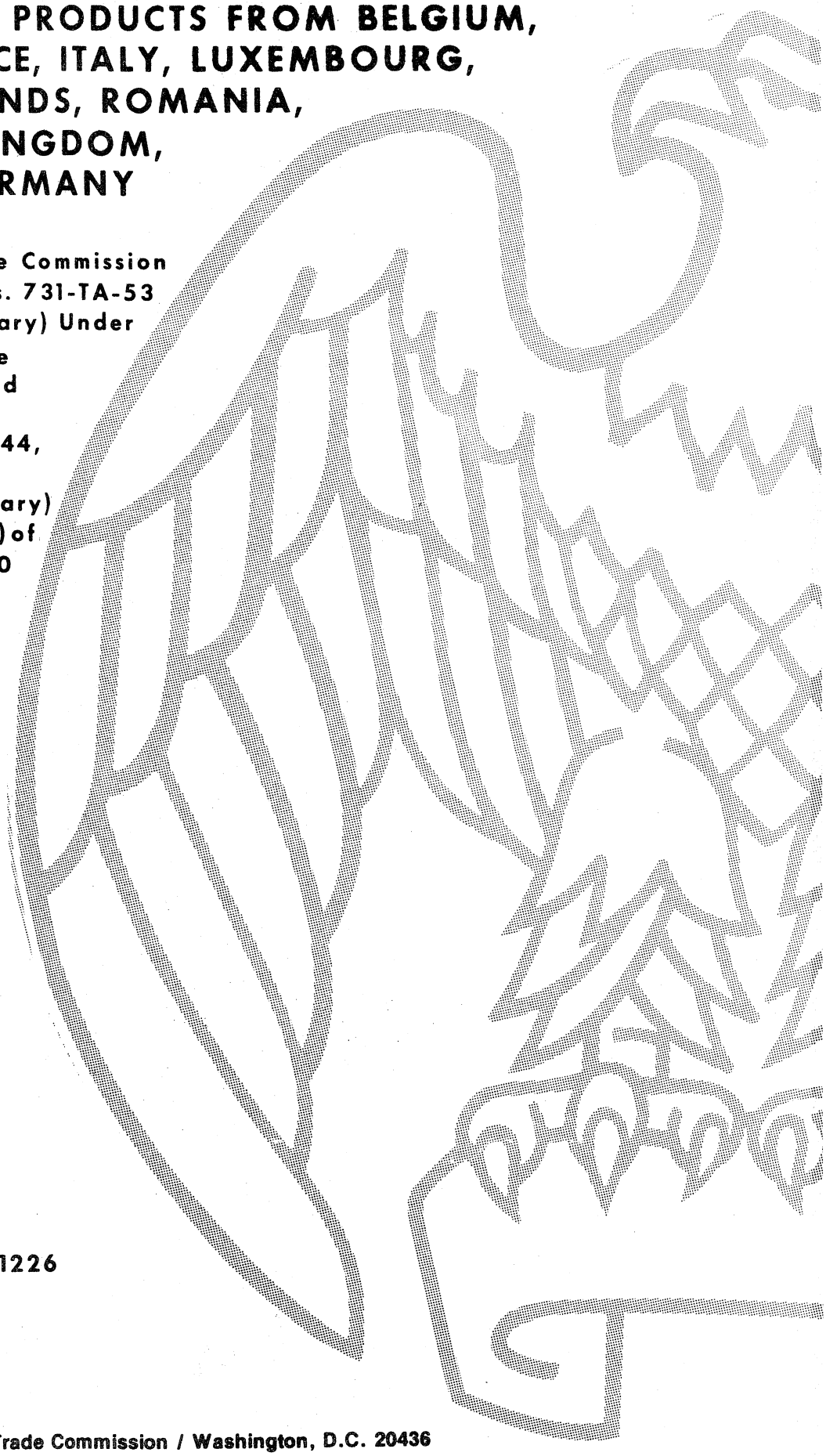
CERTAIN STEEL PRODUCTS FROM BELGIUM, BRAZIL, FRANCE, ITALY, LUXEMBOURG, THE NETHERLANDS, ROMANIA, THE UNITED KINGDOM, AND WEST GERMANY

Determinations of the Commission in Investigations Nos. 731-TA-53 through 86 (Preliminary) Under Section 733(a) of the Tariff Act of 1930 and Investigations Nos. 701-TA-86 through 144, 701-TA-146, and 701-TA-147 (Preliminary) Under Section 703(a) of the Tariff Act of 1930



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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NOTE

The Commission conducted antidumping investigations Nos. 731-TA-53 through 86 (Preliminary), Certain Steel Products from Belgium, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, concurrently with countervailing duty investigations Nos. 701-TA-86 through 144, 701-TA-146, and 701-TA-147 (Preliminary), Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and West Germany. The information obtained in all of these investigations is presented in USITC publication 1221 (Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany), February 1982. A copy of this publication can be obtained from the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigations Nos. 701-TA-86 through 119, 701-TA-121, 701-TA-123 through 144, 701-TA-146, 701-TA-147, 731-TA-53 through 65, and 731-TA-67 through 86 (Preliminary)

CERTAIN STEEL PRODUCTS FROM BELGIUM, BRAZIL, FRANCE, ITALY, LUXEMBOURG, THE NETHERLANDS, ROMANIA, THE UNITED KINGDOM, AND WEST GERMANY

Determinations

On the basis of the record 1/ developed in its countervailing duty investigations involving certain steel products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and West Germany, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the following products which are alleged to be subsidized by the Governments of the cited countries:

Hot-rolled carbon steel plate 2/ from--

Belgium (investigation No. 701-TA-86 (Preliminary)),
Brazil (investigation No. 701-TA-87 (Preliminary)),
the United Kingdom (investigation No. 701-TA-92 (Preliminary)), and
West Germany (investigation No. 701-TA-93 (Preliminary));

Hot-rolled carbon steel sheet and strip 3/ from--

Belgium (investigation No. 701-TA-94 (Preliminary)),
France (investigation No. 701-TA-96 (Preliminary)),
Italy (investigation No. 701-TA-97 (Preliminary)),
the Netherlands (investigation No. 701-TA-99 (Preliminary)), and
West Germany (investigation No. 701-TA-101 (Preliminary));

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

2/ For purposes of these investigations, hot-rolled carbon steel plate is provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

3/ For purposes of these investigations, hot-rolled carbon steel sheet is provided for in items 607.6610, 607.6700, 607.8320, 607.8342, and 607.9400 of the TSUSA. Hot-rolled carbon steel strip is provided for in items 608.1920, 608.2120, and 608.2320 of the TSUSA.

Cold-rolled carbon steel sheet and strip 1/ from--

France (investigation No. 701-TA-104 (Preliminary)),
Italy (investigation No. 701-TA-105 (Preliminary)), 2/
the Netherlands (investigation No. 701-TA-107 (Preliminary)), and
West Germany (investigation No. 701-TA-109 (Preliminary));

Carbon steel structural shapes 3/ from--

Belgium (investigation No. 701-TA-117 (Preliminary)),
France (investigation No. 701-TA-119 (Preliminary)),
Luxembourg (investigation No. 701-TA-121 (Preliminary)),
the United Kingdom (investigation No. 701-TA-123 (Preliminary)), and
West Germany (investigation No. 701-TA-124 (Preliminary));

Hot-rolled carbon steel bar 4/ from the United Kingdom (investigation No. 701-TA-128 (Preliminary)); and

Cold-formed carbon steel bar 5/ from the United Kingdom (investigation No. 701-TA-138 (Preliminary)).

The Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of the following products which are alleged to be subsidized by the Governments of the cited countries:

Hot-rolled carbon steel plate from--

France (investigation No. 701-TA-88 (Preliminary)), 6/
Italy (investigation No. 701-TA-89 (Preliminary)), 6/
Luxembourg (investigation No. 701-TA-90 (Preliminary)), 6/ and
the Netherlands (investigation No. 701-TA-91 (Preliminary)); 6/

1/ For purposes of these investigations, cold-rolled carbon steel sheet is provided for in items 607.8320 and 607.8344 of the TSUSA. Cold-rolled carbon steel strip is provided for in items 608.1940, 608.2140, and 608.2340 of the TSUSA.

2/ Chairman Alberger and Commissioner Stern dissenting.

3/ For purposes of these investigations, carbon steel structural shapes are provided for in items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045 of the TSUSA.

4/ For purposes of these investigations, hot-rolled carbon steel bar is provided for in items 606.8310, 606.8330 and 606.8350 of the TSUSA.

5/ For purposes of these investigations, cold-formed carbon steel bar is provided for in items 606.8805 and 606.8815 of the TSUSA.

6/ Commissioner Frank dissenting.

Hot-rolled carbon steel sheet and strip from--

Brazil (investigation No. 701-TA-95 (Preliminary)), 1/
Luxembourg (investigation No. 701-TA-98 (Preliminary)), 1/ and
the United Kingdom (investigation No. 701-TA-100 (Preliminary)); 1/

Cold-rolled carbon steel sheet and strip from--

Belgium (investigation No. 701-TA-102 (Preliminary)), 2/
Brazil (investigation No. 701-TA-103 (Preliminary)), 1/
Luxembourg (investigation No. 701-TA-106 (Preliminary)), 1/ and
the United Kingdom (investigation No. 701-TA-108 (Preliminary)); 1/

Galvanized carbon steel sheet 3/ from--

Belgium (investigation No. 701-TA-110 (Preliminary)), 1/
France (investigation No. 701-TA-111 (Preliminary)), 4/
Italy (investigation No. 701-TA-112 (Preliminary)), 4/
Luxembourg (investigation No. 701-TA-113 (Preliminary)), 1/
the Netherlands (investigation No. 701-TA-114 (Preliminary)), 1/
the United Kingdom (investigation No. 701-TA-115 (Preliminary)), 1/ and
West Germany (investigation No. 701-TA-116 (Preliminary)); 4/

Carbon steel structural shapes from Brazil (investigation No. 701-TA-118 (Preliminary)); 1/

Hot-rolled carbon steel bar from--

Belgium (investigation No. 701-TA-125 (Preliminary)), 2/
Brazil (investigation No. 701-TA-126 (Preliminary)), 2/
France (investigation No. 701-TA-127 (Preliminary)), 1/
Italy (investigation No. 701-TA-146 (Preliminary)), 1/
Luxembourg (investigation No. 701-TA-147 (Preliminary)), 2/ and
West Germany (investigation No. 701-TA-129 (Preliminary)); 2/

Hot-rolled alloy steel bar 5/ from--

France (investigation No. 701-TA-130 (Preliminary)), 1/
Italy (investigation No. 701-TA-131 (Preliminary)), 1/
the United Kingdom (investigation No. 701-TA-132 (Preliminary)), 1/ and
West Germany (investigation No. 701-TA-133 (Preliminary)); 1/

1/ Commissioner Frank dissenting.
2/ Vice Chairman Calhoun and Commissioner Frank dissenting.
3/ For purposes of these investigations, galvanized carbon steel sheet is provided for in items 608.0730 and 608.1300 of the TSUSA.
4/ Commissioners Eckes and Frank dissenting.
5/ For purposes of these investigations, hot-rolled alloy steel bar is provided for in item 606.9700 of the TSUSA.

Cold-formed carbon steel bar from--

Belgium (investigation No. 701-TA-134 (Preliminary)), 1/
Brazil (investigation No. 701-TA-135 (Preliminary)), 1/
France (investigation No. 701-TA-136 (Preliminary)), 2/
Italy (investigation No. 701-TA-137 (Preliminary)), 1/ and
West Germany (investigation No. 701-TA-139 (Preliminary)); 1/ and

Cold-formed alloy steel bar 3/ from--

Belgium (investigation No. 701-TA-140 (Preliminary)), 1/
France (investigation No. 701-TA-141 (Preliminary)), 4/
Italy (investigation No. 701-TA-142 (Preliminary)), 4/
the United Kingdom (investigation No. 701-TA-143 (Preliminary)), 1/ and
West Germany (investigation No. 701-TA-144 (Preliminary)). 1/

On the basis of the record developed in its antidumping investigations involving certain steel products from Belgium, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the following products which are alleged to be sold in the United States at less than fair value:

Hot-rolled carbon steel plate from--

Belgium (investigation No. 731-TA-53 (Preliminary)),
Romania (investigation No. 731-TA-58 (Preliminary)),
the United Kingdom (investigation No. 731-TA-59 (Preliminary)), and
West Germany (investigation No. 731-TA-60 (Preliminary));

Hot-rolled carbon steel sheet and strip from--

Belgium (investigation No. 731-TA-61 (Preliminary)),
France (investigation No. 731-TA-62 (Preliminary)),
Italy (investigation No. 731-TA-63 (Preliminary)),
the Netherlands (investigation No. 731-TA-65 (Preliminary)), and
West Germany (investigation No. 731-TA-67 (Preliminary));

1/ Commissioner Frank dissenting.
2/ Vice Chairman Calhoun and Commissioner Frank dissenting.
3/ For purposes of these investigations, cold-formed alloy steel bar is provided for in item 606.9900 of the TSUSA.
4/ Commissioners Eckes and Frank dissenting.

Cold-rolled carbon steel sheet and strip from--

France (investigation No. 731-TA-69 (Preliminary)),
Italy (investigation No. 731-TA-70 (Preliminary)), 1/
the Netherlands (investigation No. 731-TA-72 (Preliminary)), and
West Germany (investigation No. 731-TA-74 (Preliminary)); and

Carbon steel structural shapes from--

Belgium (investigation No. 731-TA-82 (Preliminary)),
France (investigation No. 731-TA-83 (Preliminary)),
Luxembourg (investigation No. 731-TA-84 (Preliminary)),
the United Kingdom (investigation No. 731-TA-85 (Preliminary)), and
West Germany (investigation No. 731-TA-86 (Preliminary)).

The Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of the following products which are alleged to be sold in the United States at less than fair value:

Hot-rolled carbon steel plate from--

France (investigation No. 731-TA-54 (Preliminary)), 2/
Italy (investigation No. 731-TA-55 (Preliminary)), 2/
Luxembourg (investigation No. 731-TA-56 (Preliminary)), 2/ and
the Netherlands (investigation No. 731-TA-57 (Preliminary)); 2/

Hot-rolled carbon steel sheet and strip from Luxembourg (investigation No. 731-TA-64 (Preliminary)); 2/

Cold-rolled carbon steel sheet and strip from--

Belgium (investigation No. 731-TA-68 (Preliminary)), 3/
Luxembourg (investigation No. 731-TA-71 (Preliminary)), 2/ and
the United Kingdom (investigation No. 731-TA-73 (Preliminary)); 2/ and

Galvanized carbon steel sheet from--

Belgium (investigation No. 731-TA-75 (Preliminary)), 2/
France (investigation No. 731-TA-76 (Preliminary)), 4/
Italy (investigation No. 731-TA-77 (Preliminary)), 4/
Luxembourg (nvestigation No. 731-TA-78 (Preliminary)), 2/
the Netherlands (investigation No. 731-TA-79 (Preliminary)), 2/
the United Kingdom (investigation No. 731-TA-80 (Preliminary)), 2/ and
West Germany (investigation No. 731-TA-81 (Preliminary)). 4/

1/ Chairman Alberger and Commissioner Stern dissenting.
2/ Commissioner Frank dissenting.
3/ Vice Chairman Calhoun and Commissioner Frank dissenting.
4/ Commissioners Eckes and Frank dissenting.

Background

On January 11, 1982, petitions were filed by seven U.S. steel producers 1/ with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that imports of certain steel products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany are being subsidized by their respective Governments and/or sold in the United States at less than fair value. Accordingly, the Commission instituted preliminary countervailing duty and antidumping investigations under sections 701(a) and 733(a), respectively, of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was duly given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notices in the Federal Register on January 20, 1982 (47 F.R. 2950). The conference was held in Washington, D.C., on February 3 and 4, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

1/ Bethlehem Steel Corp., Cyclops Corp., Inland Steel Co., Jones & Laughlin Steel, Inc., National Steel Corp., Republic Steel Corp., and United States Steel Corp.

VIEWS OF CHAIRMAN ALBERGER, VICE CHAIRMAN CALHOUN, AND COMMISSIONERS STERN AND ECKES

I. INTRODUCTION

These views incorporate the reasons for our determinations in the 92 steel product investigations before us involving imports of nine steel products from nine foreign countries. There are 59 preliminary countervailing duty investigations and 33 preliminary antidumping investigations, most of which are overlapping in coverage of the subject countries and products. As more fully explained in our determinations, the Commission reached an affirmative determination in 38 cases and a negative determination in 54 cases.

A. Standards for Determinations

In preliminary countervailing duty and antidumping investigations the Commission is directed by Title VII of the Tariff Act of 1930 to determine, based upon the best information available to it at the time of the determination, whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise that is the subject of the investigation. 1/ "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant." 2/ In making its determinations the Commission is required to consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of that merchandise on prices in the United States for like

1/ 19 U.S.C. §§ 1671b, 1673b.
2/ 19 U.S.C. § 1677(7)(A).

products, and (3) the impact of imports of such merchandise on domestic producers of like products. 3/.

In making a determination as to whether there is a threat of material injury the Commission considers, among other factors, (1) the rate of increases of subsidized or dumped imports into the U.S. market, (2) the capacity in the exporting country to generate exports, and (3) the availability of other export markets. 4/ Findings of a reasonable indication of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture. 5/

Separate views of Chairman Alberger and Commissioner Stern on Threat

Chairman Alberger and Commissioner Stern note that Congress and the courts have made it clear that a finding of threat of material injury (or reasonable indication thereof in the case of a preliminary investigation) must be based on "information showing that the threat is real and injury is

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3/ 19 U.S.C. § 1677(7)(B).

4/19 C.F.R. § 207.26(d). In countervailing duty investigations, the Commission also considers such information as may be presented to it by the Department of Commerce as to the nature of the subsidy provided by a foreign country and the effects likely to be caused by the subsidy. 19 U.S.C. § 1677(7)(E)(i). Specifically, the Commission will consider whether the subsidy is an export subsidy within the meaning of the Agreement on Subsidies and Countervailing Measures (the Agreement is properly titled the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade). In these preliminary investigations the only information available to us from the Department of Commerce regarding subsidies is that supplied in Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701-TA-85 (Preliminary), USITC Pub. 1206 (1982); and Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Romania, Inv. Nos. 701-TA-83 and 84 (Preliminary), USITC Pubs. 1207 and 1208 (1982).

5/ S. Rep. No. 96-249, 96th Cong., 1st Sess. 88-89 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

imminent, not mere supposition or conjecture." S. Rep. No. 96-249, 96th Cong., 1st Sess. 88-89 (1979). In a recent decision by the U.S. Court of International Trade in Alberta Gas Chemicals, Inc. v. U.S., 515 F. Supp. 780, 791 (Ct. Int'l Trade 1981), the Commission's majority determination that a likelihood of injury 7/ existed was reversed because it was "flawed with supposition and conjecture." Specifically, the court rejected the majority's finding that a possible expansion of foreign capacity, coupled with a negative Commission determination, would pose a threat of increased Canadian LTFV exports to the United States. It found instead that "the record before the Commission shows simply a mere possibility that injury might occur at some remote future time." Thus, the record did not adequately support the Commission's determination.

In the cases presently before us, it is apparent that the capacity utilization rate in many of the EC steel producers' facilities is below an optimum level. Our negative determinations with respect to certain products in these investigations will not, however, create any additional incentive or license to flood the U.S. market with those allegedly dumped or subsidized products. A finding of reasonable indication of threat of material injury which is premised solely upon the existence of excess capacity and the lack of an outstanding antidumping and/or countervailing duty order is nothing but the sheerest form of speculation and conjecture, condemned by both Congress and the courts. We have therefore limited our findings based on threat to those

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7/ The Commission's determination in the underlying investigation, Methanol from Canada, Inv. No. AA1921-202, was based on the "likelihood of injury" standard contained inthe Antidumping Act of 1921. Although that standard was subsequently replaced by the "threat of material injury" standard in the Trade Agreements Act of 1979, the court explicitly acknowledged that Congress did not intend to change its "real and imminent" test for future injury.

cases where the best information available gives a reasonable indication that the threat of material injury is both real and imminent.

B. Definition of the Domestic Industries 8/

Our first task in these investigations is to determine the scope of the domestic industries against which the impact of the allegedly dumped or subsidized imports is to be assessed. The domestic industry is defined in section 771(4)(A) of the Tariff Act of 1930 as "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 9/ "Like product" is defined in section 771(10) as a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . . " 10/

These investigations concern allegedly dumped or subsidized imports of nine different categories of steel products from Belgium, Brazil, the Federal

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8/ No information has been gathered or presented in the Report on the question of whether separate regional industries exist within the meaning of section 771(4)(c). No such allegations were made in the petitions filed with the Commission in these investigations or otherwise raised in a timely manner. During the conference there was some discussion regarding possible regional industries, but there was no comprehensive development of views or argumentation on the various requirements set forth in the statute. Furthermore, such data has been gathered in past steel investigations for all the product lines considered in these investigations, except the four bar products. See Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Inv. Nos. 731-TA-18-24 (Preliminary), USITC Pub. No. 1064 (1981); Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Pomania, Inv. Nos. 701-TA-83 and 84 (Preliminary), and 731-TA-51 (Preliminary), USITC Pubs. 1207 and 1208 (1982); and Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701-TA-85, USITC Pub. 1206 (1982). In none of those cases could any geographical area, except possibly the western United States, qualify for such treatment because such areas were insufficiently isolated from the national market. In the present cases, no allegations were made concerning injury to the western states geographical area. Thus, there is no reason to expect that regional treatment might be justified even were such data to be developed.

9/ 19 U.S.C. § 1677(4)(A).

10/ 19 U.S.C. § 1677(10).

Republic of Germany, France, Italy, Luxembourg, the Netherlands, Romania, and the United Kingdom. These nine categories are: (1) hot-rolled carbon steel plate; (2) hot-rolled carbon steel sheet and strip; (3) cold-rolled carbon steel sheet and strip; (4) galvanized carbon steel sheet; (5) carbon steel structural shapes; (6) hot-rolled carbon steel bar; (7) hot-rolled alloy steel bar; (8) cold-formed carbon steel bar; and (9) cold-formed alloy steel bar. For the purposes of these investigations we find each of the nine categories to constitute a separate "like product." Since the investigations are only preliminary, we have made our conclusions as to the like products and the definition of the industries on the basis of the best available information. These are not necessarily the conclusions we will reach in any final investigations that may be conducted, because our information base at that time will likely be much more detailed. In the discussion below we will describe each product and the reasons why each is distinguished from the others in terms of characteristics and uses. 11/

Hot-rolled carbon steel plate is a finished product. It is distinguished from other flat-rolled steel products, such as sheet, by its dimensions, defined as 0.1875 inch or more in thickness and over 8 inches in width. 12/ The predominant uses for hot-rolled carbon steel plate are for the construction of bridges, storage tanks, pressure vessels, railroad cars, ships, line pipe, and industrial machinery. 13/

11/ A more detailed description of each product, its uses, characteristics, and method of manufacture can be found in the "description and uses" section of the Report on each of the products. The Report also describes the sections of the Tariff Schedules of the United States covering each product.

12/ Report at II-2. Most distinctions between products employed by the Commission in these investigations are derived from the Tariff Schedules of the United States, but some adhere to industry usage rather than strict TSUS categories exclusively used in the 1980 cases.

13/ Id. at II-4.

Carbon steel sheet and strip are also generally considered to be finished products distinguishable by their dimensions from other flat-rolled products. Sheet is defined as being over 12 inches in width and in coils, or if not in coils under 0.1875 inch in thickness. 14/ Hot-rolled sheet is used in the manufacture of automotive products, construction products, pipes and tubes, appliances, and electrical equipment. 15/ Cold-rolled sheet is made by processing hot-rolled steel sheet coils in cold-reduction mills, thereby achieving a smoother-finished product of reduced thickness. 16/ It is used extensively in the manufacture of appliances, electrical equipment, and automotive products. 17/ Carbon steel strip has the same properties as hot-rolled or cold-rolled sheet, depending upon which finishing process is used. It differs only in that it is not more than 12 inches in width. 18/ Hot-rolled strip is used principally for purposes similar to those of hot-rolled sheet, while cold-rolled strip is chiefly used in the making of containers, packaging and shipping materials and automotive uses. 19/

Galvanized carbon steel sheet is produced in the same dimensions as ordinary carbon steel sheet. It differs because it has been coated with zinc for protection against corrosion. 20/ The principal end users of galvanized sheet are the construction and automotive vehicle industries. 21/

14/ Id. at III-1 and IV-2. The description of sheet used in these investigations includes some products described as plate in the TSUS but deemed by the U.S. industry to be sheet.
15/ Id. at III-2.
16/ Id. at IV-2.
17/ Id.
18/ Id. at III-2 and IV-2.
19/ Id.
20/ Id. at V-1.
21/ Id. at V-2.

Carbon steel structural shapes are rolled, flanged shapes having at least one dimension of their cross section 3 inches or more. Among the structural shapes involved in these investigations are wide flange beams, H-piles, I-beams, angles, channels, bulb angles, T's and Z's. 22/ The major uses of structural shapes are in construction and contractors' products; manufacture of machinery, industrial equipment, and tools; and shipbuilding and marine equipment. 23/

Bars are steel products not conforming to the specifications of other steel products and having cross sections in a variety of shapes, such as circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons. The shape of a bar depends upon the intended end use. 24/

Carbon steel bar, whether hot-rolled or cold-formed, is produced in two principal grades, merchant bar and special quality bar. Merchant bar is used in most noncritical applications, while special quality bar is used when the end use calls for certain quality characteristics. 25/ Cold-formed carbon steel bar is produced by further subjecting hot-rolled bar to a cold-finishing process that imparts surface and mechanical properties that render it superior for certain uses to hot-rolled bar. 26/ Hot-rolled carbon steel bar is used primarily in the manufacture of automotive vehicles, machinery, industrial equipment, and tools; in mining, quarrying, and lumbering applications; and in construction uses. 27/ Cold-formed carbon steel bar is consumed chiefly by

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22/ Id. at VI-2.
23/ Id.
24/ Id. at VII-2, VIII-1, VIII-2, IX-2, X-2, and X-3.
25/ Id. at VII-2 and IX-2.
26/ Id. at IX-2.
27/ Id. at VII-2 and VII-3.

manufacturers of machinery, industrial equipment, tools, automotive products, and agricultural equipment. 28/

Alloy steel bars differ from their carbon steel counterparts because other elements besides carbon and iron have been introduced during the production process to give the products added properties. Hot-rolled alloy steel bar has uses in the automobile, machinery and industrial equipment, mining, quarrying, lumbering, and oil and gas industries. 29/ Cold-formed alloy steel bar has its principal uses in the manufacture of machinery, industrial equipment, tools, and automotive products. 30/

We find that each of the nine product categories should constitute a separate like product. Each has physical characteristics of size, shape, or composition that are unlike those of the others. Moreover, they have varying uses, and products of one type generally do not compete with products of another type. As noted in the Commission determination in the 1980 steel products antidumping investigations, "Although raw steel constitutes much of the value of each of the . . . product groups under investigation, competition in the U.S. market between domestically produced steel products and the alleged LTFV [and subsidized] imports occurs in each of the . . . separate and distinct product groups." 31/ In these investigations the domestic producers

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28/ Id. at IX-3.
29/ Id. at VIII-2.
30/ Id. at X-3.
31/ Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Inv. Nos. 731-TA-18 to 24, USITC Pub. 1064 (1980), at 4 (Views of Chairman Bedell and Commissioners Moore and Calhoun). The approach taken in these investigations is also consistent with the views of Chairman Alberger in the 1980 investigations. Commissioner Stern notes that the definition of the domestic industry followed here conforms to the approach she adopted in Certain Carbon Steel Products, Inv. Nos. 731-TA-18-24 (Preliminary), USITC Pub. 1064 (1980):

(Footnote Continued)

have been able to identify production and profitability data in terms of each of the nine groups, allowing the Commission to examine the impact of imports on each group separately.

Within each of the product categories there may be distinct characteristics and uses for items with differing specifications, but we lack sufficient information in these preliminary investigations to make any meaningful distinctions among them. 32/ There generally appear to be no clear

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(Footnote Continued)

> It is clear that Congress desired the Commission determination and any resulting relief to be applied on a like product basis. There is a semantic problem, of little practical consequence in these cases, as to whether "the industry" consists of all suitable product lines, or each product line should define a separate industry for the purposes of the Act. Because Section 731 and Section 701 require that the determination shall be made in terms of "an industry," I have decided to adopt the convention that product lines which are separately identifiable in terms suggested by Section 771(4)(D) constitute separate industries for the purposes of the Act. ("Statement of Reasons of Commissioner Paula Stern," at 43.)

For the present cases, the observation made in Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701-TA-85 (Preliminary), USITC Pub. 1206 (1982), continues to apply:

> The question of aggregation -- which the Commission chose to approach on a product line basis -- apparently has been settled for the steel industry. ("Views of Commissioner Paula Stern," at 13.)

32/ We have carefully considered the arguments of certain respondents that some of their products are produced in shapes or dimensions that do not compete with domestically produced products. French and Belgian producers have argued, for example, that their sheet and plate products in certain widths and thicknesses should be excluded from these investigations. A similar argument is made by British Steel Corporation regarding special sections, joist sections, and organic coated steel. As stated in the text, the Commission lacks adequate information to evaluate these allegations in the context of these preliminary investigations.

The French producer Compagnie Francaise des Aciers Speciaux, S.A. (CFAS) argues that the appropriate domestic like product in the investigation of

(Footnote Continued)

dividing lines among the products in each group, and therefore each category will be treated as a like product. 33/ Thus, we find that there are nine domestic industries involved in these investigations corresponding to each of the nine like product groupings. 34/

C. Cumulation

Chairman Alberger and Commissioners Stern and Eckes have made their determinations on a case-by-case basis. 35/ Each of them maintains that the imports in those investigations they voted to terminate could not conceivably have contributed to material injury. Should any of the affirmative preliminary cases return for final determinations, they do not preclude cumulation when the record as developed shows it is appropriate. 36/

For cumulation to be appropriate, we believe that it must be demonstrated that "the factors and conditions of trade in the particular case show its

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(Footnote Continued)
cold-formed alloy bar from France is hot-rolled alloy bar. This claim has not been substantiated within the constraints of these preliminary investigations. However, certain information, discussed in the Report at X-26 to X-32, tends to bolster the argument. Since we have found that our injury determination regarding French cold-formed alloy bar would be the same in any case, a definitive disposition of the issue raised by CFAS is unnecessary. See p. 89, infra.

33/ See Sheet Piling from Canada, Inv. No. 731-TA-52 (Preliminary), USITC Pub. 1212 (1982); Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701-TA-85 (Preliminary), USITC Pub. 1206 (1982); Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Romania, Inv. Nos. 701-TA-83 and 84 (Preliminary), and 731-TA-51 (Preliminary), USITC Pubs. 1207 and 1208 (1982); Stainless Clad Steel Plate from Japan, Inv. No. 731-TA-50 (Preliminary), USITC Pub. 1196 (1981).

34/ See additional views of Vice Chairman Calhoun.

35/ See additional views of Vice Chairman Calhoun.

36/ Chairman Alberger and Commissioner Stern refer readers to their respective discussions of the practice of cumulation in Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Inv. Nos. 731-TA-18-24 (Preliminary), USITC Pub. 1064 (1980), at 14-15 and 64-67, respectively.

relevance to the determination of injury." 37/ Factors and conditions which could combine to create a collective "hammering effect on the domestic industry" would be of most concern. These might include:

--volume of subject imports

--trend of import volume

--fungibility of imports

--competition in markets for the same end users

--common channels of distribution

--pricing similarity

--simultaneous impact

--any coordinated action by importers

There have been preliminary indications that many of these factors may be present. 38/ Should any of these cases return for final determinations, we invite further argument and hope for a more complete record on this issue.

37/ S. Rep. No. 93-1298, 93d Cong., 2d Sess. 180 (1974). There are no specific references to cumulation in the Trade Agreements Act of 1979 or its legislative history. A general reference to the "conditions of trade and competition" is found in S. Rep. 96-249, 96th Cong., 1st Sess., 74 (1979).

38/ Chairman Alberger and Commissioner Stern note that while there is not yet sufficient information available to them to determine whether cumulation is appropriate in any of these investigations, they have voted to continue certain cases which may merit cumulative treatment in a final investigation where an isolated analysis might otherwise call for a negative determination at the preliminary stage.

II. HOT-ROLLED CARBON STEEL PLATE

With respect to the investigations on hot-rolled carbon steel plate, 1/ we conclude that there is a reasonable indication of material injury or threat thereof by reason of allegedly dumped and subsidized imports from Belgium, Brazil, Romania, the United Kingdom and the Federal Republic of Germany. 2/ 3/ We find that there is no reasonable indication of material injury or threat thereof by reason of allegedly dumped and subsized imports from France, Italy, Luxembourg, and the Netherlands.

Condition of the domestic industry

The domestic hot-rolled carbon steel plate industry is experiencing severe difficulties. The industry's production, capacity utilization, and employment have declined since 1979. The production of firms that submitted useable data 4/ fell from 5,897,000 tons in 1979 to 5,564,000 tons in 1980 and to 5,161,000 tons in 1981.

Capacity declined from 9,713,000 tons in 1979 to 9,300,000 tons in 1980 and 9,051,000 tons in 1981. Capacity utilization has declined steadily from 62 percent in 1978 to 57 percent in 1981. Although there have been additions

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1/ Investigations Nos. 701-TA-86 to 93 (Preliminary); 731-TA-53 to 60 (Preliminary).

2/ Chairman Alberger finds reasonable indication of material injury for Belgium, Brazil, Romania and the Federal Republic of Germany and does not reach the issue of threat. Commissioners Alberger and Stern find a reasonable indication of threat of material injury due to imports from the United Kingdom.

3/ In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.

4/ This response accounts for approximately 90 percent of the total shipments of carbon steel plate reported by the American Iron and Steel Institute in 1980. Report at II-11.

to the industry's practical capacity, there have also been closures of carbon steel plate facilities during the period of investigation. 5/

Employment of production and related workers engaged in producing hot-rolled carbon steel plate fell from 19,100 workers in 1979 to 18,500 workers in 1980 and 16,900 in 1981, 12 percent less than in 1979. 6/

Demand for carbon steel plate is shrinking. U.S. consumption of carbon steel plate declined from 8.4 million tons in 1978 to 7.6 million tons in 1980, or by 9 percent. Consumption during January-November 1981 amounted to about 7.0 million tons, the same as that during the same period in 1980. From 1979-1981 U.S. producers' shipments have shown a declining trend, 7/ and the market share of the domestic industry has eroded. 8/

Profitability in the carbon steel plate industry was low throughout the period under investigation. Three firms sustained operating losses in 1978, four firms in 1979 and 1981, and six firms in 1980. The industry furnished profit-and-loss data which showed a ratio of operating profit to net sales of 4.0 percent in 1978, 3.9 percent in 1979, 1.4 percent in 1980 and 2.3 percent in 1981. These figures are well below the general manufacturing rate of return and are insufficient to provide the necessary reinvestment capital. 9/

5/ Report at II-7.
6/ Id. at II-15.
7/ Id. at II-12.
8/ Id. at II-9.
9/ Ten firms furnished profit-and-loss data. These firms accounted for 89 percent of total U.S. producers' shipments of hot-rolled carbon steel plate in 1980.

Discussion of Affirmative Determinations

A. Belgium

1. Imports

Belgian imports declined from their 1978 level to 214,000 tons in 1979, but increased to 286,000 tons in 1980. 10/ The January-November 1981 data show an increase over the same period in 1980, from 252,000 tons to 285,000 tons. Belgium was the largest foreign supplier of carbon steel plate to the U.S. market during January 1978-1981, accounting for 17 percent of total U.S. imports during that period. 11/ The ratio of imports from Belgium to apparent domestic consumption shows the same trend. The highest annual ratio, 4.6 percent, occurred in 1978, declining to 2.7 percent in 1979, increasing to 3.7 percent in 1980, and increasing again to 4.1 percent in January-November 1981. On a quarterly basis, imports from Belgium in July-September 1981 reached 5.4 percent of apparent U.S. consumption. 12/

Belgium's carbon steel plate industry has substantial plate-making capacity, over 2.6 million tons annually in 1981. 13/ Nearly all of Belgium's production of carbon steel plate is exported. Exports to the United States account for an increasing amount of total exports, 16 percent in 1979, 20 percent in 1980, and 21 percent in January-September 1981. 14/

10/ Official U.S. import statistics do not separate imports from Belgium and Luxembourg. Data submitted to the Commission by the U.S. affiliate of the sole producer of hot-rolled carbon steel plate in Luxembourg indicates that exports from Luxembourg were less than 0.2 percent of the total from the two countries in each of the years 1978-81. Thus, imports from Luxembourg never exceeded 800 tons per year.

11/ Report at II-29.

12/ Id.

13/ Id. at II-22.

14/ Id.

2. Prices and lost sales

The Commission requested data on actual transaction prices in 1981 from purchasers of carbon steel plate to determine whether the imported products undersold the domestic products. Eight purchasers provided information regarding prices of Belgian imports. Varying results were reported. In some instances there was underselling of from 1 to 14 percent. In other cases, Belgian products were sold at higher prices than domestic products. 15/

Forty-seven lost sales allegations were made with respect to imports from Belgium. Seven were investigated, and price was cited as the major reason for the decision to purchase the imports in each case.

3. Determination

We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Belgium. 16/ The volume of imports from Belgium is not insubstantial and increased in 1981. Moreover, underselling by Belgian imports and sales lost by underselling have been verified.

B. Brazil

1. Imports

Brazilian imports increased dramatically from the 1978 level of 80,000 tons to 206,000 tons in 1979 and 323,000 tons in 1980. Data for the first eleven months of 1981 indicate that Brazilian imports had declined compared

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15/ Id. at II-52.

16/ Chairman Alberger finds that there is a reasonable indication of present material injury by reason of these imports, and therefore does not reach the issue of threat.

with those in the same period in 1980, from 312,000 tons to 288,000 tons. The ratio of imports from Brazil to apparent domestic consumption showed similar trends. The ratio increased from 0.9 percent in 1978 to 2.6 percent in 1979 and 4.2 percent in 1980. The ratio for the first eleven months of 1981 was 4.1 percent, a slight decrease from the 4.4 percent during the same period in 1980. 17/

Brazil was the third largest foreign supplier of imported carbon steel plate, providing 13 percent of total imports during January 1978 through November 1981. 18/ About one-fifth of Brazil's production of carbon steel plate was exported in 1979. This increased to about one-third in 1980. Approximately 55 percent of Brazil's aggregate exports of carbon steel plate were shipped to the United States in 1979. This increased to 68 percent in 1980. 19/ The Department of Commerce has characterized certain of the Brazilian subsidies under investigation as being specifically directed at exports. 46 F.R. 56636-37 (November 18, 1981).

2. Prices and lost sales

Information was obtained from eight purchasers regarding prices of hot-rolled carbon steel plate from Brazil. Margins of underselling from 7 to 21 percent were reported. During the same period, margins of overselling were also reported. 20/

17/ Id. at II-37.
18/ Id.
19/ Id. at II-22.
20/ Id. at II-52.

Six of 34 allegations of lost sales were investigated. Of the six, price was cited as a major reason for the decision to purchase imports in four cases. 21/

3. Determination

We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Brazil. 22/ The volume of imports is increasing and several instances of underselling by Brazilian imports and sales lost by underselling have been verified.

C. Federal Republic of Germany

1. Imports

Imports from the Federal Republic of Germany declined from 183,000 tons in 1978 to 75,000 tons in 1979, then increased to 102,000 tons in 1980. In the first eleven months of 1981 imports amounted to 86,000 tons compared with 94,000 tons during the same period in 1980. 23/ The ratio of imports from the Federal Republic of Germany to apparent domestic consumption declined from 2.2 percent in 1978 to 1 percent in 1979, but increased to 1.3 percent in 1980. For the first eleven months of 1981 the imports held 1.2 percent of apparent consumption. 24/ At this time, there is no reliable information available to the Commission regarding capacity to produce steel plate in the Federal Republic of Germany.

21/ Id. at II-53.
22/ Chairman Alberger finds that there is a reasonable indication of present material injury by reason of these imports, and therefore does not reach the issue of threat.
23/ Report at II-38.
24/ Id.

2. Prices and lost sales

Information was obtained regarding prices of hot-rolled carbon steel plate from the Federal Republic of Germany. Margins of underselling were reported. 25/ Thirty-four specific allegations of lost sales were made with respect to imports from the Federal Republic of Germany. Two of these were investigated by the Commission and both disclosed that price was the major reason for the decision to purchase the imports. 26/

3. Determination

We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from the Federal Republic of Germany. 27/ The volume of imports is not insubstantial and instances of underselling and sales lost by underselling have been verified.

D. Romania

1. Imports

Imports from Romania dropped from 49,000 tons in 1978 to 15,000 tons in 1979, doubled to 32,000 tons in 1980 and increased to 229,000 tons during the first eleven months of 1981. The ratio of imports from Romania to apparent domestic consumption shows a decline from 0.6 percent in 1978 to 0.2 percent in 1979. The ratio then doubled to 0.4 percent in 1980. The January-November 1981 data show a ratio of 3.3 percent. Quarterly data show that imports from

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25/ Id. at II-52.
26/ Id. at II-53.
27/ Chairman Alberger finds that there is a reasonable indication of present material injury by reason of these imports, and therefore does not reach the issue of threat.

Romania reached of 4.6 percent of apparent consumption during July-September 1981. 28/

Romania's capacity for producing hot-rolled carbon steel plate is increasing. That capacity is expected to increase annually so that by 1985 Romanian capacity is projected to be substantially greater than capacity in 1979 and 1980. During January-October 1981, the United States was one of Romania's largest export markets for hot-rolled carbon steel plate. Romania is experiencing a shortage of hard currency. The rolling mill equipment for the new plant was purchased with a U.S. Export-Import Bank Loan which must be repaid in dollars. The financial needs of the Romanian steel sector present an incentive to export to obtain U.S. currency. 29/

2. Prices and lost sales

Twenty-one allegations of lost sales were made with respect to imports from Romania. Four of these were investigated, and price was cited as a major reason for the decision to purchase the Romanian product in three of them. 30/

3. Determination

We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Romania. 31/ The United States is one of Romania's largest markets for carbon

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28/ Report at II-38.

29/ See, Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Romania, Inv. No. 701-TA-83 and 701-TA-84 (Preliminary) and 731-TA-51 (Preliminary) (USITC Pub. No. 1207, January 1982).

30/ Report at II-54.

31/ Chairman Alberger finds that there is a reasonable indication of present injury by reason of these imports, and therefore does not reach the issue of threat.

steel plate. Romanian capacity and incentives to export are expected to increase. The ratio of Romanian imports to apparent U.S. consumption reached 3.3 percent in 1981 and sales lost to the imports because of underselling have been confirmed.

E. The United Kingdom

1. Imports

Imports from the United Kingdom dropped from 34,000 tons in 1978 to 10,000 tons in 1979 and 6,000 tons in 1980. In the first eleven months of 1981, the imports from the United Kingdom increased to their peak during the period under investigation of 35,000 tons. 32/ The ratio of imports from the United Kingdom to apparent domestic consumption demonstrated similar trends. From 0.4 percent in 1978, the ratio dropped to 0.1 percent in 1979 and 1980. In 1981, the ratio increased to 0.5 percent and showed quarterly increases throughout the year, reaching 1.0 percent of apparent consumption in the last quarter, 33/ as the British steel industry recovered from a strike and increased production.

The United Kingdom's production of carbon steel plate decreased from 2.0 million tons in 1979 to 1.2 million tons in 1980. However, production in January-October 1981 exceeded that for all of 1980. There is no reliable information available to the Commission on the United Kingdom's capacity to export carbon steel plate. Total United Kingdom exports of carbon steel plate dropped from 1979 to 1980 and the bulk of United Kingdom exports are to the European Community.

32/ Report at II-38.
33/ Id.

2. Underselling and lost sales

Five sales were allegedly lost to imports from the United Kingdom. Two of these were investigated and price was cited as the major reason for the decision to purchase the product imported from the United Kingdom in each. 34/

3. Determination

We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from the United Kingdom. 35/ The volume of imports from the United Kingdom was higher in 1981 than in any other year during the period under investigation. In addition, there are verified instances of sales lost by the domestic industry because of underselling.

Discussion of Negative Determinations

A. France

1. Imports

French imports decreased dramatically from a 1978 peak of 61,000 tons to 16,000 tons in 1979, then increased to 28,000 tons in 1980. Imports subsequently dropped to 17,000 tons in January-November 1981. 36/ The ratio of imports from France to apparent domestic consumption declined from 0.7 percent in 1978 to 0.2 percent in 1979, then increased to 0.4 percent in 1980. The percentage for the first eleven months of 1981 dropped back to the 0.2 percent level. 37/

34/ Id. at II-53.

35/ Chairman Alberger and Commissioner Stern limit their finding to threat of material injury. They find no reasonable indication of present material injury by reason of the subject imports.

36/ Report at II-37.

37/ Id.

Although exports of French carbon steel plate increased yearly from approximately 30 percent of production in 1979 to 50 percent during the first eleven months of 1981, the share of exports shipped to the U.S. dropped from 16 percent in 1979 to 13 percent in 1980 and January-November 1981. 38/

2. Prices and lost sales

Instances of sales lost by the domestic industry to imports were verified in two instances.

3. Determination

We conclude there is no reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from France. There is no pattern of underselling of the imports from France. These imports are a decreasing percentage of total French exports and an insignificant and declining percentage of domestic consumption.

B. Italy

1. Imports

Imports from Italy dropped consistently from 82,000 tons in 1978 to 1,000 tons in 1980, all of which were imported during the first eleven months of that year. Imports for the first eleven months of 1981 increased to 14,000 tons, slightly less than the 1979 level, but well below 1978. The ratio of imports from Italy to apparent domestic consumption shows that they accounted for 1 percent in 1978 but have not accounted for more than 0.2 percent since. 39/

38/ Id. at II-24.
39/ Id. at II-37.

There is no reliable information available to the Commission on Italy's capacity to produce hot-rolled carbon steel plate, its utilization of that capacity, or on total Italian exports. Italian production of carbon steel plate during January-October 1981 amounted to 2 million tons, compared with 2.3 million tons in 1980 and 2.1 million tons in 1979. 40/

2. Prices and lost sales

Nine allegations of sales lost to Italian imports were made by domestic producers. One was investigated but it was not confirmed that the firm in question had purchased carbon steel plate imported from Italy. 41/

3. Determination

We conclude that there is no reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Italy. There is no reliable information indicating underselling by Italian imports which are a very small factor in domestic consumption.

C. Luxembourg

1. Imports

Although Luxembourg exports most of its relatively small carbon steel plate production, the bulk of the exports are to other members of the European Community. Exports to the United States have been only 1 percent or less of total exports each year. 42/

40/ Id. at II-25.
41/ Id. at II-53.
42/ Id. at II-25 and see footnote 10, p. 20.

2. Prices and lost sales

There is no information indicating underselling by imports from Luxembourg and there were no allegations of lost sales by reason of the imports.

3. Determination

We conclude that there is no reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Luxembourg. Our conclusion is based upon the negligible quantities of these imports during the period under investigation and the absence of any showing that they had any impact on the prices of U.S. products as well as the absence of any allegations of lost sales.

D. The Netherlands

1. Imports

Imports from the Netherlands remained at 5,000 tons during 1978 and 1979, dropped to 4,000 tons in 1980 and rebounded to 5,000 tons during the first eleven months of 1981. As a percentage of apparent domestic consumption imports from the Netherlands have remained at 0.1 percent during the entire period under investigation. 43/

The Netherlands' production of carbon steel plate has decreased annually since 1979, from 368,000 tons to 277,000 tons in January-October 1981. There is no reliable information available to the Commission on the Netherlands' capacity to produce hot-rolled carbon steel plate or its utilization of that

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43/ Id. at II-32 to II-37.

capacity. The bulk of the production of carbon steel plate is exported to other members of the European Community. Exports to the United States accounted for about 2 percent of aggregate exports of this product in 1979, declining to less than 1 percent in 1980. 44/

2. Prices and lost sales

There is no information indicating underselling by imports from the Netherlands and there were no allegations of lost sales by reason of the imports.

3. Determination

We conclude that there is no reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from the Netherlands. Our conclusion is based upon the insignificant market share of these imports, their stable volume, and the lack of any allegations or other information showing that their small presence in the market has had any effect on U.S. prices or resulted in lost sales. Moreover, we note that the Netherlands' production of the product has decreased annually since 1979.

44/ Id. at II-26.

III. HOT-POLLED CARBON STFEL SHEET AND STRIP

With respect to the investigations on hot-rolled carbon steel sheet and strip, 1/ we conclude that there is a reasonable indication that allegedly dumped and subsidized imports from Belgium, the Federal Republic of Germany, France, Italy, and the Netherlands are causing material injury or threatening material injury to the affected domestic industry, but that there is no reasonable indication that allegedly subsidized imports from Brazil and the United Kingdom and allegedly dumped and subsidized imports from Luxembourg are causing material injury or the threat of material injury. 2/

Condition of the domestic industry

The available data show that the health of the domestic industry producing hot-rolled carbon steel sheet and strip has declined compared to its condition in 1978 and 1979. Domestic production of hot-rolled carbon steel sheet and strip increased from 11.7 million tons in 1978 to 12.6 million tons in 1979 but declined by over 20 percent to 9.9 million tons in 1980. Production increased to 11.4 million tons in 1981, a level below that reached in 1978 or 1979. Shipments showed a trend similar to that of production. Utilization of capacity declined from 65.7 percent in 1978 to 65 percent in 1979 and to 52.5 percent in 1980. Capacity utilization then increased in 1981 to 59.0 percent. 3/

1/ Investigation Nos. 701-TA-94 to 101 (Preliminary); 731-TA-61 to 65, 67 (Preliminary).

2/ In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.

3/ Report at III-8 to III-10.

Employment of production and related workers engaged in producing hot-rolled carbon sheet and strip increased from 23,100 in 1978 to 25,400 in 1979 and then declined 20 percent to 20,400 in 1980. In 1981 the figure had increased to 22,400, still below the 1978 figure. 4/

Demand for hot-rolled carbon steel sheet and strip is shrinking. Apparent domestic consumption declined nearly 30 percent, from 18.3 million tons in 1978, to 13.3 million tons in 1980. During the first eleven months of 1981, apparent consumption amounted to 13.7 million tons, about 15 percent more than that during the corresponding period in 1980.

Profitability in the hot-rolled carbon steel sheet and strip industry was low during 1978 and 1979, never exceeding $162 million or 4.8 percent of net sales. The nine reporting U.S. producers showed operating losses of $232 million, or 7.5 percent of net sales, in 1980 and $139 million, or 3.5 percent of net sales, in 1981. 5/ Five reported losses in 1978, four in 1979, eight in 1980, and six in 1981. 6/

Discussion of Affirmative Determinations

A. Belgium

1. Imports

Imports from Belgium and Luxembourg declined from 77,000 tons in 1978 to 21,000 tons in 1979 and remained at that level through 1980. 7/ During January-November 1981, however, these imports increased to 100,000 tons. The

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4/ Id. at III-13 to III-15.

5/ These producers accounted for 83 percent of U.S. producers' shipments in 1980.

6/ Report at III-16.

7/ Official U.S. import data combine imports from Belgium and Luxembourg, but information available to the Commission indicates that the overwhelming majority of aggregate imports are from Belgium.

bulk of the rise in imports from these two countries came in the last two quarters of 1981. The dramatic increase in January-November 1981 brought the ratio of these imports to apparent domestic consumption to 0.7 percent. At all other times during the period under investigation these imports amounted to less than 0.5 percent of apparent domestic consumption. 8/

2. Prices and Lost Sales

The Commission requested data on actual transaction prices in 1981 from purchasers of steel sheet to determine whether the imported products undersold the domestic products. Three purchasers provided information regarding prices of Belgian imports. Varying results were reported. In some instances there was underselling of from 1 to 8 percent. In other cases, the Belgian products sold at prices higher than the domestic prices at margins from 1 to 16 percent. 9/ The allegations of sales lost to Belgian imports by reason of underselling were also investigated and confirmed. 10/

8/ Report at III-28. There is no reliable information available to the Commission regarding Belgian production or capacity to produce these products. Exports to the U.S. accounted for about 2 percent of total Belgian exports.

9/ Id. at III-40.

10/ Id. at III-41.

3. Determination

We find a reasonable indication that imports from Belgium are a cause of material injury or threat of material injury to the U.S. industry. 11/ The volume of imports from Belgium increased greatly in 1981, particularly in the latter half of the year. Moreover, several instances of underselling by Belgian imports and of sales lost by underselling have been verified.

B. Federal Republic of Germany

1. Imports

The Federal Republic of Germany was a principal supplier of these products throughout the period 1978-81. Although West German imports declined from 1978 to 1981, they remained above 300,000 tons. Moreover, imports rapidly increased during the last two quarters of 1981. The share of the U.S. market held by these imports declined from 3.7 percent in 1978 to 2.3 percent in January-November 1981. 12/ No reliable information is available on West German production, capacity to produce, or total exports of hot-rolled carbon steel sheet and strip.

2. Prices and lost sales

Information was obtained from three purchasers regarding prices of hot-rolled carbon steel sheet from the Federal Republic of Germany. Margins of underselling of from 1 to 4 percent in 1981 were reported in different markets. During the same time, West German imports were reported to have sold

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11/ Chairman Alberger and Commissioner Stern limit their finding to a reasonable indication of threat of material injury. They find no reasonable indication of present material injury by reason of the subject imports.

12/ Report at III-28.

at prices 2 to 9 percent higher than domestic products in some instances. 13/

All five allegations of sales lost to West German imports were confirmed. Purchasers reported that their decisions to purchase the imports were based on lower price. 14/

3. Determination

We conclude that there is a reasonable indication of material injury or threat of material injury 15/ by reason of imports of hot-rolled carbon steel sheet and strip from the Federal Republic of Germany. That country is a major foreign supplier of these products to the U.S. market and its imports have held a significant share of the market throughout the period investigated. Moreover, the Commission was able to confirm instances of underselling and lost sales indicating a possible adverse effect on the domestic industry by reason of the pricing of these imports.

C. France

1. Imports

Imports of hot-rolled carbon steel sheet and strip from France declined from 694,000 tons in 1978 to 529,000 tons in 1979 and 395,000 tons in 1980. Imports in January-November 1981 increased to 413,000 tons, a 26 percent increase over imports in the corresponding period of 1980. The ratio of

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13/ Id. at III-41.
14/ Id.
15/ Chairman Alberger finds that there is a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.

imports from France to apparent domestic consumption has remained at about 3 percent since 1979. 16/

France exports about 60 percent of the hot-rolled carbon steel sheet and strip it produces. Its primary export market is other EC countries, although exports to the United States accounted for 18 percent of aggregate exports in 1981. 17/ There is no available information on French capacity to produce these products.

2. Prices and lost sales

Seven purchasers reported prices for French hot-rolled sheet. The data were mixed. French imports at times were sold at higher prices than U.S.-produced products, but underselling predominated. Margins of underselling ranged from 1 to 11 percent. 18/

Five allegations of sales lost to French imports were confirmed by the Commission, some of which were verified to have occurred on the basis of the lower price of the imports. 19/

3. Determination

We determine that there is a reasonable indication that imports of carbon steel sheet and strip from France are a cause of material injury or threat thereof 20/ to the affected U.S. industry. Total imports from France have been significant over the entire period investigated, amounting to about 3 percent of domestic consumption, and French imports increased greatly in 1981

16/ Report at III-28.
17/ Id. at III-19.
18/ Id. at III-40.
19/ Id. at III-41.
20/ Chairman Alberger finds that there is a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of a reasonable indication of threat.

over 1980 levels. Moreover, the Commission has verified both significant levels of underselling by French imports and sales lost to imports because of underselling.

D. Italy

1. Imports

Imports from Italy declined from 250,000 tons in 1978 to 85,000 in 1979 and 39,000 tons in 1980. They then increased in January-November 1981 to 62,000 tons, an increase of 23,000 tons over the corresponding period in 1980. The greatest bulk of 1981 imports were concentrated in the last half of the year. The ratio of imports from Italy to apparent domestic consumption was 0.5 percent in January-November 1981. 21/ No reliable data is available regarding Italian capacity to produce, or total exports of these products.

2. Prices and lost sales

Two purchasers provided information regarding U.S. prices of Italian hot-rolled carbon steel sheet. No consistent pattern was evident, with Italian products selling from 1 percent under to 9 percent over domestic prices. 22/

The Commission was able to confirm allegations of sales lost by the domestic industry to Italian imports. Purchasers cited lower prices as the reason for their purchase of the imports. 23/

21/ Report at III-28.
22/ Id. at III-40.
23/ Id. at III-41.

3. Determination

We conclude that there is a reasonable indication of material injury or threat thereof 24/ by reason of Italian imports of hot-rolled carbon steel sheet and strip. There are verified indications of underselling by these imports and of sales lost by the domestic industry because of underselling. Significantly, Italian imports increased dramatically in the last two quarters of 1981.

F. The Netherlands

1. Imports

Imports from the Netherlands decreased from 322,000 tons in 1978 to 269,000 tons in 1979 and 189,000 tons in 1980, when imports from the Netherlands accounted for approximately 10 percent of total imports. Imports rose to 230,000 tons in January-November 1981, a 22 percent increase over the corresponding period in 1980. During January-November 1981, imports from the Netherlands accounted for 1.7 percent of apparent domestic consumption. 25/ No reliable information is available to show capacity in the Netherlands to produce hot-rolled carbon steel sheet and strip or total exports from that country.

2. Price and lost sales

Two purchasers provided information on transaction prices for imports from the Netherlands. Although imports were reported to have sold at prices substantially higher than domestic products, underselling was also reported to

24/ Chairman Alberger and Commissioner Stern limit their finding to a reasonable indication of threat of material injury. They find no reasonable indication of present material injury by reason of the subject imports.

25/ Report at III-28.

have occurred at margins up to 3 percent. 26/ Allegations of lost sales as a result of lower import prices were confirmed by the Commission. 27/

3. Determination

Our conclusion that there is a reasonable indication that imports from the Netherlands have caused or are threatening material injury 28/ is based on several factors. Imports were relatively steady over the whole period covered, accounting for 1.7 percent of U.S. consumption in 1981. Moreover, there is information showing underselling and sales lost because of underselling.

Discussion of Negative Determinations

A. Brazil

1. Imports

Imports from Brazil increased from 9,000 tons in 1978 to a high of 28,000 tons in 1979, then dropped to 7,000 tons in 1980. During January-June 1981, imports from Brazil amounted to only 4,000 tons, compared with imports of 7,000 tons in the corresponding period in 1980. At all times during the period under investigation, these imports amounted to less than 0.5 percent of apparent domestic consumption. 29/ No reliable information is available on Brazilian capacity, production or exports.

26/ Id. at III-40.
27/ Id. at III-41.
28/ Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.
29/ Report at III-28 and III-29.

2. Prices and lost sales

No puchasers provided any information indicating underselling by Brazilian imports and no allegations of sales lost to the domestic industry on the basis of underselling.

3. Determination

We find no reasonable indication that allegedly subsidized imports of hot-rolled carbon steel sheet from Brazil are a cause of material injury or threat thereof to the subject U.S. industry. Brazilian imports have fallen consistently and drastically since 1979, never amounting to more than 0.5 percent of domestic consumption in any year. Moreover, unlike imports from those countries as to which we have reached affirmative determinations, Brazilian imports have not been shown to have resulted in underselling or lost sales.

B. Luxembourg

1. Imports

Although import data for hot-rolled carbon steel sheet and strip from Luxembourg are not segregated from data for Belgium, information available to the Commisssion indicates that nearly all these imports come from Belgium. 30/ There is no reliable data on Luxembourg's capacity to produce these products. Its exports of these products to the United States were only 0.2 percent of its total exports in 1979 and 1980 and 0.1 percent in 1981. 31/

30/ Aggregate import data for Belgium and Luxembourg are set forth at p. 33.
31/ Report at III-20.

2. Underselling and lost sales

There is no information indicating underselling by imports from Luxembourg or lost sales by reason of imports.

3. Determination

We find that there is not a reasonable indication that imports of hot-rolled carbon steel sheet and strip from Luxembourg are causing material injury or threat thereof to the domestic industry. While its volume of imports is not precisely known, it is only a minute portion of total Belgium/Luxembourg imports. Moreover, it is clear that the United States is a very minor export market for Luxembourg in these products, and its exports to the United States have fallen. Finally, there is no information of underselling or lost sales.

C. United Kingdom

1. Imports

Imports from the United Kingdom declined from 35,000 tons in 1978 to 11,000 tons in 1979 and to 1,000 tons in 1980. During January-November 1981, imports from the United Kingdom accounted for less than 500 tons. 32/ These imports accounted for less than 0.5 percent of apparent domestic consumption at all times during the period under investigation. 33/ No reliable data is available to show U.K. capacity to produce these products or its exports.

2. Underselling and lost sales

No purchasers reported underselling or lost sales with respect to imports from the United Kingdom.

32/ Id. at III-25.
33/ Id. at III-28 and III-29.

3. Determination

We determine that there is no reasonable indication that imports of hot-rolled carbon steel sheet from the United Kingdom are causing or threatening material injury to the U.S. industry. Imports from the United Kingdom of the products have fallen drastically from 1978 to 1980, and there is no information that they have undersold U.S. products or caused lost sales.

IV. COLD-ROLLED CAPBON STEEL SHEET AND STRIP

In the investigations on cold-rolled carbon steel sheet and strip, 1/ we determine that there is a reasonable indication of material injury or threat of material injury by reason of allegedly dumped and subsidized imports from the Federal Pepublic of Germany, France, Italy, 2/ and the Netherlands of cold-rolled carbon steel sheet and strip, but that there is no reasonable indication of material injury or threat thereof by reason of allegedly dumped and subsidized imports of those products from Belgium, 3/ Luxembourg, and the United Kingdom and allegedly subsidized imports from Brazil.

Condition of the domestic industry

The condition of the domestic industry producing cold-rolled carbon steel sheet and strip weakened significantly from 1978 to 1981. Domestic production of cold-rolled carbon steel sheet and strip remained stable at 13.2 million tons in 1978 and 1979, then decreased in 1980 to 10.3 million tons. Although production increased to 11.2 million tons in 1981, it still remained below 1978 and 1979 levels. Over the 1978-81 period there was a 2 percent increase in the production capacity of the domestic industry to 15.9 million tons.

1/ Investigations Nos. 701-TA-102 to 109 (Preliminary); 731-TA-68 to 74 (Preliminary).

2/ Chairman Alberger and Commissioner Stern determine that there is no reasonable indication of material injury or threat thereof by reason of allegedly dumped or subsized imports from Italy.

3/ Vice-Chairman Calhoun finds a reasonable indication of material injury or threat thereof by reason of allegedly dumped and subsidized imports from Belgium. In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.

Capacity utilization fluctuated during the period, however, falling from nearly 85 percent in 1978 to approximately 70 percent in 1981. 4/

During the period under investigation, employment of production and related workers engaged in producing cold-rolled carbon steel sheet and strip reached a peak of 39,200 in 1979, but declined to 35,300 by 1981. Productivity decreased each year during the period. 5/

Profitability in the cold-rolled carbon steel sheet and strip industry was low during 1978 and 1979, then declined further in 1980 and 1981. The reporting U.S. producers showed operating losses of $383 million in 1980 and $293 million in 1981, equivalent to 9.2 percent and 5.9 percent of net sales in 1980 and 1981, respectively. Of the 9 producers reporting profit and loss data for the period under investigation, three reported losses in 1978, four in 1979, eight in 1980, and seven in 1981. 6/

Discussion of Affirmative Determinations

A. Federal Republic of Germany

1. Imports

The Federal Republic of Germany is the second largest exporter of cold-rolled sheet and strip to the United States. During the period from 1978 through the first eleven months of 1981, imports from West Germany accounted for 2 to 3 percent of apparent domestic consumption. Imports from West Germany declined from 665,000 tons in 1978 to 602,000 tons in 1979, then plummeted to 273,000 tons in 1980. During 1981 these imports rebounded to about 400,000 tons. 7/ Information is not available on West German capacity to

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4/ Report at IV-10. Decreases in production corresponded to the decline in domestic consumption, primarily attributable to falling demand in the automotive industry.

5/ Id. at IV-14.

6/ Id. at IV-16.

7/ Id. at IV-34.

produce those products. Exports to the United States constituted about 15 percent of all West German exports during the period studied. 8/

2. Prices and lost sales

Nine purchasers provided price information regarding West German imports. In some instances West German products sold at prices higher than domestic products and in other instances at lower prices. The margins of underselling, where found, ranged from 1 to 10 percent. 9/

Forty-nine allegations of lost sales were made with respect to West German cold-rolled carbon steel sheet and strip. Of these, a sample of eight was investigated. Five purchasers indicated that alternate sourcing was the chief reason for their purchasing decisions. Three of the five instances involved a purchaser affiliated with a foreign producer. Three other purchasers cited quality differentials. No purchasers listed price as the primary factor. 10/

3. Determination

We conclude that there is reasonable indication that imports of cold-rolled carbon steel sheet and strip from the Federal Republic of Germany have caused or threatened material injury. 11/ West German imports are substantial and have increased greatly from 1980 to 1981, accounting for 2 to 3 percent of U.S. consumption. Moreover, there are indications that West German imports have undersold U.S. products.

8/ Id. at IV-23.
9/ Id. at IV-43.
10/ Id. at IV-44.
11/ Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.

B. France

1. Imports

Imports from France declined from 260,000 tons in 1978 to 118,000 tons in 1980. During this period France's share of the U.S. market for cold-rolled carbon steel sheet and strip decreased from 1 percent to 0.8 percent. During 1981, however, French imports increased to 154,000 tons. 12/ French exports to the United States accounted for about 10 percent of its total exports during 1978-81. 13/ No information is available on French production capacity.

2. Prices and lost sales

Five purchasers provided information on domestic prices of French hot-rolled carbon steel sheet and strip. Although imports sold at higher prices in some markets at some times, underselling of from 2 to 11 percent was reported to have occurred in 1981. 14/

Twenty-nine allegations of lost sales were made with respect to French sheet and strip. Of these, a sample of seven was investigated and two of the purchasers indicated that the lower price of the French steel was the principal factor in the decision to purchase French imports. 15/

Determination

We conclude on the basis of the best information available that there is a reasonable indication that imports of cold-rolled carbon steel sheet and strip from France have caused or threatened material injury 16/ to the U.S.

12/ Report at IV-26.
13/ Id. at IV-20.
14/ Id. at IV-43.
15/ Id. at IV-44.
16/ Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.

industry producing the like product. Our conclusion is based on the significant level of French imports, the sustantial increase in such imports in 1981, and confirmation of underselling and of sales lost by reason of underselling.

C. Italy

1. Imports

Imports from Italy declined from 213,000 tons in 1978, or 1 percent of apparent domestic consumption, to 9,000 tons in 1980, or 0.1 percent of domestic consumption. Thereafter, imports from Italy increased to about 55,000 tons in 1981. 17/ Italian exports to the United States during the period were about 20 percent of total Italian exports. 18/ No data are available on Italian production capacity for these products.

2. Underselling and lost sales

Only one purchaser gave prices for Italian imports. No underselling was reported. 19/

One allegation of a lost sale was made with respect to Italian sheet. The purchaser was affiliated with a foreign producer and stated that it made the purchase decision on this basis. 20/

3. Determination

Vice Chairman Calhoun and Commissioner Eckes conclude that there is a reasonable indication that imports from Italy have caused or threatened material injury to the domestic industry. The principal bases for this

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17/ Report at IV-34.
18/ Id. at IV-21.
19/ Id. at IV-43.
20/ Id. at IV-44.

determination are that Italian imports have increased substantially in 1981 over 1980 levels. Substantially all of the 1981 imports entered during the last half of the year, resulting in an import penetration of 0.6 percent for the third quarter of 1981. The United States continues to be a principal market for Italian exports of cold-rolled carbon steel sheet and strip.

Commissioners Alberger and Stern have determined there is no reasonable indication that imports from Italy are causing and could contribute to any material injury, or threat thereof, that the domestic industry is experiencing. These imports have a very small market share. Since 1978 they declined from one percent of consumption to 0.1 percent in 1980. During the first eleven months of 1981, they grew to 0.3 percent compared to 0.1 for the same period of 1980. However, this level still represents an insignificant volume. Only one allegation of a lost sale was made. The purchaser was in fact affiliated with a foreign producer and made the purchase on that basis.

D. The Netherlands

1. Imports

During 1978-80 imports from the Netherlands declined from 233,000 tons to 118,000 tons. In 1981, however, these imports increased to over 146,000 tons. The market penetration of imports from the Netherlands has remained stable at approximately 1 percent. 21/ Exports from the Netherlands to the United States accounted for 14 percent of its total exports in the 1978-81 period. 22/ There is no reliable information on capacity in the Netherlands to produce these products.

21/ Id. at IV-34.
22/ Id. at IV-22.

2. Prices and lost sales

One domestic purchaser contacted by the Commission reported prices for cold-rolled carbon steel sheet and strip from the Netherlands. It cited margins of underselling ranging from 3 to 12 percent. 23/

Twelve allegations of lost sales were made with respect to cold-rolled carbon steel sheet from the Netherlands. Of these, a sample of six was investigated, and one of the purchasers indicated that the price of the Dutch steel was the principal factor influencing the purchase decision. 24/

3. Determination

Our determination as to imports of cold-rolled carbon steel sheet and strip from the Netherlands is that there is a reasonable indication that the imports have caused or threatened material injury 25/ to the U.S. industry. Dutch imports account for about 1 percent of consumption and increased significantly in 1981 over 1980. Additionally, there are confirmed instances of underselling and lost sales attributable to these imports.

Discussion of Negative Determinations

A. Belgium

1. Imports

Imports of cold-rolled carbon steel sheet and strip from Belgium and Luxembourg declined from 129,000 tons in 1978 to 98,000 tons in 1980. Imports for 1981 were more than 56 percent below the 1980 level. 26/ Together, these

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23/ Id. at IV-43.
24/ Id. at IV-44.
25/ Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.
26/ Official import data do not segregate imports from Belgium and Luxembourg. A Department of Commerce analysis of these imports indicated that Belgium accounts for virtually all of them.

countries have never accounted for more than 0.7 percent of apparent domestic consumption during 1978-80. For the first eleven months of 1981 the percentage was merely 0.3 percent. 27/ The Commission has no reliable information on Belgian capacity to produce these products.

2. Underselling and lost sales

One domestic purchaser provided price information with respect to Belgian cold-rolled carbon steel sheet and strip. It noted margins of underselling ranging from 2 to 7 percent. 28/ No specific allegations of sales lost to Belgian imports were made by the petitioners and none came to light in the course of the investigation. 29/

3. Determination

Chairman Alberger and Commissioners Stern and Eckes determine that there is no reasonable indication that Belgian imports of these products have caused or threatened material injury to the domestic industry involved. 30/ Market penetration by Belgian imports has been small and is decreasing, and, while some underselling has been confirmed, there is no information of any sales lost because of underselling by Belgian imports.

P. Brazil

1. Imports

Brazilian imports grew from 866 tons in 1978 to 8,765 tons in 1979, then fell to 1,491 tons in 1980. They then increased to 18,887 tons in 1981. These figures represented 0.5 percent or less of total domestic consumption in

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27/ Report at IV-26.
28/ Id. at IV-43.
29/ Id. at IV-44.
30/ See additional views of Vice-Chairman Calhoun.

1978, 1979 and 1980. U.S. market penetration was 0.1 percent in 1981. 31/ No reliable information is available on Brazil's capacity to produce cold-rolled carbon steel sheet and strip or total exports.

2. Underselling and lost sales

No instances involving underselling or lost sales on account of Brazilian imports were uncovered by the Commission's investigation.

3. Determination

It is our conclusion that there is no reasonable indication of material injury or threat thereof by reason of Brazilian imports of these products. Over the four-year period investigated, imports from Brazil remained a very small percentage of overall U.S. consumption. Moreover, no information of Brazilian underselling or sales lost to Brazilian imports was found.

C. Luxembourg

1. Imports

Aggregate import figures for Belgium and Luxembourg are represented at p. 50. Extremely few of these already minimal imports originated in Luxembourg.

2. Underselling and lost sales

No information regarding underselling by imports from Luxembourg was received by the Commission, and no allegations were made or information received regarding lost sales.

3. Determination

Imports from Luxembourg of cold-rolled carbon steel sheet and strip from Luxembourg are practically nil, and have had no demonstrated impact on

31/ Report at IV-31 and IV-34.

domestic prices. Thus, we find no reasonable indication that these imports have caused or threatened material injury to the U.S. industry.

D. United Kingdom

1. Imports

Imports of cold-rolled carbon steel sheet 32/ from the United Kingdom declined from 21,400 tons in 1978 to 5,800 tons in 1979 and 330 tons in 1980. They then increased in January-November 1981 to 8,400 tons. At no time in the four-year period did U.K. imports reach a greater percentage of apparent consumption than 0.1 percent, attained in 1978. 33/

2. Underselling and lost sales

One report of underselling by British imports was received by the Commission. The margin of underselling was 2 percent. 34/ British imports were neither alleged nor found to have taken sales from domestic producers.

3. Determination

We conclude that there is no reasonable indication that imports of cold-rolled carbon steel sheet from the United Kingdom have caused or threatened material injury to the domestic industry producing this product. Imports remained at very small levels throughout the period investigated. Information regarding underselling was limited, and no information was provided regarding lost sales.

32/ Imports of cold-rolled carbon steel strip from the United Kingdom are not subject to these investigations.
33/ Peport at IV-34.
34/ Id. at IV-43.

V. GALVANIZED CARBON STEEL SHEET

VIEWS OF CHAIRMAN BILL ALBERGER, VICE CHAIRMAN MICHAEL J. CALHOUN, AND COMMISSIONER PAULA STERN

Our determination with respect to all antidumping and countervailing duty investigations on galvanized carbon steel sheet 1/ is that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of the imports subject to these investigations. While we recognize that the domestic industry producing galvanized carbon steel sheet has suffered a downturn in 1980 and 1981, there is no evidence to support a finding that the allegedly subsidized and/or dumped imports have caused any part of this decline.

In a previous series of determinations regarding imported galvanized sheet from certain EC countries (Investigations Nos. 731-TA-18-24 (Preliminary), May 1980), Chairman Alberger found that there was no reasonable indication of material injury to the domestic industry by reason of the alleged LTFV sales. 2/ Among other factors which formed the basis for that opinion were rapidly rising profit levels along with increases in U.S. production, shipments, capacity utilization, exports and apparent consumption. Moreover, during the period under consideration in that investigation (1977-1979) the ratio of imports to apparent consumption from all sources and from the subject EC countries remained stable at about 25 percent and 5.8 percent respectively.

In the May 1980 cases, Commissioner Stern made affirmative determinations in the preliminary cases of galvanized sheet from the Federal Republic of Germany and France, the only EC suppliers of any significance. The factors just noted by Chairman Alberger made these marginal cases. However, in

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1/ Investigation Nos. 701-TA-110-116 (Preliminary) and 731-TA-75-81 (Preliminary).

2/ See views of Vice Chairman Bill Alberger on Certain Steel Products From the European Community, Investigation Nos. 731-TA-18-24 (Preliminary), May 1980, at 20-21.

May 1980, Commissioner Stern believed that it was not possible at the preliminary stage to discount the possibility that the subject French and German imports had a cumulative material impact on domestic profits on galvanized sheet. Since the previous investigations, the imports of this product from France and Germany have declined by almost half. The present total of subject imports in this product line -- coupled with all other factors cited below -- has simply eliminated them as possible causes of material injury.

In the period immediately following our May 1980 determinations, the galvanized steel sheet industry suffered a sharp drop in production, shipments, employment, capacity utilization, net sales, and profitability. Based on returns from Commission questionnaires, production declined from 4.7 million tons in 1979 to 3.7 million tons in 1980. U.S. producers' shipments followed this pattern, dropping from 6.3 million tons in 1979 to 5.2 million tons. Employment declined by 13 percent from 1979 to 1980, while capacity utilization fell from 70% to 59%. Net sales also declined from $2.3 billion in 1979 to $1.9 billion in 1980. After enjoying operating profits of $135 million in 1979, the industry experienced an aggregate operating loss of $91 million, or 4.8 percent of net sales, in 1980.

While we are instructed by the legislative history of the Trade Agreement Act not to weigh the different causes of injury to the domestic industry, we are nevertheless required to ascertain whether imports are at least a material cause of any injury being suffered. 1/ Based on our analysis of all the information available to the Commission, it is our judgment that factors other than these imports are responsible for the present state of the industry. At the same time that production, employment, profits and other indicators were

1/ Senate Finance Committee Report on the Trade Agreements Act of 1979, Sen. Rept. No. 96-249, 96th Cong., 1st Sess., at 74-75.

declining, imports from each of the countries under investigation also plunged.

From 1979 to 1980 imports from all countries subject to countervailing duty investigations (including Spain and South Africa) a/ fell from 7.2 percent of apparent U.S. consumption to 4.3 percent of U.S. consumption. Likewise, imports from all countries subject to antidumping investigations, fell from 5.5 percent to 2.9 percent of apparent U.S. consumption. Imports from all sources also declined from 26 percent in 1979 to 21 percent in 1980. The 1981 statistics reveal only slight increases in import levels while U.S. production, shipments, capacity utilization and employment data indicate a significant rebound for the industry. Profitability levels in 1981 were also improving, although still in the red.

It is clear from these patterns that the cause of the industry's difficulty in 1980-81 must be factors other than the allegedly dumped or subsidized imports. A major source of trouble obviously has been the sharp drop in U.S. consumption of galvanized sheet, from 8.7 million tons in 1978 to 6.5 million tons in 1980 -- a 25 percent decline. Data for January-November 1981 show a small but accelerating growth in consumption. 1/ It may also be significant that while labor productivity declined by 5 percent over the 1978-81 period, an hourly wage increase of 39 percent pushed the unit labor cost per ton of galvanized sheet from $86.56 per ton in 1978 to $127.28 per ton in 1981. This represents an increase of 47 percent. b/

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a/ With respect to Vice Chairman Calhoun's inclusion of Spain and South Africa, see his additional views.

1/ See Table V-2 of Report at p. V-4.

b/ Vice Chairman Calhoun is of the view that the 21 percent import penetration level from all sources cannot be ignored. Of this amount 61 percent is from Japan whose products tend to concentrate in the Western United States.

Moreover, there is no reasonable indication that the industry is threatened with material injury by reason of the subject imports. U.S. importers' inventories of galvanized sheet from the EC declined by 48 percent during the 1978-81 period. Notwithstanding preliminary data which indicate that there may exist excess capacity to generate exports in some of the countries concerned, there appears to be no significant increase in market penetration.

V. GALVANIZED CARBON STEEL SHEET

VIEWS OF COMMISSIONER ALFRED ECKES

Unlike the Commission majority, I determine that there is a reasonable indication that the domestic producers of galvanized carbon steel sheet are being materially injured, or threatened with material injury by reason of imports from France, Italy, and West Germany.

Condition of the Domestic Industry

Since the last Commission investigation of galvanized carbon steel sheet concluded in May 1980 with an affirmative preliminary determination, the condition of the domestic industry has deteriorated sharply.

In fact, in describing the state of the domestic industry in his 1980 dissenting opinion, then Vice Chairman Alberger wrote: "For the period 1977 to 1979, U.S. production, shipments, capacity utilization, exports, apparent consumption and profitability have all increased." But, if those factors are considered in light of more recent evidence, a different picture emerges of the galvanized carbon steel sheet industry. It is one that justifies an affirmative determination more than ever.

Domestic production has declined from a peak of 4.7 million tons in 1979 to 3.7 million tons in 1980 and 4.4 million tons in 1981. 1/ U.S. producers' shipments dropped 19 percent from 1978 to 1980, before increasing in 1981. However, in the last quarter of 1981 shipments were 28 percent below the final quarter of 1980, additional evidence of an industry in trouble. 2/ Capacity to produce galvanized sheet fell from 6.7 million tons in 1979 to 6.2 million tons in 1981. And, capacity utilization declined sharply from 70 percent in

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1/ Report at V-7.
2/ Id. at V-8.

1979 to 59 percent in 1980 before returning to about the 70 percent level in 1981. 1/

Most of the other indicators mentioned in the 1980 opinion show evidence of injury. Apparent domestic consumption fell 25 percent between 1978 and 1980 before reviving in 1981. However, U.S. producer's share of consumption, which rose to 90 percent in the first quarter of 1981, slid to 78 percent in the third quarter. 2/ Furthermore, the domestic industry is considerably less profitable than at the time of the earlier investigation. The ratio of operating profit to sales fell from 5.8 percent to a negative 4.8 percent in 1980 and a negative 1.2 percent in 1981. Six of the eight producers reported operating losses in 1980, and, although sales picked up in 1981, operating losses continued. 3/

Inventories offered further evidence of material injury. Producers' year-end inventories were 30 percent higher for 1981 than for 1980. Indeed, the 1981 levels are the highest inventories reported for this industry since 1977. 4/

In 1980 a majority of the Commission determined there was reason to believe the domestic industry was being materially injured or threatened with material injury from imports even though the domestic industry was apparently in a healthier condition than at present. The subsequent decline in 1980 and late 1981 confirms the wisdom of that judgment and justifies my affiramtive determination that there is a reasonable indication of material injury to the domestic producers of galvanized sheet.

1/ Report at V-7.
2/ Id. at V-4.
3/ Id. at V-14.
4/ Id. at V-10.

Reasonable indication of material injury by reason of subject imports

In my view there is a reasonable indication that imports of galvanized sheet from West Germany, France, and Italy are causing or threatening material injury. West Germany is a major exporter of galvanized sheet to the United States, accounting for 2 to 3 percent of U.S. consumption through the period 1978-81. While the volume of overall German exports declined from 226,000 tons in 1978, the volume has begun to pick up again. Analyzed on a quarterly basis, more than 80 percent of the 1981 volume entered during the second half of the year. Third quarter 1981 imports were 2.3 percent of U.S. consumption, far above the 0.3 percent and 0.8 percent levels reached in the first and second quarters of 1981, respectively. 1/ In addition, staff confirmed two instances where American producers lost sales to German suppliers, 2/ reasonable evidence at the preliminary level of a connection between imports and material injury.

Imports from France declined from a peak in 1978, but have begun to rise again. The January-November 1981 figures show a 15 percent increase over the corresponding period for 1980. Viewed on a quarterly basis, imports increased each quarter during 1981, with the final three months representing 46 percent of total 1981 imports. Quarterly import penetration figures also show an increasing trend. Further, a larger share of French exports were directed to the United States during 1981, up from 7.3 percent of total French exports in 1980 to 10.5 percent for the first 11 months of 1981. 3/ Finally, staff confirmed three allegations of lost sales. 4/

1/ Report at V-26.
2/ Id. at V-39.
3/ Id. at V-26.
4/ Id. at V-39.

Imports from Italy dropped sharply from 1978 to 1980--from 64,000 tons to 4,000 tons. But, in 1981 the pattern reversed. Imports climbed to 31,000 tons, almost two-thirds of that volume arrived in the last three months of 1981. As a result, the import penetration ratio rose steadily from 0.1 in 1980 to 0.6 percent in the third quarter of 1981. Fourth quarter import penetration figures should be even higher. 1/ In addition, staff confirmed an instance of American producers losing a sale because of lower prices for the imported product. 2/ The import trends and penetration figures coupled with evidence of lost sales demonstrate a reasonable indication of material injury by reason of allegedly subsidized of LTFV imports from Italy.

Imports of galvanized steel sheet from Belgium, Luxembourg, the Netherlands, and the United Kingdom do not threaten or materially injure the domestic industry. Imports from Belgium/Luxembourg decreased in volume from 1978 through 1980, increasing slightly in 1981. Import penetration followed a similar trend, dropping to 0.1 percent in 1980 before rising to 0.2 percent in 1981. A review of quarterly data indicates no significant increasing trends in the levels of these imports. 3/ Based on the above data, plus consistent production levels, rates of utilization, and export patterns from Belgium and Luxembourg, I determine that these cases can be terminated.

Similarly, imports of galvanized sheet from the Netherlands have declined steadily throughout 1978-81, from 40,000 tons in 1978 to 11,000 tons in 1980 and 1981. An analysis of import trends on a quarterly basis shows no significant change in patterns. 4/ Imports from the United Kingdom were also inconsequential. They fell from 16,419 tons in 1979 to 374 tons in 1980.

1/ Report at V-26.
2/ Id. at V-39.
3/ Id. at V-26.
4/ Id. at V-26.

Imports for the period January to November 1981 were 3,298 tons, almost all of which entered during the second half of 1981. Throughout the period, however, the import penetration level did not exceed the 0.2 percent level reached in 1979, and remained at less than 0.05 percent for the period January-November 1981. 1/ Having considered these import levels and trends, as well as all other information presented in these proceedings, I have determined there is no reasonable indication of material injury of threat thereof by reason of allegedly subsidized or LTFV imports from the Netherlands or the United Kingdom.

1/ Report at V-27.

VI. CARBON STEEL STRUCTURAL SHAPES

In the investigations on carbon steel structural shapes 1/ we conclude that there is a reasonable indication of material injury or threat thereof to the affected domestic industry by reason of allegedly dumped and subsidized imports from Belgium, the Federal Republic of Germany, France, Luxembourg and the United Kingdom. 2/ 3/ However, there is no reasonable indication that allegedly subsidized imports from Brazil are causing material injury or the threat of material injury to the domestic industry.

Condition of the Domestic Industry

Judged by all the available indicators, the condition of the U.S. industry producing carbon steel structural shapes has declined since 1979. Production increased somewhat from 1978 to 1979, but dropped from 4.1 million tons in 1979 to 3.7 million tons in 1981, a decline of about 10 percent. 4/ Domestic shipments also increased slightly from 1978 to 1979, then declined annually from 4.5 million tons in 1979 to 4 million tons in 1981. 5/

Capacity for the production of structural shapes remained relatively constant, declining from 6.4 million tons to 6.3 million tons between 1979 and 1981. In contrast, utilization of available capacity dropped during that

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1/ Investigations Nos. 701-TA-117 to 119, 121, 123, and 124 (Preliminary); 731-TA-82 to 86 (Preliminary).

2/ Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.

3/ In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.

4/ Report at VI-7.

5/ Id. at VI-8.

period, from 64.4 percent to 58.2 percent. 6/ U.S. producers' yearend inventories remained relatively constant throughout the 1978-81 period at roughly 6 percent of total annual shipments. 7/

Employment of production and related workers in domestic establishments producing structural shapes rose with increased production in 1979, but fell significantly in 1980 and 1981 as production declined. The number of hours paid for production and related workers similarly declined. 8/

The lack of profitability of the structural shapes sector is striking. The domestic industry recorded a loss in every year from 1978 to 1981. 9/ That loss declined from $25 million in 1978 to $4 million in 1979, then ballooned to $62 million in 1980 and $66 million in 1981. The ratio of operating loss to net sales increased irregularly from 2.2 percent in 1978 to 4.9 percent in 1981. 10/

Imports

Aggregate imports from the six countries subject to these dumping and countervailing duty investigations declined from about 670,000 tons in 1978 to approximately 540,000 tons in 1980. They then jumped to about 700,000 tons in 1981. 11/ For three out of the four years examined, 12/ imports from the six

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6/ Id. at VI-7.
7/ Id. at VI-10.
8/ Id/ at VI-11 to VI-14.
9/ Profit-and-loss data were received from seven firms accounting for 78 percent of U.S. shipments in 1980. Id. at VI-15.
10/ Id.
11/ Id., Tables VI-18 and VI-19.
12/ 1978 through Jan.-Nov. 1981.

countries under investigation maintained an aggregate share of the U.S. market of approximately 11 percent. 13/

Imports of carbon steel structural shapes from Belgium and Luxembourg increased from 307,000 tons in 1978 to 379,000 tons in 1979, then declined to 293,000 tons in 1980. 14/ They then increased in the first eleven months of 1981 to 367,000 tons, a substantial increase of 34 percent over the same period in 1980. 15/ Imports from Belgium and Luxembourg represented 6 percent of apparent domestic consumption in 1979, 5.1 percent in 1980, and 6.7 percent in January-November 1981. In the third quarter of 1981 their share of apparent domestic consumption was an even greater 7.8 percent. 16/ Belgian utilization of capacity for producing structural shapes was 48.6 percent in 1981, when exports to the United States accounted for 28.1 percent of total Belgian exports. 17/ The EC was the principal market for Belgian exports from 1979-81. 18/ Capacity utilization in Luxembourg fell from 97.2 percent in 1979 to 90 percent in 1981 as more capacity was added. Its principal export market was also EC countries. 19/

Imports from the Federal Republic of Germany declined from 167,000 tons in 1978 to 134,000 tons in 1979 and 136,000 tons in 1980. They further declined to 107,000 tons in the first eleven months in 1981. However, these volumes represented 2.4 percent of apparent U.S. consumption in 1980 and 1.9

13/ Report, Table VI-20.
14/ Separate import data are not available for Belgium and Luxembourg, but information in Department of Commerce documents indicates Luxembourg accounts for over 50 percent of the combined imports.
15/ Report, Table VI-18.
16/ Id., Tables VI-20 and VI-21.
17/ Id. at VI-19.
18/ Id. at VI-20 and VI-21.
19/ Id.

percent in January-November 1981. 20/ Data on West German capacity utilization is unknown. The United States accounted for 13.8 percent of German exports in 1979 and 10.9 percent in 1980. 21/

French imports declined steadily from 99,000 tons in 1978 to 46,000 tons in 1980, but increased in January-November 1981 to 49,000 tons, a 36 percent increase over those in the same period in 1980. 22/ The ratio of French imports to total domestic consumption remained at about 1 percent in 1980 and 1981. 23/ Between 1979 and 1981, French capacity for producing structural shapes was utilized at a relatively stable rate of approximately 60 percent. The EC was the major export market for the French products under this investigation. The United States accounted for slightly under 10 percent of these French exports in 1980 and 1981. 24/

The volume of structural shapes imported from the United Kingdom fell between 1978 and 1980 from 72,000 tons to 63,000 tons. It then increased dramatically in January-November 1981 to 133,000 tons, or almost 200 percent over that in the corresponding period in 1980. 25/ This represented a climb from 1 percent of the U.S. market in 1980 to 2.4 percent in the first eleven months of the following year. The EC is the United Kingdom's principal export market. Exports to the United States were 11.4 percent of U.K. exports of carbon steel structural shapes in 1979 and 12.6 percent in 1980. 26/

20/ Id., Table VI-20.
21/ Id. at VI-22.
22/ Id., Table VI-18.
23/ Id., Table VI-20.
24/ Id. at VI-20.
25/ Id., Table VI-18.
26/ Id. at VI-21.

Imports from Brazil declined from 24,000 tons in 1978 to less than 500 tons in 1980. Although Brazilian imports increased substantially in 1981, they still accounted for only 0.2 percent of apparent domestic consumption. 27/ Further, quarterly data show decreasing imports during the second half of 1981. Principal Brazilian export markets in 1981 were the EC and the United States. 28/

Prices and lost sales

Evidence of underselling and of sales lost as a result of underselling was found with regard to imports from all the countries investigated except Brazil. Although there were instances in which imports sold at higher prices than domestic products, underselling by the imports predominated. Average margins of underselling ranged from lows of 2 to 5 percent to highs of 10 to 15 percent. 29/

Of the 21 confirmed allegations made by the petitioners of sales lost to imports, price was cited as the principal reason for the purchasing decision in every instance, although other factors were also given. Ten of the confirmed allegations involved imports from Luxembourg. Belgian, French and U.K. imports each accounted for from 1 to 3 confirmed lost sales due to price. Five sales lost to imports were not identifiable as to source. 30/

Determinations

For all the countries subject to these investigations except Brazil we find a reasonable indication of material injury or threat of material injury

27/ Id., Table VI-20.
28/ Id. at VI-19.
29/ Id. at VI-48 and VI-49.
30/ Id. at VI-50 and VI-51.

to the domestic industry by reason of imports of carbon steel structural shapes. The U.S. industry is caught between falling demand for its products, linked to a downturn in the construction industry, and an increased rate of penetration of the domestic market by the foreign-produced structural shapes under investigation. As domestic production and sales slumped during 1981, imports from Belgium, France, Luxembourg, and the United Kingdom increased greatly in 1981, driving the share of the market held by domestic producers even lower. Imports from the Federal Republic of Germany remained significant.

Moreover, as demand for the products fell, competition increased sharply. The increased share of the market garnered by imports has been achieved largely through price undercutting, leading to sales lost to the domestic industry. These preliminary cases are significant in the number of instances in which allegations of lost sales due to lower import prices were confirmed.

The record provides no reasonable indication of material injury or threat thereof to the domestic industry by reason of imports from Brazil. In no year investigated did Brazilian imports account for more than 0.4 percent of domestic consumption. Significantly, of all the imports subject to these investigations only those from Brazil were not confirmed to have either undersold domestic products or caused lost sales through underselling.

VII. HOT-ROLLED CAPBON STEEL BAR

With regard to the countervailing duty investigations involving hot-rolled carbon steel bar, 1/ we determine that, with the exception of imports from the United Kingdom, there is no reasonable indication of material injury or the threat thereof by reason of the allegedly subsidized imports. 2/

Condition of the Domestic Industry

The condition of the domestic industry producing hot-rolled carbon steel bars has been affected greatly by declining domestic consumption of the product, which fell from 6.7 million tons in 1978 to 4.3 million tons in 1980, a 36 percent drop. Consumption increased in 1981, but only to a small degree. 3/

Following the trend in consumption, domestic production steadily declined from 5.5 million tons in 1978 to 3.9 million tons in 1980, but recovered to 4.1 million tons in 1981. 4/ Shipments showed a like trend, falling from 6.1 million tons in 1978 to 4 million tons in 1980, a decline of roughly one-third. Shipments then increased to 4.2 million tons in 1981. 5/

Practical domestic capacity for the production of hot-rolled carbon steel bar declined from 8.1 million tons in 1978 and 1979 to less than 7.7 million tons in 1980, and then increased slightly in 1981. Capacity utilization fell annually from 68.1 percent in 1978 to 50.7 percent in 1980. It increased to

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1/ Investigations Nos. 701-TA-125 to 129, 146 and 147 (Preliminary).
2/ In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.
3/ Report at VII-5.
4/ Id., Table VII-3.
5/ Id. at VII-7.

52.9 percent in 1981. 6/ U.S. producers' inventories of the product remained relatively constant throughout the period as a percentage of shipments. 7/

The decline in production from 1978 to 1980 caused a drop in average employment as well. The average number of workers engaged in producing hot-rolled carbon steel bar fell by 3 percent from 1978 to 1979, then dropped 27 percent in 1980. Average employment then picked up about 1 percent in 1981. 8/

Profitability in the industry matched the figures for production as well. Net sales rose from $2 billion in 1978 to $2.2 billion in 1979, then fell 26 percent in 1980 to $1.6 billion. They posted a 17 percent increase in 1981 to $1.9 billion. The firms responding to the Commission's questionnaires 9/ reported in the aggregate small operating profits on their hot-rolled carbon steel bar operations in 1978 and 1979 and losses in 1980 and 1981. Losses were reported by six firms in 1978, four in 1979, seven in 1980, and six in 1981. 10/

Volume of Imports

Aggregate imports of hot-rolled carbon bar from the seven countries involved fell from 171,000 tons in 1978 to 148,000 tons in 1979 and 103,000 tons in 1980. Imports rebounded in 1981 to 159,000 tons. 11/

Imports from each of the subject countries show varying trends. Hot-rolled carbon steel bar imported from Belgium and Luxembourg declined

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6/ Id., Table VII-3.
7/ Id. at VII-10.
8/ Id.
9/ The firms providing profit-and-loss data accounted for 91 percent of U.S. production in 1980. Id. at VII-14.
10/ Id.
11/ Id., Tables VII-18 and VII-20.

drastically from 27,000 tons in 1978 to only 9,000 tons in 1980. In the first eleven months of 1981 imports from Belgium and Luxembourg increased to 13,000 tons compared to 8,000 tons in the same period in 1980. 12/ Belgian capacity and capacity utilization for producing both hot-rolled carbon steel bar and hot-rolled alloy steel bar fell significantly between 1979 and 1981. Information on capacity is unavailable for Luxembourg. 13/

Brazilian imports declined steadily between 1978 and 1980, falling from 26,000 to 14,000 tons. January-November 1981 data show a further decline to 7,000 tons, approximately half the amount for the corresponding period of 1980. 14/ The ratio of Brazilian imports to apparent domestic consumption demonstrated the same downward trend, from 0.4 percent in 1978 to 0.2 percent in the first eleven months of 1981. 15/ Information on Brazilian capacity for production of bar products is not available.

French imports of hot-rolled carbon steel bar declined from 10,000 tons in 1978 to 4,000 tons in 1980, then increased somewhat in 1981, reaching 5,000 tons in the first eleven months of that year. Throughout the 1978-81 period, penetration of the domestic market by French imports remained at about 0.1 percent. 16/ Data are unavailable on French capacity and utilization. France's major export market is West Germany. The United States accounted for only 3 percent of French exports. 17/

12/ Id. Official U.S. import statistics do not separate imports from Belgium and Luxembourg. Information made available by the U.S. affiliate of the sole producer of hot-rolled carbon steel bar in Luxembourg indicates that the greater share of imports from the two countries is attributable to Belgian products. Id. at VII-22 fn.1.
13/ Id. at VII-17.
14/ Id., Table VII-18.
15/ Id., Table VII-19.
16/ Id., Tables VII-18 and VII-19.
17/ Id. at VII-17.

Imports from Italy totalled only 5,000 tons in 1978, then fell to less than 500 tons in each of the succeeding three years. The ratio of Italian imports to apparent U.S. consumption was 0.1 percent in 1978 and less than 0.05 percent in the remainder of the period under investigation. 18/ Data are unavailable on Italian capacity and capacity utilization for production of these products. West Germany and France are Italy's major export markets, with the United States accounting for only a small share. 19/

Imports from the Federal Republic of Germany fell from 15,000 tons in 1978 to 11,000 tons in 1979, then increased slightly to 12,000 tons in 1980. Imports in the first eleven months of 1981 were 12,500 tons, slightly higher than the 11,500 tons imported in the same period in 1980. 20/ The ratio of imports to apparent domestic consumption rose slightly from 0.2 percent in 1978 and 1979 to 0.3 percent in 1980 and 1981. 21/ Information regarding West German capacity to produce steel bar products is unavailable. Over the period 1978-80, West German exports to the United States accounted for about 2 percent of its total exports. Its major export market for the products is France. 22/

Of the countries subject to these investigations, the United Kingdom is by far the largest supplier of hot-rolled carbon steel bar to the U.S. market. Imports from the United Kingdom amounted to 88,000 tons in both 1978 and 1979. After falling to 64,000 tons in 1980, U.K. imports then increased significantly in 1981, reaching 102,000 tons in the first eleven months

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18/ Id., Tables VII-18 and VII-19.
19/ Id. at VII-18.
20/ Id., Table VII-18.
21/ Id., Table VII-19.
22/ Id. at VII-20.

compared to only 53,000 tons in the same period in 1980. 23/ Quarterly data for 1981 show a dramatic increase in imports from less than 9,000 tons in the first quarter to 38,000 tons in the final quarter. 24/ As a percentage of total apparent domestic consumption, imports from the United Kingdom rose from 1.3 percent in 1978 to roughly 2.5 percent in 1981. 25/ In the last quarter of 1981, U.K. penetration of the U.S. market for this product reached 4.2 percent, up substantially from the 2.9 percent registered in the same period in 1980. 26/ The United States was the U.K.'s largest export market in 1980, accounting for 18 percent of exports. Data on U.K. capacity and utilization rates are unavailable. 27/

Price

The Commission has sought to investigate allegations regarding underselling by imports and sales lost to imports on the basis of price. The results achieved within the constraints of these preliminary investigations are both limited and mixed. Only two purchasers' questionnaires reported pricing data for imports, and those data are limited to imports from Luxembourg. In both instances the import prices were higher than domestic prices. Of those purchasers named in the lost sales sections of domestic producers' questionnaires, most confirmed that they had made purchases of imports in lieu of domestically produced bars. Only one purchaser of Belgian imports and two purchasers of imports from the United Kingdom, however,

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23/ Id., Table VII-18.
24/ Id., Table VII-20.
25/ Id., Table VII-19.
26/ Id., Table VII-21.
27/ Id. at VII-19.

reported that the price of the imported products they purchased was lower than prices for domestic products, and of these one of the purchasers of bars from the United Kingdom indicated that the lower price was not its principal reason for buying the imports. All other purchasers of foreign-produced bar indicated that other factors, such as superior quality, motivated their purchase decisions.

Determinations

We conclude on the basis of the information available that there is no reasonable indication of material injury or threat of material injury by reason of imports of hot-rolled carbon steel bar from Belgium, Brazil, the Federal Republic of Germany, France, Italy, and Luxembourg, but that there is a reasonable indication of material injury or threat thereof by reason of imports from the United Kingdom. 28/

The domestic industry manufacturing hot-rolled carbon steel bar is presently experiencing a period of greatly diminished demand for the product, which has resulted in a marked decline in the industry's fortunes. With regard to all but one of the countries subject to these investigations, imports appear not to have been a material cause of harm to the industry. Imports from Belgium, Brazil, the Federal Republic of Germany, France, Italy, and Luxembourg are very small compared to overall domestic consumption and have generally been falling in recent years. Moreover, the Commission has not been able to confirm any underselling by imports from those countries, with the exception of one transaction involving less than 100 tons of Belgian bar.

28/ Chairman Alberger finds that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.

The data regarding imports from the United Kingdom show a trend that is wholly unlike that of the other imports under investigation. At a time of contracted domestic demand, when both domestic shipments and imports from other investigated sources have fallen, imports from the United Kingdom have reached their highest absolute level and degree of penetration of the U.S. market. The increase was particularly strong in the last three quarters of 1981. Additionally, there are two confirmed reports of underselling by U.K. hot-rolled carbon steel bar, one of which was confirmed to have resulted in a sale lost to the domestic industry.

VIII. HOT-ROLLED ALLOY STEEL BAR

We determine that there is no reasonable indication that the domestic industry is being materially injured or threatened with material injury by reason of allegedly subsidized imports of hot-rolled alloy steel bar from France, Italy, the United Kingdom, or West Germany. 1/ 2/

Condition of the Domestic Industry

Some 34 firms produce hot-rolled alloy steel bars in the United States. However, 54 percent of U.S. shipments are manufactured by five large steel producers. 3/

Although the market for steel has been poor in the most recent three year period, the performance of the domestic steel bar industry has been relatively strong. Nine firms, accounting for approximately 62 percent of total U.S. producers' shipments, 4/ provided the Commission with profit-and-loss data. Net sales of hot-rolled alloy steel bar increased from $905 million in 1978 to slightly over $1 billion in 1981. 5/ Although operating profits and operating margins for the 9 firms fell from 1978-81, the 9 firms' aggregate operations on hot-rolled alloy steel bar remained profitable throughout the entire period. 6/ Operating profits for the nine firms fell from $105 million in

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1/ Investigations Nos. 701-TA-130 to 133 (Preliminary).
2/ In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.
3/ The five largest U.S. producers of hot-rolled alloy steel bars are Armco, Inc., Bethlehem Steel Corp., Republic Steel Corp., Timken Co., and U.S. Steel Corp.
4/ Report at VIII-14.
5/ Id.
6/ Operating losses were reported by one firm in both 1979 and 1981 and four firms in 1980.

1978 to $37 million in 1980, before recovering to $87 million in 1981. 7/ Operating margins followed the same pattern, declining from 14.6 percent in 1978 to 8.3 percent in 1980 before recovering to 11.8 percent in 1981. 8/

U.S. production of hot-rolled alloy steel bar declined from 1.8 million tons in 1978 to 1.2 million tons in 1980, but recovered to 1.4 million tons in 1981. Capacity declined by 11 percent from 1978 to 1981, from 2.4 million tons in 1978 to 2.2 million tons in 1981. Capacity utilization decreased from 73.5 percent in 1978 to a low of 53.1 in 1980, but recovered to 65.1 percent in 1981. 9/ In contrast, the value of U.S. producers' shipments rose yearly with the exception of 1981, showing an 11 percent increase in 1981 over the 1978 figure. The average unit value of shipments rose annually at a rate of 12 percent. U.S. producers' inventory levels remained relatively steady as a percentage of U.S. producers' shipments. Employment decreased at an annual rate of 6.6 percent during the period. However, total wages and compensation paid were greater in 1981 than in 1978. Labor productivity increased 3.1 percent from 1978 to 1981, despite an 8 percent decrease in 1980. Unit labor costs registered increases in both 1979 and 1980 before dropping slightly in 1981. Based on data supplied from 6 firms, aggregate capital expenditures rose substantially during the period.

Volume of Imports

Market penetration of imports of hot-rolled alloy steel bar from all countries fell from 6.5 percent in 1978 to 4.8 percent in 1979 before rising to 5.6 percent in 1980 and 6.2 percent in January-November 1981. Imports from

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7/ Report, Table VIII-9.
8/ Id.
9/ Id., Table VIII-3.

countries not subject to these investigations accounted for the majority of the import penetration figures in each of the periods under investigation.

The volume of imports from France, Italy, the United Kingdom, and West Germany increased substantially from 1980 to 1981. Imports from France rose from 5,954 tons to 40,669 tons; imports from Italy rose from 257 tons to 1,286 tons; imports from the United Kingdom rose from 395 tons to 5,197 tons; and imports from West Germany rose from 882 tons to 1722 tons. 10/ However, the increase in volume of imports in 1981 from the United Kingdom and West Germany represents only a partial recovery from the declines experienced in 1978 and 1979. The 1981 level of French imports, though higher than the three previous years, represents 1.7 percent of apparent U.S. consumption. Italian imports reached a period high in 1981 of one twenty-fifth of 1 percent of apparent U.S. consumption. 11/ Imports from the United Kingdom accounted for one-fifth of 1 percent of apparent U.S. consumption for January-November 1981. 12/ Imports from West Germany accounted for one-tenth of 1 percent of apparent U.S. consumption during the same time period 13/

Effect of Imports on Prices

The record developed to date reveals no correlation between U.S. producers' prices and imports of hot-rolled alloy steel bar from France, Italy, the United Kingdom, or West Germany. The U.S. producers' price index (based on list prices) for hot-rolled alloy steel bar increased 27.6 percent from 1978 to 1981. The major steel producers have announced five base price

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10/ Id., Table VIII-12.
11/ These calculations were taken from the data presented in the Report at Tables VIII-2 and VIII-12. According to Table VIII-2, apparent domestic consumption for January-September 1981 was 1,921,000 tons.
12/ Report, Table VIII-13.
13/ Id.

increases for hot-rolled alloy steel bar since January 1, 1979. Although the decline in profit margin that the domestic industry experienced from 1978 to 1980 indicates that its price increases were not commensurate with its increased costs, there is nothing in the record that indicates that imports from the four countries under investigation had any impact on domestic prices. Moreover, the domestic industry's profit margin made a substantial recovery in 1981.

None of the countries under investigation for this product is a price leader. Indeed, the market share of each of the four countries makes it difficult for them individually or collectively to have a significant impact on domestic pricing.

The percentage price increases by the foreign producers are either commensurate with or significantly greater than the increases in U.S. producers' prices and are all greater than the percentage increase in the trigger price. Thus, there is no indication of destructive price-cutting or other price suppressing behavior by producers from the four countries under investigation.

Of 11 allegations of lost sales 5 were verified. Of the verified allegations, only one involved a purchase made principally because of lower price. The most important factor for the other four lost sales was the greater availability of the imported product. This information does not adequately support a finding that there is a reasonable indication that the imports under investigation have had a negative impact on domestic prices.

Impact of Imports on the Domestic Industry

The record fails to support a finding that there is a reasonable indication that imports from France, Italy, the United Kingdom and West Germany had any correlation to the trends in the domestic industry. As with pricing, the level of imports from the four countries, separately or combined, strongly indicates that they could not have had a significant impact on the domestic industry. Moreover, while it is true that imports from France, Italy, the United Kingdom, and West Germany increased substantially in 1981, this factor is not considered alone in assessing the existence of injury to the domestic industry. During the 1978-80 period, imports from France, the United Kingdom and West Germany were steadily declining as were overall imports. At that time, while U.S. production and capacity utilization were down, the domestic industry remained profitable, but profits did decline. Since imports were declining, the decline in profitability appears to have little or no relationship to imports. In 1981, the year of the largest volume of imports, the domestic industry improved. Production and capacity utilization increased, and shipments continued to rise at an annual rate of 12 percent. Profits reached a level of 8.6 percent of net sales, nearly doubling the figure reported for 1980. Therefore, although imports increased in the final period under investigation, the domestic industry remained healthy, in fact, reporting significant increases in key economic areas. Thus, there is no reasonable indication that the subject imports from France, Italy, the United Kingdom, and West Germany have had any discernible negative impact on the domestic industry.

The rate of increase of imports from France, Italy, the United Kingdom, and West Germany poses no real and imminent threat of harm in the near

future. Imports from each of the four countries increased in 1981 over 1980. However, despite the increases, only one of the countries, France, reached an import penetration level of over 1 percent. Imports from the other three countries were all below 0.5 percent of apparent U.S. consumption in 1981. 14/ Indeed, during the period under investigation, imports from Italy, the United Kingdom, and West Germany were for the most part one-tenth of 1 percent or less of apparent U.S. consumption. Although imports from France were somewhat larger, import penetration was extremely low. Except for 1981, imports from France were substantially below one percent of apparent domestic consumption. 15/

The increase in imports to the United States in 1981 from the United Kingdom and West Germany did not even bring them back to their 1978 level. For Italy, the increase in U.S. exports in 1981 represented a period high. However, that high represents only one twenty-fifth of 1 percent of apparent U.S. consumption. France's imports in 1981, also a period high, were 1.7 percent of apparent U.S. consumption.

There is no indication in the record that a significant shift in imports to the United States from the four countries under investigation is likely. The United States is the main export market for the United Kingdom; whereas France, Italy, and West Germany export mainly within the EC. The trend in the EC in recent years has been to pare down steel production capacity. Furthermore, there is no available information on capacity or capacity

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14/ Id., Table VIII-13.

15/ Id. In 1978, imports from France accounted for 0.6 percent of apparent U.S. consumption; in 1979, 0.3 percent; and in 1980, 0.3 percent.

utilization for these four countries. Thus, based on the best available information at this time, we find no reasonable indication of threat of material injury.

IX. COLD-FORMED CARBON STEEL BAR

With regard to the six countervailing duty investigations involving cold-formed carbon steel bar, 1/ we determine that, with the exception of imports from the United Kingdom, there is no reasonable indication of material injury or the threat of material injury by reason of the allegedly subsidized imports. 2/

Condition of the Domestic Industry

Like other segments of the overall domestic steel industry involved in our investigations, the facilities manufacturing cold-formed carbon steel bar have been faced in the years 1980 and 1981 with demand that was substantially lower than in the previous two years. U.S. production of the product fell sharply from 1 million tons in 1979 to 738,000 tons in 1980. While production was up in 1981, the increase still left production levels far below the 1979 mark. 3/ Shipment data are similar, showing a 7 percent rise from 1978 to 1979, then a precipitous drop of almost one-third in 1980. Total domestic shipments then rebounded somewhat in 1981. 4/

Capacity to produce cold-formed carbon steel bar fluctuated throughout the period, reaching its highest level, 1.4 million tons, in 1981. Because of flagging production levels in 1980 and 1981, capacity utilization dropped sharply after 1979, falling to 56 percent in 1981. 5/ U.S. producers'

1/ Investigations Nos. 701-TA-134 to 139 (Preliminary).
2/ In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.
3/ Report, Table IX-4.
4/ Id. at IX-9 and IX-10.
5/ Id., Table IX-4.

inventories of the product remained fairly constant throughout the period at 10-12 percent of annual shipments. 6/

Fmployment trends followed the trends in production. The average number of workers engaged in producing the product increased 2 percent from 1978 to 1979, then fell 24 percent in 1980 and an additional 4 percent in 1981. Hours paid for workers engaged in producing cold-formed carbon steel bar declined 30 percent from 1979 to 1980 and a further 1 percent in 1981. Total wages and compensation in 1980 and 1981 were also well below 1979 levels. 7/

U.S. producers' profitability has suffered in the last two years as well. 8/ Operating profits were $16 million in 1978 and $19 million in 1979, or 4.1 percent of net sales in both years. However, losses of $7 million and $5 million were sustained in 1980 and 1981, respectively. These losses amounted to 1.9 percent and 1.2 percent of net sales.

Volume of Imports

Total imports from the six countries involved in these investigations declined steadily from 38,500 tons in 1978 to 21,700 tons in 1979 and 17,900 tons in 1980. They then increased greatly in 1981 to 41,000 tons, more than double the 1980 total. 9/ Data are unavailable regarding the productive capacity for those products of any of the countries under investigation.

Nearly all the total increase in 1981 over 1980 is accounted for by imports from the United Kingdom. Imports from the United Kingdom fell from

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6/ Id. at IX-12.
7/ Id. at IX-12 to IX-14.
8/ Profit-and-loss figures were submitted by four firms accounting for about 42 percent of U.S. shipments in 1980.
9/ Id., Tables IX-14 and IX-16.

28,700 tons in 1978 to 11,400 tons in 1979, and 7,400 tons in 1980. They subsequently jumped to 28,300 tons in the first eleven months of 1981, with an increase in the ratio of U.K. imports to domestic consumption from 0.6 percent in 1980 to 2.1 percent in January-November 1981. 10/ Imports from the United Kingdom were especially heavy in the latter part of 1981, reaching 10,400 tons in the third quarter, or 3 percent of U.S. consumption for the period. 11/

France provided the second highest volume of imports among the countries investigated. Imports of cold-formed carbon steel bar from France increased from 7,700 tons in 1978 to 8,700 tons in 1980. However, French imports then declined 12 percent to 7,000 tons in January-November 1981 compared to 8,000 tons in the corresponding period in 1980. Penetration of the U.S. market by French bar also fell during that period from 0.6 percent in January-November 1980 to 0.5 percent in January-November 1981. 12/

Belgian imports declined from 277 tons in 1978 to 120 tons in 1980. Belgian imports then increased to 352 tons in January-November 1981; however, during all periods investigated imports from Belgium accounted for less than .05 percent of apparent domestic consumption. 13/

Brazilian imports increased steadily from 328 tons in 1978 to 731 tons in the first eleven months of 1981. The ratio of imports from Brazil to total U.S. consumption was less than .05 percent in 1978 and 1979, and 0.1 percent in 1980 and 1981. 14/

10/ Id., Tables IX-14 and IX-15.
11/ Id., Tables IX-16 and IX-17.
12/ Id., Tables IX-14 and IX-15.
13/ Id. Although U.S. import statistics aggregate imports from Belgium and Luxembourg, a representative of the U.S. Department of Commerce has indicated that all imports of cold-formed carbon steel bar from the two countries in 1981 originated in Belgium. Id. at IX-22.
14/ Id., Tables IX-14 and IX-15.

Italian imports fell from 911 tons in 1978 to 477 tons in 1979, less than 0.5 ton in 1980, and 224 tons in the first eleven months of 1981. Market penetration levels were only 0.1 percent in 1978 and less than .05 percent in the later years. 15/

Imports from the Federal Republic of Germany declined from 579 tons in 1978 to 413 tons in 1979, then increased to 950 tons in 1980 and 1,280 tons in January-November 1981. The ratio of these imports to U.S. consumption was less than .05 percent in 1978 and 1979 and 0.1 percent in 1980 and 1981. 16/

Prices and Lost Sales

Purchasers' responses to the Commission's questionnaires yielded two instances of underselling by imported cold-formed carbon steel bar, both involving bar produced in the United Kingdom. The quarterly margins of underselling ranged from 3 to 9 percent. 17/

Of the 17 allegations of sales lost to imports by reason of underselling, only three were confirmed, two involving bar from the United Kingdom and one from Italy. In the case of the Italian imports the purchaser reported that both the lower price and a desire to maintain an alternate source for its materials motivated the purchase. 18/

Determinations

We find there is no reasonable indication that imports of cold-formed carbon steel bar from Belgium, Brazil, the Federal Republic of Germany,

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15/ Id.
16/ Id.
17/ Id. at IX-34.
18/ Id.

France, and Italy are contributing to material injury or threat of material injury to the affected U.S. industry. Import penetration by products from each of these countries has remained at minimal levels throughout the period covered by these investigations, and has been so small as to have little or no effect on the fortunes of the domestic industry. Moreover, only one instance was confirmed of a sale lost to imports from one of these countries, that being Italy, one of the least important of the source countries for imports of the product.

Imports from the United Kingdom, on the other hand, increased drastically in 1981 and achieved a level of penetration of the U.S. market that cannot be characterized as insignificant. In addition, there are indications that U.K. products substantially undersold U.S. products in 1981, and U.K. imports were found in two confirmed instances to have taken sales away from the domestic industry on the basis of price. Thus, we find it appropriate to continue the investigation of cold-formed carbon steel bar from the United Kingdom. 19/

19/ Chairman Alberger makes his finding on the basis of a reasonable indication of threat of material injury. He finds no reasonable indication of present material injury by reason of the subject imports.

X. COLD-FORMED ALLOY STEEL BAR

In the countervailing duty investigations on cold-formed alloy steel bar 1/ we determine that there is no reasonable indication of material injury or threat of material injury by reason of imports from Belgium, the Federal Republic of Germany, France, Italy, and the United Kingdom. 2/ 3/

Condition of the Domestic Industry

Despite decreases in production over the period investigated, the U.S. industry producing cold-formed alloy steel bar has performed well. Production declined irregularly from 1978 to 1981 from 147,000 tons to 122,000 tons, or by 17 percent. 4/ Data on domestic shipments show a trend comparable to production, with shipments increasing in 1981 over 1980 levels. 5/

Total domestic capacity for the production of cold-formed alloy steel bar rose slightly from 1978 to 1981, from 207,000 tons to 213,000 tons. Capacity utilization, however, fell from a high of 75.9 percent in 1979 to 55.5 percent and 57.3 percent in 1980 and 1981, respectively, as domestic production decreased. 6/ Yearend inventories held by the domestic industry remained relatively constant throughout the 1978-81 period. 7/

1/ Investigations Nos. 701-TA-140 to 144 (Preliminary).
2/ Commissioner Eckes found reasonable indication that imports from France and Italy are resulting in material injury or threat of such injury to the domestic industry. His views concerning those two cases begin on page 93.
3/ In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.
4/ Report, Table X-3.
5/ Id., Tables X-2 and X-4.
6/ Id., Table X-3.
7/ Id. at X-12 and X-13.

Total employment and employment of production and related workers in establishments producing cold-formed alloy steel bar increased from 1978 to 1979, then declined in 1980 and 1981. The number of hours worked by production and related workers engaged in making this product fell 27.1 percent between 1978 and 1981. Wages paid to these workers fell from 1979 to 1980 and increased in 1981 almost to the 1979 level. 8/

Even with declines in production and net sales, the industry remained profitable throughout the period studied. 9/ Net sales rose from $105 million in 1978 to $124 million in 1979, fell to $106 million in 1980, and then rose to $111 million in 1981. Total profits were $17 million in 1978, $15 million in 1979, and $11 million dollars in 1980 and 1981. These figures yielded returns of 16.2 percent of net sales in 1978, 12.1 percent in 1979, 10.4 percent in 1980, and 9.9 percent in 1981. 10/

Volume of Imports

Determination of the precise levels of total imports of cold-formed alloy steel bar and imports from France depends upon resolution of the question, discussed at pp. X-26 through X-32 of the report, whether imports from France are misclassified for tariff purposes, thereby skewing the statistics. There is information tending to show that the French imports are not competitive with domestically produced cold-formed alloy bar, but the information is not sufficient in this preliminary investigation to permit reaching a conclusion. However, resolution of the issue is not critical to our determination that there is not a reasonable indication that French imports are causing material

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8/ Id. at X-13 to X-15.

9/ Profit-and-loss data were received from three firms accounting for about 47 percent of total domestic shipments in 1980.

10/ Id. at X-17.

injury to the domestic industry, because our finding would be the same regardless of which set of figures is used. 11/ For purposes of the present discussion, the import data used in this section do not exclude the 80 percent of French imports claimed not to be competitive with domestic products. 12/

The aggregate number of imports from all the countries subject to these investigations has fluctuated yearly, with 24,800 tons in 1978, 30,300 tons in 1979, 14,000 tons in 1980, and 42,000 tons in 1981. Market penetration by imports from these countries grew from about 8 percent of apparent consumption in 1978 to about 16 percent of apparent consumption in 1981. 13/ Data are not available to show the capacity of any of the countries investigated to produce these products.

France is the principal foreign supplier of cold-formed alloy steel bar to the U.S. market. French imports increased from 18,400 tons in 1978 to 26,900 tons in 1979, then declined to 12,000 tons in 1980. They thereafter grew to 36,100 tons in 1981, accounting for almost all of the aggregate increase in imports recorded that year. French imports reached 4.9 percent of domestic consumption in 1980 and 13.8 percent in the first eleven months of 1981. 14/

11/ Commissioners Stern and Alberger note that CFAS presents a strong case that the impact of French cold-formed alloy bar should be measured against domestic hot-rolled alloy bar. Further work by Commission staff seems to support this claim. See Report at X-26 to X-31. However, the issue has been mooted because we have found no reasonable indication of injury to either of these product lines.

12/ Separate import volume data, based on differing assumptions regarding the nature of the French imports, are shown at pp. X-31 and X-32 of the Report.

13/ Id., Tables X-11, X-12, X-13, and X-14.

14/ Id., Tables X-13 and X-14.

Belgian imports fell from 735 tons in 1978 to 419 tons in 1979 and 6 tons in 1980. 15/ They subsequently increased to 1,032 tons in 1981. Even with the 1981 increase Belgian imports did not exceed 0.4 percent of apparent domestic consumption at any time during the four-year period investigated. 16/

Imports from the Federal Republic of Germany declined from 1,609 tons in 1978 to 265 tons in 1979 and 105 tons in 1980, then increased to 1,417 tons in the first eleven months of 1981. In no year did these imports account for more than 0.5 percent of total U.S. consumption. 17/

Imports from Italy increased from 787 tons in 1978 to 1,488 tons in 1979, 1,679 tons in 1980, and 2,723 tons in January-November 1981. This represents an increase from 0.2 percent of total domestic consumption in 1978 to 1 percent in the first 11 months of 1981. 18/

Imports from the United Kingdom declined from 3,245 tons in 1978 to 1,241 tons in 1979 and 310 tons in 1980, then rose to 626 tons in January-November 1981. Import penetration levels were 1 percent in 1978, 0.4 percent in 1979, 0.1 percent in 1980, and 0.2 percent in 1981. 19/

Prices and Lost Sales

No purchasers to whom the Commission sent questionnaires regarding cold-formed alloy steel bars provided information regarding prices of imported bars. Of the six allegations made by the petitioners of sales lost to imports because of underselling, two involving Italian imports were confirmed.

15/ Id. Import figures for Belgium include imports from Luxembourg. There were no imports from Luxembourg for this product line.
16/ Id., Tables X-13 and X-14.
17/ Id.
18/ Id.
19/ Id.

Determinations

On the basis of the information available in these preliminary investigations we determine that there is no reasonable indication that the domestic industry producing cold-formed alloy steel bars is suffering injury or is threatened with material injury by reason of imports. Although production, shipments and net sales are all down significantly from the peak years of 1978 and 1979, the industry has maintained a healthy profit picture throughout the four-year span investigated. In 1981 it posted operating profits of 9.9 percent measured against net sales. Although this is down from the 16.2 percent level reached in 1978, the major profit declines occurred from 1978 to 1980, the period when imports from Belgium, France, the United Kingdom and West Germany were also declining. Throughout the period of investigation, the domestic industry remained healthy, especially in face of the general economic situation. In every year between 1978 and 1981, the profit ratio in this product line significantly exceeded that for all manufacturing firms and manufacturers of durable goods. 20/ This information indicates no possibility of material injury to the domestic industry by reason of these imports.

20/ Report at I-40.

X. COLD-FORMED ALLOY STEEL BAR

VIEWS OF COMMISSIONER ALFRED ECKES

I disagree with the Commission majority on this important product line. In my view there is a reasonable indication that imports from France and Italy are causing material injury and threatening the domestic industry.

The majority underestimates present injury to the domestic industry and assigns disproportionate attention to the seemingly favorable 9.9 percent ratio of operating profit to net sales in 1981. From my vantage point a firm may be technically profitable but still be suffering injury. A broader focus on profit trends and other indicators suggests the cold-formed alloy steel bar industry is experiencing serious problems. For one thing, there has been a steady down trend in profits from 16.2 percent in 1978 to 9.9 percent in 1981--a 6.3 percentage point decline. 1/ Also, in 1981 U.S. production was nearly 17 percent below 1978 levels. Capacity utilization was almost 14 percentage points below 1978. 2/ Employment in the industry had fallen 24 percent in three years. 3/

Coincident with these indications of injury were increases in the import volume and market penetration ratio from all countries cited in the petition. However, because imports from Belgium, the United Kingdom, and West Germany entered at a very low volume level and, reportedly, did not account for lost sales, there is no reason to think they are injuring or threatening the domestic industry in a material way.

1/ Report at X-17.
2/ Id. at X-10.
3/ Id. at X-14.

The opposite is true for both France and Italy. Imports from France more than doubled in the January-November 1981 period as compared to the same period in 1980. The import penetration level rose dramatically from 5 to 13.8 percent in a single year. While the volume of imports from Italy was comparatively low, it increased 67 percent in January-November 1981 compared to the same period of 1980. In addition, the Commission staff confirmed two instances of sales lost to American producers because of lower-priced imports from Italy. These sales accounted for a substantial portion of Italy's export sales to this national market. 1/ In the cases involving Italian and French producers, the evidence warrants further investigation and provides ample justification for an affirmative vote at the preliminary stage.

One other matter warrants brief comment here. The major French producer of imports classified as cold-formed alloy bar claims that the appropriate like domestic product for the principal product it is exporting (rough-turned bar) is hot-rolled alloy bar. The company alleges that classification confusion has distorted the import data and resulted in an overly high import penetration ratio. 2/ However, in the 45 days allowed for a preliminary investigation, this claim could not be tested adequately. For this reason, the classification problem was not a factor in my decison on French imports.

1/ Report at X-23 to X-28 and X-38.
2/ Id. at X-26 to X-31.

ADDITIONAL VIEWS OF VICE CHAIRMAN MICHAEL J. CALHOUN

These additional views are intended as a supplement to the majority opinion which I have joined. While I am in agreement with much of what that opinion expresses, there are some areas in which I do not share, exactly, the views of my colleagues or in which I have additional thoughts. There are several matters encompassed in this supplement: First, I do not view our investigations to include imports from Spain and South Africa. Second, to the extent my votes in these investigations do not appear to be consistent with those in the 1980 steel investigations, 1/ there is a good basis for the changes. Finally, in reaching any decisions in these investigations, I have cumulated the impact of the imports under our review and I feel some need to explain my conceptual framework and methodology to augment the majority views by explaining how this methodology led to my specific industry determinations.

I. In general

A. Imports from Spain and South Africa

I understand that some of my colleagues included imports from Spain and South Africa in their assessment of the impact of the imports on the domestic industry. I do not consider the steel imports from these countries to be before us in this investigation. It seems to me that the

1/ Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Investigation No. 731-TA-18/24 (Preliminary), USITC Pub. 1064, May 1980.

inclusion of material injury investigations of imports for which no injury test is required is troublesome as a matter of law and policy for two reasons: First, by the plain terms of Title VII of the Trade Agreements Act of 1979, our assessment of the impact of imports is to be made only with regard to those imports entitled to an injury test. For this reason, imports from countries not entitled to an injury test, though properly in the Commerce Department's investigation simply, as a matter of law, cannot be before us for purposes of determining a causal nexus to material injury. Second, to include non-injury test imports with injury test imports in our assessment of the impact of imports skews the data base on which we rely to reach a conclusion as to the critical causal nexus between the imports and material injury. In some cases, for instance, where the presence of non-injury test imports in the marketplace is strong and injury test imports is weak, their inclusion can operate to dilute the rightful protection afforded by the injury test to which beneficiary countries are entitled. Such a result is bad policy if not unlawful.

B. Departure from my position in the 1980 steel investigations

My determinations in these investigations relied, in many instances, on rather close examination of preliminary data and, based on this preliminary data, on equally fine differentiation by product and by country. In contrast, my determination in the 1980 steel investigation resisted such refined analysis based upon information collected during a 45-day investigation and relied, instead, upon uniform aggregation of all imports from all of the countries before us.

While the difference between these two approaches to complex preliminary investigations may seem without great significance, for me the difference is rather important. The latter approach implies that in 45-days, collected data cannot be sufficiently detailed or reliable to support fine distinctions on such questions as like product, product line assessment, and material injury the resolution of which can result in the early foreclosure of remedy to a domestic industry. The implication in this approach is strong that, in the absence of compelling information to the contrary, preliminary cases ought not to be resolved based on an especially detailed analysis. Rather, they should be decided broadly and in favor of the petitioner when available information supports its allegations in the petition. The former approach, however, implies that such detailed analysis is not precluded even in a close case simply because the case is preliminary. Under this approach, preliminary cases impose an equal obligation on us to be as analytical and discerning as the best information available permits.

The reason for my shift from the one approach to the other in this investigation is rather simple. The Court of International Trade seems to have endorsed the stricter approach to analysis in preliminary cases. In our preliminary investigation in Steel Pipes and Tubes, 1/ I employed the same approach I used in the 1980 steel cases, relying heavily on the fact that the shortness of the period for data collecting in a complex preliminary case limited the data available for assessing import impact and for making reliable product line differentiations. As a result, I employed a more general analysis to reach an affirmative result. The Court of International Trade, however, in reviewing the Commission's

1/ Pipes and Tubes of Iron and Steel from Japan, Inv. No. 731-TA-15 (Preliminary), USITC Pub. 1058, April 1980.

decision in that investigation went to some length in discussing the scope of data we should have considered and in applying the details of product line differentiation provided for under section 771(4)(D). 1/ With some reluctance, I have taken the Court's discussion to suggest strongly that it expects the provisions of Title VII to be applied as thoroughly in preliminary cases as in final cases. Furthermore, in its views the Commission has an obligation not only to solicit a full range of information in preliminary cases but, also, to fully apply facts to law in order to reach a determination. Based on such a view of my responsibility, I have, in these investigations of steel products, departed from some aspects of the methodology I employed in our prior steel investigation and have adopted the thrust of the Court's view of proper preliminary case analysis.

II. Cumulation

Although I concur with many of the conclusions and much of the reasoning of Chairman Alberger, Commissioner Stern and Commissioner Eckes, I differ with them in one important respect of how I arrived at my conclusions. To the extent consistent with the best information available in each of the nine industries, my analytical methodology relied upon the aggregation of the impact of imports from the various importing countries under investigation. It is my impression that my colleagues have not necessarily used this approach. 2/ I believe, therefore, each instance in which we have varied is largely the result of this difference.

1/ See, Steel Wire Nails from Korea, Japan and Yugoslavia, Inv. No. 731-TA-45 (Preliminary), USITC Pub. No. 1175, Aug. 1981.

2/ I say this is my impression because while my colleagues maintain they have made their decision on a "case-by-case" basis they, nevertheless, observe that "the imports in those investigations [they] voted to terminate could not conceivably have contributed to material injury." If they are deciding case-by-case as they claim, then the appropriate test is whether 98 information reasonably indicates that imports are a direct cause of material injury. On the other hand, contributing to material injury is a consideration only where cumulation is the methodology employed to assess the impact of imports.

My aggregation of the imports in each industry is based upon my view that the plain thrust of our responsibility under Title VII of the Trade Agreements Act of 1979 is to determine the nature of the impact on the domestic industry of the imports under investigation. Thus, for the most part, the nationality of the imports under investigation is a matter of relative insignificance in measuring impact. The gist of our concern is to make the most realistic and accurate evaluation of the influence in the market of all of the imports under investigation. In this regard, section 771(7) enumerates the factors which we are to consider in reaching our conclusion and makes no suggestion that our analysis should be on a basis of national origin. The factors enumerated by this section are volume of imports, effect of imports on prices, and the impact of these imports on the affected industry. In assessing the overall impact on the affected industry we are to "evaluate all relevant economic factors which have a bearing on the state of the industry...."

Commission practice under Title VII and, indeed, my voting record have not often relied on the aggregation of import data in making our statutory determination. In my view, there has been a rather simple reason for this. Under section 771(7)(C)(iii) the statute leaves for our judgment what the significant factors are which have a bearing on the state of the industry, thus affording us the discretion, inter alia, to find aggregated behavior or individual behavior as the more relevant to a particular factual situation. But, the statute requires us to establish, as well, a direct causal nexus between the imported merchandise under investigation and material injury to the domestic industry. The problem posed by aggregation is that there is the inherent risk that imports from

a particular country (or company as the case may be) which have no causal nexus to material injury may be inadvertently included in the aggregate. Such a result would seem to me to be a misapplication of our authority. Thus, in most prior cases whenever possible I have assessed import impact on a country by country basis to assure that each such category of imports has plainly met the causality requirements expressed and implied under Title VII.

In these investigations, however, I have departed from my usual practice because of what strikes me to be rather unusual circumstances. In evaluating all the relevant economic factors before us thus far, my view is that it is through their aggregated rather than individualized presence in the U.S. marketplace that the imports before us have their significant impact. This is true since the market for each of the nine product categories before us is characterized by relatively low levels of penetration by the allegedly offending imports. For example, the highest market penetration level by any single country is 13.8 percent of domestic consumption held by France in cold alloy bar, followed by 6.7 percent for Belgium in structural shapes. The highest aggregate market penetration is 16 percent by five countries importing cold rolled alloy bar. This was followed by 14 percent by nine countries importing plate. More typical of the penetration levels in these investigations, however, is the 1.9 percent held by West German imports of structural shapes and the 8.1 percent aggregate held by the seven importers of hot-rolled carbon steel sheet and strip. Such uniformly low individual penetration levels strongly suggest that collective impact is being felt by the domestic producers.

Second, in most instances, the domestic industry enjoys a rather significant dominance over the marketplace. In hot alloy bar, for example, domestic producers have their highest market share of all nine industries at 93.8 percent. In carbon steel structural shapes domestic producers have 66.2 percent of the domestic market which is their lowest penetration. In the remaining seven industries domestic producers tend to have about 90 percent of the market. Where a domestic industry characteristically holds high levels of market share absent special market circumstances, the likelihood of imports causing material injury is certainly less than where domestic market share is low. Thus, the combination of low individual market shares coupled with high levels of domestic producer shares strongly demonstrates to me that whatever impact is taking place in the market must be the result of the cumulative presence of the allegedly offending imports.

But, I wish to make clear that, in general, market share analysis is not the sole basis for my aggregating in these investigations. Historically, the Commission has looked to a number of factors in deciding if it were appropriate to aggregate the impact of imports from various sources. These factors include whether the imports are comparable to the domestic like product and compete in the same markets, as well as whether the factors and conditions of trade show the relevance of such cumulative consideration to the determination of injury. 1/ Related to this latter

1/ See, Steel Wire Nails from Korea, Japan and Yugoslavia, Inv. No. 731-TA-45 (Preliminary), USTIC Pub. No. 1175, Aug. 1981, p. 8, fn. 21.

factor is the fungibility of the subject imports with the domestic products, the extent of competition in the marketplace between imports and the domestic product for the same end users, common channels of distribution, pricing similarity and simultaneous impact.

From this array of factors, what seems to underly the Commission's exercise of its discretion to aggregate is the essential concern that the imports under investigation operate in the marketplace to create a collective "hammering" effect on the domestic industry. Examination of these factors in the context of these preliminary investigations well satisfies this concern. In each of the industries we have found the imported article is readily commercially interchangeable with the domestic product. 1/ Evidence of lost sales gives sufficient indication that there is keen competition between imports and domestic products on a product specific basis. Pricing data thus far collected make it clear that imports and corresponding domestic products interact very closely. Furthermore, while imports tend to be distributed through steel service centers and domestic products largely, but by no means exclusively, rely upon direct sales, corresponding imports and domestic products are directed at the same class of users and are marketed for the same end uses. As well, my analysis is largely based on behavior in 1980-1981 and, so far as our information indicates, all of the imports in question have had consistent presence and impact during this period.

1/ As noted in the majority opinion, some importers have alleged that their products were qualitatively distinguishable from domestic products or were highly specialized and, thus, not actually competitive with domestic products. While these allegations may well prove to be true in a final investigation, there simply was insufficient data available in our 45-day investigation for me to base a concurring decision.

For me, at this point in our investigation, the various factors underlying a sound decision to aggregate firmly encourages aggregation. In addition, the limited market penetration of the imports before us coupled with the strong market share held by domestic producers indicates to me that it is the collective impact of the imports that is the basis of a reasonable indication of material injury rather than the limited individual presence of imports on a national basis.

Deciding these investigations by aggregation has resulted in six instances in which I have varied from the majority. In each of these instances I have found in the affirmative where the majority found in the negative with regard to a particular country's imports. But it is worth noting that in each of these instances there was a majority affirmative finding regarding material injury to the domestic industry. Although each of these instances is addressed separately below, the same basic rationale applies to each of them: Where the market penetration of the imports under investigation is low and the distribution of the individual national shares of that penetration is narrow, absent information regarding specific behavior of the imports in the market, it is difficult for me to find in the negative with respect to the imports of a particular country. To find in the negative simply because the penetration level of its exports to the United States is below an arbitrary level is mechanistic, if not arbitrary.

For me an essential test in deciding which countries to aggregate has to be whether imports from a particular country can be found to be contributing to the collective adverse impact. 1/ The nature of

1/ See, Steel Wire Nails from Korea, Japan and Yugoslavia, Inv. No. 731-TA-45.

the factors relevant to such a judgment vary with each product so that a penetration level considered too low to be contributory regarding one product may be sufficient to be contributory regarding another. For these reasons, comparing the market penetration levels of the individual imports I have included in my aggregation with those I have not will not reveal a common trigger point.

As a final matter, I would like to make clear that the discussion below of individual industries is supplemental to the majority opinion of which I am a part. Thus, such matters as pricing, lost sales, etc. are not addressed here because they are adequately addressed in the majority opinion. These matters were an important part of my aggregation decision.

Hot Carbon Steel Plate

In agreeing with the majority that imports from France, Italy, Luxembourg and the Netherlands provide no basis for concluding reasonable indication of material injury or threat, I would add the following: The aggregate market share of all nine importers under our scrutity for the period January to November of 1981 was 14 percent, an increase from 10.3 percent in 1980. The distribution of the individual market shares in January-November 1981 by nationality ranged from about 4.1 percent for Belgium and Brazil to a negligible amount from Luxembourg. Thus, in my view, in the absence of information on some special market behavior, the .2 percent market share held by France, the .2 percent share by Italy, the .1 percent by the Netherlands and the negligible share held by Luxembourg cannot be seen individually or cumulatively as contributing to the aggregate adverse impact on the domestic producers. Of the total 14 percent, these imports amounted to .5 percent.

While the UK's imports were only at .5 percent market share, this did represent a jump from the .1 percent share for 1980. On final it will be a matter of interest to me to discover whether this increase portends a trend of increasing imports or is simply a function of modest increases from a small base resulting in a large percentage change.

Hot-Rolled Carbon Steel Sheet and Strip

In addition to the views expressed by the majority, for purposes of my aggregation the cumulative adverse impact of the imports of the five countries receiving an affirmative vote is not advanced by the imports from Brazil, Luxembourg and the United Kingdom. In total, the imports under investigation accounted for about 8.1 percent of domestic consumption in the first 11 months of 1981. This was a slight increase over the 7.5 percent for the same period in 1980. Of this rather small collective market share, Brazil's imports accounted for only 0.3 percent in the 1981 period which represents a decline over the level of the past two years. Luxembourg's presence is again miniscule and the United Kingdom's share is, likewise, negligible down from a negligible level in 1980. In all, the imports from these countries displayed no behavior which reasonably could be construed as contributing to the indication of material injury or threat posed by the imports of the remaining five countries.

Cold-Rolled Carbon Steel Sheet and Strip

Again, I embrace the views of the majority with one exception and with additional views regarding aggregation. In finding in the negative with respect to Brazil, Luxembourg and the United Kingdom, I find that the market share held by these countries is so low as to be without contributory impact. Even though the whole of the imports of the eight

importing countries amounted to 5 percent in January-November 1981, imports from Brazil, Luxembourg and the United Kingdom only accounted for less than .2 percent. We have no information on market factors which demonstrates how such a small presence could contribute to material injury. Even though the industry is operating in the red, its circumstance has been improving during a period of rather flat import levels.

I do feel, however, that the .3 percent market share held by Belgium, in light of the very low aggregate share, had a reasonable indication of contributory harm to the adverse impact (or threat thereof) of the aggregate. It is worth noting that while imports from Belgium for the first 11 months of 1980 accounted for less than .4 percent of the domestic market, their whole share for 1980 was .7 percent, exceeding that for 1979. Thus, in the one month period of December of 1980 Belgian imports were substantial. We have not yet received complete consumption data for December of 1981. In view of the fact that the total of import penetration before us is less than five percent, a large December surge similar to the one last December would be significant.

Galvanized Carbon Steel Sheet

I have nothing to add to the joint opinion of the Chairman, Commissioner Stern and mine, except that even considering the aggregate penetration of 3.7 percent, I cannot find the requisite relationship between imports from these seven countries and material injury to the domestic producers.

Carbon Structural Shapes

In addition to the views expressed in the majority opinion, in my analysis the .2 percent market share by Brazil, absent information of special behavior by these imports, does not seem capable of contributing

to the aggregate impact of imports holding over 12 percent of the market. Indeed, the distribution of the individual market shares well supports this view. Of the remaining five importing countries, Belgium/Luxembourg have the highest share at 6.7 percent and France the lowest at .9 percent.

Hot Rolled Carbon Bar

I have included West Germany, Belgium, Brazil, and Luxembourg in my aggregate affirmative determination because of what strikes me as the peculiar circumstances of this particular industry. First, the imports from the seven countries before us have only a 3.3 percent share of the domestic market in January-November 1981, a share I find to be very low. What is more, the distribution of individual market share is greatly fragmented. After the United Kingdom's 2.4 percent share, the next largest share is held by West Germany at .3 percent. Thus, Germany's share, together with Belgium/Luxembourg's .3 percent share and Brazil's .2 percent share, while ridiculously low, is, in the context of an already very small aggregate market share, a relatively significant amount of imports for which to say there is no contribution to the overall indication of adverse impact.

Plainly, the coincidence of the industry's move from operating in the black to operating in the red in the same period that the United Kingdom's market share went from 1.4 percent (1979) to 2.4 percent (January-November 1981) cannot be ignored especially when domestic consumption dropped by about 30 percent (1979 to 1981). Indeed, it strongly suggests a direct causal relationship. But this significant change in profitability also

demonstrates the considerable importance to this industry of incremental market share. If a .9 percent shift in market penetration in a time of low consumption can have this impact on profitability then, to me, a .9 percent market share (the share held by West Germany, France, Brazil, Belgium, and Luxembourg) cannot be found to be completely without contributory importance.

I have found in the negative with regard to France because its market share is without significance even among these very low import levels.

Hot Rolled Alloy Bar

The aggregation of imports in this industry is even more acute than that in the hot carbon bar industry. There are imports from four countries, but these imports account for a total of only 2 percent of the domestic market. The distribution of the individual shares is, therefore, limited. The largest single share of 1.7 percent is held by France. The United Kingdom and West Germany hold .2 percent and .1 percent, respectively. Thus, absent particular data on market behavior, to me any potential for import impact must be on a collective basis. But even on an aggregated basis, I concur with the majority's assessment that the requisite impact simply cannot be established.

Cold-Formed Carbon Bar

Again, the aggregation of imports from the countries before us, in principle, seems to me to be compelled here. In total, the six countries only account for 2.8 percent of the market. The largest share of 2.1 percent is held by the United Kingdom and the reasonable indication of

injury I have found is related to the relatively large increase in the UK's imports over the period 1980 to January-November 1981, from .6 percent to 2.1 percent. While domestic sales, consumption, and prices increased net operating profit which has been in the red did not seem to improve proportionately. This coincidence of import rise with uncharacteristically sluggish improvement by the domestic industry provides an important basis for a preliminary affirmative.

My inclusion of imports from France with those from the UK is admittedly tenuous. However, as in hot rolled carbon bar, it is my view that a reasonable argument can be made that given the poor state of the industry with its weak recovery in the face of encouraging improvement in leading indicators, incremental market share may be rather significant. Thus, I have aggregated France's .5 percent market share in January-November 1981 so that my finding of reasonable indication is with regard to 2.6 percent of the 2.8 percent market share under our consideration.

The remaining .2 percent market share I find too small to be contributory to the impact of the aggregate. While in hot rolled carbon bar I did include market shares that were smaller than .2 percent there are several differences between this industry and the hot rolled carbon bar industry. In hot rolled carbon bar, the industry's profit picture was in significant decline in parallel to proportionately significant increases in import penetration, the great bulk of which were increases in the imports under investigation. In this industry, the rate of improvement in the

industry's health seems to be retarded by an inrease in imports only a small part of which is attritutable to the imports under review. The indication of some improvement by a troubled industry is more illusive than the plain decline experienced by the hot rolled carbon industry and makes me question the level of the impact on imports from four countries which amount to a total of only .2 percent of domestic consumption.

Cold-Formed Alloy Bar

Joining the views of the majority, I note that in aggregating the whole of imports under review here the increase in market share from 5.7 percent to 16.0 percent over the 1980-1981 period seems little related to the industry's stable profit experience over that period. Indeed, in 1979 when profits were higher than 1980, aggregate import penetration was also higher than in 1980. I found no information regarding market behavior, i.e., pricing, lost sales, nor the argument regarding French alloy bar imports to present a sufficiently strong basis to offset the evidence of their being no significant relationship between imports and profits.

ADDITIONAL VIEWS OF COMMISSIONER PAULA STERN

Introduction

If we are to avoid becoming lost in the intricate maze of these 92 cases, an overview is both necessary and desirable. My remarks cover three areas: (1) the relation between the performance of the industry and that of each product category we considered; (2) a highlight of the problems the steel industry is facing; and (3) a discussion of the additional information that at this time appears to be needed if any of the 38 affirmative preliminary cases returns for a final determination.

The general perception of the U.S. steel industry is that it is suffering -- suffering from years of neglect, suffering from the current recession, suffering from the successful inroads of imports into once secure markets.

All these factors have had bearing on the cases before the Commission today. But, unlike the automobile import relief case of December 1980, 1/ the issue before the Commission here is not whether imports as a whole are a substantial cause of the industry's problems. Rather, we must decide whether there is a preliminary indication that specific imports have caused material injury while allegedly benefitting from foreign subsidies and/or dumping in their competition with like domestic products. These more narrow findings are best made with the larger picture in mind.

1/ Certain Motor Vehicles . . ., Inv. No. TA-201-44, USITC Pub. No. 1110, December 1980.

Overall Industry Performance

Certain overall industry data serve as vital background. As noted in my "Statement of Reasons" in Certain Carbon Steel Products (May 1980):

> . . . aggregate capacity utilization and profit data for the raw steel melting facilities common to all lines are crucial to understanding industry performance in the individual product lines and thus, to determinations made on the best information available.

Capacity utilization in raw steel is particularly significant since it measures the common constraint on full simultaneous utilization of all milling operations. There is usually planned excess capacity in the milling operations of the individual product categories to allow continuous adjustment of the product mix to maximize aggregate profits on all lines.

Capacity utilization in U.S. raw steel production fell from 87 percent in 1978 to 73 percent in 1980. 2/ For all of 1981, this figure was 78 percent; however, it rapidly declined during the last half of 1981. The May 1980 investigations were conducted when raw steel capacity utilization had just peaked at 88 percent (1979). At that time I concluded that:

> . . . with raw steel operating at what amounts to almost full capacity, it does not appear that the solution to these problems can be found in selling more steel. Rather, the problems of all product lines and the larger industry appear to lie in the price at which the steel is sold and the costs at which it is made, not the quantity produced. 3/

2/ Report at I-21.

3/ See Certain Carbon Steel Products . . . (May 1980), "Statement of Reasons of Commissioner Paula Stern," at 39-71.

Clearly, the situation has changed: the U.S. industry now has a significant overall volume problem.

In an industry with high fixed costs, one should expect reduced levels of production to have a rather dramatic impact on profits. For 17 steel producers accounting for 82 percent of U.S. production in 1980, overall operating profits on steel operations as a ratio of net sales fell from 5.0 percent in 1978 to 2.0 percent in 1980. 4/ Clearly, the overall data neither suggest that the industry as a whole is healthy, nor that it is any longer operating at full capacity.

Because the determinations are made on a product category basis, 5/ the health of each category must also be assessed. This has been done

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4/ Report at I-35.

5/ It is important to note that although the condition of the individual industries cannot be fully understood without reference to data for the overall steel industry, each of the nine product categories is in itself a relatively large aggregate. The Commission is charged with the responsibility to assess the impact of subject imports on the domestic production of a like product, available data permitting. Combining all nine categories -- plus perhaps others not included in these investigations -- into a single industry producing all steel would violate the clear meaning of the statutory language of section 771(4)(A) and (D). To do so would fly in the face of consistent Commission practice in all previous steel cases and blunt beyond recognition the meaning of "like product."

There is no substitute for a careful, discriminating approach which makes use of the best available information on the individual product lines as well as the overall industry of which they are components.

in the preceding views where I joined the majority of the Commission. There are no reliable indications of bottlenecks in any of the nine categories. Raw steel and the nine product categories are all operating well below full capacity. Thus, there remains room for expanded production in each of the nine. Nonetheless, in both hot-rolled and cold-formed alloy steel bars, the healthy profits noted in the majority views eliminate any possibility of injury by reason of allegedly subsidized imports to those two categories.

Problems of the U.S. Steel Industry

The legislative history of the Act specifically instructs the Commission to take into account causes of injury, other than the subject imports 6/, without weighing those other causes against those of the

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6/ Committee on Ways and Means, U.S. House of Representatives, Trade Agreements Act of 1979, H.R. 96-317, 96th Cong., 1st Sess. (1979) at 47:

> Of course, in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors.
>
> However, the petitioner will not be required to bear the burden of proving the negative, that is, that material injury is not caused by such other factors, nor will the ITC be required to make any precise, mathematical calculations as to the harm associated with respect to such factors. In short, the Committee does not view overall injury caused by unfair competition, such as dumping, to require as strong a causation link to unfairly competitive imports as would be required for determining the existence of injury under fair trade conditions.

allegedly subsidized or LTFV imports. These factors include wages, investment, the trigger price mechanism, other foreign competitors not the subject of these investigations, and the effects of the recent general economic situation in the United States. Many of these factors have helped keep the costs of the steel industry from falling to a point at which adequate profits might be earned even at the prices prevailing in the subject product categories.

Wages -- Partly as a result of a very effective cost-of-living adjustment negotiated by the United Steel Workers of America and the unexpected increase in the rate of inflation during the last decade, there has been an accelerating growth of wages at a rate far higher than in general manufacturing. In 1977 steel wages stood at 153 percent of those in general manufacturing. By 1980 this number had grown to 175 percent. The wages of foreign steel workers seem to have remained considerably below those of their U.S. counterparts. For example, in 1980 the French average hourly compensation in steel was less than 60 percent of that in the United States.

Investment -- There has been much discussion about the level of investment undertaken by this industry. There are indications that for at least a decade investment levels have been inadequate to keep the U.S. industrial plant modern. Testimony in the January 1982 cases pointed to a capital replacement cycle moving toward fifty years compared to a desirable one of fourteen years. 7/ The industry's gains from its most

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7/ Hot-Rolled Carbon Steel Sheet from France (January 1982), "Views of Commissioner Paula Stern," at 21.

recent upswing -- which is now ended -- will not be sufficient to sustain a rate of investment adequate to improve significantly this situation.

Furthermore, large portions of the total investment that had been undertaken have gone to satisfying stricter mandatory standards for environmental and safety protection. 8/ Further investment funds have gone into diversification beyond the traditional bounds of the steel industry. 9/ While these investments may be socially desirable or economically sound, they have not added in the short run to productivity in the steel industry. All these investment factors may also help explain in part why productivity gains of U.S. steel workers have not kept pace with the growth of their wages.

The TPM and International Competition -- Further compounding these considerations has been the role of the trigger-price-mechanism (TPM). Implemented in June 1978, the TPM was intended to substitute for individual antidumping or countervailing duty petitions by the domestic steel industry. The TPM base price for a steel product was calculated each quarter based on constructed costs in Japan, a producer generally regarded as one of the world's most efficient. Any repeated or substantial

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8/ Mandated costs for pollution control and worker safety have been estimated at about $365 million per year during the 1970s, or about 17 percent of the total annual capital available for investment generated by the U.S. steel industry.

9/ An important question lies beneath diversification of investments: why has investment in traditional steel making activities been so relatively undesirable for U.S. firms?

imports below applicable trigger prices could "trigger" an expedited investigation. Clearly trigger prices were not identical to a price floor for imports, but they do seem to have had similar effects. The entire TPM program was suspended in March 1980 when United States Steel Corporation filed antidumping petitions which were preliminarily decided in May 1980 at the Commission. The TPM program was reinstated in October 1980 when negotiations resulted in withdrawal of those cases which might have otherwise returned for final determinations. However, the entire system was scrapped in January 1982 when the petitions were filed which resulted in the present cases. Thus, the TPM was in effect for much of the period of these investigations and was a definite factor in the marketing decisions of all participants, domestic and foreign. It is unclear at this point how this factor affected competition in the U.S. market.

Since the TPM represents the production plus transportation costs of the world's supposedly most efficient (on average) steelmaker producing at 85 percent capacity utilization, it may have been an invitation for less efficient producers to market at prices at or around the minimum established by the TPM. The publishing and disseminating of TPM prices may have brought an orderliness to the import share of the U.S. market which continues to make that market attractive for foreign producers.

The general appreciation of the U.S. dollar brought on by high interest rates has had a perverse effect on attempts through the TPM to

regulate imports of steel products. From January-March 1980 to October-December 1981 the dollar rose, in most cases substantially, against almost all of the currencies of the countries whose steel exports are the subject of these investigations. (The exception is Romania, whose currency is not convertible.) 10/ However, in the same time period, the U.S. dollar actually depreciated against the Japanese yen by 8.5 percent. Since the TPM was based on estimates of Japanese costs of production, the mechanism may have had the contrary effect of attracting European and Brazilian exports to the U.S. market, because these foreign producers can sell at or near the TPM and realize higher prices in their home currencies for their goods than they might have attained in an unregulated market. Therefore, the TPM may have had the effect of making the U.S. market an attractive option for sales from even the more inefficient foreign producers.

All the above considerations do not settle the causality issue because without adequate comparable data for all significant foreign suppliers, I have been unable to dismiss the possibility that some other foreign producer stands to gain if the subject imports are reduced. The allegedly subsidized and LTFV imports may be hurting other foreign suppliers rather than domestic producers.

General Economic Conditions -- Perhaps the most important short-range, but hopefully short-lived, problem facing the U.S. steel industry is

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10/ Report at I-46.

the sharp drop in demand for its products caused by the continued slump in two major steel end-markets, the automobile and construction industries. These declines in demand are compounded by structural changes within these end-markets, such as the downsizing of automobiles and the use of lighter weight materials in their construction.

Structural changes are also occurring in the U.S. economy which have brought the U.S. steel industry problems in the short run. Chief among these is the shift in economic activity from the Northeast and Midwest sections of the country to the Gulf Coast and West. Because the U.S. steel industry is primarily located in the "steel belt" of the Northeast, it faces disproportionately high transport costs to the West and Gulf Coasts, where the growth in steel consumption is taking place. These costs diminish the relative competitiveness of U.S. steel.

Finally, the continuing high interest rates which have been prevalent in the U.S. economy for the last several years have discouraged debt financing of investment projects, made U.S. exports less competitive (through the appreciation of the dollar), and depressed end-markets for steel. They are an undeniable part of this industry's problems.

Data Problems

All my determinations have been made on the best available information. In general, quarterly data are more volatile than yearly data; they have only been consulted in marginal cases when some additional guidance on the question of threat was desirable. The data gathered on lost sales,

pricing, and the capacity and plans of foreign producers are incomplete. In general, the subject imports seem to undersell their domestic counterparts, though by margins that have probably narrowed during the last three years. To establish firmly any causal links between material injury or threatened material injury to the domestic industries, significantly more information on all these factors will be necessary.

VIEWS OF COMMISSIONER EUGENE J. FRANK

I. Overview

First, I would like to note that the statute and legislative history in title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low-threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could possibly be suffering material injury, threat thereof, or material retardation. 1/

The 45-day preliminary injury determination compressed time period was, in my view, intended by Congress to screen those petitions where it was readily apparent, albeit based on a necessarily incomplete record, that there was no indication of possibly establishing injury even with adequate time, a thorough and fully developed investigation and record, and comprehensive hearing before the Commission. As Chairman Alberger stated in testimony on November 12, 1981, before the House Ways and Means Trade Subcommittee:

> The 'reasonable indication of material injury' standard is low enough that it does not force domestic industries to present more than a prima facie case before there is a full adjudication.

Such a standard applies equally to antidumping and countervailing duty investigations inasmuch as the statutory language is the same and given the intent of Congress for subsidy cases to follow the general practices of the ITC under the antidumping law.

1/ H.R. Report No. 96-317, 96th Cong., 1st Sess., p. 52 (1979).

Of course, it is important to keep in mind that the Tariff Act of 1930 and its legislative history are quite clear that the "material injury" to be ascertained in these investigations is defined to mean harm which is "not inconsequential, immaterial, or unimportant".1/ Section 771(7)(B) of the Act provides factors the Commission shall consider, among other factors:

> (i) the volume of imports of the merchandise which is the subject of the investigation,
>
> (ii) the effect of imports of that merchandise on prices in the United States for like products, and
>
> (iii) the impact of imports of such merchandise on domestic producers of like products. 2/

Within the context of evaluating the volume of imports of the merchandise which is subject to the investigation and its effect on prices, in assessing impact in the affected industry, the language of the statute makes it clear that economic factors cited therein are not all-inclusive to wit: ". . .the Commission should evaluate all relevant economic factors which have a bearing on the state of the industry, including but not limited to-. . ." 3/ Legislative history on this point is also quite clear:

> In determining whether an industry is materially injured, as that phrase is used in the bill, the ITC will consider, to the extent permitted by information submitted to it in a timely manner, the factors set forth in section 771(7)(C) and (D) together with any other factors it deems relevant. 4/

There is also recognition in the Statute and legislative history that discretion necessarily must be given to the Commission to determine the significance to be assigned to a particular factor within the framework of other facts of each specific case.

1/ Report on H.R. 4537 of the Senate Committee on Finance, p. 88.
2/ 19 U.S.C. § 1677 (7)(B).
3/ 19 U.S.C. § 1677 (7)(C).
4/ Report on H.R. 4537 of the Senate Committee on Finance, p. 88.

> Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC to decide. 1/
>
> It is expected that in its investigation the Commission will continue to focus on the conditions of trade, competition, and development regarding the industry concerned. 2/

A word on the issue of causation is pertinent, because I feel there is some misunderstanding about just what is required by law in this crucial area in these preliminary investigations. The causation element is that material injury must be "by reason of" the subsidized or less-than-fair-value imports: the linkage language "by reason of" directing an examination of the effects of such imports on the domestic industry. Legislative history makes it clear that Congress did not intend for the Commission in examining whether a causal link exists, to weigh injury which might be incurred from such imports against other factors which may be contributing to overall injury to an industry, although it should take into account evidence alleging such harm which was attributed to such imports was attributable to other factors. Moreover, the petitioner is not required to "bear the burden of proving the negative" that material injury is in fact not caused by such other factors. Further, the Commission is not required to make any precise mathematical calculations with respect to the harm associated by other factors. 3/ Finally to quote directly from the House Report:

> In short, the Committee does not view overall injury caused by unfair competition, such as dumping, to require as strong a causation link to unfairly competitive imports as would be required for determining the existence of injury under fair trade conditions. 4/

1/ Id., and 19 U.S.C. § 1677(7)(E).
2/ Senate report, p. 88.
3/ Report of the House Ways and Means Committee on H.R. 4537, p. 47.
4/ Id.

I would like to emphasize an important point, namely, that the Commission's charge in these preliminary investigations in evaluating the impact of alleged unfair imports, within the framework of the aforementioned discretion accorded it in analyzing relevant factors and establishing a causation link, must be undertaken within the less rigorous standard that the facts on the record and information available to it reasonably indicate that the affected domestic industry could possibly be suffering material injury, threat thereof, or material retardation. 1/

This less rigorous standard which was, as I have said earlier, intended by Congress in my view to be applied in a 45-day compressed time frame to screen petitions devoid of any merit where there was no indication of possibly establishing injury even with adequate time, must be applied with caution and equity, not in an arbitrary or capricious fashion, with the reasons set forth adequately documented. Yet we are to face a problem in the staff report on which the Commission relies in its determinations for these 92 steel investigations (during which there was a considerable volume of data and submissions tendered the Commission by a sundry number of parties), of material omissions of corroborated information on a number of critical factors that the Commission responsibly should take into consideration before eliminating products and countries involved in these investigations from proceeding to the final stage, permitting the Administering Authority (Commerce) to continue its investigations on a preliminary basis for these products including:

1/ Although, having found a reasonable indication of material injury by reason of these imports in these investigations, I did not reach the issue of threat, nonetheless data and trends with respect to certain products, which appeared incomplete in these preliminary investigations along with the record to reach that determination, still point to the possibility of future determinations of threat if a full investigation were able to provide more comprehensive data on e.g. Foreign Capacity. In this respect, I will discuss the issue of threat from time to time in these views.

• Lack of sufficient data on production capabilities and utilization of capacity for all products and countries cited in these investigations (bearing particularly on the issue of threat and potential surges of unfairly traded imports to the U.S.);

• Related to the previous, the lack of comprehensive data on the capability of foreign producers having integrated operations to switch to other finished products which may be excluded from further investigation by the Commission and Administering Authority;

• Lack of data on other international markets' (in addition to the U.S.), present and potential demand served or to be served by such products and related pricing patterns and other pertinent economic factors;

• No work or analysis or even recognition given to potential impacts on net revenues, profits, employment, lost economic opportunities if certain products were eliminated and countries excluded due to de minimis considerations. An important corollary consideration here is the concentration in the domestic market in a number of these products by large integrated producers where loss of gross revenues on a marginal basis have a more pronounced effect on the front end of the steel making process characterized by high capital investment and concomitant high fixed costs. Even with respect to certain steel bar products in which integrated firms have less market presence that are characterized by high value-added in finishing, many firms producing these products include such products in a fairly broad product spectrum, and in the case of electric furnace operations nonetheless have high fixed costs at the raw-steel end to cover;

• Lack of acceptable information on prices and lost sales upon which to draw definitive conclusions. Discussions on pricing trends between imported and domestic products utilizing producer price, unit value indices and trigger prices can be misleading and are less than comprehensive. The Producer Price Index is based on list prices and may not reflect changes in actual transaction prices. Unit value indices may vary with time not only due to prices but also to changes in the specific type of steel being imported (including quality considerations). Data and indices presented on transaction prices (i.e., average net selling price for specific products from domestic producers and importers) are average weighted prices charged in different transactions. There is nothing that corroborates conclusively the representativeness of the transactions and products selected and credibility of sources utilized that would justify relying on such data to compare trends in

> levels of importers' and domestic producers' prices and/or on a country-by-country basis. Also direct inquiries of purchasers for information on delivered prices paid in specific transactions, based on information at hand on a limited number of products, not in most cases representing total country coverage and from sources where their degree of market participation is not disclosed, cannot be relied upon in terms of comprehensiveness or representativeness. Also terms and conditions of credit extended for such transactions are not included in such data. In terms of lost sales, coverage of allegations was less than complete, and for the most part, in my judgement confirmed results were not representative. Sources for this information were not disclosed, their relationship, if any, to foreign and domestic producers, nor was their market participation cited. I believe acceptance of such information in terms of prices received and magnitude of sales, in the absence of hard documented data from Customs and/or examination of actual invoices for such transactions, in order to reach determinations as to whether underselling occurred and, if so, the tonnage and countries involved, is not appropriate. Telephone inquiries with parties able to make verbal representations as to transactions could be questioned and could be considered incomplete and impervious to accountability.

Although one could argue with reason that such issues could not be covered comprehensively in a 45-day investigation by a staff hardpressed to complete the task at hand, information was lacking for the most part, for some reason, particularly with respect to foreign capacity for products/countries involved and with respect to price data. With regard to pricing data, for the purpose of these preliminary investigations in recognition of the low threshold standard, I have been compelled to rely on the record and petitioner allegations of unfair pricing practices and concomitant margins of underselling (including that submitted to the administering authority (Commerce)) which have not been conclusively refuted to date, as part of my determinations. Obviously, such a procedure and reliance devoid of staff corroboration would be manifestly unjustified in a final investigation process as it would be inconsistent, in my view, with the more rigorous standards required in final determinations of injury. I will, however, when I feel it

germane, allude from time to time to certain information obtained by staff in certain products which show certain indications of pricing patterns which albeit less than complete, are at least worthy of mention. I do not believe, however, that the intent of Congress was to penalize petitioners who have demonstrated potentially meritorious cases in the preliminary stage that are worthy of continuation, for an inability to obtain certain information in satisfactory form and substance in critical areas such as price, particularly when substantial potential economic consequences are at stake as is the case in these steel investigations. As stated before, I believe the legislative history permits the Commission the discretion to take into consideration and weigh information and economic factors or the lack thereof in its deliberations and determinations.

The issue of cumulation with regard to the imported products subject to these preliminary investigations, has been addressed extensively in various memoranda of the General Counsel submitted to the Commission, as well as in briefs and statements submitted by various parties. 1/ Within each of the nine product categories, the impact of comparable imported articles from as many of the respondent nations that produce and export the products in question to the United States, has been cumulated. I believe the record amply corroborates the fungibility of the articles in question and therefore their comparability in terms of "like product" and being of the same class or kind or merchandise.

Arguments have been presented that the Commission should address the cumulation question in a well-reasoned set of criteria. I believe this is a logical and correct approach. I believe that the statute, as well as other

1/ See e.g., GC-E-337, GC-F-028, GC-F-034.

pertinent economic factors, permit the Commission to take into consideration the cumulative injury caused by all alleged unfairly traded imports. The emphasis is the possible resulting injury, not a narrow focus on the procedures and methods employed, although they should and are being considered. The nature of the industry in both the United States, as well as in those countries subject to these preliminary investigations, is such that a focus purely constrained by market considerations within a like product basis, may obscure the reality that producers can shift within a finished product category in response to demand conditions. For example, producers will allocate more raw steel capacity to specific finishing mills depending on end-market conditions, decisions which are governed by several factors such as demand, prices, profit margins, inventory of that specific product, and working capital requirements. The suggested criteria that cumulation is appropriate if the dumped or subsidized imports concerned all compete or impact upon the same market could be an impossible requirement. It assumes end-users' demand and the character and nature of end users to be constant which it is not, and ignores the dynamics of the uses of these steel products and the particular needs they satisfy.

Whether the steel products being imported are directed to the same end users or same geographical market, or whether they pass through the same or different channels of distribution, or whether they are priced similarly, the fact that these penetrate contemporaneously or sequentially according to the same demand patterns, is important. However, this recommended criteria ignores the fact that these imported articles within the same product categories can be directed to other end users and other geographical markets, perhaps under not similar terms and conditions and prices rather quickly,

depending on the prevailing conditions and patterns of trade, resulting in not inconsequential injury. For example, alloy steel bar shipped mostly to satisfy oil-country goods needs, can tomorrow be shipped for automotive or industrial machinery or heavy construction equipment end-use application. The law and the intent of Congress, cover, in my judgment, the fact that unfairly traded imports of "a class or kind of merchandise" from one or many sources, will have the same injurious impact on the domestic industry. It has been asserted by some respondents that even if we could cumulate import data in these preliminary investigations, it would not be appropriate to cumulate imports of certain products from certain countries, because these imports are so minimal as not in themselves contributing to material injury. I do not agree with this contention because if it were applied consistently, assuming one could reasonably define what is minimal (aside from the questionability of applying the same definition to different finished product lines with varying historical tonnage consumption patterns and uses and characteristics), an industry could be impaired by a significant level of imports from numerous sources, yet have no remedy under trade laws, inasmuch as none of these sources would be construed to account per se for the injury. As indicated before, the application of a standard of what would be considered to be minimal on a volume basis across product lines, appears to be questionable and arbitrary. For example, the loss of a 5,000 ton order of cold-rolled alloy steel bar is usually of greater economic and financial consequence compared with a loss of similar size order of hot-rolled carbon steel sheet. Therefore, I believe it makes no sense to excuse voluntarily ab initio even for screening purposes allegedly unfairly imported products by national origin on a de minimis basis when the problem is the totality of all such imports.

Condition of the U.S. steel industry

Steel production in the United States is characterized by concentration in terms of raw steelmaking capacity in large integrated firms, with the seven largest firms accounting for about 75 percent of raw steel produced in 1980. 1/ Mini mills making steel with electric furnaces, and specializing in a more narrow-product range, have increased their share of steel shipments, accounting for an estimated 12 to 15 percent of total U.S. steel shipments in 1980. Capacity utilization measured in raw steel production has declined from 86.8 percent in 1978 to 72.8 percent in 1980. In the last quarter of 1981, capacity utilization was about 63 percent with the week ending January 16, 1982, dropping to 59.2 percent 2/. In recent years several producers have closed steel-producing facilities and others have announced they will be purchasing substantial amounts of semifinished steel from offshore sources to be processed in their finishing mills. Of note, McLouth Steel Corp. (the 10th largest U.S. steel producer) recently filed for protection under the Bankruptcy Act. Raw steel production in the U.S. in 1980 fell to the lowest level in the last decade, dropping to 112 million tons. The domestic industry's share of world production of raw steel similarly declined from 19.6 percent in 1973 to 14.1 percent in 1980. Net shipments by domestic producers of all steel mill products in 1981 totaled 81 million tons, about 4 percent more than 1980 shipments, but considerably lower than the 94.2 million ton average annual net shipment levels registered over the 1971-80 period inclusive. U.S. producers' shipments of carbon steel mill products subject to

1/ I-4 Staff Report. Unless otherwise indicated, all data in this section were obtained from the accompanying staff report.

2/ Data reported on a weekly basis by the American Iron and Steel Institute (AISI) to the media.

these investigations, fell from 58.2 million tons in 1979 to 45.7 million tons in 1980, representing a 21-percent decline. U.S. producers' shipments of the alloy steel mill products subject to these investigations decreased to 2.1 million tons in 1980 from the 2.9 million tons in 1978 and 1979, or by 28 percent. U.S. steel exports, however, showed an increase from 2.8 million net tons in 1979 to 4.1 million in 1980, with the largest share, approximately 47 percent, going to Latin America. Imports of all products subject to these investigations in 1978 amounted to approximately 20.8 million tons, declining in 1979 to 17.3 million tons and in 1980 to approximately 15.3 million tons. U.S. imports for consumption from the countries subject to these investigations for the products covered by these investigations amounted to about 7 million tons in 1978, 5.3 million tons in 1979, and about 4 million tons in 1980.

However, cumulative comparative 10-month 1980 and 1981 data for these same products from respondent countries, which were not presented in the Staff Report in aggregate form, as submitted by certain petitioners citing Department of Commerce/Wharton sources, show totals of such imports for these comparable periods increasing by over 736,000 tons, representing a 22-percent increase over the total for 1980, reaching over 4 million tons in the past 10 months. This 1981 10-month level exceeded the approximately 4 million ton levels reached for all of 1980. 1/ Certain petitioners, citing the same sources, indicate that imports of the accused products from the respondent nations in the aggregate, as a share of aggregate domestic consumption, rose from 4.7 percent in the first quarter of 1981, to 7.2 percent in the second

1/ Brief of Cravath, Swaine & Moore, attorneys for petitioners Republic Steel, Inland Steel, J&L, National Steel, Cyclops (hereinafter "group of five"), pp. 190-191.

quarter, and to 10.7 percent in the third quarter. Correspondingly, shipments of the same products by domestic steel producers as a share of aggregate domestic consumption fell from 89.2 percent in the first quarter to 85.4 percent to 80.8 percent in the third quarter 1981. 1/

Total employees engaged in the production and sale of iron and steel products as compiled by the AISI decreased from 508,600 in 1974 to 453,200 in 1979. In 1980, this total went down from 453,200 to 398,800. Furthermore, AISI statistics indicate that average number of employees for the month of October 1981 was down further to 380,000. 2/ As of December 26, 1981, over 76,000 steelworkers were on lay off status as compared with about 24,000 in May 1981. Also, a large number of steelworkers were working a short work week in 1981, increasing from 2,536 as of the end of May, to 16,388 as of December 26, 1981. 3/

Total labor costs per hour increased from $14.30 in 1978 for wage employees, to $18.45 in 1980. The average annual increase in 1971 to 1980 was 12.8 percent. Productivity, as measured by the Bureau of Labor Statistics Productivity Index, which showed an increase from 1975 to 1979, went down in 1980 and registered only a 1.3-percent average annual increase in the 1971-80 period.

Net sales for 1980 of 17 U.S. producers accounting for an estimated 82 percent of total U.S. production of raw steel in 1980 were $35.4 billion down 9 percent from 1979's $38.9 billion level. Operating profit for the same period showed an even more drastic decline, dropping from $1.6 billion to $723 million, or by 55 percent. Cash flow from operations for these same companies was reduced by over 27 percent in 1979-80, dropping from $3 billion to $2.2

1/ Id. pp. 244-245.
2/ AISI "Steel Employment News" release dated Nov. 10, 1981.
3/ Brief of Cravath, Swaine & Moore, attorneys for the group of five, p. 182, citing Ms. Janet Nash of AISI as source.

billion. Capital expenditures for these 17 firms have been increasing each year from 1978 to 1980. At the same time, the ratio of operating profit to net sales has gone down from 5 percent in 1978 to 4.1 percent in 1979, to a dangerously low 2.0 percent in 1980, representing a decline of 60 percent for this critical ratio during that period. Similarly, adverse financial experience was reported for 18 selected producers, which provided usable data for operations which produced carbon steel products from 1978 to 1980. Although there was some improvement in net operating profit and net sales in 1981 for these firms, accounting for 80 percent of U.S. producers' shipments of carbon steel mill products subject to these investigations, operating profit margins were still well below 1978 and 1979 results, and many more firms reported operating losses. Profit-and-loss experience of 10 U.S. producers of alloy steel products accounting for 61 percent of U.S. shipments of such products evidenced improvement over 1980 on their gross and operating profits, but operating profits at 2.2 percent of sales were below 1978 levels of 2.7 percent, and, in any event, did not represent a satisfactory return. Comparative data for the domestic producers of all steel products under investigation indicate that with the exception of those producing hot-rolled alloy steel bar and cold-formed alloy steel bar they showed lower returns on their operations than did either all manufacturing companies or all durable goods producers for January-September 1981. In 1980, producers of hot-rolled alloy steel bar also registered lower returns on operations than did all manufacturing companies or durable goods producers. Of the nine products under investigation, producers of six products experienced negative operating profit ratios in 1980. In the more recent 1981 period, six of the nine products involved similarly showed negative operating profit ratios. For 1978 and 1979, producers of only one of these products evidenced a negative 133 operating ratio.

I believe, consistent with my recent determinations on Hot-Rolled Carbon Steet Sheet From France and Hot-Rolled Carbon Steet Plate From Belgium, Brazil, and Romania, 1/ that the markets for these steel products are largely price sensitive, particularly in a period of falling domestic consumption for many of these products, which further exacerbates the potential impact of increased volumes of imports on prices.

Testimony by an experienced steel marketing executive has emphasized that, particularly in times of weak demand, price is the overriding factor in purchasing decisions over and above reliability, quality, service, proximity of source, etc. This particular testimony claims that no producer from Europe can make a product or quality because of particular facilities that domestic producers cannot make. 2/ The fact that product differentiation is not an issue, further underscores the importance of price as the determining factor in the steel business, and this reaccentuates the role that alleged subsidized or less-than-fair-value imports play in facilitating the obtainment of larger domestic market shares by foreign producers, to the detriment of the domestic industry. Furthermore, looking strictly at lost sales allegations may obscure the fact that competing domestic producers may have had to discount significantly in order to make sales and preserve cash flow.

The whole history of the domestic steel industry bears testimony to the fact that the demand for steel is inelastic. Fierce price competition in periods of slack demand has never expanded the demand for steel products. It has, however, changed the vendors, whichever one has the lowest quote. In

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1/ Investigation No. 701-TA-85 (Preliminary), January 1982, USITC Publication 1206; investigations Nos. 701-TA-83 and 84 (Preliminary) and investigation No. 731-TA-51 (Preliminary), January 1982, USITC Publication 1207.

2/ Written testimony of Mr. William F. Ewart, Senior Vice President, National Steel Corporation, before the USITC.

periods of peak demand, premium prices have never affected final demand--witness 1974, when premium prices were readily accepted by end users over a large spectrum of products without a corresponding weakening of demand.

Definition of the domestic industries

Pursuant to sections 771(4)(A) and 771(10) of the Tariff Act of 1930, I have determined the scope of the domestic industries involved in these investigations to be the nine different categories of steel products alleged to be sold at less than fair value or subsidized from Belgium, Brazil, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, Romania, and the United Kingdom as well as two countries for which the Commission is not charged with making an injury determination, Spain and the Republic of South Africa, as more fully detailed in respective descriptions of the product, its uses, characteristics, and methods of manufacture in the Report. These nine steel product categories are:

(1) hot-rolled carbon steel plate
(2) hot-rolled carbon steel sheet and strip
(3) cold-rolled carbon steel sheet and strip
(4) galvanized carbon steel sheet
(5) carbon steel structural shapes
(6) hot-rolled carbon steel bar
(7) hot-rolled alloy steel bar
(8) cold-formed carbon steel bar
(9) cold-formed alloy steel bar

On the basis of the information before me in these preliminary investigations, I have found each of the nine separate product categories to constitute a "like product," each of which possesses separate physical characteristics of size, shape, or composition and uses and serves markets that generally do not compete with one another; therefore, I have found that there are nine domestic industries involved in these investigations defined by these nine product categories.

Since the act prescribes such a domestic industry approach in these investigations, I believe, in ascertaining injury to the domestic industry affected in the conduct of these investigations, it is appropriate to consider as a relevant factor in all of these investigations the basic, commonsense economic reality of the impact of such imports on the domestic steel industry in general. This is why I have provided a summary glance at the state of the domestic steel industry which shows that it is not in good health.

Individual product lines in the nine categories, each of which makes up a separate industry in compliance with the Act, cannot be examined in a vacuum. In six of the nine product lines, the "industry" is heavily concentrated by the sizable market presence of large integrated producers. In the three other products which are high value-added finished products more typically characterized in market presence by mini mills and fabricators, you still have to look back to the raw-steel end, regardless of its source-- whether by an electric furnace operation contained in the same facilities or via purchased semifinished steel for a fabricating operation.

The steel industry has been accurately depicted as a capital intensive industry with the bulk of capital dollars, around 70 percent at the "front end," i.e., the hot-metal/raw-steel end. In an industry characterized by high fixed costs (in recent years a considerable portion of which emanated from government regulatory mandated facility improvements that while promulgating perhaps socially desirable results in pollution control and OSHA do not possess positive incremental cash flow benefits), an integrated producer's economic behavior whether pushing the steel through the flow-line to a finished good or to a semifinished state for sale to intermediaries such as steel service centers, fabricators, etc., must exhibit a rational concern for maximizing overall profits and favorable levels of capacity utilization rather than a focus on profits on any one line or product category.

Scrutiny of aggregate raw steel capacity utilization and overall financial experience is therefore of paramount importance; and in the end result, such an approach supersedes technical accounting distinctions and allocations on a product-line basis, in assessing the viability of an industry of significance to the U.S. not only from an economic standpoint but from a national security standpoint. Consequently, accounting profits booked on a product-line basis may in fact be illusory, e.g., based on arbitrary cost allocations, artificial inventory profits or on unrealistic depreciation schedules in view of replacement costs. Further, even if profits are in fact based on intrinsic economic reality, a microeconomic approach would dictate viewing tonnage on a marginal revenue product/marginal cost basis: that is, with an "industry," narrowly defined, booking profitable margins, the opportunity costs associated with potential lost tonnage of the product or at depressed or suppressed prices are magnified when associated with the overall high level of fixed costs that have to be covered on a raw-steel operating basis. Also, in financial analytical terms this approach recognizes that there is a high degree of operating leverage which magnifies gains on the bottom line when operating capacity rates increase incrementally but conversely increases losses when such rates incrementally decline past "break-even levels."

Therefore, in the conduct of these preliminary investigations, I have taken into consideration in my analyses of the effect of such imports on the "nine" industries defined, their impact on the overall condition of the steel industry. To do otherwise in my view would be indulging in analytical myopia as well as ignoring the effects and impacts other economic considerations which I consider relevant are having on this basic industry, some of which are allegedly caused by this increased volume and penetration of imports.

I would close by saying that the steel industry has many problems confronting it aside from the issues of alleged unfairly traded imports before the Commission in these investigations which are well-known and bear no repetition here. I must reiterate my previous discussion that the Statute does not require a weighing of such other factors against the factor of whether material injury to the affected domestic industry has been caused by unfairly traded imports in establishing the requisite causal linkage. I have taken such factors into consideration in my analyses.

I believe the following statement of Commissioner Stern set forth in her views concerning the preliminary investigation of Certain Carbon Steel Products in May 1980 is germane to the issues of material omission of critical information for these investigations:

> "In preliminary cases, I must base my determination as much on what information the Commission has not been able to gather (but has expectations of developing in a full scale investigation) as on the information before me." 1/

I feel however, that the record and information before me provides a reasonable indication that an industry in the United States could possibly be suffering material injury in these preliminary investigations by reason of allegedly unfairly traded imports from the countries cited and have made my determinations accordingly as set forth herein.

A final word is appropriate here. The magnitude of injury incurred by the basic steel industry and the segment of the industrial base of the United States dependent upon it is readily discernible. The steel industry has been

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1/ Statement of reasons of Commissioner Paula Stern in investigations Nos. 731-TA-18-24 (Preliminary), Certain Carbon Steel Products From Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, p. 41.

impacted financially and, as a result, is going through a period of self-liquidation. Numerous plants have been closed and companies have gone bankrupt. Questions are now being asked as to the extent of the erosion of our industrial base and possible national security problems. Tens of thousands of steelworkers' jobs have been permanently lost. Unemployment continues to run rampant and dozens of communities dependent upon the steel industry or its suppliers are facing difficult times. Total direct and indirect steel unemployment is now estimated to be in excess of 300,000 jobs which, aside from personal injury, also has a damaging negative impact on this Nation's effort to balance its budget. Imports continue to come in at record levels, putting additional pressure on the industry financially, thus jeopardizing its modernization programs as well as creating severe and continuing hardship for steelworkers and further impacting this Nation's balance of trade.

A preliminary finding that there is <u>not</u> a reasonable indication that imports are causing material injury (or threat thereof) to the domestic industry in the majority or all or the cases before the Commission would be a determination <u>without the benefit of</u>:

1. Proper analysis with necessary financial and technical information and understanding about the structure of the basic steel industry relative to cumulation issues, which as staff has advised me, the Report does not take into account;

2. Proper and complete internal analysis of the impact of lost gross revenues which are marginal and what their impact would be on net revenues and profits, particularly in an industry characterized by high fixed costs such as steel. Testimony was presented by Dr. Lawrence Klein, a Nobel Prize-winning economist, who did such an analysis that indicated there would be a more pronounced effect on net revenues. The analysis of the impact of lost gross revenues on net margins coupled with a detailed financial study which would include such points as breakeven analysis etc., are particularly important when considering an import from a country of a product representing a comparatively small or diminutive percentage of import penetration;

3. Detailed financial analyses other than mere reporting of revenues and income. Based on the premise that the steel industry is being self-liquidated, proper financial analysis then would confirm in many cases that although a profit may have been earned, it may be inadequate and as a result the facility could go into liquidation due to high replacement or modernization costs;

4. Availability of documented price data on imports. Any mention of price or price levels would be mere speculation unless the price data on the imports were supplied by Customs;

5. Proper documentation on lost sales information. The Commission in making its decisions was not in a position to comment on lost sales. When rendering an opinion, any comment or weight given to the Commission's data on lost sales would be mere speculation in that Commission Staff advised they were hastily put together, and therefore could be inaccurate and have no value;

6. Complete information on production capabilities of foreign producers for products and countries covered by these investigations and other international markets and related economic factors served by these products.

II. Hot-Rolled Carbon Steel Plate

In the investigations on hot-rolled carbon steel plate (invs. Nos. 701-TA-86 through 93 and 731-TA-53 through 60), I conclude that there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany are causing material injury to the domestic industry.

Condition of the domestic industry

About 15 firms produce hot-rolled carbon steel plate in the United States, operating approximately 30 establishments in which carbon steel plate is produced throughout the U.S., but centered primarily in Pennsylvania and the Great Lakes area. Domestic production is highly concentrated, with the four largest producers, accounting for 70 percent of total domestic producers' shipments in 1980, being fully integrated firms that provide a wide range of steel mill products. 1/

There is a reasonable indication that the domestic hot-rolled carbon steel plate industry is in poor health. Domestic production, which rose from 5,576,000 tons in 1978 to 5,897,000 tons in 1979, fell markedly to 5,564,000 tons in 1980 and 5,161,000 tons in 1981. The industry's practical capacity declined significantly from 9,713,000 tons in 1979 (having increased from 8,987,000 tons in 1978) to 9,051,000 tons in 1981 while capacity utilization during the 1978-81 period registered a substantial uninterrupted decline from a 62-percent level in 1978, to a 57-percent level in 1981. Although there were some additions to practical capacity, notably at Bethlehem Steel's Chestertown, Indiana, facilities in 1978, there have been a number of closures

1/ Report at II-6.

of carbon steel steel plate facilities during the period, most recently in February 1981 the permanent shutdown of Jones & Laughlin Steel's only plate mill and a hot strip mill in Pittsburgh, Pennsylvania. 1/

U.S. producers' shipments of carbon steel plate, which increased 3 percent from 1978 to 1979, fell 8 percent annually in 1980 and 1981, registering a 12 percent overall decline during the 1978-81 period, from 6,588,000 tons to 5,772,000 tons, with exports by producers accounting for less than 2 perecnt of total shipments and intracompany and intercompany shipments remaining relatively stable at 6 percent of total annual shipments during the same period. 2/ U.S. consumption of carbon steel plate also showed a significant uninterrupted decline from 8,452,000 tons in 1978 to 7,651,000 tons in 1980, and to an estimated 7,439,000 tons in 1981, representing a 12-percent overall decrease. 3/

Employment of production and related workers in the carbon steel plate sector fell from 19,143 workers in 1979 to 18,469 workers in 1980 and even more precipitously to 16,937 workers in 1981. Similarly, hours paid for production and related workers showed an almost 14 percent decline from 1979 to 1981, from 38,896 hours to 33,570 hours. 4/ Productivity data on tons per hour quantity basis remained unchanged from 1980 to 1981, having registered a 1.5-percent increase in 1980. Hourly compensation, however, increased continuously during the 1978-81 period; thus unit labor costs showed marked increases during the period, from $91 per ton in 1978 to $123 per ton in 1981, having not been offset by improved labor productivity. 5/

1/ Report at II-7 and II-8.
2/ Report at II-12.
3/ Report at II-9 and II-10.
4/ Report at II-15 and II-16.
5/ Report at II-18.

Although the 10 firms which furnished profit-and-loss data (accounting for 89 percent of total 1980 U.S. producers' shipments) showed aggregate profitability both on gross and operating profit bases, profitability remained extremely low and could be characterized as less than satisfactory. Operating profit margins, reaching 4 percent in 1978, declined to 1.4 percent in 1980, though increased to 2.3 percent in 1981. Indeed, six firms sustained operating losses in 1980 and four firms sustained such losses in 1979 and 1981. 1/

Reasonable indication of material injury by reason of imports

During the 1978-80 period, about 10 percent of total U.S. imports of all carbon steel mill products were accounted for by imports of carbon steel plate products. Although such imports declined from 2.0 million tons in 1978 to 1.3 million tons in 1979, they increased to 1.6 million tons in 1980, and showed even more significant increases on an 11-month January-November 1980 and 1981 comparative period basis, with 1.7 million tons imported during January-November 1981, compared with 1.4 million tons imported during the corresponding 1980 period. The ratio of imports from all sources to apparent domestic consumption decreased from 23.4 percent in 1978 to 15.9 percent in 1979, but subsequently increased to 20.5 percent in 1980 and 24.9 percent in January-November 1981, with the ratio of imports to U.S. producers' shipments following a similar trend. 2/

Imports from all countries subject to countervailing duty and antidumping investigations to the United States of hot-rolled carbon steel plate have evidenced substantial increases in terms of quantity, value, and relative to apparent domestic consumption during the recent period. Such imports, which

1/ Report at II-19.
2/ Report at II-10, II-28.

registered at levels of 1,194,000 tons ($291,888,000 in value) in 1978, having declined to 673,000 tons ($207,229,000 in value) in 1979, increased to 961,000 tons ($308,598,000) in 1980. Comparative January-November 1980 and 1981 data show imports of 869,000 tons in the 1980 period ($277,878,000 in value) increasing markedly to 1,116,000 tons ($409,444,000 in value) in the corresponding 1981 period. Likewise, such imports evidenced significant increases in penetration during this period of basically declining domestic consumption, with market penetration by such imports increasing from 8.5 percent in 1979 to 12.5 percent in 1980. Comparative January-November 1980 and 1981 data evidence even more dramatic trends, with 11-month 1980 penetration at 12.4 percent compared with the corresponding 1981 period registering a 16.0 percent penetration figure. The ratio of those imports to U.S. producers' shipments manifest similar patterns, showing figures of 9.9 percent in 1979, 15.4 percent in 1980, with 1980 and 1981 11-month comparative levels of 15.2 percent and 20.7 percent, respectively. Examining comparative data with respect to these relationships and import levels for the last two quarters for 1980 and 1981 disclose similar trends. 1/

Pricing information on imported hot-rolled carbon steel plate in these investigations warrants further investigation.

Worthy of some comment, at least during the preliminary phase of these investigations, was the result of direct inquiries of purchasers to furnish the delivered prices they paid in specific transactions for four imported and domestically produced hot-rolled carbon steel plate products. With one-third of the 66 purchasers responding, 22 providing price information on domestically produced hot-rolled carbon steel plate and 18 providing price information on certain imported plate from these countries, without knowing

1/ Report at II-28 through II-38.

the degree of participation in the domestic market of these purchasers, it would be difficult to characterize the results as representative and certainly the data arrayed is not comprehensive. However, there is an indication of material underselling in certain instances worthy of further scrutiny. 1/

My comments concerning lost sales data are subject to my concerns in this area set forth in the overview. With respect to lost sales, the staff was able to investigate in the time available 32 of 273 specific allegations of lost sales, with over 360,000 tons involved, and found price to be the major reason for purchasing the imported product in all 27 allegations confirmed. 2/ Allegations of lost sales from the three largest foreign suppliers of such merchandise in the U.S. market in 1980 and 1981 were discussed in the report. Coverage of these allegations was incomplete no doubt due to the time-frame involved, but the small number that were checked and confirmed indicated that price in most instances was the overriding factor in purchasing decisions, although in a number of instances, purchasers claimed they purchased the foreign product at trigger prices. 3/

The carbon steel plate industry appears highly price sensitive, and even more so during periods of stagnant or declining demand. Buyers usually are quite cognizant of prevailing market prices and are in a position to play off competing domestic and foreign offers. Low prices obtained by one firm, foreign or domestic, may have a broad-ranging impact on the market.

I believe information on pricing patterns, although obviously less than complete, coupled with the allegations of petitioners in these investigations

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1/ Report at II-52.
2/ Report at II-52 and II-53.
3/ Report at II-53 and II-54.

submitted for the record which have not been conclusively refuted by respondents, evidences a reasonable indication of possible price suppression and depression by reason of underselling attributable to allegedly dumped and subsidized imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and subsidized imports.

III. Hot-Rolled Carbon Steel Sheet and Strip

In the investigations on hot-rolled carbon steel sheet and strip (investigations Nos. 701-TA-94 through 101 and 731-TA-61 through 67), I conclude that there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, Brazil (except strip), France, Italy, Luxembourg, the Netherlands, the United Kingdom (except strip), and West Germany are causing material injury to the affected U.S. industry.

Condition of the domestic industry

About 20 firms in the United States produce hot-rolled carbon steel sheet in approximately 40 mills, and the principal producers can be characterized as largely integrated operations with the 6 largest U.S. producers of raw steel accounting for almost 70 percent of total U.S. producers' shipments of hot-rolled sheet and strip (as reported by AISI) in 1980. Hot-rolled sheet was the second largest finished carbon steel product manufactured by the U.S. steel industry in 1980. 1/

There is a reasonable indication that the domestic hot-rolled carbon steel sheet and strip industry is in poor health. U.S. production and practical capacity figures which increased substantially in 1979, reaching levels of 12.6 million tons and 19.4 million tons, respectively, fell markedly in 1980 to under 10 million tons and 18.8 million tons, respectively. Figures for 1981, while showing increases in production and capacity levels to 11.4 million tons and 19.4 million tons, respectively, must be tempered with a realized capacity utilization rate of 59.0 percent, significantly less than 1978's 65.7 percent level and representing less than satisfactory utilization, although an improvement over 1980's 52.5 percent rate. 2/ U.S. Producers'

1/ Report at III-6 through III-8.
2/ Report at III-9.

shipments showed similar trends, declining substantially in 1980 from 15 million tons to 11.5 million tons, and increasing to 12.6 million tons in 1981, still down 16 percent from the 1978 level. Comparative fourth quarter 1980 and 1981 results, however, show a 28 percent dropoff in 1981 shipments from corresponding 1980 levels. Exports of hot-rolled carbon steel sheet and strip accounted for about 3 percent of annual U.S. exports of all carbon steel mill products during the 1978-80 period, with January-November 1981 tonnage approximately the same reported for the corresponding 1980 period. Canada was the principal export market for hot-rolled sheet and strip, receiving approximately 50 percent of such exports from January 1978 to November 1981. 1/

Apparent U.S. consumption of these products declined about 27 percent from 18.3 million tons in 1978 to 13.3 million tons in 1980. Although consumption during the January-November 1981 period increased by 15 percent to 13.7 million tons over the corresponding 1980 period, these levels are substantially less than 1978 and 1979 levels. The share of the market supplied by domestic producers increased from 1978 to 1979 and remained stable in 1980 to January-November 1981, with imports yet maintaining almost 15 percent penetration on a domestic consumption basis and over 17 percent with respect to domestic shipments. However, quarterly comparative data for 1980-81 through the third quarter indicate that, following a decline in market penetration of imports from 17.6 percent in April-June 1980 to 7.4 percent in January-March 1981, this trend changed abruptly as imports almost doubled their share of the market and continued to increase their share in July-September 1981 to 17.4 percent with respect to apparent domestic consumption, and, as producers' shipments declined, to over 20 percent with respect to domestic shipments. 2/

1/ Report at III-9 through III-12.
2/ Report at III-6.

Inventories, though representing on a yearend basis about 6 percent of producers' total annual shipments in each of the 1978-81 periods, showed a substantial 14-percent increase on an end-of-year basis in 1981 from 1980 levels. 1/

Employment of production and related workers in the hot-rolled carbon steel sheet and strip sector increased from 23,103 to 25,400 in 1979, dropped almost 20 percent to 20,432 in 1980, and increased almost 10 percent in 1981 to 22,404, a level nonetheless almost 12 percent below 1979 employment levels. Hours paid for production and related workers followed a similar trend, at the end of 1981 down almost 14 percent from 1979 levels. Hourly compensation increased steadily from 1978 to 1980 with minimal changes in productivity resulting in a unit labor cost per ton increase from $60.98 in 1978 to $78.83 in 1980. However, labor productivity showed an almost 5 percent increase in 1981 over what it was in 1980, which mitigated hourly compensation increases of only half 1979-80 increases, resulting in a much lower increase, 4 percent, in unit labor costs in 1981 to $81.81 per ton. 2/

Financial experience on a profit-and-loss basis reported by nine producers accounting for (in terms of 1980 shipments) about 83 percent of U.S. producers' shipments evidenced most unsatisfactory results. Aggregate operating profit declined from $162 million (4.8 percent of net sales) to $95 million in 1979 (2.4 percent of net sales), notwithstanding an increase in net sales of hot-rolled carbon steel sheet and strip from $3.3 billion in 1978 to $4.0 billion in 1979. Although net sales in 1981 increased to $4.0 billion

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1/ Report at III-11.
2/ Report at III-13 through III-15.

from $3.1 billion in 1980, reporting firms sustained significant operating losses of $232 million (or 7.5 percent of net sales) in 1980 and $139 million (or 3.5 percent of net sales) in 1981. Six firms reported losses in 1981, and 8 in 1980, compared with five and four firms so reporting in 1978 and 1979, respectively. 1/

Reasonable indication of material injury by reason of imports

During the 1978-80 period, imports from all sources of hot-rolled carbon steel sheet and strip accounted for about 15 percent of total U.S. imports of all carbon mill products. About 2.0 million tons ($637 million) were imported in January-November 1981, compared with 1.8 million tons ($509 million) during the corresponding months of 1980. All imports of these products had declined from 3.4 million tons in 1978 to 1.9 million tons in 1980. Imports from all countries subject to these investigations provided 54 percent of total imports in 1980. 2/

Domestic market penetration by imports of hot-rolled sheet and strip from all sources declined from 18.4 percent in 1978 to 14.7 percent in 1980 and during the January-November 1981 period accounted for about the same share of the U.S. market; but on a quarterly basis, such imports have evidenced a greater degree of penetration in 1981, rising from a low of 7.4 percent in January-March to 17.4 percent in July-September. 3/

Although such imports of hot-rolled carbon steel sheet and strip from all countries subject to these investigations declined from 2.2 million tons in 1978 to 1.1 million tons in 1980, during the January-November 1981 period, levels hit 1.2 million tons, representing a 9-percent increase from those in

1/ Report at III-16.
2/ Report at III-21.
3/ Report at III-6.

the corresponding period of 1980. In terms of market share with respect to apparent domestic consumption similar trends were discerned: 1978, 12.2 percent, 8.0 percent in 1980 and 8.5 percent in January-November 1981. However, on a quarterly basis more dramatic trends are apparent: such imports increased rapidly from 89,000 tons in January-March 1981 to 415,000 tons in July-September, and levels for October-December of 515,000 tons were double the amount imported in the corresponding quarter of 1980. Market share by these imports also increased substantially from 2.5 percent in January-March 1981 to 11.1 percent in July-September 1981. 1/ As a percentage of U.S. producers' shipments, such imports evidenced a similar pattern, climbing from 2.6 percent in January-March 1981 to 13.1 percent in July-September. 2/

Pricing information on imported hot-rolled carbon steel sheet and strip warrants further investigation. Direct inquiry of purchasers of these products to supply data on actual transactions in 1981 was somewhat illuminating but appears hardly representative. Some trends were discerned: for example, margins of underselling of these products were manifest in a number of instances, although differences in such margins were seen among source countries and by location of the purchaser; in several instances the price of the imported product exceeded the domestic price; in general average margins of underselling were smaller on sales to end-user customers. 3/

My observations on lost sales data obtained are subject to my aforementioned concerns in this area. A total of 16 specific allegations of lost sales of hot-rolled carbon steel sheet to imports were investigated by the staff. Ten purchasers indicated lower price as the principal factor

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1/ Report at III-22 and III-23.
2/ Report at III-29.
3/ Report at III-30 through III-41, and app. J.

in their purchasing decisions. 1/ Further inquiry into this area is definitely warranted.

The carbon steel sheet and strip sector appears highly price sensitive, even more so during periods of stagnant or declining demand. Buyers usually are quite cognizant of prevailing market prices and are in a position to play off competing domestic and foreign offers. Low prices obtained by one firm, foreign or domestic, may have a broad-ranging impact on the market.

I believe information on pricing patterns, albeit obviously less than comprehensive and complete, coupled with the allegations of petitioners in these investigations which not been conclusively refuted by respondents, evidences a reasonable indication of possible price suppression and depression by reason of underselling attributable to allegedly dumped and/or subsidized imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and/or subsidized imports.

1/ Report at III-41.

IV. Cold-Rolled Carbon Steel Sheet and Strip

In the investigations on cold-rolled carbon steel sheet and strip (Investigations Nos. 701-TA-102 through 109 (Preliminary) and 731-TA-68 through 74 (Preliminary) I conclude there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, Brazil (except strip), France, Italy, Luxembourg, the Netherlands, the United Kingdom (except strip), and West Germany are causing material injury to the affected industry.

Condition of the domestic industry

According to the AISI, 16 domestic companies have the capacity to produce cold-rolled carbon steel sheet and 31 companies have the capacity to produce cold-rolled carbon steel strip. Eight carbon steel producers accounted for over 75 percent of total U.S. shipments of these products in 1980. 1/

There is a reasonable indication that the domestic cold-rolled carbon steel sheet and strip industry is in poor health. U.S. production of cold-rolled carbon steel sheet and strip which remained stable at 13.2 million tons in 1978 and 1979 declined 22 percent to 10.3 million tons in 1980. Although production increased to 11.2 million tons in 1981, this was still 2 million tons and 15 percent below 1978 levels. Domestic production capacity during the 1978-81 period evidenced a slight 2-percent increase, but capacity utilization during the same period fell significantly, from 84.7 percent in 1978 to 64.8 percent in 1980, increasing somewhat in 1981 to 70.4 percent. 2/

U.S. producers' shipments of cold-rolled carbon steel sheet and strip declined steadily from 18.2 million tons in 1978 to 13.4 million tons in 1980, though accounting steadily for about 20 percent of aggregate domestic shipments of all carbon steel mill products.

1/ Report at IV-5 through IV-8.
2/ Report at IV-10.

In 1981, U.S. producers' shipments increased to 14.5 million tons, increasing 8.4 percent from what they were in 1980, but still representing a 19.9-percent decline from 1978 shipment levels. Moreover, on a quarterly basis, U.S. producers' shipments declined sharply from 4.3 million tons in April-June 1981 to 2.8 million tons in October-December, and fourth quarter 1981 levels represented a 26.7-percent decline from corresponding fourth quarter 1980 shipments. 1/

Exports of cold-rolled carbon steel sheet and strip ranged from 3 to 5 percent of annual U.S. exports of all carbon steel mill products during 1978-80, but made up less than 1 percent of total domestic shipments. Such exports declined from 120,000 tons in 1978 to 103,000 tons in 1979, but then rebounded in 1980 to 124,000 tons. However, exports during the January-November 1981 period were 67,000 tons, 43 percent below the level of exports in the corresponding period of 1980. Canada was the primary export market for these products during this period, although in 1980 Brazil surfaced as an important market, accounting for 31 percent of exports. 2/

U.S. producers' inventories, which evidenced an irregular decline from 878,394 tons in 1978 to 774,488 tons in 1980, increased 9.3 percent on an end-of-year basis from December 31, 1980, to December 31, 1981, to 846,870 tons. 3/

Employment of production and related workers in the cold-rolled carbon steel sheet and strip sector increased from 37,632 to 39,223 in 1979, but declined 18.3 percent to 32,050 in 1980. Employment of such workers increased, however, 10.1 percent to 35,303 in 1981, but this still represented a 6-percent decline from 1978 levels and a 10-percent decline from 1979

1/ Report at IV-11.
2/ Report at IV-11 and IV-12.
3/ Report at IV-13.

figures. 1/ Some industry observers claim an appropriate industry benchmark "full employment" figure is the average employment attained in the 1973 and 1974 period, which for these products was 52,000. 2/ Using this benchmark, employment levels for 1981 are off benchmark levels by over 32 percent. Hours paid for production and related workers followed the same trend as employment. Wages paid to such workers increased by 17 percent over the 1978-81 period, while productivity declined each year, resulting in a 48-percent overall increase in unit labor cost per ton during this period. 3/

Financial experience on a profit-and-loss basis reported by nine producers (accounting for in terms of 1980 U.S. producers' shipments 77 percent) manifest the poor health of this industry. Aggregate gross profits which were $236 million in 1978 (5.0 percent of net sales) on $4.7 billion of net sales declined in 1979 to $180 million on $5.3 billion of net sales (3.4 percent) hitting red ink at losses of $264 million on $4.2 billion in net sales (9.2 percent of net sales) in 1980 and losses of $149 million on $4.9 billion (5.9 percent of net sales) in 1981. Likewise losses on an operating profit (loss) basis were recorded in 1980 and 1981 at $383 million and $293 million, respectively. Eight and seven firms reported operating losses in 1980 and 1981, respectively, compared with three firms in 1978 and four firms in 1979. 4/

1/ Report at IV-14.
2/ Brief of testimony of Eugene L. Stewart, Esq., on behalf of Bethlehem Steel, 2/3/82, citing AISI and U.S. Dept. of Labor/BLS as sources, p. 123.
3/ Report at IV-14 through IV-16.
4/ Report at IV-17.

Reasonable indication of material injury by reason of imports

During 1978-80, imports from all sources of cold-rolled carbon steel sheet and strip accounted for 10 to 15 percent of total U.S. imports of all carbon steel mill products. Such imports declined each year from the 1978 level of 3.2 million tons to 2.4 million tons in 1979 and 1.5 million tons in 1980, although subject merchandise imports increased to 1.6 million tons in 1981. Imports from all countries subject to these investigations accounted for 60 percent of total imports in 1980. In relation to U.S. consumption, imports of cold-rolled carbon steel sheet and strip from all sources declined from 15 percent in 1978 to 10 percent in 1980 and January-November 1981; but on a quarterly basis in 1981 imports have taken a larger share of the market, rising from a low of 5 percent in January-March to 12 percent in July-September. 1/

Although imports of cold-rolled carbon steel sheet and strip from all countries subject to these countervailing and antidumping investigations steadily declined from 1.7 million tons in 1978 to 671,000 tons in 1980, imports during January-November 1981 increased to approximately 831,000 tons, after netting out imports of cold-rolled carbon steel sheet from the United Kingdom and cold-rolled carbon steel sheet from Brazil which were excluded from these investigations, as compared with approximately 591,000 tons during the corresponding period of 1980. Value represented by such imports during the January-November 1980 and 1981 periods (including those imports from the United Kingdom and Brazil excluded from the investigations, which represented approximately 0.4 percent and 2.1 percent of total imports from respondent

1/ Report at IV-5 and IV-24 through IV-26.

countries for the 1980 and 1981 periods, respectively) was approximately $215 million and $334 million, respectively. 1/ Looking at such imports on a quarterly basis during the 1980 and 1981 period reveals some dramatic trends. Imports of 403,000 tons in the last quarter of 1981 were double the comparable 1980 quarter and, for the comparable July to December 1980 and 1981 period, imports increased 97 percent from 366,000 tons to 721,000 tons. A figure representing market penetration of such imports as a share of apparent U.S. consumption on a percentage basis was not available for the fourth quarter 1981, but third quarter 1980 and 1981 comparative results evidence a significant increase in market share taken by such imports from 4.8 percent to 7.6 percent which appears more representative of trends in this respect than comparative January-November 1980 and 1981 overall penetration figures which were 4.4 percent and 5.5 percent, respectively, still representing an increase. 2/

Although there is no doubt that recent market conditions in, for example, the automotive and construction industries have reduced demand for steel sheet and have had a dampening effect on prices, this has, I believe, rendered the domestic industry even more vulnerable on economic and financial bases to the effects of increased imports of such a price sensitive product allegedly subsidized and/or sold at less than fair value. Results of Commission inquiries from domestic producers and importers to supply data on actual transaction prices and on average net selling prices paid by steel purchases, while hardly comprehensive or even perhaps representative and though mixed, show indications of greater than an inconsequential degree of such imported products underselling domestic products and deserve further inquiry. Staff

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1/ Report at IV-28.
2/ Report at IV-25 and IV-27.

investigation of specific allegations of lost sales of cold-rolled carbon steel sheet to imports was less than complete and I cannot at this time draw any definite conclusions one way or another from the results cited in the report. 1/

I believe information on pricing patterns, although less than complete, coupled with the allegations of petitioners which have not been conclusively refuted by respondents, evidences a reasonable indication of possible price suppression and depression by reason of underselling attributable to alleged dumped and/or subsidized imports which warrants further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and/or subsidized imports.

1/ Report at IV-35 through IV-43 (please refer to my observations in the overview section on lost sales data).

V. Galvanized Carbon Steel Sheet

In the investigations on galvanized carbon steel sheet (investigations Nos. 701-TA-110 through 116 (Preliminary) and 731-TA-75 through 81 (Preliminary)), I conclude that there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and West Germany are causing material injury to the domestic industry.

Condition of the domestic industry

The bulk of U.S production of galvanized carbon steel sheet is accounted for by the seven largest integrated steel producers in the United States, with production concentrated in the North Central and Midwestern regions of the United States. 1/

There is a reasonable indication that the domestic galvanized carbon steel sheet industry is in poor health. Apparent U.S. consumption declined from 8.7 million tons in 1978 to 6.5 million tons, down 25 percent. While consumption during January-November 1981 of 6.6 million tons amounted to a 13 percent greater level than the corresponding 1980 period, such levels still represent a lower level of demand for these products than in 1978 and 1979. 2/ U.S. production of these products reported by firms responding to Commission questionnaires (usable data by producers accounted for 73 percent of total shipments of galvanized sheet in 1980) increased slightly from 4.5 million tons in 1978 to 4.7 million tons in 1979, fell to 3.7 million tons in 1980 and increased to 4.4 million tons in 1981. Capacity during the period, which had increased from 6.2 million tons in 1978 to 6.7 million tons in 1979, declined to 1978 levels in 1981, with capacity utilization rates dropping

1/ Report at V-6.
2/ Report at V-3 and V-4.

precipitously from 72.7 percent in 1978 to 59.4 percent though rebounding to 70.7 percent for 1981, 1/ still a less than satisfactory operating rate. U.S. producers' shipments of galvanized carbon sheet which accounted for approximately 7 percent of aggregate shipments of all carbon steel mill products in the 1978-80 period, declined steadily from 6.4 million tons in 1978 to 5.2 million tons in 1980, or by 19 percent. Net shipments increased in 1981 12 percent to 5.8 million tons but this figure still represented a 10-percent overall decline from 1978 shipment levels. 2/ Examining 1981 domestic producers' shipments on a quarterly basis shows an even more marked decline from 1.6 million tons in January-March to 1.1 million tons the last quarter of 1981, representing a 26 percent drop from corresponding 1980 fourth quarter levels. 3/

Further, such indicators for this industry can be misleading. As an example, on the west coast, which is called the Western Region, domestic galvanizing capacity approximates 600,000 tons made up of Pinole Point, 150,000 tons, Kaiser Steel, 200,000 tons, and U.S. Steel, the balance. Market for galvanized in this region was approximately 900,000 tons in 1980 and has dropped to approximately 800,000 in 1981. The Western Region is a shortage region relative to galvanized sheet. Despite shortage conditions, Kaiser Steel is contemplating shutting done its galvanizing line and Pinole is currently running at 40 percent of capacity. Its not that the market or demand is not there but offshore competition with allegedly steep discounts estimated to be $50 per ton below domestic prices is claimed to be taking away the volume. Pinole could possibly discount more to obtain an order but financially if it did it would not survive. A company such as Pinole or any

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1/ Report at V-7.
2/ Report at V-8.
3/ Report at V-8.

company can make some profit but can still go bankrupt if the conditions continue, because as an example a coating line when originally installed costs approximately $2 million but eventually must be replaced. Today if it were replaced, it would cost $20 million.

Yearend inventories of galvanized carbon steel sheet increased from 318,000 tons in 1977 to 377,000 tons in 1979, declining somewhat to 349,000 tons in 1980, but surging to 450,000 tons in 1981, the highest level during the period. 1/

The average number of production and related workers producing galvanized sheet which increased slightly from 13,123 in 1978 to 13,883 in 1979, declined by 13 percent to 12,046 in 1980, and increased again by 15 percent in 1981 to 13,919, representing an overall 6-percent increase for the period. Hours paid for such workers also followed a similar trend, yet for the overall period showed a smaller increase of 2.4 percent. Total compensation paid to such workers increased 43 percent during the period while labor productivity declined by 5 percent, forcing unit labor costs per ton up 47 percent. 2/

Financial experience on a profit-and-loss basis by producers (accounting for 73 percent of U.S. producers' shipments in 1980) are further manifestation of the poor health of this industry. Although net sales increased irregularly during 1978-81 from $2.0 billion to $2.4 billion in 1981 (having dropped to $1.9 billion in 1980), operating profits which increased from $108 million in 1978 to $135 million in 1979, plunged to operating losses recorded at $91 million in 1980 (negative 4.8 percent) and $29 million in 1981 (negative 1.2 percent). The number of firms reporting operating losses increased from 3 in 1978 and 1979, to 6 in 1980 and 5 in 1981. 3/

1/ Report at V-10.
2/ Report at V-11 through V-13.
3/ Report at V-14.

Reasonable indication of material injury by reason of imports

During the 1978-80 period, all imports of galvanized carbon steel sheet, which accounted for between 8 and 12 percent of total U.S. imports of all carbon steel mill products, declined each year from 2.3 million tons to 2.1 million tons in 1979 and 1.3 million tons in 1980 and 1981. As a share of U.S. consumption, such imports also declined from 27 percent in 1978 to 21 percent in 1980, but in 1981 on a quarterly basis, have taken a larger share of the market, rising from a low of 10 percent in January-March to 22 percent in July-September. 1/

Imports of galvanized sheet from all countries subject to these investigations which had declined steadily from 717,000 tons in 1978 to 276,000 tons in 1980 (from 8.3 percent of apparent domestic consumption in 1978 to 4.3 percent in 1980), increased 8 percent in 1981 to 299,000 tons. On a quarterly basis such imports increased consistently from 25,000 tons in January-March 1981 to 149,000 tons in October-December 1981, with respective market penetration data relative to apparent domestic consumption jumping from 1.4 percent the first quarter of 1981 to 4.8 percent in July-September 1981. 2/ During January-November 1980-81 corresponding periods such imports on a value basis increased 11 percent from $101 million to $112 million. 3/ Such imports with respect to U.S. producers' shipments also mirrored penetration levels on a consumption basis, looking at 1981 quarterly data, increasing from 1.7 percent of U.S. producers' shipments for the January-March 1981 quarter to 6.1 percent for the July-September 1981 quarter. 4/

1/ Report at V-19 and V-4, table V-2.
2/ Report at V-20 through V-23.
3/ Report at V-24.
4/ Report at V-29.

Data supplied by Cravath, Swaine & Moore, attorneys for certain Petitioners 1/ citing Department of Commerce/AISI/Wharton as sources, comparing first half of 1981 import penetration of these products of 1.8 percent with July through October 1981 monthly data on import penetrations reveal even greater penetration levels, reaching 8.0 percent for the month of October 1981 for such imports of galvanized sheet. 2/

Pricing data obtained on comparative imported and domestic products and lost sales information of a meaningful nature were incomplete and I believe no definitive conclusion can be drawn from what were obtained by staff. However, in viewing the financial experience and other adverse indicators of the industry, in particular the poor gross margins and adverse financial results in general undoubtedly even more accentuated during the last half of 1981 and exacerbated in terms of price sensitivity for these products by recent declines in end-use markets such as the automotive and construction industries, coupled with the allegations of petitioners in this respect which have not been conclusively refuted at this point, I believe there is a reasonable indication of possible price suppression and depression by virtue of such imports which warrants further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and/or subsidized imports.

1/ The "group of five", Republic Steel, Inland Steel, J&L, National Steel, and Cyclops.

2/ Jan. 11, 1982, brief of Cravath, Swaine & Moore, vol. II., p. 247.

VI. Carbon Steel Structural Shapes

In these investigations on carbon steel structural shapes, 1/ I conclude that there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, the Federal Republic of Germany, France, Luxembourg, the United Kingdom, and Brazil are causing material injury to the affected U.S. industry.

Condition of the domestic industry

The principal domestic firms producing this product (accounting for an 85-percent share of 1980 U.S. producers' shipments of carbon steel structural shapes) are integrated producers, rolling a wide range of shapes, with the remaining producers (minimills), rolling small angles, channels, and standard beams on an assortment of bar or light structural mills. The condition of the U.S. industry producing carbon steel structural shapes has declined since 1979. Production increased somewhat from 1978 to 1979, but dropped from 4.1 million tons in 1979 to 3.7 million tons in 1981, representing a decline of about 10 percent. 2/ Domestic shipments also increased slightly from 1978 to 1979, but declined from 4.5 million tons in 1979 to 4.1 million tons in 1980 and 4 million tons in 1981, despite the fact that apparent U.S. consumption, which in 1980 declined 8 percent to 5.7 million tons from 1979 levels, had increased on a January-November 1980 and 1981 comparative basis 8 percent to 5.5 million tons. U.S. producers' shipments during the second half of 1980 and 1981 showed an 11-percent decline from approximately 2 million tons to

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1/ Investigations Nos. 701-TA-117 through 119 (Preliminary), 701-TA-121 (Preliminary), 701-TA-123 and 124 (Preliminary), and 731-TA-82 through 86 (Preliminary).

2/ Report at VI-4 and VI-7.

1.8 million tons. 1/ Exports of this product, accounting for about 4 percent of aggregate exports of all carbon steel mill products during 1978-80 accounted for less than 3 percent of net domestic shipments in 1980. 2/

Capacity for the production of structural shapes declined from 6.4 million tons to 6.3 million tons between 1979 and 1981. Utilization of available capacity dropped during that period, from 64.4 percent to 58.2 percent. 3/ U.S. producers' yearend inventories remained relatively constant throughout the 1978-81 period, at roughly 6 percent of total annual shipments. 4/

Employment of all persons and production and related workers in domestic establishments producing structural shapes rose with increased production in 1979, but fell significantly in 1980 and 1981 as production and domestic shipments declined. Employment levels of such workers in 1981 were 10.7 percent below levels in 1979. The number of hours worked similarly declined, although total compensation to production and related workers continued to increase, albeit at a much lower pace than from 1978 to 1979. 5/

The lack of profitability of the structural shapes industry is striking. The domestic industry producing structural shapes recorded a loss in every year from 1978 to 1981. 6/ The operating loss declined from $25 million in 1978 to $4 million in 1979, then ballooned to $62 million in 1980 and $66 million in 1981. Net sales for the comparable years were $1.1 billion in 1978

1/ Id. at VI-3 and VI-8.
2/ Id. at VI-9 and VI-10.
3/ Id. at VI-7.
4/ Id. at VI-10 and VI-11.
5/ Id. at VI-11 through VI-14
6/ Profit-and-loss data were received from seven firms accounting for 78 percent of U.S shipments in 1980.

increasing to $1.3 billion in 1979 and remaining flat at about $1.3 billion in 1980 and 1981. The ratio of operating loss to net sales decreased from 2.2 percent in 1978 to 0.3 percent in 1979, then increased markedly to 4.7 percent in 1980 and 4.9 percent in 1981. Four firms out of the U.S producers accounting for 78 percent of total shipments of structural shapes in 1980 reported operating losses in 1978 and 1979, increasing to five firms in 1980 and 1981. 1/

Reasonable indication of material injury by reason of imports

During the 1978-80 period, imports of structural shapes made up about 10 percent of total U.S imports of all carbon steel mill products. Such imports from all sources amounted to 1.8 million tons ($445 million in value) in 1978, 1.9 million tons ($579 million) in 1979, and 1.7 million tons ($575 million) in 1980. January-November 1981 figures of such imports showed an increase to 1.9 million tons ($668 million) compared with 1.6 million tons ($521 million) imported during the 1980 corresponding period. Imports from all countries subject to these investigations accounted for 47 percent of total imports in 1980 with other principal suppliers, Japan (36 percent) and Canada (15 percent). 2/

Imports from all countries subject to these investigations declined steadily from 899,000 tons in 1978 ($218 million in value) to 806,000 tons in 1980 ($258 million), but increased substantially by 32 percent to 1,065,000 tons in 1981 ($369 million value for 1.01 million tons through November). 3/

1/ Report at VI-16.
2/ Report at VI-23.
3/ Report at VI-24, Table VI-16, Table VI-17 at p. VI-26, and Table VI-18 at p. VI-27, Table VI-19, at VI-29. There are some minor mathematical inconsistencies in comparing totals of data which are arrayed differently on these tables.

Market penetration by these imports in terms of apparent domestic consumption increased rapidly also from 12.7 in October-December 1980 quarter to 19.8 percent in the July-September 1981 quarter. Such penetration by imports had been as low, relatively speaking, as 11.8 percent in the January-March 1980 quarter. Such imports for the corresponding July-December 1980 and 1981 periods increased from 397,000 tons to 511,000 tons, respectively, representing a 28.7 percent increase. 1/

Price trends based on average selling prices requested of domestic producers and importers for six carbon steel structural shape products selected to be "representative" appear inconclusive but there are some indications of underselling and sales lost due to underselling by such imports from all countries investigated except Brazil that warrant further scrutiny. 2/ The data developed here nevertheless cannot be described as comprehensive in coverage but do provide some indication of a possible pattern of underselling by such imports. I believe such data coupled with the allegations of petitioners which have not been conclusively refuted evidence a reasonable indication of possible price suppression and depression by reason of underselling attributable to allegedly dumped and/or subsidized imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and/or subsidized imports.

1/ Report at VI-26.
2/ Report at VI-32 through VI-51.

VII. Hot-Rolled Carbon Steel Bar

In the investigations on hot-rolled carbon steel bar (investigations Nos. 701-TA-125 through 129, 701-TA-146, and 701-TA-147 (Preliminary)), I conclude that there is a reasonable indication that allegedly subsidized imports from Belgium, Brazil, France, Italy, Luxembourg, the United Kingdom, and West Germany are causing material injury to the affected industry.

Condition of the domestic industry

U.S. producer shipments have remained level for steel service centers and distributors from 1979 to the first 9 months of 1981, and declined slightly for machinery, industrial equipment, and tools market. The auto sector has been the largest user of hot-rolled carbon steel bar, although use of this product by this sector has declined from 1979 through the first 9 months of 1981. U.S. producers' net shipments of hot-rolled carbon steel bars were approximately 5.9 million tons in 1970, declining to a little over 4 million tons in 1980, and increasing to 4.2 million tons in 1981. 1/

Hot-rolled carbon steel bars are produced in the U.S. by three types of producers: integrated steel companies, mini-mills, and steel rerollers which purchase steel billets from abroad or domestic sources, and then roll these into bars. The major producers are the integrated mills. There are over 50 companies with capacity to produce carbon steel bars, and to operate approximately 92 mills in the U.S. There are more than 50 importers of this product from the countries subject to these preliminary investigations. These import firms in many cases, are owned by or affiliated with steel producers in the countries subject to these investigations. Ratio of imports to domestic consumption has been increasing since 1979, and in the last two quarters of

1/ Report at VII-7.

1981 these increases accelerated to 10.3 percent and 11.2 percent from 6.5 percent and 8.4 percent of the first two quarters of 1981. Apparent consumption and shipments increased in 1981 from what they were in 1980. Imports also increased, especially during the second half of 1981, just when shipments were going down as well as when consumption was going down. 1/ Capacity utilization by domestic producers has fallen severely from 68.1 percent in 1978 to 66.6 percent in 1979, and to 50.7 percent in 1980, improving slightly in 1981 to 52.9 percent. Capacity utilization in 1981 was about 14 percentage points less than in 1979 and U.S. production in 1981 was 24 percent less than production in 1979. 2/ Exports of hot-rolled carbon steel has accounted for only 3 percent of annual U.S. exports during the 1978 to 1980 period. For 1981, exports were higher than in 1980. Inventories at the end of 1981 were down to their lowest levels in the last 5 years. 3/

The number of workers producing hot-rolled carbon steel bar declined from 20,272 in 1978 to 19,677 in 1979, falling sharply to 14,396, representing a 27 percent curtailment in 1980, and then increasing slightly in 1981 to 14,579. Hours paid for workers producing this specific product line fell from 41.1 million in 1978 to 27.6 million in 1980, but increasing to 28.3 million in 1981. 4/ Value of wages paid for production and related workers in hot-rolled carbon steel bars were up in 1981 from what it was in 1980. Labor productivity increased by about 2 percent annually in 1978-81. Hourly compensation and unit labor costs although higher in 1981 than 1980, increased at lower percentages than for the previous 2 years, with increases in those two labor cost factors increasing at half the increases registered in 1980. 5/

1/ Report at VII-4, table VII-2.
2/ Report at VII-6.
3/ Report at VII-10.
4/ Report at VII-10.
5/ Report at VII-13.

Net sales for firms producing about 91 percent of total U.S. producers shipments of hot-rolled carbon steel bar had decreased in 1980 to $1.6 billion from $2.2 billion in 1979. Net sales increased in 1981 to $1.9 billion but these 11 firms' combined results manifested operating losses in both 1980 and 1981, with at least 6 firms individually reporting operating losses in each year. Capital expenditures of firms supplying data to the Commission for the production of hot-rolled carbon steel bars rose substantially from $158 million in 1978 to $253 million in 1980, and then declined in 1981 to $225 million. Research and development expenditures that were up in 1978 and in 1979 to $2.0 million and $2.1 million, respectively, were reported to have declined in 1981 to $1.5 million. 1/

Reasonable indication of material injury by reason of imports

Imports from all sources of hot-rolled carbon steel bar as a percentage of apparent U.S. consumption, have increased in both 1980 and 1981. 2/ Imports from the EC in January-November 1981 amounted to 132,000 tons or 73 percent more than imports in January-November 1980. The ratio of EC imports to apparent U.S. consumption of hot-rolled carbon steel bar remained at about 2 percent during the 1978 to 1980 period, but then rose to 3.1 percent in the first 11 months of 1981. 3/ Market penetration by the countries subject to the investigations in this product in the aggregate increased in 1981. Japan is still the largest exporter to the U.S. in the 1978 to November 1981 period of this product. The EC was second, and Canada third. Imports of hot-rolled carbon steel bars from the countries subject to these countervailing duty preliminary investigations and also Spain and South Africa, had been going

1/ Report at VII-14.
2/ Report at VII-5 and VII-21.
3/ Report at VII-22.

down in 1979 and in 1980. Then in 1981 they increased sharply from 134,325 tons in 1980 to 194,377 tons in 1981. 1/ This increase was sharply concentrated in the last three quarters of 1981, when these imports accounted for 55,797, 58,916 and 60,645 tons, respectively, after a first quarter of only 19,019 tons. For example, imports of hot-rolled carbon steel bars in the January-November 1981 period amounted to 13,000 tons from Belgium and Luxembourg, compared with 8,000 tons during the corresponding period of 1980. In the case of France for the same period, such imports increased from 3,000 tons to 5,000 tons in 1981. These 5,000 tons were brought into the U.S. market during an 11 month period in 1981, while in 1980 for the entire year 4,000 tons of this product were imported. Italy, though importing less than 500 tons for this period, still increased imports in tons and value from the corresponding period of 1980. United Kingdom almost doubled their imports in terms of tonnage, from 53,000 tons in the 1980 11-month period (January to November) to 102,000 tons. West Germany also increased tons imported, from 11,000 tons to 12,000 tons for the same 11-month period. Brazil, though it reduced tons imported for the comparable 11-month period by a considerable amount, the unit value per ton was lower than all other importers subject to these investigations and its imports in the last quarter of 1981 increased sharply from what they were in the last quarter of 1980. 2/

Several allegations were made of lost sales, and also purchases were made from foreign producers because of corporate relationships with steel producers in those countries. Price is the influential factor in purchasing this product, and these products appear highly price sensitive, even more so during periods of stagnant or declining demand.

1/ Report at VII-23, table VII-16.
2/ Report at table VII 20, at VII-28.

Information on comparative pricing patterns between domestic and imported products and countries involved is incomplete, but there are indications of underselling and of possible price suppression and depression that merit further scrutiny. I believe the information at hand, albeit incomplete, coupled with the allegations of Petitioners in these investigations submitted for the record at this point which have not been conclusively refuted point to a reasonable indication of possible price suppression and depression by underselling attributable to allegedly subsidized imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly subsidized imports.

VIII. Hot-Rolled Alloy Steel Bar

Introduction

In the investigations on hot-rolled alloy steel bars (investigations Nos. 701-TA-130 through 133 (Preliminary)) I conclude that there is a reasonable indication that the domestic industry is being materially injured by reason of allegedly subsidized imports of hot-rolled alloy steel bar from France, Italy, the United Kingdom, and West Germany.

Condition of the domestic industry

Some 34 firms produce hot-rolled alloy steel bars in the United States. During the 1978 to 1981 period the overall decreases in production, capacity, capacity utilization, 1/ quantity of shipments, 2/ employment of production and related workers in establishments producing hot-rolled alloy steel bar, paid hours worked, 3/ and inconsistency in attained operating profits and operating profits as a percent of sales, 4/ are only part of the reasons that the U.S. industry producing hot-rolled alloy steel bar as covered by this analysis, is vulnerable to the effects of and has possibly experienced material injury from collective imports from all countries subject to the referenced investigation numbers.

Reasonable indication of material injury by reason of imports

These imports from countries subject to these investigations rose very sharply from a depressed 11-month 1980 total of 8,406 tons to 49,147 tons in the first 11 months of 1981. In comparison, the full year 1979 level was only 12,067 tons. Including inflation, the value of these imports also rose

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1/ Report, table VIII-3.
2/ Id. table VIII-4.
3/ Id. table VIII-6.
4/ Id. table VIII-9. Nine firms accounting for about 62 percent of U.S. producer shipments.

significantly for the same comparison periods. 1/ Collectively imports from France, Italy, the United Kingdom, West Germany, Spain, and South Africa-all cited countries-accounted for 35 percent of imports in the January-November 1981 period, when such imports peaked in terms of both volume and share of imports. There was a general rise in imports in each quarter of 1981 as compared with the respective quarter in 1980. 2/ The penetration of imports from all countries subject to countervailing duty investigations as a percent of apparent U.S. consumption rose slightly from the 1978 year share of 1.7 percent to an 1981 11-month share of 2.1 percent and 2.5 percent in the third quarter 1981. However, it is important to note that such imports had only attained penetration levels of 0.5 percent of domestic consumption in 1979 and 1980. 3/

As I indicated in the overview, the Commission's comparison of indexes for producer prices, trigger prices, and unit values of imports has its limitations because of discounts or premiums that may exist relative to producers' list prices and other factors. Unit value of imports may also reflect changes in actual product mixes within hot-rolled alloy steel bar, and acceptable data from Germany were not available. 4/ Only limited transaction price information was obtained by the Commission in this preliminary investigation. In these analyses, it is not certain whether the samples contacted are representative of the industry. No purchasers reported prices for imported hot-rolled alloy steel bar. 5/ Certainly more investigation of pricing is required in my opinion.

1/ Id. table VIII-11.
2/ Id. at VIII-25.
3/ Id. tables VIII-14 and VIII-16. This includes also Spain and South Africa statistics.
4/ Id. table VIII-17.
5/ Id. at VIII-29.

Capacity details on foreign capabilities to produce hot-rolled alloy steel bars, the relative available markets abroad, availabilities of internal markets from growth in each foreign producing country and other information was lacking and does not justify in this respect discontinuance of the investigations. A preliminary investigation attempts to assess the possibility of present injury and imminent threat of material injury. Continuation of this investigation based upon the cumulated impact of the cited countries is appropriate because past small increases in market penetrations can be quickly altered upward as can prices. Also data on importers' inventories of these products were incomplete.

Although certain industry indicators appear mixed, I believe the industry is vulnerable to effects of and has possibly suffered material injury from evident increased imports allegedly unfairly traded and is not in good health. I must also recognize that much information including that bearing on threat is missing. I therefore determine there is a reasonable indication that the domestic industry producing hot-rolled alloy steel bar is possibly suffering material injury by reason of allegedly unfairly traded imports. I rely on the "low-threshold" intended by Congress to allow continuation of these preliminary investigations into final determinations, if the facts so warrant.

IX. Cold-Formed Carbon Steel Bar

With regard to the six countervailing duty investigations involving cold-formed carbon steel bar, 1/ I determine that there is a reasonable indication of material injury by reason of the allegedly subsidized imports from Belgium, Brazil, France, Italy, the United Kingdom, and West Germany.

Condition of the domestic industry

The facilities manufacturing cold-formed carbon steel bar have been faced in the years 1980 and 1981 with demand that was substantially lower than in the previous 2 years, with apparent consumption of 1.3 million tons in January-November 1981, though 9 percent higher than the corresponding 1980 levels, still considerably below 1.8 million tons in 1978 and 1.9 million tons in 1979. Some 40 firms produce cold-formed carbon steel bar in the United States. Only two large integrated steel producers, Republic Steel and Jones & Laughlin Steel produce these products, accounting for less than one-third of total U.S. producers' shipments of these products in 1981, but still a considerable portion. The rest of the firms are basically electric furnace/mini-mill and fabricator operations. 2/ U.S. production of the product fell sharply from 1979 to 1980 from 1 million tons to 738,000 tons. While production was up in 1981 to 796,000 tons, the increase still left production levels 24 percent below the 1979 mark. 3/ Shipment data reveal a similar trend, showing a 7 percent rise from 1978 to 1979, then a precipitous drop of almost one-third in 1980. Total domestic shipments then rebounded somewhat in 1981, but still represented a 28-percent decline from 1979 levels. 4/

1/ Investigations Nos. 701-TA-134 to 139 (Preliminary).
2/ Report at IX-4 through IX-7.
3/ Report, table IX-4, and IX-9.
4/ Id. at IX-9 and IX-10.

Capacity to produce cold-formed carbon steel bar fluctuated throughout the period from 1.3 million tons in 1978, reaching its highest level, 1.4 million tons, in 1981. Because of lagging production and shipment levels in 1980 and 1981, capacity utilization dropped sharply after 1979, falling to 56 percent in 1981. 1/ U.S. producers' inventories of the product remained fairly constant throughout the period at 10 to 12 percent of annual shipments. 2/

Employment trends followed the trends in production. The average number of workers engaged in producing the product increased 2 percent from 1978 to 1979, then fell 24 percent in 1980 but also fell an additional 4 percent in 1981. Employment of such workers in 1981 of 2,731 represented a 25-percent decline from 1978 employment levels. Hours paid for workers engaged in producing cold-formed carbon steel bar declined 30 percent from 1979 to 1980 and a further 1 percent in 1981. Total wages and compensation in 1980 and 1981 were also well below 1979 levels. Labor productivity fluctuated markedly during the 1978-81 period rising by 3 percent in 1979, declining slightly in 1980 and rising by 6 percent in 1981, but was outpaced substantially by gains in hourly compensation of 14 percent in 1979 and 1980 and 10 percent in 1981. Unit labor costs thus increased even more substantially or 32 percent during the period on a per ton basis. 3/

U.S. producers' profitability has suffered in the last 2 years as well. 4/ Net sales grew from $393 million in 1978 to $467 million in 1979, then declined radically in 1980. Rising sales in 1981 amounted to $411 million dollars, still well below the level of 1979. Operating profits were

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1/ Id., Table IX-4.
2/ Id. at IX-12.
3/ Id. at IX-12 to IX-15. It should be noted that U.S producers submitting usable data in thus regard accounted for 39 percent of total shipments in 1980.
4/ Profit-and-loss figures were submitted by four firms accounting for about 42 percent of U.S. shipments in 1980.

$16 million in 1978 and $19 million in 1979, or 4.1 percent of net sales in both years. However, losses of $7 million and $5 million were sustained in 1980 and 1981, respectively. These losses amounted to 1.9 percent and 1.2 percent of net sales. While only one firm reported operating losses in 1978 and none reported losses in 1979, four suffered losses in 1980, and three in 1981. 1/

Resonable indication of material injury by reason of imports

During the 1978-80 period, imports from all sources of cold-formed carbon steel bar comprised less than 1 percent of total U.S. imports of all carbon steel mill products, and fell from 141,000 tons in 1978 to 86,000 tons in 1980. However, during the January-November 1981 period 120,000 tons, a 58 percent increase over the comparable 1980 period, were imported. Market penetration by such imports with respect to apparent U.S consumption decreased from 7.8 percent in 1978 to 5.0 percent in 1979, but subsequently increased to 6.5 percent in 1980, and jumped to 9.0 percent in the January-November 1981 period. The uptrend for such imports is even more pronounced in examining 1980 and 1981 quarterly data which indicate that such imports rose irregularly from 24,000 tons in the first quarter 1980 to a peak of 36,000 tons a quarter in the last two quarters of 1981, showing a dramatic increase in penetration from 5.7 percent in January-March 1980 to 11.9 percent in October-December 1981. 2/ The principal supplier of cold-formed carbon steel bar to the U.S during January 1978 to November 1981 was Japan, accounting for 57 percent of total imports during the period with the EC supplying an aggregate of 26 percent of such imports. 3/

1/ Id. at IX-16.
2/ Report at IX-19, table IX-16.
3/ Report at IX-19.

Imports from all countries subject to these investigations and from Spain and South Africa similarly showed dramatic increases both in absolute levels and relative to domestic consumption. After having declined steadily from 42,509 tons in 1978 to 23,818 tons in 1980, such imports increased dramatically in 1981, 150 percent, from 1980 levels to 59,633 tons. Likewise import market penetration which stood at 2.3 percent in 1978 as a share of apparent domestic consumption declined to 1.6 percent in 1979, stood at 1.8 percent in 1980, and jumped to an estimated 4.2 percent for the 1981 period. 1/ Quarterly figures for the 1980-81 period evidence the surge in such imports from 4,298 tons in the third quarter of 1980 to over 16,000 tons in the third and fourth quarters of 1981 with July-December 1981 levels of 32,974 tons having increased over three times from the corresponding 1980 6-month period levels. Market penetration of such imports during the 1980 and 1981 period on a quarterly basis increased quarterly from 1.6 percent of apparent domestic consumption in the third quarter of 1980 to an estimated 5.5 percent for the fourth quarter of 1981. 2/ In terms of value, such imports to the U.S increased from $10.3 million to $33.3 million during the January-November 1980 and 1981 comparative periods. 3/

Data on prices of imported and domestic products and lost sales were quite incomplete with product and country coverage hardly comprehensive, but there are instances of possible underselling by these imports which warrant further investigation should final investigations be conducted. 4/

These data, coupled with allegations of petitioners in this respect which have not been conclusively refuted by respondents, evidence a reasonable

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1/ Report, table IX-12.
2/ Id.
3/ Report, table IX-14.
4/ Report at X-34 and IX-35.

indication of possible price suppression and depression by reason of underselling by such imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly subsidized imports.

X. Cold-Formed Alloy Steel Bar

In the countervailing duty investigations Nos. 701-TA-140 to 144 (Preliminary) on cold-formed alloy steel bar, I determine that there is a reasonable indication of material injury by reason of imports from Belgium, the Federal Republic of Germany, France, Italy, and the United Kingdom.

Condition of the domestic industry

During the 1978 to 1981 period the decreases in production, 1/ capacity utilization, 2/ employment of production and related workers in establishments producing cold-formed alloy steel bar, 3/ paid hours worked, 4/ flattened operating profits, 5/ and flattened operating profits as a percent of sales (though at first glance seemingly favorable) 6/ are only part of the reasons that the U.S. industry producing cold-formed alloy steel bar, as covered by this analysis, is vulnerable to the effects of and has possibly experienced material injury from collective imports from all countries subject to these countervailing duty investigations.

Reasonable indication of material injury by reason of imports

Such imports rose from a full-year 1978 quantity of 25,668 tons to an 11-month 1981 total of 42,066 tons. The share of apparent U.S. consumption more than doubled from 7.9 percent in 1978 to 16.1 percent for the first 11 months of 1981. 7/

1/ Report, table X-3.
2/ Id.
3/ Id., table X-6.
4/ Id.
5/ Id., table X-9.
6/ Id. Firms reporting accounted for only about 45 percent of total producer shipments of such products.
7/ Id. table X-11. Countries include Belgium, France, Italy, United Kingdom, West Germany and Spain.

Purchasers contacted by the Commission regarding cold-formed alloy steel bar prices failed to provide information regarding specific prices of imported bars. 1/ Selection of overall unit value of imports can be misleading if particular kinds of cold-formed alloy steel bars imported change between the periods measured. Producer price indexes can be misleading if based on list prices and changes in discounts or premiums from list prices are not reflected. Hence, the usefulness of price index comparisons such as those in table X-18 of the Report and the limited response to the Commission's efforts to get information in these preliminary investigations argue for obtaining more facts and continuing the investigations in this regard. When a set of different indexes is selected it is important to review pertinent domestic and international economic trends during the years selected in order to make a fair judgment on what year the index is based upon as well as what beginning and terminal years are selected for change measurement.

A few observations are in order with respect to seemingly mixed indicators of the industry's health. It is not enough to say that a product lines' profit as a percent of sales is above the average profits recorded for manufacturing concerns in the United States or to assume all capital investment in plant and equipment is for cash-generating productive improvements. As in any analysis of the condition of an industry, a particular product must not be divorced from the component, in view of the contribution it has in overall companies' viability. Also, age of equipment and recent levels of depreciation writeoff influence profit levels, that are perhaps misleading and illusory from an intrinsic economic standpoint.

1/ Id. at X-32 through X-38.

Also, it is not appropriate to have unresolved questions regarding the claimed misclassification of imports from France relative to cold-formed alloy bars. 1/

In the case of the cold-formed alloy steel bar industry, national security and other critical considerations that are economic factors of relevance must be addressed. The industry's petition is not frivolous nor marginal in my judgment. Weakening demand in many steel products and for U.S. raw steel produced in general in the fourth quarter of 1981 and so far during the first quarter of 1982 provides an economic context pertinent in reviewing this industry's condition during these preliminary investigations. There is a reasonable indication that U.S. firms producing cold-formed alloy steel bar did not maintain the more favorable operating rates and financial results that existed in the first half of 1981. Undue reliance on yearly average comparisons to say that a particular profit picture is extremely healthy may neglect quarterly changes and trends and how these must be related to overall companies' viability.

Even conditions which some may indicate contributed during the 1978 through 1981 period to an above average profit picture do not cover in toto the present or future threats of material injury which may reasonably exist because of impacts from allegedly subsidized cold-formed alloy steel bar exports from an accumulated group of countries. Additionally, it is important to note such profitability data were obtained from three firms accounting for only about 45 percent of total producers' shipments in 1980 of these products. It is important to state here, also, that end-of-period inventories of imports from all sources rose sharply from a 1980 level of 5,156 short tons

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1/ Id. at X-26 through X-32.

to a 1981 level of 16,949 short tons. 1/ This inventory accumulation represents an overhang which could disrupt the United States market. The effective capacity of foreign countries to export to the United States and other foreign markets is not even adequately referred to in the Report, nor is there detail on their own internal demand and other pertinent economic factors such as pricing patterns. These considerations have a bearing on the issue of threat to the domestic injury.

Although certain industry indicators appear mixed, I believe the industry is not in good health and is vulnerable to effects of and is possibly suffering material injury from evident increased imports. As stated, much data pertaining that bearing on threat is missing. I therefore determine that there is a reasonable indication that the domestic industry producing cold-formed alloy steel bars is possibly suffering material injury by reason of allegedly unfairly traded imports. I am relying on the "low-threshold" intended by Congress to allow continuance of these preliminary investigations into final determinations, if the facts so warrant.

1/ Id. table X-10.

XI. Conclusion

I conclude that there is a causal link between the allegedly subsidized and/or allegedly LTFV imports for all the products and from all those countries part of these investigations, with the material injury experienced by the domestic industry. The principal bases for my affirmative determinations are the significant cumulative impact that these alleged unfair imports have had on the operations and financial condition of the domestic producers, adverse employment trends, depressed levels of utilization of capacity, and their possible considerable influence in prices, which have had a material adverse effect on the condition of the respective domestic industries covered by these preliminary investigations, as well as the injurious effects to the overall health of the U.S. steel industry, which I believe is a relevant factor to consider in these preliminary investigations.