

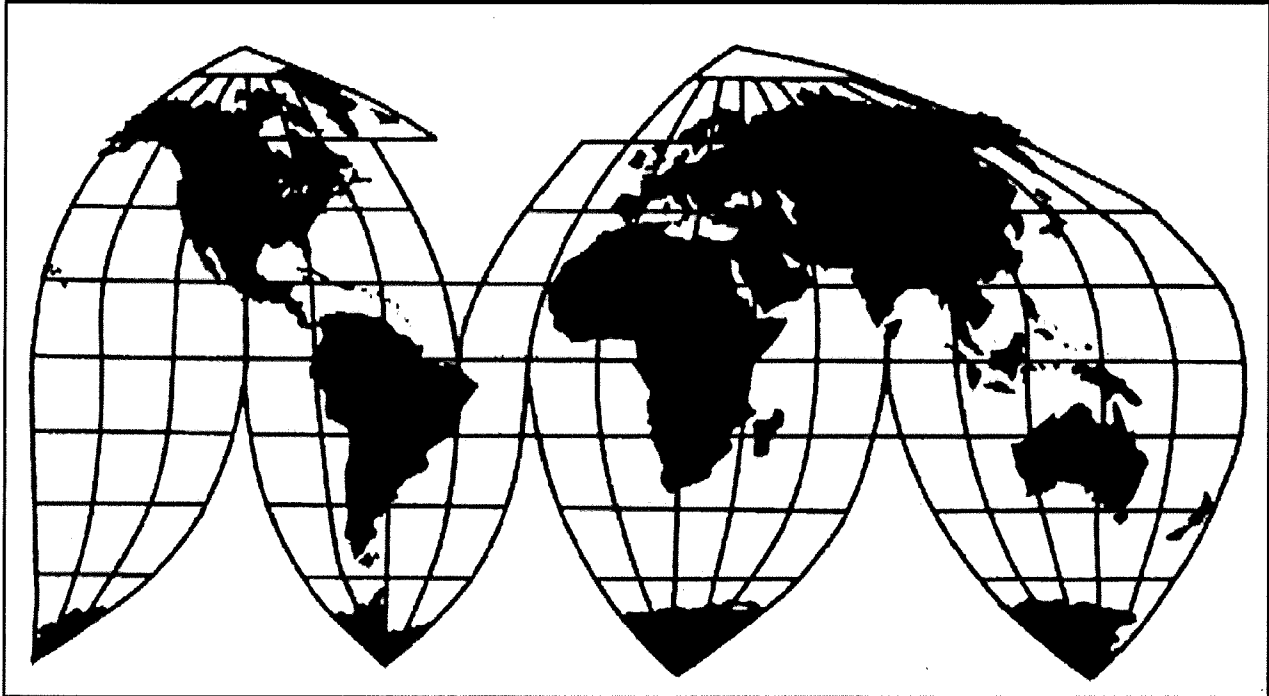
Certain Steel Threaded Rod From India

Investigation Nos. 701-TA-498 and 731-TA-1213 (Final)

Publication 4487

August 2014

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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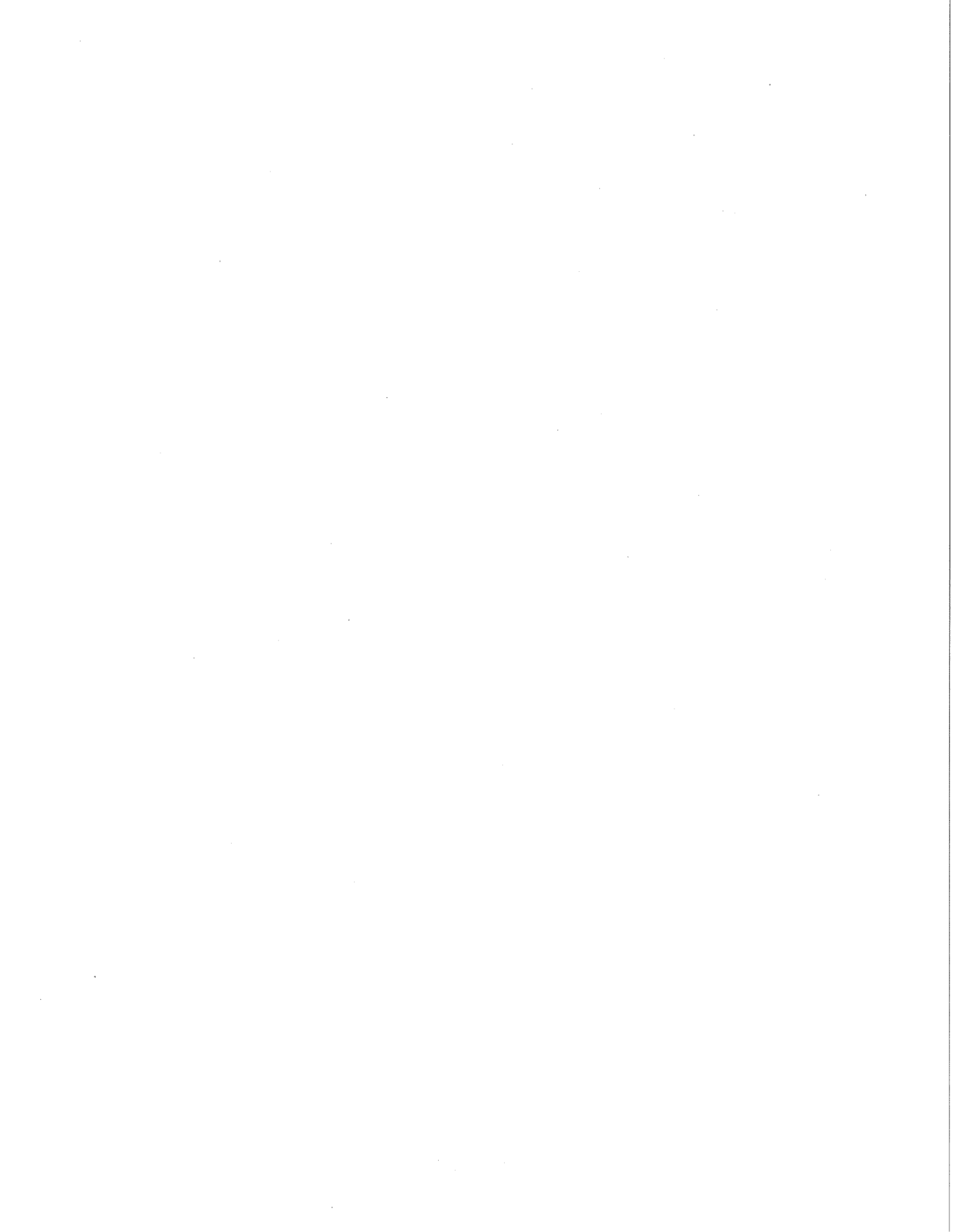
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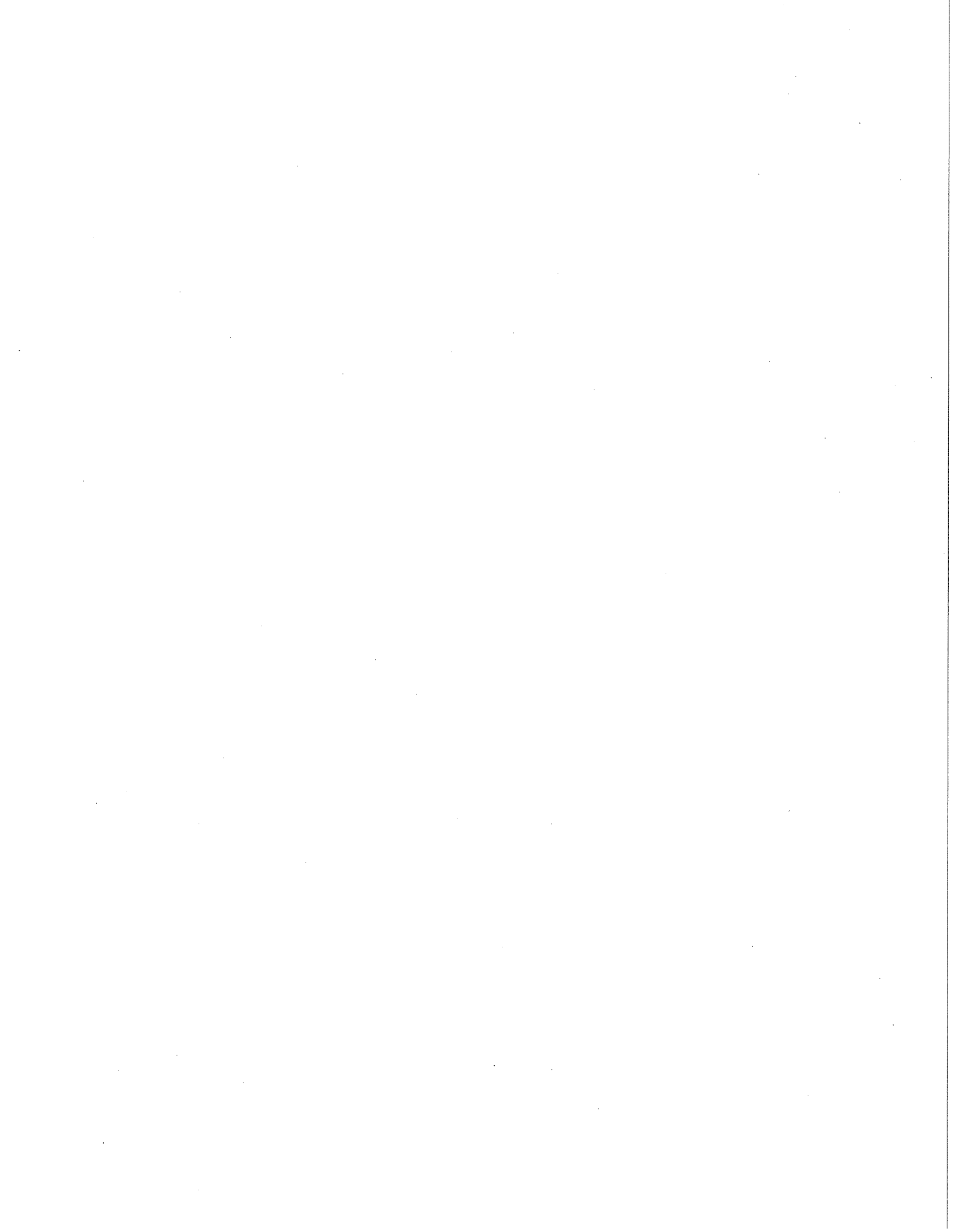
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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-498 and 731-TA-1213 (Final)

CERTAIN STEEL THREADED ROD FROM INDIA

DETERMINATIONS

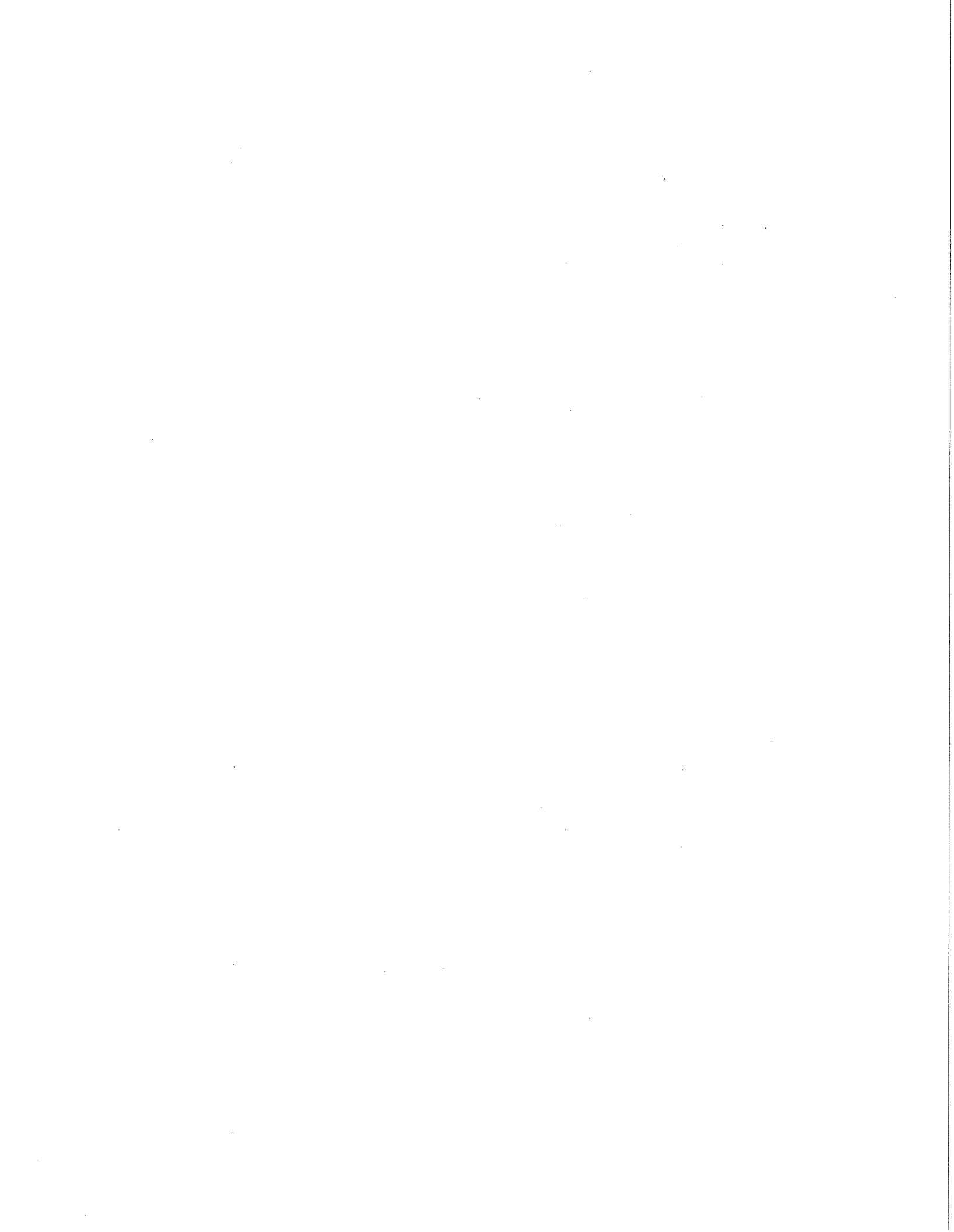
On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines,² pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded by reason of imports of certain steel threaded rod from India, provided for in subheading 7318.15.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of India.

BACKGROUND

The Commission instituted these investigations effective June 27, 2013, following receipt of a petition filed with the Commission and Commerce by All America Threaded Products Inc., Denver, Colorado; Bay Standard Manufacturing Inc., Brentwood, California; and Vulcan Threaded Products Inc., Pelham, Alabama. The final phase of the investigations was scheduled by the Commission following notification of a preliminary determinations by Commerce that imports of certain steel threaded rod from India were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and dumped within the meaning of 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on January 17, 2014 (79 FR 3245) and revised on May 2, 2014 (79 FR 25152). The hearing was held in Washington, DC, on March 20, 2014, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Commissioner Schmidlein did not participate in these investigations.



Views of the Commission

Based on the record in the final phase of these investigations, we find that an industry in the United States is not materially injured or threatened with material injury by reason of imports of certain steel threaded rod from India found by the U.S. Department of Commerce (“Commerce”) to be subsidized by the government of India and sold in the United States at less than fair value.¹

I. Background, Domestic Like Product, and Domestic Industry

On June 27, 2013, Vulcan Threaded Products, Inc., All America Threaded Products, Inc., and Bay Standard Manufacturing, Inc. (collectively “petitioners”) filed a petition concerning certain steel threaded rod (“threaded rod”) from India and Thailand. The Commission was required to issue its determination in the investigation on threaded rod from Thailand in April 2014 because Commerce issued its final determination in that investigation earlier than it did in the investigations concerning threaded rod from India. The Commission made a negative determination on the basis of cumulated subject imports from India and Thailand.²

The Commission’s record in these investigations closed on April 10, 2014, except with respect to Commerce’s final antidumping and countervailing duty determinations regarding threaded rod from India, the final comments of the parties with respect to these determinations, and the supplemental Commission report.³ The supplemental Commission report included the same import data as the original report concerning the question of critical circumstances with respect to threaded rod from India.⁴ The Commission released the data to counsel for interested parties under administrative protective order on July 31, 2014. Petitioners submitted final comments on the results of Commerce’s final antidumping and countervailing duty determinations on July 15, 2014.

Under section 771(7)(G)(iii) of the Tariff Act of 1930, as amended, we are required to make our determinations in the investigations on threaded rod from India on the basis of the same record as that in the investigation on threaded rod from Thailand, except to the extent discussed above.⁵ Therefore, in these investigations, we adopt the findings and analysis in the final determination on threaded rod from Thailand with respect to the issues of domestic like product, domestic industry, and negligibility.⁶

¹ Commissioner Schmidlein did not participate in these investigations.

² *Certain Steel Threaded Rod from Thailand*, Inv. No. 731-TA-1214 (Final), USITC Pub. 4462 (May 2014) (“*Thailand Determination*”).

³ See 19 U.S.C. § 1677(7)(G)(iii); INV-MM-073 (July 30, 2014).

⁴ Because we have reached negative determinations, we do not reach the issue of critical circumstances in this opinion.

⁵ 19 U.S.C. § 1677(7)(G)(iii).

⁶ This corresponds to sections I, II, and III and footnote 53 of the *Thailand Determination*.

II. Cumulation

In our final determination on threaded rod from Thailand, we cumulated subject imports from India and Thailand for purposes of our analyses of both material injury and threat of material injury by reason of subject imports.⁷

We consequently determined for purposes of the determination on threaded rod from Thailand that (1) subject imports from India and Thailand were eligible for cumulation and (2) that a reasonable overlap of competition existed between subject imports from India and Thailand, and between imports from each of these sources and the domestic like product.⁸

Due to the staggering of the investigations and our negative determination in the earlier investigation on subject imports from Thailand, we now address the issue of whether subject imports from India and Thailand remain eligible for cumulation for purposes of the determinations on subject imports from India.

In the Uruguay Round Agreements Act ("URAA"), Congress provided some guidance as to how the Commission is to handle investigations that start out together but then become staggered. First, the statute provides that subject imports from countries for which petitions were filed on the same day are eligible for cumulation.⁹ This provision was designed to ensure that cumulation is based on the petition filing date, not the date of the ultimate vote. The URAA Statement of Administrative Action ("SAA") explains that this provision "eliminates the incentive in multi-country investigations for respondents to seek extensions of individual Commerce determinations just to avoid cumulation."¹⁰ Second, the statute provides that, in the subsequent investigations, the Commission shall make its determination "based on the record compiled in the first investigation in which it makes a final determination," with the addition of information and argument on Commerce's final margins for the later investigations.¹¹ This provision enables the Commission to continue to cumulate subject imports in the later investigation(s), using the record (properly modified) compiled in the first investigation(s).

With this background in mind, we turn to the relevant statutory exception to cumulation. The statute provides that "the Commission shall not cumulatively assess the volume and effect of imports . . . from any country with respect to which the investigation has been terminated."¹² As a result of the Commission's negative determination with respect to threaded rod from Thailand, that investigation was "terminated" within the meaning of that term in 19 U.S.C. § 1673d(c)(2). We find, however, that "terminated" in the cumulation provisions refers to something different: situations where investigations are concluded prior to a final Commission determination of material injury or threat of material injury, in particular as a result of negligible imports or *de minimis* margins. The SAA, which is an authoritative

⁷ *Thailand Determination*, USITC Pub. 4462 at 10-12, 27.

⁸ *Thailand Determination*, USITC Pub. 4462 at 10-12.

⁹ 19 U.S.C. § 1677(7)(G)(i).

¹⁰ SAA, H.R. Rep. 103-316, Vol. I at 848 (1994).

¹¹ 19 U.S.C. § 1677(7)(G)(iii).

¹² 19 U.S.C. § 1677(7)(G)(ii)(II).

expression of Congressional intent, 19 U.S.C. § 3512(d), states that the exception for investigations that are terminated “implements the requirement of the {WTO} Agreements that negligible or *de minimis* imports not be cumulated.”¹³ In nearly identical terms, the related House and Senate committee reports specifically tie this cumulation exception to negligibility and *de minimis* determinations and refer to no other purpose.¹⁴

Thus, the intent of Congress in including the exception for terminated investigations in the statute is clear, and there is no indication that the provision was meant to apply to a situation in which simultaneously filed petitions become staggered in time due to the manner in which Commerce schedules the investigations. In fact, the statute, as described above, enables the Commission to preserve cumulation and to treat subsequent investigations as if they had been rendered at the same time as the earlier investigations.

We conclude based on the statute as a whole that, although an earlier investigation resulting in a negative determination is terminated for purposes of 19 U.S.C. § 1673d(c)(2), it is not thereby terminated for purposes of the exception to cumulation in 19 U.S.C. § 1677(7)(G)(ii)(II).¹⁵ ¹⁶ Accordingly, because we conclude that none of the statutory exceptions

¹³ SAA at 849.

¹⁴ H.R. Rep. 103-826 at 75 (1994); S. Rep. 103-412 at 59 (1994).

¹⁵ We acknowledge that in prior staggered investigations, Commission majorities have concluded that a negative determination in an earlier, or lead, investigation was a “termination” that precluded cumulation of those subject imports in the later, or trailing, staggered investigations. See, e.g., *Glycine from India*, Inv. No. 731-TA-1111 (Final), USITC Pub. 3997 at 4-5 (May 2008); *Certain Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, Invs. Nos. 731-TA-865 to 867 (Final), USITC Pub. 3387 (Jan. 2001); *Certain Cold-Rolled Steel from China, Indonesia, Slovakia, and Taiwan*, Invs. Nos. 731-TA-831, 832, 835, 837 (Final), USITC Pub. 3320 (July 2000). While we do not dispute the permissibility of these prior Commission interpretations of the statute, we observe that the statute is not entirely clear how any “termination” for purposes of the cumulation exception in 19 U.S.C. § 1677(7)(G)(ii)(II) is to be reflected in the record of a staggered investigation, as that record is defined in 19 U.S.C. § 1677(7)(G)(iii). We consequently conclude that our current interpretation is permissible as well, and for the reasons explained above, we believe it to be the better interpretation. We observe that this interpretation is one that has been advanced by individual Commissioners since the 1990s. See *Glycine from India*, USITC Pub. 3997 at 12-13 (views of Commissioners Pinkert and Williamson); *Certain Cold-Rolled Steel from Turkey and Venezuela*, Inv. Nos. 731-TA-839-640 (Final), USITC Pub. 3297 at 14 n.4 (May 2000) (views of Commissioner Bragg); *Certain Steel Wire Rod from Canada, Germany, Trinidad & Tobago, and Venezuela*, Inv. Nos. 731.TA-763-766 (Final), USITC Pub. 3087 at 8 n.31 (Mar. 1998) (footnote of Commissioner Bragg).

¹⁶ Chairman Broadbent joins in the Commission's determination to cumulate the imports from Thailand with the subject imports from India for purposes of these investigations. She notes that, in prior staggered investigations, the Commission majority has chosen not to cumulate imports from investigations previously terminated due to negative Commission determinations. See, e.g., *Glycine from India*, Inv. No. 731-TA-1111 (Final), USITC Pub. 3997 at 4-5 (May 2008); *Certain Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, Invs. Nos. 731-TA-865 to 867 (Final), USITC Pub. 3387 (Jan. 2001); *Certain Cold-Rolled Steel from China, Indonesia, Slovakia, and Taiwan*, Invs. Nos. 731-TA-831, 832, 835, 837 (Final), USITC Pub. 3320 (July 2000). She notes that, in the current investigations, no party has argued that subject imports from India should not be cumulated with (Continued...)

to cumulation is applicable in these investigations, we cumulate subject imports from India and Thailand for the reasons stated in the final determination on threaded rod from Thailand.¹⁷

III. No Material Injury or Threat of Material by Reason of Subject Imports

We adopt and incorporate by reference our discussion set forth in the determination on subject imports from Thailand concerning legal standards and the conditions of competition.¹⁸ We also adopt and incorporate by reference our findings and conclusions that the domestic industry is not materially injured or threatened with material injury by reason of cumulated subject imports from India and Thailand.¹⁹

IV. Conclusion

For the reasons stated above, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of subject imports of threaded rod from India that are subsidized by the government of India or sold in the United States at less than fair value.

(...Continued)

imports of threaded rod from Thailand. She also notes that, whether or not these imports were cumulated, she would still make the same negative determinations with respect to subject imports from India. She will consider arguments from parties concerning this issue in any future staggered investigations.

¹⁷ *Thailand Determination*, USITC Pub. 4462 at 10-12.

¹⁸ *Thailand Determination*, USITC Pub. 4462 at 12-18.

¹⁹ *Thailand Determination*, USITC Pub. 4462 at 18-31. We note that, in its final antidumping and countervailing duty determinations on threaded rod from India, Commerce modified the dumping margins and net subsidy rates somewhat from its preliminary determinations. These changes, however, do not affect our analysis. In its final determination regarding threaded rod from India, Commerce found dumping margins ranging from 16.74 to 119.87 percent and countervailable subsidy rates ranging from 8.61 to 39.46 percent. *Steel Threaded Rod from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Final Determination of Critical Circumstances, in Part; 2012 - 2013*, 79 Fed. Reg. 40714 (July 14, 2014); *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 Fed. Reg. 40712 (July 14, 2014).

PART I: INTRODUCTION

BACKGROUND

These investigations result from petitions filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by All America Threaded Products, Inc., Denver, CO (“All America”), Bay Standard Manufacturing, Inc., Brentwood, CA, (“Bay Standard”) and Vulcan Threaded Products, Inc., Pelham, AL (“Vulcan”), on June 27, 2013, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value (“LTFV”) imports of certain steel threaded rod (“threaded rod”) from India and LTFV imports for threaded rod from Thailand.¹ The following tabulation provides information relating to the background of these investigations.²

Effective date	Action
June 27, 2013	Petitions filed with Commerce and the Commission; institution of the Commission investigations (78 FR 40170, July 3, 2013)
July 24	Commerce’s notice of initiation (78 FR 44526 and 78 FR 44532, antidumping duty and countervailing duty, respectively)
November 5	Commission’s preliminary determination (78 FR 66382)
December 19	Commerce’s preliminary CVD determination on India (78 FR 76815)
December 31	Commerce’s preliminary AD determination on Thailand (78 FR 79670); scheduling of final phase of the Commission’s investigation (79 FR 3245, January 17, 2014)
February 18, 2014	Commerce’s preliminary AD determination on India (78 FR 79670)
March 14	Commerce’s final AD determination on Thailand (79 FR 14476)
March 20	Commission’s hearing
April 17	Commission’s vote (Thailand)
May 1	Commission’s views (Thailand)
May 2	Commission’s revised schedule on India (79 FR 25152)
July 14	Commerce’s final CVD determination on India (79 FR 40712)
July 14	Commerce’s preliminary AD determination on India (79 FR 40714)

¹ The Commission transmitted its determination and views with respect to Thailand on May 1, 2014.

² Pertinent *Federal Register* notices are referenced in app. A, and may be found at the Commission’s website (www.usitc.gov).

Effective date	Action
August 6	Scheduled date for the Commission's vote (India)
August 18, 2014	Scheduled date for Commission's views (India)

The information contained in this report is intended to be used in conjunction with data presented in the Commission's report *Certain Steel Threaded Rod from Thailand, Inv. No. 731-TA-1214 (Final)*, USITC Publication 4462, May 2014, and its corresponding confidential version contained in memorandum No. INV-MM-026 (as revised by memoranda INV-MM-028 and INV-MM-029), *Certain Steel Threaded Rod from Thailand*. No new information except for Commerce's final affirmative determinations of subsidized imports, sales at LTFV, and critical circumstances of threaded rod from India, and party comments³ thereon is included in the record for this proceeding.

Nature and extent of subsidies and sales at LTFV

Subsidies

On July 14, 2014, Commerce published a notice in the *Federal Register* of its final determination of countervailable subsidies for producers and exporters of threaded rod from India.⁴ Table I-1 presents Commerce's findings of subsidization of threaded rod in India.

Table I-1
Threaded rod: Commerce's final subsidy determination with respect to imports from India

Entity	Final countervailable subsidy margin (percent)
Mangal Steel Enterprises Ltd.	8.61
Babu Exports	39.46
All others	8.61

Source: 79 FR 40712, July 14, 2014.

Sales at LTFV

On July 14, 2014, Commerce published a notice in the *Federal Register* of its final determination of sales at LTFV with respect to imports from India.⁵ Table I-2 presents Commerce's dumping margins with respect to imports of threaded rod from India.

³ The only party comments received were from counsel on behalf of the petitioners (Vorys).

⁴ *Steel Threaded Rod From India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712, July 14, 2014

Table I-2

Threaded rod: Commerce's final weighted-average LTFV margins with respect to imports from India

Producer/Exporter	Final dumping margin (percent)
Mangal Steel Enterprises., Ltd.	16.74
Babu Exports	119.87
All others	16.74

Source: 79 FR 40714, July 14, 2014.

CRITICAL CIRCUMSTANCES

On July 14, 2014, Commerce published a notice in the *Federal Register* of its final critical circumstances determination of countervailable subsidies for producers and exporters of threaded rod from India.⁶ Commerce stated "In our preliminary critical circumstances determination, we determined that critical circumstances do not exist for Mangal Steel, but do exist with respect to imports from Babu and 'all other' exporters of steel threaded rod from India. No party submitted comments with respect to, and we made no changes to, our preliminary affirmative critical circumstances determination. Therefore, in accordance with section 705(a)(2) of the Act, as amended, we continue to find that critical circumstances exist with respect to imports from Babu and 'all other' exporters of steel threaded rod from India."⁷

Table I-3 and figure I-1 present U.S. imports of threaded rod from India, excluding Mangal, by month, from January 2013 to December 2013. U.S. imports from India, excluding Mangal, were *** percent higher in the six month period (July 2013 to December 2013) following the filing of the petition than in the preceding six month period (January 2013 to June 2013).

(...continued)

⁵ *Steel Threaded Rod from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part, 2012-2013*, 79 FR 40714, July 14, 2014.

⁶ *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712, July 14, 2014, referenced in appendix A.

⁷Id.

Table I-3
Threaded rod: U.S. imports from India, excluding Mangal, by month, January 2013 to December 2013

Period	Imports from India excluding Mangal	
	Quantity (1,000 pounds)	Landed Duty-Paid Value (1,000 dollars)
2013:		
Jan	***	***
Feb	***	***
Mar	***	***
Apr	***	***
May	***	***
Jun ¹	***	***
Jul	***	***
Aug	***	***
Sep	***	***
Oct	***	***
Nov	***	***
Dec	***	***
Total ²	***	***

¹ The petition in this investigation was filed on June 27, 2013.

Source: Compiled from proprietary Customs data.

Figure I-1
Threaded rod: U.S. imports from India, excluding Mangal, by month, January 2013 to December 2013

* * * * *

Also on July 14, 2014, Commerce issued its final critical circumstance determination of sales at LTFV with respect to imports from India, affirming, without changes, its preliminary affirmative determination that critical circumstances exist with respect to imports from Babu of steel threaded rod from India, but do not exist with respect to imports of steel threaded rod from India from Mangal Steel and “all other” exporters or producers.⁸

⁸Steel Threaded Rod from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part; 2012-2013, 79 FR 40715, July 14, 2014. Commerce noted that “parties submitted no additional information or comments on the Department’s preliminary critical circumstances determination.” Id.

Table I-4 and figure I-2 present U.S. imports of threaded rod from India, excluding Mangal and firms receiving the “All others” rate, by month, from January 2013 to December 2013. U.S. imports from India, excluding imports from Mangal and firms receiving the “All others” rate, were *** percent higher in the six month period (July 2013 to December 2013) following the filing of the petition than in the preceding six month period (January 2013 to June 2013).

Table I-4
Threaded rod: U.S. imports from India, excluding Mangal and firms receiving the “All Others” rate, by month, January 2013 to December 2013

Period	U.S. imports from India excluding Mangal and “All others”	
	Quantity (1,000 pounds)	Landed Duty-Paid Value (1,000 dollars)
2013:		
Jan	***	***
Feb	***	***
Mar	***	***
Apr	***	***
May	***	***
Jun ¹	***	***
Jul	***	***
Aug	***	***
Sep	***	***
Oct	***	***
Nov	***	***
Dec	***	***
Total ²	***	***

¹ The petition in this investigation was filed on June 27, 2013.

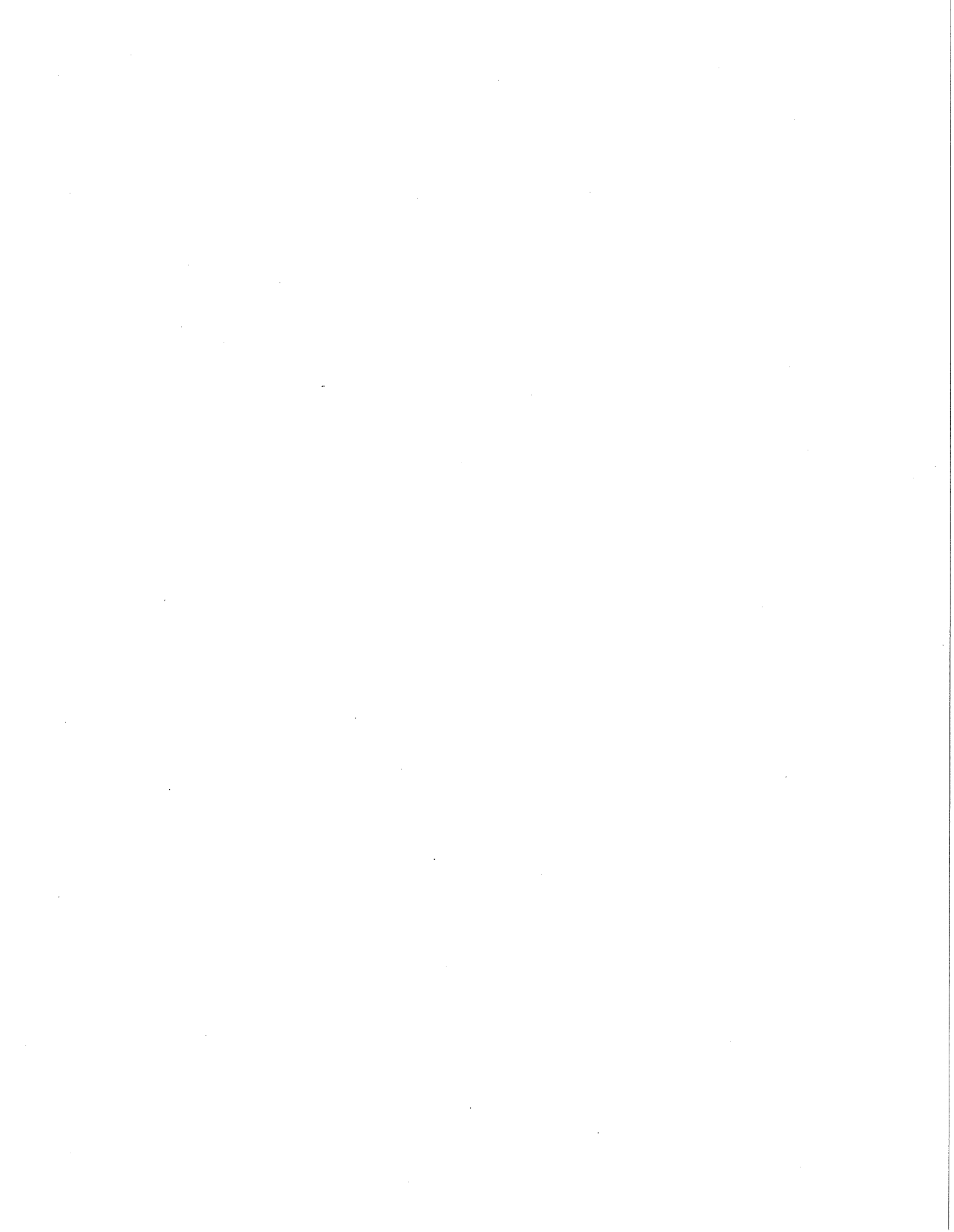
Source: Compiled from proprietary Customs data.

Figure I-2
Threaded rod: U.S. imports from India, excluding Mangal and firms receiving the “All Others” rate, by month, January 2013 to December 2013

* * * * *

APPENDIX A

SELECTED *FEDERAL REGISTER* NOTICES



The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents *Federal Register* notices issued by Commerce.

Citation	Title	Link
79 FR 40712, July 14, 2014	<i>Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances</i>	https://www.federalregister.gov/articles/2014/07/14/2014-16421/steel-threaded-rod-from-india-final-affirmative-countervailing-duty-determination-and-partial-final
79 FR 40714, July 14, 2014	<i>Steel Threaded Rod from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part; 2012-2013</i>	https://www.federalregister.gov/articles/2014/07/14/2014-16419/steel-threaded-rod-from-india-final-determination-of-sales-at-less-than-fair-value-and-final

