwithstanding the 0.7 percent decline in U.S. apparent consumption between 1997 and 1998).

Moreover, even if imports of tire cord wire rod, valve spring quality wire rod, and pipe wrap wire rod, are deducted from these shortfalls due to the fact that they were not produced by U.S. producers in commercial quantities, significant shortfalls remain for each year of the POI.[64] Thus, Respondents' assertion of domestic overcapacity is contradicted by the record evidence in this investigation.

Rather than domestic overcapacity, it is the current global market which is characterized by overcapacity.[65] To begin, I note that the Asian financial crisis which began in July 1997 is generally acknowledged to have decreased demand for steel products in Asia.[66] This decrease in demand, coupled

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[58] Table 12, Report at II-24.

[59] Transcript (Injury) at 53, 69-70, 145-46. In addition to scrap metal, other raw materials include pig iron, direct reduced iron ("DRI"), fluxes, alloys, electrodes, and refractory bricks. *Id.*

[60] Table 12, Report at II-24.

[61] See Table 6, Report at II-19.

[62] Total U.S. apparent consumption increased 14.7 percent between 1994 and 1997, before declining 0.7 percent between 1997 and 1998. *See* Table 3, Report at II-12.

[63] Indeed, even if U.S. producers operated at 100 percent of capacity during each year of the POI (and excluding outages experienced by domestic producers), there would still have been a shortfall of roughly 775,000 short tons (i.e. 10.7 percent of total apparent consumption) in 1994; 981,000 short tons (i.e. 13.2 percent of total apparent consumption) in 1995; 945,000 short tons (i.e. 12.4 percent of total apparent consumption) in 1996; 1.09 million short tons (i.e. 13.1 percent of total apparent consumption) in 1997; and 732,000 short tons (i.e. 8.8 percent of total apparent consumption) in 1998. *Compare* Table 3, Report at II-12 *with* Table 6, Report at II-19; *see also* Report at II-46-47 (purchasers indicated there is insufficient capacity in the United States to supply 100 percent of domestic consumption).

[64] *See* Table C-3, Report at C-8. Even if imports of tire cord wire rod, valve spring quality wire rod, and pipe wrap wire rod, are deducted from the shortfalls as being unavailable from U.S. producers, there remain shortfalls of roughly 484,000 short tons in 1994; 683,000 short tons in 1995; 668,000 short tons in 1996; 794,000 short tons in 1997; and 371,000 short tons in 1998. *See id.*

[65] Transcript (Injury) at 26, 42, 112, 157 (Petitioners' references to global overcapacity, unrebutted by Respondents).

[66] Report at II-30.

with devalued currencies, provided an impetus for Asian steel producers to seek new markets for their exports, such as the United States.[67]

While I find that the existing increase in imports is a cause no less than any other cause of the threat of serious injury to the domestic steel wire rod industry, I further find that the trend of increasing imports is likely to continue unabated in the foreseeable future. In this regard, I note that data furnished by foreign producers in response to Commission questionnaires indicate that their total capacity increased by 10.5 percent, from 23.6 million short tons in 1994 to 26.1 million short tons in 1998, reflecting the modernization efforts of wire rod mills around the world.[68] For those responding foreign producers, capacity utilization rose from 84.7 percent in 1994 to 87.8 percent in 1997, before dropping to 83.1 percent in 1998; however, projections are for increased capacity utilization rates of 85.5 percent in 1999 and 86.3 percent in 2000.[69]

The record further indicates that certain foreign producers are planning expansions to their capacity, as well as upgrades to existing capacity; for example, the Steel Authority of India ("SAIL") has reportedly issued a tender for a joint venture to set up a merchant firm and wire rod mill with an annual production capacity of 440,000 short tons that can be expanded to 660,000 short tons.[70] Carribean Ispat Limited ***.[71] Krivoi Rog Iron and Steel Works, located in the Ukraine, plans to widen its product range and upgrade its mill in order to compete in the global market.[72] Moldova Steel Works ("MMZ") reportedly intends to install a Stelmore cooling deck to its rolling mill, along with other modernizations to its melt shop; MMZ is also reportedly considering the addition of high-quality grades of bars and wire rod to its export product mix.[73] Finally, Aceralia Productos Largos of Spain indicated that it intends to ***, while Global Steel Wire of Spain indicated that it ***.[74]

Moreover, I note that while the Commission received 31 foreign producer questionnaire responses representing 17 countries and over 70 countries produce steel wire rod around the world.[75] Thus, while imports have played an historical role in the U.S. wire rod market, the increase in imports from both traditional and non-traditional suppliers,[76] and the very real potential for increased imports from these and additional non-traditional suppliers, pose an imminent threat of serious injury to the domestic industry in the form of further reductions in market share and in price, and a concomitant deterioration in financial condition.

Respondents further argue that any deterioration in the financial condition of the domestic industry is attributable to outages, strikes, and start-up costs experienced by the domestic industry. Whatever the role of these past phenomena in the current financial condition of the domestic industry during the POI,

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[67] *See id.*
[68] Report at II-27.
[69] Table 16, Report at II-28.
[70] Report at II-33.
[71] Report at II-33.
[72] Report at II-33-34.
[73] Report at II-34.
[74] Report at II-35.
[75] Report at II-27.
[76] *See* Report at II-13.

they do not implicate the imminent threat of serious injury and thus are not a cause greater than increased imports of the threat of serious injury to the domestic steel wire rod industry.

Indeed, even Respondents acknowledge the temporary nature of start-up costs.[77] However, Respondents fail to acknowledge the role of increasing imports in idling new and existing production capacity in the United States.[78] Moreover, I note that *** domestic producers did not incur start-up or expansion costs during the POI yet nonetheless experienced operating losses,[79] and that ***, which was in an expansion phase for most of the POI, registered ***.[80] The record thus belies Respondents' proffered explanation.

Finally, Respondents argue that recent price increases announced by domestic steel wire rod producers indicate that increased imports are not a substantial cause of the threat of serious injury.[81] Respondents, however, fail to acknowledge the role of announced price increases in the steel wire rod market. Such announcements are not binding; rather, they represent no more than an intention to attempt a price increase in future negotiations with purchasers.[82] The price ultimately agreed upon depends not on producers' announced intention to seek a price increase, but instead upon the relative supply and demand conditions at the time of contracting.[83] Moreover, even if the modest price increases announced in 1999 are effected, price levels in the United States will continue to be below levels evidenced earlier during the POI.[84] Consequently, I find that the recent announcements of price increases by domestic producers fail to indicate that the domestic industry is not confronted with the threat of imminent serious injury by reason of increasing volumes of imports causing an oversupply of steel wire rod in the U.S. market.

In conclusion, I find that the increased imports are an important cause, and a cause no less important than any other cause, of the threat of serious injury to the domestic steel wire rod industry. My finding is based upon the increase in imports that has already occurred, and which shows every sign of continuing unabated, the increase in the share of the domestic market taken by imports, depressed steel wire rod prices due in large part to the increase in imports, and the high degree of likelihood that the increased imports will have a serious negative effect on the volume and prices of the U.S. industry's sales of steel wire rod. In short, I am satisfied that serious injury, although not yet existing, is clearly imminent if import trends continue unabated.[85]

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[77] Respondents Group Prehearing Brief on Injury (Volume 1 of 2) at 29 n.43.

[78] Between 1994 and 1998, domestic producers' total capacity utilization declined from *** percent to *** percent, while capacity utilization net of outages declined from *** percent to *** percent. Table 6, Report at II-19.

[79] *See* Table 11, Report at II-24. Questionnaire responses from *** indicate that they did not incur start-up or expansion costs during the POI.

[80] *See* *** Questionnaire Response; *see also* Petitioners' Posthearing Brief on Injury at 38.

[81] *See, e.g.,* Prehearing Brief on Behalf of the American Wire Producers Association (Remedy), Exhibit 1.

[82] Transcript (Injury) at 53, 73.

[83] *See id.*; *see also* Petitioners' Posthearing Brief on Injury at 51.

[84] Report at II-54-55 and Tables 24-27, Report at II-54-55.

[85] *See* 1974 Finance Committee Report at 121.

Finding with Respect to NAFTA Country Imports

Statutory framework. Section 311(a) of the NAFTA Implementation Act[86] provides that if the Commission makes an affirmative injury determination in an investigation under section 202 of the Trade Act, or if the Commission is equally divided, the Commission must also find whether (1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and (2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports. Section 311(b)(1) states that imports from a NAFTA country "normally" will not be considered to account for a substantial share of total imports if that country is not among "the top 5 suppliers of the article subject to the investigation, measured in terms of import share during the most recent 3-year period." Section 311(c) defines "contribute importantly" to mean "an important cause, but not necessarily the most important cause." In determining whether imports have contributed importantly to the serious injury or threat, the Commission is directed to consider "such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports from a NAFTA country or countries.[87] Imports from a NAFTA country or countries "normally" will not be considered to contribute importantly to the serious injury or threat "if the growth rate of imports from such country or countries during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period."[88]

Finding. I find that imports of steel wire rod from Mexico do not account for a substantial share of total imports and do not contribute importantly to the threat of serious injury to the domestic industry. In this regard, I note that Mexico was the eleventh largest source of steel wire rod imports in 1998.[89] Indeed, in 1996 imports from Mexico accounted for 4.2 percent of total imports, increasing to 5.4 percent in 1997 and decreasing to 3.0 percent in 1998.[90] In addition, although responding foreign producers' exports from Mexico to the United States are projected to increase in 1999 and 2000, even at their highest projected levels such exports would not exceed the volume of exports reported for 1996.[91]

I further find that imports of steel wire rod from Canada do account for a substantial share of total imports, and do contribute importantly to the threat of serious injury to the domestic industry. In this regard, I first note that Canada was by far the largest source of imports during each year of the POI, and is projected to remain so in 1999 and 2000.[92] Indeed, in 1996 imports from Canada accounted for 31.7 percent of total imports, decreasing to 24.0 percent in 1997 and 21.9 percent in 1998.[93] Although the absolute volume of imports from Canada declined from roughly 660,000 short tons in 1996 to 573,000 short tons in 1997 and 556,000 short tons in 1998,[94] projections based on questionnaire responses from foreign producers indicate that imports from Canada will remain a substantial 538,000 short tons in 1999

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[86] 19 U.S.C. 1371(a).
[87] Section 311(b)(2) of the NAFTA Implementation Act.
[88] Id.
[89] See, e.g., Table 5, Report at II-17.
[90] Table 4, Report at II-14-16.
[91] Table 17, Report at II-29.
[92] *Id.*
[93] Table 4, Report at II-14-16.
[94] Table C-1, Report at II-C-3.

and 548,000 short tons in 2000.[95] Accordingly, I find that imports of steel wire rod from Canada account for a substantial share of total imports.

I further note that, pursuant to the NAFTA Implementation Act, imports from a NAFTA country "normally" will not be considered to contribute importantly to serious injury or the threat thereof if the growth rate of imports from that country during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.[96] Imports of steel wire rod from Canada to the United States declined 15.8 percent between 1996 and 1998, while total steel wire rod imports increased 21.7 percent during this same period.[97] Such a divergence in import trends "normally" would indicate that imports from Canada do not contribute importantly to the threat of serious injury; in my view, however, the instant investigation presents a clear example for when departure from this "normal" outcome is warranted.

Specifically, notwithstanding the sustained decline in steel wire rod imports from Canada during the 1996-1998 period, Canada was still by far the largest source of such imports into the United States, accounting for more than 20 percent of total imports each year; moreover, Canada is projected to remain the largest source of steel wire rod imports in 1999 and 2000. In light of my determination that U.S. prices for steel wire rod have been depressed due in large part to the increase in imports, and that there is a high degree of likelihood that increased imports will have a substantial negative effect on the volume and prices of the domestic industry's sales of steel wire rod (thereby causing further financial deterioration in a domestic industry which has already sustained a significant aggregate operating loss in 1998), I find that imports from Canada contribute importantly to the threat of serious injury to the domestic steel wire rod industry.

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[95] Table 15, Report at II-27.

[96] *Id.*

[97] *See* Table 4, Report at II-18-20.

VIEWS OF COMMISSIONERS CAROL T. CRAWFORD, JENNIFER A. HILLMAN, AND THELMA J. ASKEY

Introduction

Pursuant to section 202(b) of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2252(b)), we determine that steel wire rod is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The basis for our negative injury determination is set forth below.

Background

The Commission instituted this investigation effective January 12, 1999, following receipt of a petition filed by nine domestic producers of steel wire rod, the United Steelworkers of America AFL-CIO, and the Independent Steel Workers Alliance. The petition alleged that certain steel wire rod is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury to the domestic steel wire rod industry.

The product at issue is wire rod, a hot-rolled intermediate steel product.[1] Its production involves four stages: (1) steelmaking, in which the steel's chemistry is fixed; (2) casting the steel into a semi-finished shape (billet); (3) hot-rolling the billet into rod on a multistand, high-speed rolling mill; and (4) coiling and controlled cooling of the wire rod as it is passed along a specialized conveyor, known in the trade as a Stelmore deck.[2] Wire rod sold in the United States is categorized by "quality" according to end use.[3] A slight majority of wire rod consumed in the United States is "industrial" quality wire rod, which is drawn into industrial or standard quality wire that in turn is used for the manufacture of such products as coat hangers, wire mesh, and chain link fencing.[4] The remainder of wire rod consumed in the United States consists of higher-end products, including high- and medium-quality rod, cold heading quality rod, and other specialty steel wire rod.

Wire rod is produced in over 70 countries. During the period 1994-98, the largest sources of U.S. imports were Canada, Japan, and Trinidad and Tobago, with Canada the largest supplier by a wide margin.[5] Although the types and qualities of imported wire rod may vary among country sources, in

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[1] The steel wire rod that is the subject of this investigation is defined in the Commission's notice of investigation as hot-rolled bars and rods, in irregularly wound coils, of circular or approximately circular solid cross-section, having a diameter of 5 mm or more but less than 19 mm, of non-alloy or alloy steel, but not rods and bars of free-machining steel or alloy steel containing by weight 24 percent or more of nickel. The scope of this investigation does not cover concrete reinforcing bars and rods (rebar), or bars and rods of stainless or alloy tool steel.

[2] Report at II-5, 7.

[3] End-use categories are broad descriptions in which there is an overlap of metallurgical quality, chemistry, and physical characteristics. Report at II-5.

[4] Report at II-7; table C-4 at C-9.

[5] Table 4, Report at II-14-16. Canada accounted for 21.9 percent of imports in 1998; the next largest importer, Japan, accounted for 10.7 percent of imports. *Id.* at II-13.

general imported wire rod falls within the same range of grades and is used for same general end uses by the same end users as the domestic product.[6]

Domestic Industry

Statutory Framework and Commission Practice

Section 202(b)(1)(A) of the Trade Act requires that we determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to "the domestic industry producing an article that is like or directly competitive with the imported article." The term "domestic industry" is defined in section 202(c)(6)(A)(i) of the Trade Act to mean "the domestic producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article."

In order to identify the domestic industry, the Commission must identify the domestic article or articles like or directly competitive with the imported article. The phrase "like or directly competitive" is defined in the legislative history of the Trade Act. The term "like" means those articles which are "substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.)," and the term "directly competitive" means those articles which are "substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor."[7] In some instances, more then one domestic article may be like or directly competitive with the imported article, in which case the Commission may find that more than one domestic industry is involved in the investigation.

In determining what constitutes the like or directly competitive domestic article, the Commission traditionally has taken into account such factors as the physical properties of the article, its customs treatment, where and how it is made (e.g., whether products are manufactured in separate facilities), its uses, and the marketing channels through which the product is sold.[8] Each of the factors is relevant, but the weight given to each particular factor will depend upon the facts in the particular case. The Commission traditionally has looked for clear dividing lines among possible products, and has disregarded minor variations.[9]

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[6] Report at II-5, 7.

[7] H.R. Rep. No. 93-571, at 45 (1973); S. Rep. No. 93-1298, at 121-122 (1974).

[8] *See* Views of Chairman Watson and Commissioners Crawford and Bragg in *Fresh Winter Tomatoes*, Inv. No. TA-201-64 (Provisional Relief Phase), USITC Pub. 2881 (April 1995) at I-7.

[9] *See, e.g., Stainless Steel Table Flatware*, Inv. No. TA-201-49, USITC Pub. 1536 (June 1984) at 4-5, where the Commission concluded that differences in weight, length, gauge, grading, finish, knife construction and refinement, alloy of stainless steel used, and price of stainless steel table flatware did not constitute sufficient differences in characteristics to warrant a finding of different like products.

Finding

We find that the article like or directly competitive with the imported article is all steel wire rod commensurate with the scope of the investigation.[10] Domestic wire rod is substantially identical to imported wire rod in its inherent and intrinsic characteristics. The universe of wire rod encompasses a diverse product mix with differing specifications, but we do not view any of the specialty types of wire rod (e.g., tire cord wire rod, pipe wrap wire rod, alloy steel wire rod, or cold heading quality wire rod) to be separate like products. Rather we find the various types of wire rod, from industrial quality to the specialty qualities, to be part of a broad continuum of wire rod products, with no clear dividing line between any particular products within the continuum.[11]

The customs treatment of wire rod further supports this conclusion. Wire rod is provided for in only two headings of the Harmonized Tariff Schedule of the United States. Wire rod is classified primarily in heading 7213 (hot-rolled iron or nonalloy steel bars and rods in irregularly wound coils), as well as in heading 7227 (hot-rolled alloy steel bars and rods in irregularly wound coils).[12] Most steel wire rod is provided for under a subheading (7213.91) separate from that for concrete reinforcing bars and rods (7213.10) and bars and rods of free-cutting steel (7213.20).

Virtually all U.S. mills produce industrial quality wire rod, although particular domestic firms tend to concentrate on certain product lines.[13] Most domestic producers can produce a range of wire rod products, from industrial quality wire rod through pipe wrap, in the same facilities and on the same equipment.[14] In general, imported wire rod falls within the same range of grades as domestic wire rod.[15] Wire rod of the same grade, whether foreign or domestic, is of similar quality,[16] and there is a relatively high degree of interchangeability and substitution between wire rod produced by domestic and foreign sources.[17] Foreign and domestic wire rod does not appear to be differentiated based on production processes.[18]

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[10] We do not base our analysis on the Commission's findings regarding the domestic like product in the 1994 and 1997-98 antidumping and countervailing duty investigations under title VII of the Tariff Act of 1930. Although those investigations covered a similar array of imported wire rod products, the statutory definitions and factors traditionally considered by the Commission in section 201 and title VII cases differ. In addition, the facts and arguments of the parties in the record of this investigation build upon, rather than replicate, those in the title VII investigations.

[11] The differences in metallurgical properties in the various types of wire rod along this continuum result from incremental chemistry adjustments in steelmaking and from varying rolling and cooling practices. Report at II-5, 7.

[12] Report at II-9. In light of the other commonalities, we do not find the separate tariff provisions for alloy and non-alloy wire rod to be a clear dividing line between the products.

[13] Transcript of injury hearing at 108-109 (Mr. Verrill).

[14] Report at II-7. *See also* transcript of injury hearing at 52 (Mr. Essig) and at 108 (Mr. Verrill).

[15] Report at II-5.

[16] Report at II-5.

[17] Report at II-44.

[18] Report at II-5. The evidence shows little or no difference among the wire rod rolling mills in the United States, or between U.S. mills and their foreign competitors. Report at II-7.

Imported wire rod is used for the same general end uses by generally the same end users as the domestic product.[19] Imported and domestic wire rod are sold through the same channels of distribution; virtually all (about 99 percent in each case) commercial shipments go to end users.[20]

Because we find that the domestic article like or directly competitive with the imported article consists of all steel wire rod commensurate with the scope of the investigation, we find that the domestic industry consists of all U.S. producers of steel wire rod.

Increased Imports

Statutory Framework and Commission Practice

The first of the three statutory criteria for an affirmative determination under section 201 is that imports must be in "increased quantities." Under section 202 of the Trade Act, imports have increased when the increase is "either actual or relative to domestic production."[21] In determining whether imports have increased, the Commission considers imports from all sources. The Commission traditionally has considered import trends over the most recent 5-year period as a framework for its analysis, but can consider longer or shorter periods as it deems appropriate. A simple increase in imports is sufficient to satisfy this statutory requirement.

Finding

We find that imports of wire rod have increased both in actual terms and relative to domestic production. Imports increased from 1,776,350 short tons in 1994 to 2,537,404 short tons in 1998, an increase of 42.8 percent.[22] The quantity of imports increased erratically over the years covered by the investigation, with over 40 percent of the increase occurring between 1994 and 1995.[23] The ratio of imports to domestic production also increased during the period examined, rising from 32.2 percent in 1994 to 44.3 percent in 1998.[24] The largest annual increase in this ratio -- 5.6 percentage points, or nearly one-half of the increase -- occurred between 1994 and 1995.[25] Finally, in terms of market share, as measured by quantity, U.S. producers' share of the U.S. market declined irregularly from 75.6 percent in 1994 to 72.1 percent in 1995, rose to 72.6 percent in 1996, and then declined to 71.4 percent in 1997 and 69.3 percent in 1998.[26]

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[19] Report at II-5. Most responding purchasers of wire rod (64 percent) reported that there were no wire rod applications for which the domestic or imported product was uniquely suitable for their needs. Report at II-46.

[20] Report at II-11.

[21] Section 202(c)(1)(C).

[22] Table 4, Report at II-14-16.

[23] Report at II-14. Moreover, even as imports increased by 452,885 short tons between 1996 and 1998, apparent U.S. consumption rose by 665,585 short tons. *Compare* Table 4, Report at II-14-16, *with* Table 20, Report at II-40-41.

[24] Table 5, Report at II-17.

[25] *Id.*

[26] Table 19, Report at II-38-39.

Serious Injury or Threat

Statutory Framework and Commission Practice

The second of the three statutory criteria requires the Commission to determine whether the domestic industry is seriously injured or threatened with serious injury. Section 202(c) of the Trade Act defines "serious injury" as "a significant overall impairment in the position of a domestic industry,"[27] and "threat of serious injury" as "serious injury that is clearly imminent."[28]

The statute directs us to take into account all economic factors that we find relevant, including but not limited to the following--

> (i) the significant idling of productive facilities in the domestic industry,
> (ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and
> (iii) significant unemployment or underemployment within the domestic industry.[29]

The "significant idling of productive facilities" includes the closing of plants or the underutilization of production capacity.[30] The presence or absence of any of these factors is not necessarily dispositive of the question of injury.[31]

Finding

For reasons set forth below, we find that the domestic industry is not seriously injured and is not threatened with serious injury. That is, we do not find "a significant overall impairment in the position" of the industry, nor do we find that serious injury is "clearly imminent."

The Domestic Industry Is Not Seriously Injured

In determining that the domestic industry is not seriously injured, we considered evidence relating to the specifically enumerated statutory factors, as well as evidence relating to domestic production and shipments, inventories, productivity, capital expenditures, and research and development (R&D) expenditures. We found that only one of these factors, profitability, indicated that the industry might be experiencing notable economic difficulties, and that it did so only in the last full year of the period examined, 1998. Some other factors demonstrated improvement, while others demonstrated mixed performance. Considered in their entirety, these factors do not indicate that the domestic industry is seriously injured.

No significant idling of productive facilities. The record indicates that the number of mills engaged in the commercial production of steel wire rod in the United States by the end of 1998 was

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[27] Section 202(c)(6)(B).
[28] Section 202(c)(6)(D).
[29] Section 202(c)(1)(A).
[30] Section 202(c)(6)(B).
[31] Section 202(c)(3).

unchanged from the number producing in 1994: sixteen.[32] This fact, however, masks the dynamic nature of the U.S. industry. In April 1996, Laclede Steel halted wire rod production at its Alton, Illinois, facility, but continued its practice of importing *** of the product.[33] [34] In 1997, two U.S. companies, North Star Steel and Cascade Steel, each began to bring on-line new "dual-use" mills, which have the flexibility to produce both steel wire rod and concrete steel reinforcing bars and which incorporate the newest production technology.[35] Prior to the opening of North Star's facility in Kingman, Arizona, and Cascade's facility in McMinnville, Oregon, there had been only four mills west of the Mississippi River, and none west of the Rocky Mountains.[36] Therefore, rather than settle in the highly concentrated eastern or central United States, both producers established their mills on greenfield sites in a region that had been underserved by U.S. producers. Finally, pursuant to a contract signed in 1997, Atlantic Steel[37] opted to halt wire rod production at its 100-year old facility in December 1998 in order to sell the company's 138-acre site in midtown Atlanta for commercial development.[38]

In addition to building new mills west of the Mississippi River, several domestic mills invested heavily in their facilities to upgrade their high-quality production capabilities.[39] Over the period examined in this investigation, nine U.S. producers were in various stages of expansion and modernization.[40] For example, two mills adjusted raw material usage, five mills upgraded their furnace/melt capabilities, three mills modernized their coil handling facilities, and five mills invested directly in improved rolling and production lines.[41] The common element in the expansion and improvement of the domestic industry's productive capability has been the pronounced shift in its product mix from industrial quality wire rod to higher-value wire rod.[42]

Actual production by the U.S. industry tended to follow overall U.S. consumption trends, with the exception of the retrenchment year of 1995. U.S. mills increased their output by 3.9 percent between 1994

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[32] It is unclear from the record in this investigation whether Birmingham Steel and Nucor produced commercial volumes of steel wire rod in their mills at Joliet, Illinois; Darlington, South Carolina; and Plymouth, Utah, during the period examined. Accordingly, these facilities are not included in the calculation provided above.

[33] Report at II-13 and Certain Steel Wire Rod from Canada, et. al. at 10. Laclede Steel was and still is partially owned by Ivaco, Inc., the parent company of Canadian wire rod producer Ivaco Rolling Mills. The Commission previously found that Ivaco controlled Laclede at the time that it halted U.S. production of wire rod. See Certain Steel Wire Rod from Canada, et. al. at 9, n.35.

[34] No party argued that Laclede's closing was related to imports. On the contrary, Respondents state that Laclede's exit reflected an internal restructuring unrelated to market conditions or imports. Transcript of injury hearing at 194 (Mr. Moran).

[35] Transcript of injury hearing at 139-143 (Mr. Zetzsche).

[36] Report at II-10. *See also* transcript of the injury hearing at 61-62 (Mr. Zetzsche).

[37] ***.

[38] Transcript of injury hearing at 63 (Mr. Webb). The firm had intended to construct a new mill at a different location in the Atlanta area, but has postponed such plans due to its inability to find a joint venture partner. Transcript of injury hearing at 64 (Mr. Webb).

[39] *See, e.g.*, transcript of the injury hearing at 40 (Mr. Verill noting "new, quality-driven capacity"); at 106 (Mr. Boltuck, noting that some producers had upgraded, and currently produce "a somewhat richer mix of higher carbon and higher quality products within the mix"); at 120 (Mr. Essig discussing Georgetown Steel's modernization to improve quality); at 70 and 121 (Mr. Dillion discussing Birmingham Steel's investment to enhance production of high-quality wire and rod).

[40] Report at II-26.

[41] Producer questionnaire responses.

[42] We especially note the growth in shipments of high- and medium-high carbon quality rod and cold-heading quality rod at the expense of industrial-quality wire rod. *See* Table C-4, report at C-9.

and 1998.[43] Moreover, as a result of extensive capital investment in new facilities and new equipment by U.S. producers over the period examined, the domestic industry increased its productive capacity by 1.1 million tons, or 16.2 percent.[44] The bulk of the increase in domestic capacity -- 879,000 tons, or 84 percent -- occurred in 1997 and 1998. Nominal capacity utilization remained generally stable between 1994 and 1997, fluctuating between 85 and 82 percent, then fell to 76 percent in 1998.[45]

We largely attribute the decline in capacity utilization to the incremental nature of capacity expansion and to start-up difficulties associated with bringing so much new equipment and technology on-line in an orderly fashion. Not surprisingly, the surplus of capacity over production occurred primarily at three firms, *** in the latter years of the period examined. The evidence indicates the reduced capacity utilization for these three firms was associated with the phase-in of new equipment at these mills and related startup difficulties.[46] The nominal capacity utilization rate for the remainder of the industry was 86 percent in 1998.[47]

Finally, we note that a certain degree of excess capacity in the U.S. wire rod industry is necessary to handle the natural ebb and flow of orders and expected and unexpected production outages. Over the period examined, nearly one-half of responding U.S. producers have, at times, been unable to supply customers in a timely manner, and nearly one-half of responding purchasers experienced difficulty receiving product from their suppliers.[48] About 42 percent of responding purchasers reported that they had been placed on allocation by one or more of their suppliers (overwhelmingly U.S. producers), an experience that in many cases affected the customers' own production operations.[49] In fact, the evidence indicates significant supply shortages existed in 1997. The fact that these shortages began to abate in 1998 is likely in part attributable to the actions taken by the U.S. industry to increase capacity.

The domestic industry is composed of the same number of mills today as it was in 1994. The addition of two new mills and the closure of two older facilities reflects a much-noted move by the domestic industry toward geographic diversity and higher value-added production. We find the increases in production and capacity in the U.S. industry to be demonstrable signs of strength and the availability of capacity in excess of production to be a function of the incremental nature of the capacity expansion and the inherent difficulties in making such capacity truly "productive" in a short period of time.

Accordingly, we do not find that there is a significant idling of productive facilities in the industry.

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[43] Table 6, Report at II-19.

[44] *Id.*

[45] Report at II-18-19. We note that nominal capacity data is somewhat misleading for an industry that has continued to struggle with production outages. Capacity utilization net of such outages increased from 85.3 percent in 1994 to 87.2 percent in 1995 but then declined slightly to 86.2 percent in 1996; it then fell to 84.6 percent in 1997 and to 78.1 percent in 1998. *Id.*

[46] For example, *** admitted that it experienced start-up and equipment problems at its *** facility in 1997. The company reported resolving these problems by 1998. Report at II-23, n.38. Birmingham experienced start-up problems with its Memphis melt shop, which supplies billets to its Cleveland wire rod production facility. Respondents' Group pre-hearing brief on injury at 35-36.

[47] Producer questionnaire responses. Net of outages, capacity utilization for the remainder of the industry exceeded 88 percent.

[48] Report at II-46.

[49] Report at II-46.

No inability of a significant number of firms to operate at a reasonable level of profit. The domestic industry as a whole reported positive operating income in three of the five years in the period examined (1994, 1995, and 1997) and an operating loss in two years (1996 and 1998).[50] Most firms in the industry experienced financial difficulties in 1998, with nine of 14 reporting firms showing operating losses,[51] but this appears to be a one-year phenomenon rather than a multi-year, ongoing trend. Most significantly, in 1997 many of the firms in the industry reported their best or second-best operating income of the period examined.[52] Furthermore, much of the overall industry loss in 1998 reflected the operating performance of ***,[53] indicating that much of the loss is likely associated with *** and related problems rather than long-term disequilibrium between costs and revenues. The data on the record therefore do not indicate that a significant number of firms in the steel wire rod industry cannot operate at a reasonable level of profit.

We also note that the 1998 operating income on the record may be understated for two reasons. First, company transfer prices (the price at which wire rod mills sell to affiliate wire drawing operations) are significantly lower than those for trade sales. Though we understand producers' incentives to supply affiliated customers who steadily purchase high volumes of merchandise, the marked difference in prices has an appreciable effect on the operating income of wire rod mills.[54] The margin between the average price for wire rod sold in the open market (trade sales) and the average price for wire rod sold to affiliate operations (company transfers) widened significantly over the period examined, from $36 per ton in 1994 to $65 per ton in 1998, the largest margin over the period.[55] Thus, while the average price of trade sales fell by $10 per ton over the period examined, the average price of company transfer sales fell by $39 per ton, nearly four times as much.[56] This discrepancy obviously affects the aggregate price levels of wire rod producers as well as the cost structure of their affiliates, and ultimately each producer's bottom line. Transfer sales accounted for a significant portion -- about 20-25 percent -- of the domestic producers' total sales over the period examined,[57] and therefore have a tremendous impact on wire rod producers, affiliated purchasers, and even the wire rod producers' own customers against whom their affiliates compete.

We are unconvinced by domestic producers' attempts to explain this widening margin. The producers claim that company transfers are at market prices that reflect volume discounts, and that transfer pricing is closely monitored by company employees because of its impact on the profit sharing component of employee compensation.[58] However, the domestic industry has not explained why the margin between trade and transfer sales increased so significantly, especially in light of the fact that, over the period examined, the volume of trade sales increased while the volume of transfer sales declined slightly.[59]

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[50] Table 11, Report at II-24.
[51] Table 11, Report at II-24.
[52] Table 11, Report at II-24.
[53] ***
[54] Trade sales averaged at above break-even price from 1996 through 1998, while transfer sales averaged below break-even throughout that same period. OINV spreadsheet dated July 2, 1999.
[55] Table 10, Report at II-23.
[56] Table 10, Report at II-23.
[57] Table 10, Report at II-23.
[58] Transcript of injury hearing at 135-36 (Mr. Essig).
[59] Transfer sales fell from 23 percent of total sales in 1994 to 20 percent in 1998. Table 10, Report at II-23.

Second, the financial data do not reflect the significant drop in scrap prices in the second half of 1998.[60] Scrap steel is a significant input for steel wire rod, but the decline in scrap prices is not reflected in domestic producers' reported raw material costs for 1998. The financial data as reported by domestic producers show 1998 raw material costs as unchanged from 1997 costs.[61] Petitioners sought to explain this discrepancy by arguing that scrap is not the only raw material for their production. However, they failed to supply any evidence that other input costs increased to counteract the price trend for scrap.

Thus, we find that the financial situation indicated by the 1998 data reflects a temporary condition related primarily to start-up costs and problems associated with new industry capacity, and that losses in that year may be overstated. Based on this record, we do not find that a significant number of firms are unable to operate at a reasonable level of profit.

No significant unemployment or underemployment. We similarly do not find evidence of significant unemployment and underemployment in the industry. The number of production and related workers (PRWs) and total hours worked declined only marginally over the period examined, while productivity increased markedly. Employment initially rose from an average of *** PRWs in 1994 to *** in 1995 and 4,410 in 1996, and then declined to 4,369 in 1997 and 4,301 in 1998. Thus, the overall decline in industry-wide employment was *** persons, or *** percent.[62] Some of this decline likely reflects improved worker productivity, which increased from *** tons per 1,000 hours in 1994 to 596.1 tons per 1,000 hours in 1998, an increase of *** percent.[63] We also do not find evidence of significant underemployment. The number of hours worked remained relatively stable throughout the period examined, showing a *** increase between 1994 and 1998.[64] While most U.S. mills reported reductions in the number of shifts worked in 1998,[65] changes in shifts reflect the combination of a slight decline in PRWs due to increased productivity and a slight decline in production.

No indication of serious injury based on other relevant economic factors. In evaluating the question of serious injury, we have taken into account all relevant economic factors, including production, shipments, inventories, productivity, levels of capital investment, and R&D expenses. Industry production increased during the period examined from 5.5 million tons in 1994 to 5.7 million tons in 1998.[66] The quantity of domestic shipments increased by a similar amount during the period examined, although the value of shipments fell by just under one percent.[67] While 1998 domestic production and shipment levels were four percent below 1997 levels, they were well above the levels of the first three years of the period examined. U.S. producers' inventories of wire rod relative to production and shipments have changed only

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[60] *American Metal Markets*, Mar. 30, 1999, at 10.

[61] Table 12, Report at II-24.

[62] Table 9, Report at II-21.

[63] Table 9, Report at II-21. Because of the tremendous advances in worker productivity, employment trends would not be expected to move in lockstep with the growth in production and shipments. For example, U.S. producers' shipments rose seven percent from 1996 to 1997, but due to productivity improvements, this increase in shipments was accompanied by declines in employment and the number of hours worked. Table 7, Report at II-20.

[64] Table 9, Report at II-21.

[65] Report at II-21.

[66] Report at II-18; and Table 6, Report at II-19.

[67] Table 7, Report at II-20.

slightly since 1995, and were a relatively small 4.4 percent in 1998.[68] As indicated above, industry productivity increased over the period examined.[69]

Industry capital expenditures fluctuated widely during the period examined, rising from $144 million in 1994 to $274 million in 1995, the highest level of the period examined, and then declining to $225 million in 1996, $96 million in 1997, and $79 million in 1999.[70] Thus, the industry invested $828 million in its productive facilities during the period examined. Domestic producers built two new mills and significantly expanded another during the period examined. In addition, domestic producers modernized their plants and increased capacity. In view of the large capital expenditures made in 1995 and 1996, the incremental nature of capital expenditures in the steel industry, and the time required to integrate new or upgraded plants and equipment, we do not find that the reductions in expenditures in 1997 and 1998 indicate that the industry has been unable to generate adequate capital to finance modernization of plants. Finally, R&D expenses rose during the period examined from $8.0 million in 1994 to $8.2 million in 1998, their highest level over the period examined.[71]

In sum, the evidence does not show a "significant overall impairment" in the position of the industry. Production, shipments, and productivity were up during the period examined, and there is no evidence of a significant idling of productive facilities or significant unemployment or underemployment. Capital expenditures have resulted in substantially increased capacity. R&D expenses have increased slightly. The overall financial performance of the domestic industry was generally positive, with the exception of performance in 1998. However, 1998 financial results represent only a one-year decline (from a relatively strong 1997 performance), likely reflect in part a temporary situation (resulting mainly from costs and problems relating to new mills and capacity), and likely understate the health of the domestic industry. As a result, and consistent with the overall record, we do not find that the industry is seriously injured.

The Domestic Industry Is Not Threatened With Serious Injury

In considering whether the industry is threatened with serious injury, we considered the statutory threat factors:

> (i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment) in the domestic industry,
> (ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,

[68] Table 8, Report at II-20.
[69] Table 9, Report at II-21.
[70] Table 14, Report at II-26.
[71] Table 14, Report at II-26.

> (iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.[72]

We find that these factors do not indicate any clearly imminent threat of serious injury.

No discernible trend in sales. From 1994 to 1998, the domestic industry's net sales increased in quantity but fell slightly in value.[73] Net sales quantity fluctuated during the period examined but rose overall, from 5.5 million tons in 1994 to 5.8 million tons in 1998.[74] Net sales value also fluctuated, ending at $1.943 billion in 1998 compared to $1.960 billion in 1994.[75] However, the value of the industry's trade sales -- the market in which domestic wire rod and imported wire rod compete most vigorously -- increased between 1994 and 1998, while company transfer sales values declined.[76] These data do not show a discernible significant trend.

Moreover, the lack of a clear trend, especially a downward trend, appears to have continued into 1999. After facing declining sales in 1998, wire rod producers have announced multiple rounds of price increases which published reports indicate are likely to be accepted in the face of strong demand.[77]

No trend in market share sufficient to support a finding of threat of serious injury. The share of the market held by U.S. producers decreased during the period examined. However, the largest year-to-year decline occurred early in the period, between 1994 and 1995, when U.S. producers' market share fell by 3.5 percentage points. Since 1995, the decline in U.S. producers' market share has been small – a total of 2.9 percentage points, or an average of less than one percentage point per year. As measured by quantity, U.S. producers' share of the U.S. market declined irregularly from 75.6 percent in 1994 to 72.1 percent in 1995, rose to 72.6 percent in 1996, and then declined to 71.4 percent in 1997 and 69.3 percent in 1998.[78] In terms of value, U.S. producers' market share followed a similar trend, experiencing its largest decline of the period examined between 1994 and 1995, and then declining slightly in each year thereafter.[79] By value, U.S. producers' market share declined from 74.6 percent in 1994 to 72.0 percent in 1995, fell to 71.8 percent in 1996, to 71.6 percent in 1997, and to 69.2 percent in 1998.[80] These trends do not indicate a likelihood of imminent significant erosion in market share sufficient to support a finding of threat of serious injury under section 201.

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[72] Section 202(c)(1).

[73] Although the U.S. industry's direct participation in the world market is extremely limited, we note that the steep decline in exports in 1997 and 1998 affected the trends in net sales. The value of U.S. shipments, excluding exports, actually exhibited a modest increase from 1994 to 1998. Table 7, Report at II-20.

[74] Table 10, Report at II-23.

[75] Table 10, Report at II-23.

[76] Table 10, Report at II-23.

[77] *See, e.g., AMM Online -- Top Stories: GS Industries hikes wire rod $20/T.* Dated May 7, 1999, and retrieved on May 10, 1999. *See also* American Wire Producers Association's post-hearing brief on injury at 2-5 and exhibits 1-3.

[78] Table 19, Report at II-38-39.

[79] *Id.*

[80] Table 19, Report at II-38-39.

No significant increase in inventories. Inventories of imported and domestic wire rod increased over the period examined, but not to a significant degree. U.S. producers' inventories of wire rod relative to production and shipments rose initially from 1994 to 1995 (the years of the period examined in which operating income was highest and increasing) but have changed only slightly since 1995. In 1998, the ratio of inventories to both shipments and production was only 4.4 percent, essentially the same as the 1995 level.[81] Foreign producers' reported inventories relative to production and shipments also fluctuated relatively little during the period examined. Inventories relative to production and shipments both ended at 4.2 percent in 1998. Both were up from the 1997 level of 3.7 percent, but were below the 4.3 and 4.4 percent levels, respectively, seen in 1995, when both ratios were at their highest level of the period examined.[82] In addition, because most wire rod is sold directly to end users on the basis of orders rather than from inventory,[83] inventories tend not to be a particularly meaningful measure of conditions in the market.

No indication of a threat of material injury based on other economic factors. The domestic industry's production increased irregularly over the period examined, and was nearly four percent higher in 1998 than in 1994. The level of production in 1998 was the second-highest for the period examined (surpassed only by the 1997 figure).[84] Profits fluctuated over the period examined. The industry was profitable in 1994, 1995, and 1997, but operated at a loss in 1996 and 1998. The industry showed a dramatic improvement in operating income from 1996 to 1997, but then declined from 1997 to 1998. In sum, the data do not show a sustained downward trend.

Hourly wages were at their highest level of the period examined in 1998; total wages paid were at their highest level in 1997 and then declined by less than one percent in 1998.[85] Industry productivity increased by *** percent over the period examined, reaching its highest level in 1997 before declining slightly in 1998.[86] Employment levels fluctuated during the period examined, rising *** through 1996 and then declining slightly in 1997 and again in 1998. Employment, as measured in the number of PRWs, declined by *** percent during the period examined. The number of hours worked, which could indicate underemployment if it fell at a faster rate than employment, declined by a similarly small percentage during the period examined. These changes in employment and hours worked do not indicate a threat of serious injury.

No evidence of inability to generate adequate capital or maintain R&D expenditures. The evidence does not show that firms in the industry have been unable to generate adequate capital to finance modernization of plants or maintain levels of R&D expenditures. As indicated above, industry capital expenditures fluctuated widely during the period examined, first rising by a large amount and then falling.

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[81] Table 8, Report at II-20.

[82] Table 16, Report at II-28. Importers' inventories rose from 4.1 percent in 1994 to 5.7 percent in 1998. Table 18, Report at II-36 However, the inventories from Canada and Japan (the two largest sources of wire rod imports and the sources with the highest reported importer inventories) on the record may reflect doublecounting, artificially inflating these figures. Report at II-36.

[83] Transcript of injury hearing at 229-31 (Mr. Vermeersch, Mr. Lindholm, Mr. Leonard).

[84] Table 5, Report at II-17.

[85] Table 9, Report at II-21.

[86] Table 9, Report at II-21.

The industry invested at least $828 million on capital expenditures during the period examined,[87] building two new mills and expanding and modernizing others. In light of the large capital expenditures that took place principally in 1995 and 1996, some reduction in subsequent years does not indicate, on the record in this case, a threat of serious injury. R&D expenditures actually rose over the period examined, increasing from $8.0 million in 1994 to $8.2 million in 1998.[88]

No indication that U.S. market is the focal point for diverted exports. Finally, we do not find evidence that the U.S. market is the focal point for the diversion of exports by reason of restraints on exports to or imports in third country markets. Petitioners alleged that there are barriers to imported wire rod in significant markets in Europe, Asia, and Latin America, and that these barriers diverted over 300,000 tons of wire rod to the U.S. market.[89] The evidence does not support these claims. Many of the barriers cited by petitioners are not actual restrictions but rather reported dumping investigations or, even more removed from actualization, reports of possible dumping investigations.[90] The few existing barriers cited by petitioners do not have a significant effect on the U.S. market. Import quotas on wire rod imposed by the European Union apply to two countries, Russia and Ukraine, and were not close to being filled in 1997 or 1998.[91] The Mexican program cited by petitioners is not an import restraint, but rather a monitoring system implemented to prevent the underinvoicing of imports.[92] The other countries that have actually imposed antidumping or other trade measures -- Colombia and India -- are relatively small markets, and we find that these measures, which affect imports from only a few countries, are not likely to cause any significant diversion to the United States.[93] Finally, the record indicates that economic conditions in Asia are unlikely to worsen. Based on the foregoing discussion, we conclude that the domestic industry is not threatened with material injury.

Causation

Even were we to assume, *arguendo*, that the industry is seriously injured or threatened with serious injury, the evidence in the record indicates that increased imports are not a substantial cause of any serious injury or threat of serious injury. We find that the increase in domestic industry capacity is a greater cause of such assumed injury or threat of injury than increased imports.

Statutory Framework and Commission Practice

The statue's third criterion for an affirmative determination is that the subject merchandise be imported in such increased quantities as to be a "substantial cause" of serious injury or threat. The term "substantial cause" is defined in section 202(b)(1)(B) to mean "a cause which is important and not less

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[87] Table 14, Report at II-26.

[88] Table 14, Report at II-26.

[89] Petitioners' post-hearing brief on injury at 54; petitioners' pre-hearing brief on injury at 17-18.

[90] Indonesia initiated dumping actions against imports from India and Turkey in 1998, and the European Union instituted an antidumping action against mesh quality wire rod from Turkey in 1998. Report at II-32-33.

[91] EUROFER's pre-hearing brief, April 9, 1999, at appendix 6.

[92] Letter from Javier Mancera, Minister, SECOFI, to Donna Koehnke, Secretary, United States International Trade Commission (April 30, 1999).

[93] *** in December 1997. Report at II-33. India recently announced dumping duties on steel wire rod from Russia. *Wire Journal Int'l* (April 1999) at 12.

than any other cause."[94] Thus, the increased imports must be both an important cause of the serious injury or threat *and* a cause that is equal to or greater than any other cause.[95]

In determining whether increased imports are a substantial cause of serious injury or threat, the statute requires that we take into account all economic factors that we find relevant, including but not limited to ". . . an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers."[96] The statute directs us to consider "the condition of the domestic industry over the course of the relevant business cycle."[97] Also, the statute directs us to "examine factors other than imports" that may be a cause of serious injury or threat to the domestic industry and to include such findings in our report.[98]

Finding

As discussed earlier, imports of wire rod increased in both actual terms and relative to domestic production during the period examined. The share of the U.S. market held by imports also increased. In terms of quantity, the share of the U.S. market held by imports increased by 6.3 percentage points, from 24.4 percent in 1994 to 30.7 percent in 1998, and in terms of value it increased by 5.4 percentage points, from 25.4 percent in 1994 to 30.8 percent in 1998. [99]

For purposes of this discussion, we have considered the various causes of injury alleged by respondents[100] and otherwise indicated by the record. We conclude that the increase in domestic capacity, with accompanying startup problems, is a more important cause of any assumed injury or threat of injury than increased imports.[101] This conclusion is based on several considerations.

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[94] Section 202(b)(1)(B).

[95] Section 202(b)(1)(B) of the Trade Act defines the term "substantial cause" to mean "a cause" that is important and not less than any other cause, indicating that we are to consider individual causes, and not to combine causes. This interpretation is supported by section 202(c)(2)(A), which provides instruction with respect to how we are to consider the issue of causation in the context of an economic recession. Section 202(c)(2)(A) states that we are to consider the condition of the industry over the course of the business cycle "but may not aggregate the causes of declining demand associated with a recession or economic downturn in the United States economy into a single cause of serious injury or threat of serious injury." Accordingly, we have not combined possible causes into one cause, but instead have considered them individually.

[96] Section 202(c)(1)(C).

[97] Section 202(c)(2)(A).

[98] Section 202(c)(2)(B). The legislative history of the Trade Act includes examples of other causes "such as changes in technology or in consumer tastes, domestic competition from substitute products, plant obsolescence, or poor management," which, if found to be more important causes of injury than increased imports, would require a negative determination. *Trade Reform Act of 1974, Report of the Committee on Finance. . . on H.R.. 10710,* S. Rep. No. 93-1298, at 121 (1974).

[99] Table 19, Report at II-38-39.

[100] Transcript of injury hearing at 213-14 (Mr. Cronin). These include supply shortages resulting from production outages due to strikes, production problems, and planned shut-downs at several plants as well as competition from other U.S. producers. *Id*; Table 33, Report at II-59.

[101] The statute requires that the imports be an "important" cause in themselves of any serious injury or threat thereof. Section 202(b)(1)(B). Commissioner Askey finds that increased imports are not an important cause of any serious injury or threat of serious injury.

First, the increase in domestic capacity over the period examined exceeded, by a substantial margin, the increase in imports. Domestic capacity increased by 1,051,000 tons during the period examined, 38 percent more than the 760,000 ton increase in imports over the same period.[102] Moreover, this increase in imports is misleading because much of the increase has been in the form of specialty wire rod products -- tire cord, valve spring, and pipe wrap quality wire rod -- that petitioners excluded from any remedy request, implying that these imports do not meet the statutorily mandated threshold of serious injury.[103] In 1998, the year of the domestic industry's worst performance, imports of non-specialty products increased only 85,000 tons, compared to an increase of more than 294,000 tons in domestic capacity.[104]

Second, there appears to be a direct correlation between increases in industry capacity and declines in industry profits. The industry was at its most profitable level early in the period examined, before the large increase in capacity began to come on-line, and notwithstanding the large increase in imports that occurred at that time. The industry's profitability then declined, concurrent with large increases in nominal capacity. In 1994 and 1995, the industry's ratio of operating income to net sales was 6.1 percent and 6.6 percent, respectively, the best performance over the period examined.[105] Industry capacity remained essentially steady in those two years.[106] The domestic industry then boosted capacity by 189,000 tons in 1996, a further 584,000 tons in 1997, and another 295,000 tons in 1998.[107] At the same time, the industry's profitability deteriorated, although not steadily. The industry had operating losses in 1996 and 1998, and an operating profit of 2.3 percent in 1997.[108]

In contrast, there is little correlation between increased import volumes and the condition of the domestic industry. The largest increase in imports (17.3 percent) and increase in market penetration (3.5 percent) during the period examined occurred between 1994 and 1995, yet the domestic industry's 1995 financial performance was robust, with an operating margin of 6.6 percent.[109] From 1995 to 1996 imports increased the least (by less than 1,000 tons), yet the domestic industry posted a slightly negative operating margin (-0.5 percent) in 1996.[110] Imports increased by 14.5 percent from 1996 to 1997, the second largest increase over the period examined, while the domestic industry's financial performance improved to show a 2.3 percent operating margin in 1997. In fact, imports increased by much smaller amounts in the latter part of the period examined than did domestic capacity -- by less than 1,000 tons in 1996, by 303,000 tons in 1997, and by 150,000 tons in 1998,[111] and by even smaller amounts if the noninjurious specialty wire rod products are excluded. However, the domestic industry's financial performance was at its worst in those years.

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[102] Table 6, Report at II-19; Table 5, Report at II-17.

[103] We note that petitioners would also exclude from the remedy as noninjurious all wire rod imports from Canada and Mexico. Thus, in total, petitioners would exclude 39.1 percent of all imports from the remedy. Table C-2, Report at C-7; Table 4, Report at II-14-16.

[104] Table C-1, Report at C-3-6; Table C-3, Report at C-8.

[105] Table 10, Report at II-23.

[106] Capacity actually declined slightly, from 6,495,796 tons in 1994 to 6,478,748 tons in 1995. Table 6, Report at II-19.

[107] Table 6, Report at II-19.

[108] Table 10, Report at II-23.

[109] Table 4, Report at II-14-16; Table 10, Report at II-23.

[110] *Id.*

[111] Table 4, Report at II-14-16.

We find that the tremendous increase in capacity, concentrated in a short period time (the final year of which saw declining demand), is a more significant cause of any assumed injury to the domestic industry than the much smaller increase in imports. In particular, we find it highly likely that the capacity increase, and the resulting increase in the intensity of domestic competition, was a significant cause of price erosion in the wire rod market. Further, the start-up and production difficulties resulting from the capacity increase have also harmed the domestic industry.[112] Reported factory overhead increased markedly over the period examined, rising by *** per ton sold, or nearly *** percent, and peaking in 1998. A substantial portion of this increase occurred between 1996 and 1998, concurrent with the marked increase in industry capacity. Most notably, factory overhead at *** rose by about $20 per ton sold. In addition, *** began production at its new facility in 1997, with factory overhead ***.[113]

As a subsidiary issue, we do not find that imports had sufficient impact on prices to rise to the level of making imports a substantial cause of serious injury to the domestic industry. As indicated above, the domestic industry's capacity increase was a more significant factor in price declines. Toward the end of the period examined, when the domestic industry fared the least well, prices were further eroded by a decrease in domestic demand and a significant drop in the price of scrap (a key raw material for wire rod production).

Our conclusion with respect to price is supported by the price data on the record, which present a mixed picture regarding the effect of imports on prices. As an initial matter, the record indicates that domestically produced wire rod enjoys a price premium over imported rod for a variety of reasons, including flexible purchase options and the ability to modify orders, short lead times, rapid response time for quality and technical service support, and different credit terms.[114] Therefore, a small level of underselling by imports is to be expected.

In addition, for at least three of the pricing products, import volumes and pricing often do not correlate with domestic price trends. For product one, beginning in the second quarter of 1996 and through the first quarter 1997, overall imports rose significantly and imports from major sources appreciably undersold the domestic product. However, over that same period, domestic prices were steady. In contrast, beginning in the fourth quarter of 1997 and through the second quarter of 1998, imports from some major sources appreciably oversold the domestic product; at the same time, domestic prices fell by a large amount.[115]

For product two, beginning in the first quarter of 1998 and through the fourth quarter of that year, overall imports fluctuated, and there was mixed underselling and overselling from major import sources. Most underselling was by relatively small margins. However, during this period, domestic prices fell

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[112] As noted earlier, Birmingham experienced start-up problems with its Memphis melt shop, which supplies billets to its Cleveland wire rod production facility. Respondents' Group pre-hearing brief on injury at 35-56. Keystone incurred costs related to the start up of several capital projects, including a new continuous caster. Respondents' Group pre-hearing brief on injury at 38-39.

[113] Table 12, Report at II-24, and domestic industry questionnaire responses.

[114] Report at II-47-48. U.S. producers that concede the existence of such non-price factors estimate their value to be $7 - $15 per ton. *Id.*

[115] Table 24, Report at II-54.

significantly.[116] For product three, beginning in the first quarter of 1996 and through the third quarter of 1997, imports from major sources appreciably undersold the domestic product. However, during this period, domestic prices were steady or rising.[117]

While some of the pricing data may suggest a positive correlation between import pricing and domestic prices, we conclude that, overall, the pricing data do not show any clear relationship between import prices and domestic prices. Certainly the pricing data do not support a finding that imports are the most important cause of any assumed serious injury to the domestic industry.

In conclusion, having found that the increase in domestic capacity is a greater cause of any assumed injury or threat of injury than increased imports, we find that imports are not a substantial cause of any such injury or threat of injury. Accordingly, because we find that the domestic industry is not seriously injured or threatened with serious injury, and that even if it were injured imports are not a substantial cause, we have made a negative determination.

Remedy

Because we determined that imports of steel wire rod are not a substantial cause of serious injury, or threat thereof, to the domestic injury, we do not believe that any import relief is appropriate in this investigation. However, should firms or workers apply for trade adjustment assistance, we recommend that they be given favorable consideration. Commissioner Crawford's additional views on remedy follow on page I-69.

[116] Table 25, Report at II-55.
[117] Table 26, Report at II-55.

VIEWS ON REMEDY OF VICE CHAIRMAN MARCIA E. MILLER AND COMMISSIONER STEPHEN KOPLAN

Findings and Recommendations

For the reasons set out below, we recommend the following action, which we find will address the serious injury to the domestic steel wire rod industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition and which does not exceed the amount necessary to prevent or remedy the serious injury:

1. That the President impose an additional tariff on imported steel wire rod for a four-year period. The additional tariff would amount to 15.0 percent *ad valorem* in the first year of relief and be reduced to 13.0 percent *ad valorem* in the second year of relief, 11.0 percent *ad valorem* in the third year of relief, and 9.0 percent *ad valorem* in the fourth year of relief;

2. Having made negative findings with respect to imports of steel wire rod from Canada and Mexico under section 311(a) of the NAFTA Implementation Act, that such imports be excluded from the additional tariffs;

3. That the increased rates of duty not apply to imports of steel wire rod from Israel, or to any imports of steel wire rod entered duty-free from beneficiary countries under the Andean Trade Preference Act, but that the increased duties apply to imports of steel wire rod from beneficiary countries under the Caribbean Basin Economic Recovery Act; and

4. That the additional tariffs not apply to certain specialty steel wire rod items, specifically, tire cord quality wire rod, pipe wrap quality wire rod, and valve spring quality wire rod.[1]

Introduction

Having found that increased imports are a substantial cause of serious injury to the domestic steel wire rod industry, we must now recommend the action that will address the serious injury and be the most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition. In deciding what relief to recommend, we have taken into account the considerations set forth in section 202(e)(5)(B) of the Trade Act, including the form and amount of action that will, in our respective views, remedy the serious injury we have found to exist; the objectives and actions specified in the adjustment plan submitted by petitioners; any individual commitments submitted in the course of the investigation; information available to the Commission concerning the conditions of competition in domestic

[1] Petitioners and Respondent parties proposed different use certification mechanisms. Commissioner Koplan recommends that the President consider adopting a use certification mechanism to ensure that enforcement of the action adopted facilitates positive adjustment to competition from imports of certain carbon steel wire rod.

and world markets; and likely developments affecting such conditions during the period for which action is being requested.

Competitive Conditions

Market Conditions

We have considered the conditions of competition in the domestic and world markets and likely developments affecting such conditions during the next several years. During 1994-98, the steel wire rod market has experienced significant growth in consumption domestically and abroad. The U.S. wire rod market is competitive with a large number of suppliers, both domestic and foreign, selling a wide range of wire rod products.[2] Producers, importers, and purchasers generally agree that there are no substitutes for steel wire rod. Furthermore, foreign produced steel wire rod is generally interchangeable with U.S.-produced steel wire rod.

Demand Conditions

Data obtained during the course of this investigation indicated, and producers and importers generally agreed, that overall demand for steel wire rod increased during the period for which data were collected. During 1994-98, domestic apparent consumption increased by 13.9 percent. Responding producers and importers cited the favorable economic climate in the United States as the main factor behind the increase in the demand for steel wire rod. Several domestic producers noted, however, that while demand in the United States has been strong, demand in other markets has been weak.[3]

Domestic Supply Conditions

During 1994-98, U.S. capacity to produce steel wire rod increased significantly, rising by 16.2 percent. The increase in capacity is the result of equipment modernization of existing firms and the addition of new capacity. Even with the addition of this new capacity, domestic capacity is not sufficient to supply total apparent consumption in the U.S. market. In 1998, U.S. producers' capacity was 7,546,078 short tons, while domestic apparent consumption was 8,278,104 short tons. A number of purchasers reported difficulty obtaining adequate supplies of steel wire rod from their suppliers. While we found the reported availability problems most prevalent in 1995 and 1997, we note that there were reports of supply problems in every year of the reporting period.

Import Supply Conditions

Steel wire rod is produced in over 70 countries, and at least 30 countries export steel wire rod to the United States. During the period of investigation, imports of steel wire rod into the United States increased by 42.8 percent, while the value of such imports increased by 30.9 percent.[4] While foreign producer data show a limited amount of unused capacity, we note that the United States is only one of many potential

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[2] Petitioners stated that domestic manufacturers are among the most efficient in the world. Petition, p. 6.
[3] *Certain Steel Wire Rod*, Investigation No. TA 201-69, (hereinafter "Report") at 43.
[4] Table 4, Report at II-14-16.

markets for foreign producers, therefore allowing the shifting of product between markets. In addition, overall foreign producer capacity increased during 1994-98, with further increases projected through 2000.

Industry Adjustment Plan

We carefully examined the industry's adjustment plan, which describes both existing and planned programs and initiatives to improve the industry's ability to adjust to import competition. The plan's programs are divided into three parts: investment in facilities and equipment, new product lines and making recent investments profitable. Initially the plan seeks temporary import relief in order to promote an environment which will allow further investment to meet customer demands while improving efficiency and enhancing productivity. The industry believes that the temporary relief will permit new product lines including new grades and types of steel wire rod to be added. In particular, several producers have indicated an interest in producing a greater variety of high carbon steel products. Finally, the plan seeks to permit new facilities and operations to function at near and full capacity.[5] While it is not readily apparent which programs are likely to have the greatest impact in achieving success during the adjustment assistance period, the plan suggests a general blueprint that can form the starting point for positive adjustment by the domestic steel wire rod industry.

Recommended Relief

The statute authorizes the Commission to recommend several forms of import relief, including tariffs, quotas, and tariff-rate quotas. In determining which of these forms would be most effective in remedying the serious injury and facilitating positive adjustment to import competition, we have examined closely the costs and benefits of each. We have determined that a simple tariff will provide the industry with the most appropriate and most easily-administered form of relief.

The remedy proposed by the domestic industry is a tariff rate quota, with a quota based on the average of imports in 1993-95, no under quota tariff, and an over quota tariff of 50 percent *ad valorem*. The TRQ would be in place for four years, be phased down annually, and be retroactive to the date of filing of the amended petition (January 12, 1999). Petitioners' recommended TRQ would cover steel wire rod from all countries, including beneficiary countries of the Andean Trade Preference Act and the Caribbean Basin Economic Recovery Act, but exclude imports of wire rod from NAFTA countries. In addition, Petitioners have requested that certain specialty steel wire rod products be excluded from the remedy. With regard to specialty products, Petitioners have requested that imports of tire cord quality wire rod, valve spring wire rod, pipe wrap wire rod, and 1080 tire bead wire rod be excluded from any remedy.[6]

We find that the Petitioners' proposed remedy would exceed the amount necessary to prevent or remedy the serious injury. The Petitioners' TRQ within-quota level allows only nine percent of the 1998 non-excluded imports to enter without an additional duty[7]. Their within quota levels are allocated to countries based on each country's U.S. import shares during 1993-95. A 50 percent tariff would be levied on any imports over the within quota levels. We estimate such a tariff could limit imports by as much as 73

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[5] Adjustment Plan submitted by Petitioners, May 12, 1999, p. 4.

[6] The exclusion of 1080 tire bead was added by Petitioners to their list of specialty products in their posthearing remedy brief (Petitioners' Posthearing Remedy Brief, p. 44). Petitioners state that the domestic industry is able to manufacture 1080 tire bead quality wire rod in commercial quantities but it needs to go through a qualification process. Petitioners suggest a maximum 12-month remedy exclusion for 1080 tire bead wire rod.

[7] EC-W-049 at footnote 28, p. 13.

percent from 1998 levels. In addition, the 50 percent tariff would apply to all or virtually all imports from six countries[8] since there were either no or *de minimis* imports from these countries during 1993-95. As indicated above, we note that the products and countries Petitioners requested be excluded from the remedy encompass almost 39.1 percent of total imports[9]. Further, we note both that domestic consumption exceeds domestic production capacity and that the capacity utilization rates in NAFTA countries (which are excluded from the remedy) exceed 93 percent. Thus, we find that the Petitioners' proposed remedy would place a disproportionate share of the burden of the remedy on imports from a small subset of countries, and would restrict imports to such a degree as to cause shortages of steel wire rod in the domestic market.

Respondents largely have argued that no remedy is appropriate, although certain foreign producers have favored either a quota or a tariff if a remedy were to be proposed.[10] In light of certain supply shortages of the domestic industry during 1994-98, we determine that a quota is a less appropriate form of remedy; a quota would be the least flexible of remedy options, and would not allow imports to respond sufficiently to increased demand or supply shortages if they were to occur. We also disagree with Respondents that no remedy, or simply the provision of some form of adjustment assistance would allow this industry to address the serious injury we have found to exist. In particular, this approach would provide no price relief to the domestic industry, as low-priced imports would continue to suppress and depress domestic prices. Our remedy balances the concerns of the parties by setting a threshold that should allow the price relief needed by the domestic industry without restricting imports to levels below those necessary to provide sufficient supply to domestic users of steel wire rod.

We recommend that the President increase the current tariff applied to imported steel wire rod for a full four-year period. In the first year of relief, imports will be subject to a dutiable rate of 15 percent ad valorem, falling to 13 percent in the second year, 11 percent in the third year, and 9 percent in the fourth year. These levels strike a balance between providing the necessary price relief that would yield stability to the market and positive revenue effects for the industry over the adjustment period, allowing it to implement its plan of modernization and expansion of facilities, while avoiding the creation of supply shortfall in the near term.

While the industry has taken steps in the planning of its adjustment efforts, it is clear that the bringing on line of new capacity requires a relatively lengthy period, in terms of the actual construction of facilities and introduction of equipment, as well as bringing new capacity to its full potential. We recognize that relief action of more than three years duration will require that the Commission conduct a mid-course review under section 204(a)(2) of the Trade Act. Such an investigation would provide the Commission with an opportunity to formally review, among other things, the progress of the industry in implementing its plan. It would also provide the President, after receiving the Commission's report, with the opportunity to reduce or terminate relief if the industry has not made adequate efforts to make a positive adjustment to import competition.

Having made a negative finding under section 311(a) of the NAFTA Implementation Act with respect to imports from Canada and Mexico, we recommend that the President exclude Canada and Mexico from any relief action.

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[8] The Petitioners' proposed TRQ restricts within quota level imports to less than three percent of 1998 imports for the following countries: Indonesia, Malaysia, South Africa, Switzerland, Turkey, and Ukraine. See EC-W-049 at Table 2, p. 15.

[9] Table 4, Report at II-14-16 and Table C-3, Report at C-8.

[10] Posthearing Brief of deKieffer & Horgan, p. 10.

The Caribbean Basin Economic Recovery Act, the Andean Trade Preference Act, and the U.S.-Israel Free Trade Agreement Act require the Commission to state whether and to what extent its findings and recommendations apply to an article that is the subject of an affirmative determination under section 202 of the Trade Act when imported from beneficiary countries of these Acts. Our findings and recommendations in this case do not apply to Israel or beneficiary countries of the Andean Trade Preference Act. The only known imports from these countries were 35 tons of steel wire rod imported from Colombia in 1996-98.

This remedy does apply to beneficiary countries of the Caribbean Basin Economic Recovery Act. Trinidad and Tobago has been one of the most significant suppliers of imported steel wire rod to the U.S. market throughout the investigation period. Imports from Trinidad and Tobago were the second most significant in 1994-97, dropping to third in 1998. In these years, these imports accounted for 10.2 to 13.5 percent of total imports.

Short and Long-Term Effects of Our Recommended Remedy

The tariff increase that we are recommending will address the serious injury to the domestic steel wire rod industry and will be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition. It also does not exceed the amount necessary to remedy such serious injury.

Our tariff-based remedy is intended to restore domestic prices and industry profitability to reasonable levels, as the industry continues its investment efforts to modernize production facilities, add new product lines, and bring recent capacity increases to full utilization. The industry must recognize and address possible supply shortages that may occur during the adjustment period. However, a tariff remedy will allow the industry to make positive efforts, while not excluding imports from the domestic market.

We estimate that the tariff we are recommending for the domestic steel wire rod industry, based on 1998 data, would initially raise the price of the domestic product by between 1.9 and 2.1 percent over 1998 levels, raise domestic sales volumes by 5.3 to 6.8 percent, and increase sales revenues by 7.5 to 8.8 percent. Perhaps more important for the domestic industry, import sales prices for those imports we found to be subject to this remedy, are estimated to increase by about 10 percent over 1998 prices, in the first year of relief. Along with this price increase, imports subject to the remedy would decrease substantially in the first year of relief, by about 27 percent compared to 1998 levels. The decrease in these imports is important in the domestic industry's adjustment, as these are the import volumes that they argued are causing the serious injury we find to exist.

At the same time, Petitioners argued for exempting imports from Canada and Mexico, and certain specialty products from any remedy proposed by the Commission. The exempted imports accounted for almost 39.1 percent of 1998 imports.[11] Thus, in considering the impact of our proposed remedy on the U.S. steel wire rod market as a whole, it is important to note its overall effect on supply. We estimate that total import levels would decline somewhat, from a 1998 level of 2,537,404 short tons, to about 2,198,559 short tons, or by about 14 percent. This 2,198,559 short tons represents almost 27 percent of total 1998 domestic consumption of steel wire rod, which is approximately the same U.S. market share held by imported wire rod in 1995 and 1996.

[11] Table 4, Report at II-14-16 and Table C-3, Report at C-8.

While this remedy may result in an initial negative impact on end users of steel wire rod, largely in the form of increased prices in the domestic market and some restrictions in import volumes, we believe this effect will be limited by the structure of this remedy. The exclusion of NAFTA countries allows those imports to continue to enter the United States free of duty; Canada has been the single most significant supplier of steel wire rod throughout the investigation period, accounting for more than 20 percent of total imports in each year. Further, the exclusion of certain specialty products further limits the impact of the remedy on purchasers of wire rod products that are either not available from domestic suppliers or are not available in commercially significant volumes.[12] We also believe that the exclusion of these imports supports our efforts to limit the relief only to the extent necessary to remedy the injury we have found.

Predicting market effects with precision following the initial year of relief is uncertain. In general, we would expect the domestic industry to respond to predicted continued strong demand with increased production, as prices increase. In addition, we would expect the domestic industry to be able to respond to strong demand with sufficient supply as it undertakes its investment programs, brings new capacity on line, and modernizes current capacity.

Short and Long-Term Effects of Not Taking the Recommended Action

In the absence of relief, we believe that the recent operating losses experienced by the domestic industry will continue. Without price relief, the price depression and suppression evident in the market in the most recent period will remain a factor, and steel wire rod imports will continue to capture an increasing share of the domestic market. We note that the domestic market has seen particularly strong import growth from countries the industry has referred to as nontraditional suppliers. Without relief, this trend is likely to worsen in its price and revenue impact on the domestic industry. In turn, continued operating losses will prohibit the domestic industry from carrying out its modernization plans and bringing recently installed capacity to full utilization. This will also lead to a less viable and competitive domestic industry and to partial and full plant closings. Such closings and partial closings will lead to layoffs of workers in the industry, and adverse impacts on the communities in which the production facilities are located.

In addition, a strong and competitive domestic steel wire rod industry is important to the long-term health of the domestic wire industry, the primary customer of the steel wire rod industry. Although domestic wire producers oppose any remedy that significantly interferes with their ability to obtain a significant amount of steel wire rod for their wire operations, they acknowledged the importance of the domestic steel wire rod industry to their operations. They stated that they prefer to buy domestic steel wire rod[13], and that they support the domestic steel wire rod industry's initiatives to develop and expand the availability of domestic steel wire rod[14].

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[12] As stated above, we have excluded tire cord quality wire rod, valve spring quality wire rod, and pipe wrap quality wire rod from this remedy. Petitioners recommended that these products be excluded in their petition. We also note that during the remedy phase, Petitioners proposed a fourth specialty product, 1080 tire bead quality wire rod, for exclusion. We believe this is also a strong candidate for exclusion from this remedy, but note that Petitioners added it to their list of specialty products late in the investigation period (see, Petitioners' Posthearing Brief on Remedy, p. 44) and the Commission collected no independent data on it. Thus, we were not able to determine the effect of this additional exclusion, and therefore, we reach no recommendation on its exclusion. Definitions for these specialty products, as suggested by parties, can be found in Attachment A.

[13] Transcript of hearing on injury at 217 (Mr. Vermeersch) and at 222-23 (Mr. Leonard).

[14] Transcript of hearing on injury at 212 (Mr. Cronin).

ATTACHMENT A

SPECIALTY PRODUCT DEFINITIONS PROPOSED BY PARTIES

Specialty Product	Petitioners Modified Definitions Remedy Phase Prehearing Brief May 27, 1999	Japanese Respondents (Wilkie, Farr & Gallagher) Remedy Phase Prehearing Brief May 27, 1999	Eurofer (diKieffer & Horgan) Letter Dated June 28, 1999
Tire Cord Quality Wire Rod	Wire rod 5.0 to 6.0 mm in diameter; Containing by weight 0.68% or more **C**; Less than 0.01% **Al**; 0.040% or less **P** plus **S**; 0.008 or less **N**; Max combined **Cu**, **Ni**, and **Cr** 0.55%; With an average partial decarburization of no more than 70 microns in depth (maximum 200 microns); No inclusions greater than 20 microns; Capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton. The subject wire is excluded from the relief requested when the importation of such wire rod includes a certificate from the producer to Customs at the time of importation that (1) the wire rod meets the specification for this exclusion; and (2) the subject wire rod is being imported pursuant to a purchase order from a tire manufacturer or a tire cord wire manufacturer in the United States for tire cord quality wire rod.	5.0 to 6.0 mm diameter; No actual use certification; Certified to customs by foreign producer as meeting applicable exclusion product specifications; No importer certification; **C** content 0.68% or more; **Al** content less than 0.005% **P** plus **S** 0.040% or less; **N** 0.008% or less; **Cu** content 0.20% max; **Ni** content 0.05% max; **Cr** content 0.30% max; Average partial decarburization of no more than 70 microns in depth (maximum 200 microns); No inclusions greater than 20 microns, the thickness of an inclusion is “the traverse measurement of the non-metallic inclusion on the longitudinal cross section surface of a wire rod sample (to be measured by an optical microscope),” capable of being drawn to diameter of 0.012 inch or less with 3 or fewer breaks per ton.	Proposed **C** content of 0.56% or more.

Specialty Product	Petitioner As Proposed in Petition	Japanese Respondents	
Valve Spring Quality Wire Rod	Wire rod 7.9 to 18 mm in diameter, Certified (to Customs) by the importer for actual use in valve springs and as containing 0.43 to 0.73% **C** by weight and having partial decarburization and seams no more than 0.075 mm in depth.	5.5 to 18 mm in diameter; No actual use certification; Certified to Customs by foreign producer as meeting applicable exclusion product specifications; No importer certification; **C** content of 0.43% to 0.85% by weight; Partial decarburization and seams of no more than 0.075 mm in depth or 1.5% diameter, whichever is greater; Maximum inclusion content: Table 4, ASTM A877.	

Specialty Product	Petitioner As Proposed in Petition		
Pipe Wrap Quality Wire Rod	Coiled products11.0 to 12.5 mm in diameter certified (to Customs) by the importer as having an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: **C** greater than or equal to 0.72%; **Mn** 0.50-1.10%; **P** less than or equal to 0.030%; **S** less than or equal to 0.035%; **Si** 0.10-0.35%. The product must be certified (to Customs) by the importer as free of injurious piping and undue segregation, and as for use to fulfill contracts for the sale of Class III pipe wrap wire in conformity with ASTM spec A648-95.		

Specialty Product	Petitioner Posthearing June 14, 1999	Korean Respondent (Powell, Goldstein, Frazer & Murphy) Posthearing June 14, 1999	
1080 Tire Bead Quality Wire Rod	The product to be excluded from the remedy for a period of 12 months is defined as follows: ".80 carbon tire bead quality steel wire rod" means wire rod 5.5 mm to 7.0 mm in diameter and meeting the following specifications: Containing by weight 0.78% or more carbon, less than 0.03% soluble aluminum, 0.040% or less of phosphorous plus sulfur, 0.004% or less of nitrogen; maximum combined copper, nickel and chromium content of 0.055%; with an average partial decarburization of not more than 70 microns in depth (maximum 200 microns); no inclusions greater than 20 microns; and capable of being drawn to a diameter of 0.78 mm or bigger with 0.5 or fewer breaks per ton. The subject wire rod is excluded from the relief requested when the importation of such wire rod includes a certification from the producer to Customs at the time of importation that: (1) the wire rod meets the specifications for this exclusion; and (2) the subject wire is being imported pursuant to a purchase order from a tire manufacturer or a manufacturer of tire wire products for inclusion in tires.	".80 carbon tire bead quality steel wire rod" means wire rod 5.5 mm to 7.0 mm in diameter and meeting the following specifications: Containing by weight 0.78% or more carbon, less than 0.03% soluble aluminum, 0.040% or less of phosphorous plus sulfur, 0.004% or less of nitrogen; maximum combined copper, nickel and chromium content of 0.055%; with an average partial decarburization of not more than 70 microns in depth (maximum 200 microns); no inclusions greater than 20 microns; and capable of being drawn to a diameter of 0.78 mm or bigger with 0.5 or fewer breaks per ton. The subject wire rod is excluded from the relief requested when the importation of such wire rod includes a certification from the producer to Customs at the time of importation that: (1) the wire rod meets the specifications for this exclusion; and (2) the subject wire is being imported pursuant to a purchase order from a tire manufacturer or a manufacturer of tire wire products for inclusion in tires.	

C	=	carbon	Al	=	aluminum	Mn	=	manganese
P	=	phosphorus	Cu	=	copper	Si	=	silicon
S	=	sulfur	Ni	=	nickel			
N	=	nitrogen	Cr	=	chromium			

VIEWS ON REMEDY OF CHAIRMAN LYNN M. BRAGG

Findings and Recommendations

For the reasons set forth below, I recommend the following action, which I find will address the threat of serious injury to the domestic steel wire rod industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition:

(1) I recommend that the President impose a duty, in addition to the current rate of duty, for a four-year period, on all imports of steel wire rod that are the subject of this investigation without exclusion except as provided below, as follows: 7 percent *ad valorem* in the first year of relief; 6.5 percent *ad valorem* in the second year of relief; 6.0 percent *ad valorem* in the third year of relief; and, 5.5 percent *ad valorem* in the fourth year of relief;

(2) Having made an affirmative finding with respect to imports of steel wire rod from Canada under section 311(a) of the NAFTA Implementation Act, I recommend that such imports be subject to the increase in duty described above;

(3) Having made a negative finding with respect to imports of steel wire rod from Mexico under section 311(a) of the NAFTA Implementation Act, I recommend that such imports be excluded from the increase in duty described above;

(4) I recommend that the increase in duty described above apply to imports of steel wire rod entered duty-free from beneficiary countries under the Caribbean Basin Economic Recovery Act, but that it not apply to imports of steel wire rod entered duty-free from beneficiary countries under the Andean Trade Preference Act or imports of steel wire rod from Israel.

Introduction

Having determined that increased imports are a substantial cause of the threat of serious injury to the domestic industry, I am required, pursuant to section 202(e)(1) of the Trade Act, to recommend action to the President that will address the threat of serious injury to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

In deciding the form and amount of relief to recommend, I took into account the factors enumerated in section 202(e)(5) of the Trade Act, including: the threat of serious injury that I found to exist; the objectives and actions specified in the adjustment plan submitted by Petitioners; information available to the Commission concerning market conditions in domestic and world markets; and likely developments affecting such conditions during the period for which action is requested. I further considered the evidentiary basis for my injury determination in this investigation, the impact relief may have on the steel wire rod market, and the administrative feasibility of implementing a given action.

Market Conditions

Demand conditions. U.S. apparent consumption of steel wire rod by volume increased 14.7 percent between 1994 and 1997, before declining by 0.7 percent between 1997 and 1998.[1] U.S. apparent consumption of steel wire rod by value increased 14.5 percent between 1994 and 1997, before declining 5.7 percent between 1997 and 1998.[2] The larger decline in U.S. consumption by value between 1997 and 1998 reflects the fact that overall demand for wire rod will not change significantly in response to changes in price; this low degree of price sensitivity is mainly attributable to the lack of available substitute products.[3]

Although demand in the United States has generally been strong over the period of investigation ("POI"), demand in markets other than the United States is perceived to have been weak, particularly during the latter part of the POI.[4] While there are some differences between domestic and imported steel wire rod, and although certain grades or types of steel wire rod are not produced in commercial quantities by U.S. producers, there is nevertheless a relatively high degree of substitution between wire rod from the United States and from import sources.[5]

Domestic supply conditions. U.S. production increased 8.1 percent between 1994 and 1997, before decreasing 3.9 percent between 1997 and 1998.[6] U.S. producers' total capacity increased 11.6 percent between 1994 and 1997, and an additional 4.1 percent between 1997 and 1998; capacity net of outages increased 9.0 percent between 1994 and 1997, and an additional 4.1 percent between 1997 and 1998.[7] As a result of the foregoing, U.S. producers' total capacity utilization declined from 85.0 percent in 1994 to 82.2 percent in 1997 and 76.0 percent in 1998, while capacity utilization net of outages declined from 85.3 percent in 1994 to 84.6 percent in 1997 and 78.1 percent in 1998.[8] U.S. producers' inventories of steel wire rod accounted for a relatively small percentage of total shipments during the POI; as a ratio to total shipments, inventories were between 3.1 percent and 4.4 percent during the period 1994-1998.[9]

It is evident that even if operating at full capacity, U.S. producers are not capable of supplying the entirety of demand for steel wire rod in the U.S. market.[10] Moreover, U.S. producers do not currently produce certain grades and types of steel wire rod in commercial quantities, thus constraining domestic consumers to purchase imports of such products at present.[11]

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[1] *See* Table 3, Report at II-12.
[2] *Id.*
[3] Report at II-47.
[4] *See* Report at II-30, II-43.
[5] Report at II-44.
[6] Table 6, Report at II-19.
[7] *Id.*
[8] *Id.*
[9] Report at II-42.
[10] *Compare* Table 3, Report at II-12 *with* Table 6, Report at II-19; *see also* Report at II-46-47 (purchasers indicated there is insufficient capacity in the United States to supply 100 percent of domestic consumption).
[11] *See* Petitioners' Remedy Phase Prehearing Brief at 24 (domestic producers do not yet produce pipe wrap quality steel wire rod, valve spring quality steel wire rod, and tire cord, in commercial quantities).

Import supply conditions. Total imports of steel wire rod increased 42.8 percent over the entire POI, with imports increasing 6.3 percent between 1997 and 1998 alone.[12] For those foreign producers that responded to the Commission's questionnaires, exports to the United States increased 38.8 percent over the entire POI, with such exports increasing 8.4 percent between 1997 and 1998 alone;[13] moreover, these producers project their exports to the United States will increase 9.4 percent between 1998 and 1999, and a further 2.9 percent between 1999 and 2000.[14] Total capacity for responding foreign producers increased 10.5 percent over the entire POI, and is projected to increase a further 0.5 percent between 1998 and 1999, and 1.3 percent between 1999 and 2000.[15] Capacity utilization for responding foreign producers ranged between 82.5 percent and 87.8 percent during the entire POI, and is projected to increase from 83.1 percent in 1998 to 85.5 percent in 1999 and 86.3 percent in 2000.[16]

Although imports have historically maintained a presence in the U.S. market for steel wire rod, in recent years the United States has experienced an increase in imports from non-traditional suppliers such as India, Indonesia, Moldova, and Ukraine;[17] indeed, Moldova and Ukraine together accounted for 9.1 percent of imports by volume in 1997, while India, Indonesia, Moldova, and Ukraine together accounted for 21.4 percent of imports by volume in 1998.[18] Thus far, 29 countries have exported steel wire rod to the United States in 1999,[19] and over 70 countries produce steel wire rod around the world.[20]

Export shipments are an important component of foreign producers' sales; during the period 1994-1998, export shipments to markets other than the United States accounted for between 31.2 percent and 34.3 percent of total shipments for those foreign producers that responded to the Commission's questionnaires.[21] Exports to markets other than the United States declined 10.0 percent for these foreign producers between 1997 and 1998,[22] thus reflecting reduced global demand during the latter part of the POI and the redirection of exports to the U.S. market where demand has been relatively strong. Moreover, these foreign producers project export shipments to markets other than the United States will decline a further 4.5 percent between 1998 and 1999, and an additional 1.0 percent between 1999 and 2000.[23]

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[12] *See* Table 20, Report at II-40-41.
[13] *See* Table 16, Report at II-28.
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] Report at II-13.
[18] *See* Table 4, Report at II-14-16. Indonesia did not begin exporting steel wire rod to the United States until 1998, but in that year imports from Indonesia accounted for 6.7 percent of total imports. *See id.*
[19] Document entitled "U.S. Imports For Consumption, Monthly Data For 1999," listed in Public Record, retrieved from internet, June 4, 1999.
[20] Report at II-27.
[21] Report at II-27-28.
[22] *See* Table 16, Report at II-28.
[23] *Id.*

The record thus demonstrates that the redirection of exports from third country markets to the United States is likely to continue for the foreseeable future, with a commensurate continuation of the increase in supply of steel wire rod imports in the U.S. market.

Industry Adjustment Plan

Petitioners submitted to the Commission an adjustment plan containing three general categories of adjustments that domestic steel wire rod producers will seek to implement during a relief period: (1) further investment in facilities and equipment in order to enhance productivity and efficiency, improve product quality, and meet customer demands; (2) diversification into production of new grades and types of steel wire rod, some of which are not currently produced in the United States in commercial quantities; and (3) improvement in the profitability of existing capital investments.[24] Petitioners provided concrete examples of the capital investments anticipated by various domestic producers needed to implement the first two elements; however, the ability to achieve all three elements is dependent upon increased profitability resulting from an anticipated increase in price levels and sales volumes in the U.S. market for steel wire rod during the relief period.

Recommended Relief

Selection of a temporary increased tariff on steel wire rod imports. Pursuant to section 202(e) of the Trade Act of 1974, I am recommending action to the President that, in my view, will address the threat of serious injury to the domestic steel wire rod industry and that will most effectively facilitate efforts by the domestic industry to make a positive adjustment to import competition. I have examined the different forms of relief that the Commission is authorized to recommend in this investigation,[25] and I have sought to develop a remedy that would be most effective in facilitating the domestic industry's efforts to adjust to import competition while not disrupting the U.S. steel wire rod market more than is necessary. The simple tariff increase which I recommend, as described above, is designed to provide domestic producers the modest price increases necessary to facilitate the domestic industry's adjustment plan, albeit to a lesser degree than that sought by Petitioners.[26] However, Petitioners themselves acknowledge that only modest increases in prices and profitability are necessary to allow the domestic industry to implement its adjustment plan.[27]

Importantly, I recommend a four-year relief period. The capital investment projects outlined in the domestic industry's adjustment plan require sufficient time for approval, securing of financing, installation, and start-up operations. This latter consideration is significant; even after a capital investment project is completed, a producer inevitably requires additional time to develop the expertise necessary to become an efficient producer. As a result, such initial production efforts are often at a competitive disadvantage compared to established producers. This is one reason why I decline to incorporate Petitioners' proposed

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[24] Petitioners' Adjustment Plan at 3-4.

[25] As the Commission noted in *Wheat Gluten*, a simple tariff increase generally is preferred over tariff-rate quotas and quantitative restrictions because a simple tariff increase tends to be less distortive of trade and is easiest to administer. *Views of the Commission on Remedy*, *Wheat Gluten*, Inv. No. TA-201-67, USITC Pub. 3088 (March 1988), at I-26.

[26] *See* Commission Remedy Memorandum EC-W-049, Appendix A (June 24, 1999).

[27] Petitioners' Remedy Phase Posthearing Brief, Annex 2 at 6 (response to question posed by Chairman Bragg during hearing on remedy).

exclusions of pipe wrap quality steel wire rod, valve spring quality steel wire rod, tire cord steel wire rod, and 1080 tire bead quality steel wire rod, in my remedy recommendation. The modest tariff increase which I recommend will aid the competitiveness of domestic producers during the initial stages of their diversification into the production of new grades and types of steel wire rod, such that by the end of the relief period they should be capable of competing successfully with import competition.

As noted, in developing my remedy recommendation I considered the evidentiary basis for my injury determination in this investigation. This provides a second significant reason for rejecting Petitioners' proposed exclusions. The remedy proposed by Petitioners would exclude from its scope imports of steel wire rod from Canada and Mexico, as well as imports of pipe wrap quality steel wire rod, valve spring quality steel wire rod, tire cord steel wire rod, and 1080 tire bead quality steel wire rod. Yet Petitioners argued during the injury phase of this investigation that all subject imports were causing serious injury to the domestic industry. Notably, these imports accounted for at least 39.1 percent of total steel wire rod imports into the United States in 1998.[28] The substantial nature of Petitioners' proposed exclusions is analytically problematic; in my view, such substantial exclusions are difficult to reconcile with the basis for the injury determination in this investigation.

In contrast to Petitioners' proposed remedy, I note that the scope of my remedy recommendation effectively excludes only imports from Mexico, which accounted for 3.0 percent of total imports in 1998.[29] For the reasons set forth in my views on injury, I find that imports from Canada account for a substantial share of total imports and contribute importantly to the threat of serious injury to the domestic industry, but that imports from Mexico do not account for a substantial share of total imports and do not contribute importantly to the threat of serious injury to the domestic industry.

In addition, I note that the Caribbean Basin Economic Recovery Act, the Andean Trade Preference Act, and the U.S.-Israel Free Trade Agreement Act, require the Commission to state whether and to what extent its findings and recommendations apply to an article that is the subject of an affirmative determination under section 202 of the Trade Act when imported from beneficiary Caribbean Basin or Andean countries, or from Israel.[30] The sole significant source of steel wire rod imports among the countries subject to these Acts is Trinidad and Tobago, which is a beneficiary country as defined under the Caribbean Basin Economic Recovery Act. I note that Trinidad and Tobago was the second largest source of steel wire rod imports into the United States over the course of the POI.[31] Although import volumes from Trinidad and Tobago declined 1.5 percent between 1996 and 1997, and a further 6.9 percent between 1997 and 1998, such imports still accounted for 11.6 percent of total imports during the period 1996-1998.[32] Moreover, based upon data submitted by foreign producers in response to Commission questionnaires, exports from Trinidad and Tobago to the United States are projected to ***.[33]

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[28] Imports from Canada and Mexico accounted for 24.9 percent of total imports in 1998. *See* Table 5, Report at II-17. Imports of pipe wrap quality steel wire rod, valve spring quality steel wire rod, and tire cord steel wire rod, accounted for 14.2 percent of total imports in 1998. *See* Table C-3, Report at II-C-6.

[29] Table 5, Report at II-19; Table 17, Report at II-29.

[30] 19 U.S.C. §§ 2112 note, 2703(e)(2), 3203(d)(2).

[31] Table 4, Report at II-14-16.

[32] *See id.*

[33] Table 15, Report at II-27.

I find these past and projected import levels significant to the threat of serious injury to the domestic industry. In contrast, neither Israel nor any of the countries subject to the Andean Trade Preference Act are significant sources of steel wire rod imports into the United States.[34] Accordingly, I recommend that the tariff increase described above not apply to imports of steel wire rod from Israel, nor to imports of steel wire rod entered duty-free from beneficiary countries under the Andean Trade Preference Act. Based upon my finding with regard to Trinidad and Tobago, however, I recommend that the tariff increase described above apply to imports of steel wire rod entered duty-free from beneficiary countries under the Caribbean Basin Economic Recovery Act.

Conclusion. I believe that the tariff increase described above will most effectively address the threat of serious injury to the domestic steel wire rod industry and facilitate efforts by the domestic industry to make a positive adjustment to import competition. My recommendation would result in modest price increases for steel wire rod in the U.S. market which will assist domestic producers in regaining profitability and implementing the domestic industry's adjustment plan, but without unduly increasing the costs incurred by steel wire rod purchasers to the point where they are placed at a significant competitive disadvantage vis-à-vis their foreign competitors.

Short- and Long-term Effects of the Recommended Remedy

The tariff increase that I am proposing will provide the level of relief that is necessary to address the threat of serious injury to the domestic steel wire rod industry and that will be the most effective, in my view, in facilitating the domestic industry's efforts "to make a positive adjustment to import competition and provide greater economic and social benefits than costs."[35]

As discussed above, the challenge facing the domestic industry is to regain profitability and to diversify and improve the quality of its product mix in order to better serve the needs of its customers. My remedy recommendation would result in the modest price increases necessary to permit the domestic industry to overcome these challenges, while not unduly disrupting the U.S. steel wire rod market. Estimates by Commission staff indicate that my recommended remedy will result in increased revenues to the domestic industry through a combination of increased prices and sales volumes, although not to the degree sought by Petitioners.[36] The increase in sales volumes should lead to increased cost-efficiency for domestic producers, and the increase in revenues should improve the profitability of the domestic industry. Again, these improvements should come without significantly adversely affecting downstream industries and consumers; a financially sound, competitive, modern, steel wire rod industry is important to that industry's principal customer, i.e. the wire industry. As described above, I further recommend that the

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[34] Neither Israel nor the beneficiary countries under the Andean Trade Preference Act were significant sources of steel wire rod imports. *See* Table 4, Report at II-14-16 (summarizing data for the 11 major sources of imports, by country, in 1998); *see also* Table 17, Report at II-29 (summarizing foreign producers' exports to the United States, for 17 countries, during the POI). In fact, imports of steel wire rod from Colombia amounted to only 35.3 short tons in 1998, while imports from Israel amounted to only 11.0 short tons in 1996 and 6.6 short tons in 1997. Thus, imports of steel wire rod from beneficiary countries under the Andean Trade Preference Act and from Israel were substantially less than 1 percent of total imports during the POI. *See* Document entitled "U.S. Imports For Consumption, Monthly Data For 1999," listed in Public Record, retrieved from internet, July 12, 1999.

[35] *Id.*

[36] *See* Commission Remedy Memorandum EC-W-049, Appendix A (June 24, 1999).

increase in duty be reduced over the course of the relief period, reflecting the anticipated improvement in the competitiveness of the domestic steel wire rod industry.

Short- and Long-term Effects of Not Taking the Recommended Action

In the absence of the relief which I recommend, I believe that imports will continue to capture a significant and increasing share of the U.S. market, resulting in a continuing decline in capacity utilization, and hence the efficiency, of domestic producers, as well as continued price suppression or depression in the U.S. market for steel wire rod. Such conditions would likely continue to depress the profitability of domestic producers, thereby serving as an impetus for further contraction, both in terms of production and employment, in the domestic industry. This is particularly significant because many of the domestic steel wire rod production facilities are located in small towns and are therefore an important component of the local economy; any partial shut-downs or plant closings (such as occurred at the end of 1998) would likely have a significant adverse impact on the communities in which such facilities are located.

In addition, the likely conditions resulting from the absence of my recommended relief would likely prevent the domestic industry from undertaking the capital investments necessary to diversify and improve the quality of its product mix, which are necessary for domestic producers to remain competitive. Finally, any prolonged decline in the competitiveness of domestic steel wire rod producers would also likely impact adversely their principal customers, i.e. domestic wire producers, due to an ensuing reduction in the number of sources for steel wire rod in the U.S. market.

ADDITIONAL VIEWS ON REMEDY OF COMMISSIONER CAROL T. CRAWFORD

On May 12, 1999, Commissioners Hillman, Askey, and I announced that we had determined that increased imports of certain carbon steel wire rod are not a substantial cause of serious injury, or threat thereof, to the domestic industry producing steel wire rod. In light of my negative determination, I do not believe any import relief is appropriate in this investigation.

Although section 202(e)(6) of the Trade Act of 1974 provides that only those Commissioners who voted in the affirmative may vote on remedy, it invites those members of the Commission who are not eligible to vote on the question of remedy to submit separate views regarding what action, if any, the President should take under section 203 of the Trade Act. If the President considers the Commission to have made an affirmative determination, I recommend that he take no import relief action. These comments address three elements of the statute that govern the selection of a remedy, if the President decides that a remedy is appropriate.

- Any remedy may not exceed the amount necessary to prevent or remedy the serious injury.
- Any remedy must consider the national economic interest of the United States, and specifically the effects on consumers and on competition in domestic markets.
- Any remedy must provide greater economic and social benefits than costs.

I address each of these questions in turn.

I. Any remedy may not exceed the amount necessary to prevent or remedy the serious injury

The adjustment plan proposed by the Petitioners is the best guide to the priorities of the domestic industry and therefore identifies the areas in which any import relief could best be justified. Petitioners submitted an adjustment plan that stresses additional investment in facilities and equipment; new product lines; and increased profitability in recent investments.[1] However, there is no evidence that the domestic industry requires relief from fairly traded imports in order to accomplish these goals.

As noted earlier, the domestic wire rod industry invested heavily in facilities and equipment during the five-year period 1994-98. U.S. producers recorded $828 million in capital expenditures between 1994 and 1998, increasing the book value of their fixed assets from $691 million to more than $1 billion.[2] At the same time, nominal capacity rose from less than 6.5 million tons to more than 7.5 million tons, reflecting the industry's emphasis on high value-added productive capacity.[3] Therefore, there is no indication that the industry requires additional incentives to invest; indeed, it is likely that short-term relief would tend to distort the capital allocation decisions made by U.S. producers.

Likewise, the domestic industry has shown that it recognizes the necessity of meeting the specific needs of its customers through new product development. Industry-wide research and development expenditures increased irregularly during the period examined, rising from $8.0 million in 1994 to $8.2 million in 1998 and totaling more than $40 million during the period 1994-98.[4] Moreover, although U.S. producers fell well short of meeting their customers needs in product lines such as tire cord wire rod and

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[1] *See* Petitioners' submission dated May 12, 1999.
[2] Table 14, Report at II-26.
[3] Table 6, Report at II-19.
[4] Table 14, Report at II-26.

pipe wrap wire rod, a fact about which they have been very open throughout these proceedings, industry-wide production of these products did increase noticeably over the period examined.[5] In addition, the domestic industry as a whole showed strong growth in some of the most demanding product lines (*e.g.*, high- and medium-high carbon quality rod and cold-heading quality rod); indeed, it was in the commonplace, but essential, industrial-quality rod that U.S. producers failed to maintain production and shipment levels.[6]

Finally, the domestic industry generated approximately $190 million in operating income over the period 1994-98, posting industry-wide operating profits in three of the five years examined.[7] In four of the five years examined, a large majority of U.S. producers reported operating profits.[8] Though past industry performance is no guarantee of future profitability in recent investments, it is certainly a positive indicator.[9]

II. Any remedy must consider the national economic interest of the United States, and specifically the effects on consumers and on competition in domestic markets

The primary downstream industry purchasing steel wire rod is, not surprisingly, the wire-producing industry. The wire-producing industry as a whole faces intense competition from imports and is reportedly sensitive to changes in input prices.[10] In addition, a substantial portion of this industry consists of independent wire producers, companies that must compete not only against each other and wire producers outside the United States, but also against domestic producers that are related to members of the U.S. wire rod industry.[11] Any import relief granted to wire rod producers would have an immediate adverse impact on independent wire producers, placing them at a disadvantage relative to their vertically-integrated competition within the United States. It would also disadvantage them relative to fairly traded merchandise originating outside the United States. In the short term, import relief would have the effect of raising wire rod prices and restricting the supply of wire rod available to independent wire producers (with additional price effects passed on to customers further downstream).

Over the longer term, import relief has the potential to reinforce advantages enjoyed by integrated wire producers, namely by providing them with flexibility of supply and pricing considerations.[12] One

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[5] Table C-2, Report at C-7.

[6] Table C-4, Report at C-9.

[7] Table 10, Report at II-23.

[8] Table 11, Report at II-24. This includes, of course, companies such as ***, which generated operating losses throughout the period 1994-98, before ***; ***, which likewise posted five straight years of operating losses while struggling with company-specific difficulties; and ***, which as a start-up operation has unsurprisingly posted ***. *Id.*

[9] Other key variables would include whether the new facilities resolve short-term start-up complications; whether the new investments are used to produce merchandise that is sold to related downstream producers at prices below average costs; whether raw material costs continue to defy expectations relative to scrap prices; and the performance of the market for concrete reinforcing bars (since both new mills are dual-use mills).

[10] *See, e.g.*, testimony of Mr. Peter Cronin, President, American Wire Producers Association, transcript at 215-216. *See also* testimony of Mr. Robert Moffitt, Vice President/Purchasing, Davis Wire Corp., transcript at 243-245.

[11] In 1998, internal shipments by U.S. wire rod producers to their affiliates exceeded 1.3 million short tons. Table 7, Report at II-20. To place this volume in perspective, it approximates the volume of wire rod imports other than those originating in Canada and Mexico or identified by the Petitioners' as excluded specialty items.

[12] As noted earlier, the difference between the average unit value of commercial shipments by wire rod producers and internal shipments grew from $37 per short ton in 1994 to nearly $68 per short ton in 1998. Table 7, report at

(continued...)

possible outcome is a further consolidation of the wire-producing industry, resulting in less open competition and more restrained trade.

In addition, with all of the product and country exclusions included in the Petitioners' recommendations for remedy, import relief would hardly be global. It would therefore result in trade diversion in addition to trade depression, favoring certain suppliers and certain purchasers over others. This additional distortion of the market would have nothing to do with unfair trade. However, there is a certain irony in the outcome of trade relief patterned upon the Petitioners' request. The main beneficiaries would be producers found twice this decade to be engaged in unfair trade of wire rod.[13] More specifically, Ivaco Rolling Mills is reportedly the *** wire rod producer in Canada. It is also the company responsible for the decisions to halt wire rod production by two U.S. wire rod producers, Laclede Steel and Atlantic Steel.[14]

In short, any remedy that restricts imports of steel wire rod cannot be viewed in a vacuum. Import restrictions would impose serious costs on downstream producers and significantly disadvantage them relative to their competitors, including both foreign manufacturers and domestic affiliated producers.

III. Any remedy must provide greater economic and social benefits than costs

While tariffs are the most flexible form of import relief,[15] and the *relatively* least costly, *any* import relief will entail net welfare losses, even tariffs that exclude imports originating in Canada and Mexico and imports of specialty products. Very significant net welfare losses will result from even small tariffs.

- A seven-percent tariff will incur a net welfare loss of $32-$39 million.
- A ten-percent tariff will incur a net welfare loss of $44-$53 million.
- A fifteen-percent tariff will incur a net welfare loss of $62-$72 million.
- A twenty-percent tariff will incur a net welfare loss of $78-$87 million.[16]

Moreover, it is likely that any import relief will fail to have the flexibility to adjust to changing supply circumstances.[17] The domestic wire rod industry has, over the years, struggled with production outages. Nearly one-half of the responding U.S. producers were, at times, unable to supply customers in a

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[12] (...continued)
II-20. Moreover, wire rod purchasers reported a growing unwillingness to supply industrial-quality rod to independent wire producers. *See, e.g.*, testimony of Mr. Ken Leonard, Vice President/Sourcing & Logistics, Insteel Industries, transcript at 223-224.

[13] Report at II-3-4.

[14] Report at II-29.

[15] As is well known, the probable welfare costs to the United States of quotas are higher than those for tariffs. Quotas allow foreign manufacturers to the capture of "economic rents" and unanticipated changes in demand conditions can lead to distortions in supply and demand balances. Tariff-rate quotas (TRQs), such as the one proposed by the Petitioners, restore a semblance of flexibility in the market and allow participants additional options, albeit at a high cost, for dealing with unanticipated changes in demand conditions. Like traditional quotas, however, TRQs permit the capture of "economic rents" by foreign manufacturers at the expense of U.S. consumers.

[16] Memorandum EC-W-049, June 24, 1999, at 24.

[17] It is likely that even a relatively small tariff would significantly restrict imports of steel wire rod. A seven-percent tariff would decrease "target" import supply (imports of nonspecialty wire rod from countries other than Canada and Mexico) by 11.1-18.5 percent; a twenty-percent tariff would decrease such imports by 27.5-43.2 percent. *Id.*

timely manner during the period 1994-98, and nearly one-half of the responding purchasers experienced difficulty receiving product from their suppliers.[18] Nearly one-half of the responding purchasers also reported that they had been placed on allocation by one or more of their suppliers (overwhelmingly U.S. producers), an experience that in many cases affected the customers' own production operations.[19] In each of the years reviewed in this investigation, purchasers reported availability problems, with particularly severe availability concerns in 1995 and 1997.[20] When expanding supply considerations beyond purely domestic concerns, a rebound in worldwide wire rod consumption (*e.g.*, an easing of "Asia crisis") will further complicate consumers' ability to purchase needed material inputs at the requisite levels. Indeed, there are some indications that such a shift is already underway.[21]

Finally, Petitioners have, to their credit, been very direct in expressing their inability to supply adequate quantities of certain specialized products. Likewise, they have stated from the outset that the level of injury experienced was not adequate to meet the statutory standards required to impose a safeguard action on NAFTA countries. Petitioners' injury and remedy arguments ably reflect these positions and seek to exclude a range of countries and products from import relief.

As proposed remedy options incorporate greater amounts of detail, however, they also increase in their level of complexity. A complex package of import relief would entail tremendous administration and monitoring costs -- costs that would be assumed by the U.S. Government in the first instance, but ultimately by the U.S. taxpayer; costs that would be assumed in the first instance by wire rod purchasers, but ultimately by the U.S. consumer; and costs that would be assumed in the first instance by manufacturers/exporters located outside the United States, but, again, ultimately by the U.S. consumer.

IV. Conclusion

As I, along with two of my colleagues, have determined that increased imports of certain carbon steel wire rod are not a substantial cause of serious injury, or threat thereof, to the domestic industry producing steel wire rod, I do not believe any import relief is appropriate in this investigation. I urge the President to adopt this conclusion.

However, should the President consider the Commission to have made an affirmative determination, I recommend that he take no import relief action. Any action that restricts imports would exceed the amount of relief necessary to prevent or remedy any injury experienced by the domestic industry, would have substantial short- and long-term effects on other domestic industries and consumers, and would create greater social and economic costs than benefits.

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[18] Report at II-46.

[19] Report at II-46-47.

[20] *Id.*

[21] *See, e.g., AMM Online -- Top Stories: GS Industries hikes wire rod $20/T.* Dated May 7, 1999, and retrieved on May 10, 1999. *See also* American Wire Producers Associations' post-hearing brief on injury at 2-5 and exhibits 1-3.