

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**CERTAIN COLD-ROLLED STEEL PRODUCTS FROM ARGENTINA, BELGIUM, BRAZIL,  
CHINA, FRANCE, GERMANY, KOREA, THE NETHERLANDS, NEW ZEALAND, RUSSIA,  
SOUTH AFRICA, SPAIN, TAIWAN, TURKEY, AND VENEZUELA**

**Invs. Nos. 701-TA-423-425 (Final) and 731-TA-964, 966-970, 973-978, 980, and 982-983 (Final)**

**DETERMINATIONS AND VIEWS OF THE COMMISSION**

**(USITC Publication No. 3551, November 2002)**

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**CERTAIN COLD-ROLLED STEEL PRODUCTS FROM ARGENTINA, BELGIUM, BRAZIL, CHINA, FRANCE, GERMANY, KOREA, THE NETHERLANDS, NEW ZEALAND, RUSSIA, SOUTH AFRICA, SPAIN, TAIWAN, TURKEY, AND VENEZUELA**

**Invs. Nos. 701-TA-423-425 (Final) and 731-TA-964, 966-970, 973-978, 980, and 982-983 (Final)**

**DETERMINATIONS**

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines,<sup>2</sup> pursuant to section 705(b) of the Tariff Act of 1930 (the Act),<sup>3</sup> 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 from Brazil, France, and Korea of certain cold-rolled steel products, provided for in headings 7209, 7210, 7211, 7212, 7225, and 7226 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Governments of Brazil, France, and Korea.

The Commission also determines,<sup>4</sup> pursuant to section 735(b) of the Act,<sup>5</sup> 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 from Argentina, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela of certain cold-rolled steel products, provided for in headings 7209, 7210, 7211, 7212, 7225, and 7226 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

**BACKGROUND**

The Commission instituted these investigations effective September 28, 2001, following receipt of petitions filed with the Commission and Commerce by Bethlehem Steel Corporation, Bethlehem, PA; LTV Steel Co., Inc., Cleveland, OH; National Steel Corporation, Mishawaka, IN; Nucor Corporation, Charlotte, NC; Steel Dynamics Inc., Butler, IN; United States Steel LLC, Pittsburgh, PA; WCI Steel, Inc., Warren, OH; and Weirton Steel Corporation, Weirton, WV.<sup>6</sup>

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<sup>1</sup> The record is defined in section 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

<sup>2</sup> Commissioner Lynn M. Bragg dissenting.

<sup>3</sup> 19 U.S.C. § 1671d(b).

<sup>4</sup> Commissioner Lynn M. Bragg dissenting.

<sup>5</sup> 19 U.S.C. § 1673d(b).

<sup>6</sup> Weirton Steel Corporation is not a petitioner with respect to the Netherlands.

The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain cold-rolled steel products from Argentina, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela were being sold at LTFV within the meaning of section 733(b) of the Act,<sup>7</sup> and preliminary determinations by Commerce that imports of certain cold-rolled steel products from Brazil, France, and Korea were being subsidized within the meaning of section 703(b) of the Act.<sup>8</sup>

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* of June 3, 2002 (67 FR 38291). The hearing was held in Washington, DC, on July 18, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on October 28, 2002. The views of the Commission are contained in USITC Publication 3551 (November 2002), entitled *Certain Cold-Rolled Steel Products from Argentina, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela: Investigations Nos. 701-TA-423-425 (Final) and 731-TA-964, 966-970, 973-978, 980, and 982-983 (Final)*.

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued:

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<sup>7</sup> 19 U.S.C. § 1673b(b).

<sup>8</sup> 19 U.S.C. § 1671b(b).

**CERTAIN COLD-ROLLED STEEL PRODUCTS FROM ARGENTINA, BELGIUM, BRAZIL, CHINA, FRANCE, GERMANY, KOREA, THE NETHERLANDS, NEW ZEALAND, RUSSIA, SOUTH AFRICA, SPAIN, TAIWAN, TURKEY, AND VENEZUELA**

**Invs. Nos. 701-TA-423-425 (Final) and 731-TA-964, 966-970, 973-978, 980, and 982-983 (Final)**

**VIEWS OF THE COMMISSION**

Based on the record in these investigations, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of certain cold-rolled steel products from Brazil, France, and Korea that the Department of Commerce (“Commerce”) found to be subsidized<sup>1</sup> and imports of certain cold-rolled steel products from Argentina, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela that Commerce found to be sold at less than fair value.<sup>2 3</sup>

**I. THE COMMISSION ADOPTS THE VIEWS STATED IN CERTAIN COLD-ROLLED STEEL FROM AUSTRALIA, INDIA, JAPAN, SWEDEN, AND THAILAND**

On September 28, 2001, the domestic industry filed petitions seeking the imposition of antidumping and countervailing duties on imports of certain cold-rolled steel products from 20 countries: Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela. On September 13, 2002, the Commission published its determinations with respect to 5 of those countries: Australia, India, Japan, Sweden, and Thailand.<sup>4</sup> The Commission was required to issue its determinations with respect to those countries in early September 2002 because Commerce issued its final determinations with respect to those countries earlier than its determinations with respect to Argentina, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela.

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<sup>1</sup> Commerce reached a negative final countervailing duty determination with respect to Argentina. 67 Fed. Reg. 62106 (Oct. 3, 2002).

<sup>2</sup> Commission rule 209.68(b) provides that final party comments “containing new factual information shall be disregarded.” 19 C.F.R. § 209.68(b); *see also* 19 U.S.C. § 1677m(g). The following final comments filed on October 11, 2002, contain new factual information:

Petitioner Nucor:

- Page 2, first full sentence beginning with “Meanwhile, Purchasing Magazine . . . .,”
- Exhibit 1, last 4 columns at right of table (July-August data),
- Exhibit 2, 2002 column data points for July, August, and September;

Korean Producers:

- Part III on pages 4-5;

Kern-Liebers USA:

- Pages 3-4, entire last paragraph beginning with “Most recently, Kern-Liebers . . . .,”
- Page 4, entire first full paragraph beginning with “Kern-Liebers has been . . . .,”
- Exhibit A (e-mail),
- Exhibit B (letter to Commerce).

<sup>3</sup> Commissioner Bragg dissenting. *See* Dissenting Views of Commissioner Lynn M. Bragg.

<sup>4</sup> 67 Fed. Reg. 58074 (Sept. 13, 2002). *See Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, Invs. Nos. 731-TA-965, 971-972, 979, and 981 (Final), USITC Pub. 3536 (Sept. 2002) (hereinafter “Cold-Rolled I”).

The record in these investigations is nearly identical to the record upon which the Commission based its determinations regarding subject imports from Australia, India, Japan, Sweden, and Thailand.<sup>5</sup> Therefore, for purposes of these determinations, we adopt the findings and analysis in the Commission's views regarding imports from Australia, India, Japan, Sweden, and Thailand (Cold-Rolled I) for domestic like product; domestic industry, including related parties; and conditions of competition, including captive consumption.

## II. NEGLIGIBLE IMPORTS

As in Cold-Rolled I, we find that imports from none of the subject countries are negligible and incorporate our finding in that regard except as otherwise noted. By statute, imports from a subject country corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.<sup>6</sup> The statute further provides, however, that imports from a single country which comprise less than 3 percent of total imports of such merchandise may not be considered negligible if there are several countries subject to investigation with negligible imports and the sum of such imports from all those countries in the aggregate accounts for more than 7 percent of the volume of all such merchandise imported into the United States.<sup>7</sup>

In Cold Rolled I, imports from 11 countries that accounted for less than 3 percent of total imports on an individual basis accounted for more than 7 percent of total imports on an aggregate basis and, therefore, were not negligible. As a result of the determinations in Cold-Rolled I, the investigations with respect to 4 of those 11 countries, Australia, India, Sweden, and Thailand, were terminated.<sup>8</sup> Nonetheless, the sum of imports from the 7 remaining countries that do not meet the negligibility limit on an individual basis exceed the 7 percent limit on an aggregate basis. The combined import share of those 7 countries is 8.8 percent: Germany at \*\*\* percent, the Netherlands at \*\*\* percent, New Zealand at \*\*\* percent, Spain at \*\*\* percent, Taiwan at \*\*\* percent, Turkey at \*\*\* percent, and Venezuela at \*\*\* percent.<sup>9</sup>

In the case of countervailing duty investigations involving developing countries, the statute further provides that the negligibility limits are 4 percent and 9 percent, respectively, rather than 3 percent and 7 percent.<sup>10</sup> Brazil is the only country in these investigations to which the developing country provision applies.<sup>11</sup> As noted in Cold-Rolled I, imports from Brazil exceed the 4 percent standard applicable to developing countries in countervailing duty investigations.

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<sup>5</sup> Under section 771(7)(G)(iii) of the Tariff Act of 1930, as amended ("the Act"), we are required to make our determinations in the instant investigations on the same record as that of the determinations regarding imports from Australia, India, Japan, Sweden, and Thailand, except that the record in these investigations also includes Commerce's final determinations in these investigations and the parties' final comments concerning the significance of Commerce's determinations.

<sup>6</sup> 19 U.S.C. § 1677(24)(A)(i).

<sup>7</sup> 19 U.S.C. § 1677(24)(A)(ii).

<sup>8</sup> The significance of termination of the 5 investigations is discussed further in the portion of our views regarding cumulation, infra.

<sup>9</sup> Memorandum INV-Z-134 at Table IV-3, and PR at Table IV-3 (total of individual country percentages is less than the aggregate percentage due to rounding).

<sup>10</sup> 19 U.S.C. § 1677(24)(B).

<sup>11</sup> Cold-Rolled I at 15; see also 67 Fed. Reg. 62106 (Oct. 3, 2002) (Commerce negative final countervailing duty determination with respect to Argentina).

### III. CUMULATION

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to assess cumulatively the volume and effect of imports of the subject merchandise from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with the domestic like products in the U.S. market.<sup>12</sup> In assessing whether subject imports compete with each other and with the domestic like product,<sup>13</sup> the Commission has generally considered 4 factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.<sup>14</sup>

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.<sup>15</sup> Only a “reasonable overlap” of competition is required.<sup>16</sup>

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<sup>12</sup> 19 U.S.C. § 1677(7)(G)(i).

<sup>13</sup> The SAA expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA, H.R. Rep. 103-316, vol. I at 848 (1994), citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int’l Trade 1988), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

<sup>14</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986) at 8 n.29, aff’d sub nom. Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

<sup>15</sup> See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>16</sup> See Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int’l Trade 1998) (“cumulation does not require two products to be highly fungible”); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

Because the petitions in these investigations were filed on the same day, the first statutory criterion for cumulation is satisfied. In addition, 3 of the 4 statutory exceptions to the general cumulation rule do not apply in the final phase of these investigations.<sup>17</sup> The remaining statutory exception to cumulation, 19 U.S.C. § 1677(7)(G)(ii)(II), 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.” The Act further provides that, if either Commerce or the Commission reaches a final negative determination in an antidumping or countervailing duty investigation, “the investigation shall be terminated upon publication of notice of that negative determination . . . .”<sup>18</sup> The Commission’s notice of its final negative determinations in the antidumping duty investigations of imports from Australia, India, Japan, Sweden, and Thailand was published in the *Federal Register* on September 13, 2002.<sup>19</sup> Accordingly, we find that those investigations have been terminated and that section 1677(7)(G)(ii)(II) precludes cumulation of imports from those countries in these instant investigations.<sup>20</sup>

Therefore, with the exception of imports from the countries whose investigations have been terminated, we are required to determine whether there is a reasonable overlap of competition both between the domestic like product and subject imports from each of the subject countries, as well as among the subject imports from all 15 of the subject countries.

In Cold-Rolled I, the Commission cumulated subject imports from 19 of the 20 countries (all except Australia), finding a sufficient degree of fungibility of the subject imports with each other and the domestic merchandise, overlap of geographic markets, common or similar channels of distribution, and

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<sup>17</sup> These exceptions concern imports from Israel, countries as to which Commerce has made preliminary negative determinations, and countries designated as beneficiaries under the Caribbean Basin Economic Recovery Act. 19 U.S.C. § 1677(7)(G)(ii).

<sup>18</sup> 19 U.S.C. §§ 1671d(c)(2) and 1673d(c)(2).

<sup>19</sup> 67 Fed. Reg. 58074 (Sept. 13, 2002).

<sup>20</sup> We have considered the record closing provision applicable to staggered investigations and find that it does not alter the operation of the statutory bar to cumulation for terminated investigations for two reasons. First, Congress’s express purpose in adopting the record closing provision was to avoid the kind of analysis the Commission previously performed under the “recent order rule,” which was a test for determining whether imports as to which the Commission had reached an affirmative determination in the earlier of staggered votes were having continuing adverse effects as of vote day in the later investigation, despite the imposition of an order between the votes. The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 186 (1994) (“SAA”) at 848-849. The “recent order” situation does not arise when the first of the staggered votes is negative rather than affirmative. Second, the statutory exception to cumulation for terminated investigations necessarily contemplates that the Commission will take into account determinations it makes after the date specified for closing the record to new factual information since the determinations that result in the termination of an investigation (whether based on negligibility or a negative final determination) ordinarily are made after that closing date. Indeed, the Commission’s rules define the entire record in an investigation to include the determination. 19 CFR § 207.2(f)(2). This approach is consistent with Commission practice. See, e.g., Certain Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines, Invs. Nos. 731-TA-865-867 (Final), USITC Pub. 3387 (Jan. 2001) at 6, n. 28; Certain Cold-Rolled Steel from Turkey and Venezuela, Invs. Nos. 731-TA-839 to 840 (Final), USITC Pub. 3297 (May 2000) at 4; Certain Cold-Rolled Steel from China, Indonesia, Slovakia, and Taiwan, Invs. Nos. 731-TA-831, 832, 835, 837 (Final), USITC Pub. 3320 (July 2000) at 4-5; Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Invs. Nos. 731-TA-741-743 (Final), USITC Pub. 3106 (Feb. 1997) at 20-21. In any event, as shown by our earlier decision, we would have made the same determinations had we considered subject imports from all 20 countries initially named in the petitions.

simultaneous presence in the U.S. market.<sup>21</sup> We again find that the criteria for cumulation are met with respect to the 15 subject countries in these final phase investigations.<sup>22</sup>

*Fungibility.* A majority of domestic producers reported that the U.S. cold-rolled products and each individual country's subject imports are always or frequently interchangeable.<sup>23</sup> A majority of importers reported that the U.S. cold-rolled products and subject imports from 14 of the 15 subject countries are always or frequently interchangeable, and a majority reported that imports from the other subject country, Russia, are always, frequently, or sometimes interchangeable.<sup>24</sup> Although the scope of these investigations covers a wide variety of cold-rolled products, classifiable under 46 statistical categories of the Harmonized Tariff Schedules of the United States (HTSUS), 77 percent of the subject imports enter the United States under two statistical reporting numbers; these two classifications also account for a majority of the subject imports from each of the 15 subject countries.<sup>25</sup> Inclusion under specific tariff classifications is by no means determinative of fungibility; however, the concentration of subject imports in these, among the many subject classifications, is indicative of a degree of commonality among the subject imports.

Information from purchasers on direct comparisons between domestic and subject imported products also indicates that overall the domestic and subject imported products generally are comparable in quality, but that the U.S. product is likely to be considered inferior to German cold-rolled steel, somewhat inferior to Belgian, French, and Korean cold-rolled steel, and superior to Russian, South African, and Turkish cold-rolled steel.<sup>26</sup> Purchasers viewed U.S. mills as generally comparable to most foreign suppliers in terms of availability (somewhat superior to subject imports from Argentina, Belgium, Brazil, China, Russia, and South Africa; somewhat inferior to subject imports from France and the Netherlands).<sup>27</sup> Importers reported an average lead time, between order and delivery, that was more than twice the average lead time reported by domestic producers.<sup>28</sup>

*Geographic Overlap.* Cold-rolled steel products produced in the United States are shipped nationwide.<sup>29</sup> Subject imports from 10 of the 15 subject countries entered every region during the period examined.<sup>30</sup> Imports from 4 of the subject countries—South Africa, Spain, Turkey, and Venezuela—entered

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<sup>21</sup> Cold-Rolled I at 15-20.

<sup>22</sup> We incorporate here by reference the Commission's discussion of respondents' country-specific cumulation claims regarding subject imports from the Netherlands, New Zealand, Russia, and Spain in Cold-Rolled I at 17-18.

<sup>23</sup> CR and PR at Table II-6 (references to CR and PR are to the confidential report (CR) and public report (PR) for all 20 subject countries. PR is appended to the determinations in Cold-Rolled I (USITC Pub. 3536).

<sup>24</sup> CR and PR at Table II-6.

<sup>25</sup> Memorandum INV-Z-134 at Table IV-4, and PR at Table IV-4.

<sup>26</sup> CR and PR at Table II-5; and CR at II-13 through II-15, and PR at II-9 through II-11. There were no comparisons for Spain and Venezuela.

<sup>27</sup> CR and PR at Table II-5; CR at II-13 through II-15, and PR at II-9 through II-11.

<sup>28</sup> CR at II-10, and PR at II-6 (based on U.S. producers' reported increases in lead time over the period).

<sup>29</sup> Memorandum INV-Z-134 at Table IV-5, and PR at Table IV-5. Shipments to the West region are limited, however, and estimated at about \*\*\* percent of total domestic producers' commercial shipments. Australian and New Zealand Respondents' Prehearing Brief at 24-25.

<sup>30</sup> Memorandum INV-Z-134 at Table IV-5, and PR at Table IV-5.



3 of the 4 regions.<sup>31</sup> Only New Zealand entered a single region, the West region, during the period examined.<sup>32</sup> The West region was also an important entry point for imports from several of the other subject countries, including Belgium, China, Korea, the Netherlands, and Taiwan.<sup>33</sup>

Subject imports from Venezuela also were concentrated geographically, albeit to a lesser extent; 95.0 percent of subject imports from Venezuela entered the United States through the Gulf region.<sup>34</sup> Again, however, the Gulf region was an important entry point for other subject imports, including Argentina, Brazil, China, Korea, Russia, South Africa, and Turkey.<sup>35</sup>

*Channels of Distribution.* A large share of domestically produced merchandise is consumed internally or transferred to affiliates for extensive downstream processing. Of the commercial shipments by U.S. producers, about 63 percent are sold to end users (such as appliance and automotive manufacturers), and the remainder to distributors/service centers.<sup>36</sup> Subject imports were sold largely to distributors/service centers,<sup>37</sup> although subject imports from Germany and Spain were sold largely or exclusively to end users.<sup>38</sup>

*Simultaneous Presence.* Domestically produced certain cold-rolled steel was present throughout the United States during the period examined.<sup>39</sup> Imports from 7 of the 15 subject countries entered in each of the 39 months of the period examined; imports from another 4 countries entered in more than 30 of the 39 months covered.<sup>40</sup> Imports from Argentina entered in 29 of the 39 months; Turkey, 26 of the 39 months; Venezuela and Spain, 24 of the 39 months.<sup>41</sup> Accordingly, imports from each subject country entered in at least a majority of the months of the period examined.

*Conclusion.* For all subject imports, consideration of the 4 factors traditionally addressed in a cumulation analysis shows that there is a reasonable overlap of competition among the subject imports and between the subject imports and the domestic like product. Many respondents have argued that their products are not fungible because their imports are concentrated in a few product categories. These categories, however, include the same HTSUS classifications for a significant percentage of imports from each country. Both producers and importers agree there is in general at least a fair amount of interchangeability among domestic products and subject imports. In terms of geographic overlap there is some variation, especially regarding New Zealand and Venezuela. The record indicates, however, that there was a reasonable overlap of competition geographically, including in regions in which the concentrated subject imports entered. We also find that there was a reasonable overlap among the subject imports and the domestic like product in terms of channels of distribution. Regarding simultaneous presence, we find that subject imports from most countries were present for most of the period.

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<sup>31</sup> Memorandum INV-Z-134 at Table IV-5, and PR at Table IV-5.

<sup>32</sup> Memorandum INV-Z-134 at Table IV-5, and PR at Table IV-5.

<sup>33</sup> Memorandum INV-Z-134 at Table IV-5, and PR at Table IV-5.

<sup>34</sup> Memorandum INV-Z-134 at Table IV-5, and PR at Table IV-5.

<sup>35</sup> Memorandum INV-Z-134 at Table IV-5, and PR at Table IV-5.

<sup>36</sup> CR and PR at Table III-7.

<sup>37</sup> CR and PR at Table III-7.

<sup>38</sup> CR and PR at Table III-7.

<sup>39</sup> CR at IV-18, and PR at IV-15.

<sup>40</sup> Memorandum INV-Z-134 at Table IV-6, and PR at Table IV-6.

<sup>41</sup> Id.

Accordingly, we find that there is a reasonable overlap of competition among imports from all 15 subject countries in these final investigations and between these subject imports and the domestic like product.

#### **IV. NO MATERIAL INJURY BY REASON OF SUBJECT IMPORTS**

In the final phase of antidumping duty and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.<sup>42</sup> In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>43</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>44</sup> In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>45</sup> No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>46</sup>

Further, the Commission is given discretion by the statute to look to the time period that provides probative, reliable data “in as contemporaneous a time frame as possible.”<sup>47 48</sup> The statute allows the Commission to reduce the weight accorded to data for the period after the filing of the petition upon considering whether any change in the volume, price effects, or impact of imports since the filing of the petition is related to the pendency of the investigation.<sup>49</sup> The presumption that such change is related to the pendency of the investigation is rebuttable.<sup>50</sup>

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<sup>42</sup> 19 U.S.C. §§ 1671d(b) and 1673d(b).

<sup>43</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

<sup>44</sup> 19 U.S.C. § 1677(7)(A).

<sup>45</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>46</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>47</sup> See Saarstahl, AG v. United States, 858 F. Supp. 196, 200-201 (Ct. Int’l Trade 1994), discussing CHR. Bjelland Seafoods v. United States, 16 CIT 945, 956 (1992).

<sup>48</sup> Petitioners and Respondents both cite recent remands by the Court of International Trade in Altx, Inc. v. United States to support their respective views regarding the appropriate period of time upon which the Commission should focus. Posthearing Brief of Nucor, et al. at 5-6, Australian and New Zealand Posthearing Brief, Annex 1 at 1-2. These investigations, however, differ from Circular Seamless Stainless Steel Hollow Products from Japan, Inv. No. 731-TA-859 (Final), USITC Pub. 3344 (Aug. 2000), in that a watershed event, namely the Section 201 action on flat-rolled steel, clearly altered the conditions of competition in the U.S. market. Therefore, our analysis of the record includes the entire period for which data were collected, but distinguishes between events that occurred prior to the Section 201 action and events that occurred afterward.

<sup>49</sup> 19 U.S.C. § 1677(7)(I).

<sup>50</sup> SAA at 854.

We have collected data in these investigations through June 2002.<sup>51</sup> We find, as discussed in Cold-Rolled I, strong evidence on the record that the Section 201 relief was an overwhelming factor in the sharp decline in subject imports, notwithstanding any effects attributable to the pendency of the petition, and do not find persuasive Petitioners' analysis that purported to isolate the effects on the cold-rolled market of the current investigation and the Section 201 relief.<sup>52</sup> We therefore reject Petitioners' arguments to accord less weight to subject import declines and domestic market improvements that occurred in 2002.<sup>53</sup>

For the reasons discussed in Cold-Rolled I and below, we determine that the domestic industry producing certain cold-rolled steel products is not materially injured by reason of the cumulated imports of certain cold-rolled steel products from Brazil, France, and Korea that are subsidized and certain cold-rolled steel products from Argentina, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela that are sold at less than fair value.

#### **A. Volume of the Cumulated Subject Imports**

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."<sup>54</sup>

We found the volume of subject imports not to be significant in our earlier determination, when the cumulated volume of subject imports from 19 countries was larger than the cumulated volume of

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<sup>51</sup> The Commission went to great lengths to collect the most recent data possible for use in its deliberations and determinations, including data through June 2002. Moreover, in response to arguments of parties at the hearing on July 18, 2002, a supplemental questionnaire was sent to U.S. producers on July 24, 2002, requesting second-quarter trade and financial data for 2001 and 2002. Responses were requested by August 2, 2002. In consideration that most supplemental (half-year and second-quarter) data were received by the Commission and parties after the due date for posthearing briefs (July 25, 2002), the Commission granted parties an additional opportunity to file comments addressing data for the periods January-June 2002 and/or April-June 2002. On August 22, 2002, following the August 22, 2002, announcement by the Department of Commerce and the Office of the U.S. Trade Representative concerning the seventh and final list of Section 201 safeguard exclusions, the Commission re-opened the record to incorporate this new information and granted parties an additional opportunity to comment on the Section 201 safeguard exclusion announcements that occurred subsequent to the filing of their posthearing briefs.

<sup>52</sup> See Nucor, et al. Prehearing Brief at 13-16, Exhibit 2. We discuss this analysis in the portion of our Cold-Rolled I views entitled "Price Effects of the Subject Imports."

<sup>53</sup> See, e.g., Nucor, et al. Prehearing Brief at 13-16 and Exhibit 2; Bethlehem, et al. Prehearing Brief at 49-52; Nucor, et al. Posthearing Brief at 4-8; Bethlehem, et al. Posthearing Brief, Answers to Chairman Okun's Questions, at A-15-A-19; and hearing transcript at 158-159.

<sup>54</sup> 19 U.S.C. § 1677(7)(C)(i).

subject imports from the 15 remaining subject countries in the instant investigations.<sup>55</sup> For the reasons given in Cold-Rolled I, we find that the still lesser volume of subject imports is not significant.

## **B. Price Effects of the Cumulated Subject Imports**

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether—

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>56</sup>

We discussed the underselling by subject imports and the reasons that prices were not suppressed or depressed to any significant degree by subject imports in our views in Cold-Rolled I.<sup>57</sup> We find that

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<sup>55</sup> Cold-Rolled I at 32-33. As in Cold-Rolled I, the absolute volume of subject imports in these investigations decreased slightly from 1999 to 2001, although subject imports gained market share over the same period in the merchant market and in the total market, including captive consumption. The quantity of cumulated subject imports decreased from \*\*\* short tons in 1999 to \*\*\* short tons in 2000, then increased to \*\*\* short tons in 2001, slightly below the 1999 level. The share of apparent U.S. consumption accounted for by the cumulated subject imports in the merchant market similarly declined from \*\*\* percent in 1999 to \*\*\* percent in 2000, then increased to \*\*\* percent in 2001 as apparent U.S. consumption declined. Views Addendum Table 1. In the total market, including captive consumption, subject imports' market share decreased from \*\*\* percent in 1999 to \*\*\* percent in 2000, then increased to \*\*\* percent in 2001. Views Addendum Table 3. As a ratio to U.S. production, the volume of subject imports on a cumulative basis was \*\*\* percent in 1999, \*\*\* percent in 2000, and \*\*\* percent in 2001. Compare Views Addendum Table 1 with CR and PR at Table C-1. This was followed, however, by a sharp decline in both the volume and market penetration of subject imports in the first half of 2002, compared with the first half of 2001. Specifically, the volume of cumulated subject imports declined significantly in the first half of 2002 to \*\*\* short tons, compared with a volume of \*\*\* short tons in the first half of 2001. The share of the merchant market accounted for by the subject imports similarly dropped to \*\*\* percent in the first half of 2002, compared with a share of \*\*\* percent in the first half of 2001. Views Addendum Table 1. The cumulated subject imports accounted for a \*\*\*-percent share of the total market, including captive consumption, in the first half of 2002, compared with a \*\*\*-percent share in the first half of 2001. Views Addendum Table 3. We note that the decline in subject imports accelerated in the second quarter of 2002. After declining to \*\*\* short tons in the first quarter of 2002, compared with \*\*\* short tons in the first quarter of 2001, the quantity of cumulated subject imports dropped to a mere \*\*\* short tons in the second quarter of 2002, compared with \*\*\* short tons in the second quarter of 2001. Views Addendum Table 1, and Memorandum INV-Z-134 at Table J-1 and PR at Table J-1. The cumulated subject imports accounted for \*\*\* percent of the open market in the second quarter of 2002, as compared to \*\*\* percent in the second quarter of 2001. Views Addendum Table 1. The cumulated subject imports accounted for a \*\*\*-percent share of the total market, including captive consumption, in the second quarter of 2002, compared with a \*\*\*-percent share in the second quarter of 2001. Views Addendum Table 3. In the first half of 2002, the volume of such imports was equivalent to \*\*\* percent of U.S. production, compared to \*\*\* percent in the first half of 2001. Compare Views Addendum Table 3 with Memorandum INV-Z-134 at Table J-1 and PR at Table J-1.

<sup>56</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>57</sup> See Cold-Rolled I at 33-36.

the same conditions described in that opinion apply here and therefore adopt by reference our reasoning as expressed in those views.<sup>58</sup>

In sum, although subject imports which entered the market earlier in the period examined continue to have an effect on the industry's contract prices negotiated before the Section 201 relief was effective, subject imports currently entering the market are not suppressing or depressing current domestic prices to a significant degree. Thus, we find that subject imports are not adversely affecting domestic prices to a significant degree based on the current volume of subject imports and the increase in domestic prices in 2002.

### C. Impact of the Cumulated Subject Imports on the Domestic Industry<sup>59</sup>

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>60</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."<sup>61</sup>

As indicated above and in Cold-Rolled I, following the imposition of Section 201 relief, subject import volumes declined to minimal levels, and therefore we do not find the current volume of subject imports to be significant. Also, we do not find that subject imports currently in the market are having significant adverse price effects, given their minimal presence in the U.S. market and the effects of the Section 201 relief. Accordingly, we do not find that the present condition of the domestic industry is

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<sup>58</sup> See Cold-Rolled I at 33-36. Similar to the finding in Cold Rolled I, questionnaire pricing data for the remaining subject countries show prices declining through 2001, after increasing in the first half of 2000, as the market share of subject imports increased markedly from the lower levels in 2000. However, in 2002, with the imposition of Section 201 relief, prices began to recover. Reportedly, spot prices for cold-rolled steel jumped dramatically to \$435 per ton in June 2002, as compared to \$340 per ton in June 2001, and were even higher, at \$525 per ton, in July 2002. See Cold-Rolled I at 34-35. As in Cold-Rolled I, the average margin of underselling with respect to these 15 countries was far less in the first half of 2002 than it had been in 1999. CR at Table V-3, V-4 (e.g., simple average of 15 countries' annual underselling margins in sales to end users was 17.9 percent in 1999 and 1.7 percent in January to June 2002; underselling in service center sales was 11.3 percent in 1999 and 0.1 percent in January to June 2002).

<sup>59</sup> The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of subject imports. 19 U.S.C. § 1677(7)(C)(iii)(V). The final margins as calculated by Commerce were as follows: Argentina, 27.18 percent; Belgium, 11.56 percent; Brazil, 33.88 percent; China, 105.35 percent; France, 11.59 percent; Germany, 12.56 percent; Korea, 5.15 percent to 11.13 percent; the Netherlands, 6.28 percent; New Zealand, 21.72 percent; Russia, 137.33 percent; South Africa, 41.90 percent; Spain, 46.20 percent; Taiwan, from 4.02 percent to 16.80 percent; Turkey 4.32 percent; and Venezuela, 53.90 percent to 58.95 percent. Memorandum INV-Z-171 (confidential report specific to this group of 15 staggered investigations) at Table I-4; PR II (public report specific to this group of 15 staggered investigations) at Table I-4.

<sup>60</sup> 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885.).

<sup>61</sup> 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25, n.148.

attributable in any material respect to the current subject imports, and we therefore do not find that any material injury currently being experienced by the domestic industry is by reason of the subject imports.<sup>62</sup>

## **V. NO THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS**

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted.”<sup>63</sup> The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole” in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued.<sup>64</sup> In making our determination, we considered all statutory factors that are relevant to these investigations.<sup>65</sup>

### **A. Cumulation for Purposes of Threat**

Section 771(7)(H) of the Act permits the Commission, to the extent practicable, to assess cumulatively the volume and effect of imports for purposes of conducting its threat analysis.<sup>66</sup> The limitations concerning what imports are eligible for cumulation and the exceptions to cumulation are applicable to cumulation for threat as well as to cumulation for present material injury. In addition, the Commission also considers whether the imports are increasing at similar rates in the same markets, whether the imports have similar margins of underselling, and the probability that imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of that

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<sup>62</sup> Vice Chairman Hillman and Commissioner Miller find that, on the facts of this case, any remaining injury to the industry that may have been attributable to the subject imports is the lingering effect of past injury. In light of the President’s decision to impose Section 201 tariffs on the bulk of imports subject to these investigations, basing a present material injury determination on the lingering effects of that injury would be inconsistent with the remedial purpose of the antidumping and countervailing duty statute. See Gerald Metals Inc. v. United States, 132 F.3d 716, 723 (Fed. Cir. 1997); Chaparral Steel Co. v. United States, 901 F.2d 1097, 1103-04 (Fed. Cir. 1990); CHR Bjelland Seafoods v. United States, 16 CIT 945, 956 (1992).

<sup>63</sup> 19 U.S.C. § 1677(7)(F)(ii).

<sup>64</sup> 19 U.S.C. § 1677(7)(F)(ii).

<sup>65</sup> 19 U.S.C. § 1677(7)(F)(i). Statutory threat factor (VII) is inapplicable because these investigations do not involve imports of both raw and processed agricultural products.

Factor I requires the Commission to consider information presented by Commerce regarding the nature of a countervailable subsidy and whether the subsidy is one described in Article 3 or 6.1 of the Subsidies Agreement. 19 U.S.C. § 1677(7)(F)(i)(I). In its final determinations, Commerce described the nature of the subsidies but did not identify any subsidy programs as those described in Articles 3 or 6.1 of the Subsidy Agreement. See 67 Fed. Reg. 62128 (Oct. 3, 2002) (Brazil); 67 Fed. Reg. 62111 (Oct. 3, 2002) (France); 67 Fed. Reg. 62102 (Oct. 3, 2002) (Korea). No party has argued that any of the subsidies are of the types described in Section 3 or 6.1 of the Subsidies Agreement, although certain of the subsidies appear to be among those described in those sections. Our determinations concerning threat of material injury would not be any different if all the subsidies with respect to subject imports from Brazil, France, and Korea were of the types described in those sections of the Subsidies Agreement.

<sup>66</sup> 19 U.S.C. § 1677(7)(H). See Kern-Liebers v. United States, 19 CIT 87, 103-04 (1995).

merchandise.<sup>67</sup> In addition, likely different conditions of competition among the subject imports also may be relevant to this issue.<sup>68</sup>

As in Cold-Rolled I, we exercise our discretion to cumulate imports from the subject countries that we cumulated for purposes of our material injury analysis into two groups for purposes of our analysis of threat of material injury: imports from those countries that are subject to the Section 201 remedy and imports from the developing countries that are excluded.<sup>69</sup> We find application of the Section 201 remedy to be a highly significant condition of competition that is likely to influence pricing and volume trends among subject countries and therefore provides a meaningful basis for distinguishing between the two subject import groups. Accordingly, we cumulate subject imports from the 11 subject countries that are covered by the Section 201 remedy, namely, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, Spain, and Taiwan. We separately cumulate subject imports from Argentina, South Africa, Turkey, and Venezuela, the 4 countries that are not subject to the Section 201 remedy.

## **B. Statutory Threat Factors: Eleven Subject Countries Subject To Section 201 Remedy**

In Cold-Rolled I, we found that the cumulated subject imports from the 13 countries that were subject to the 201 remedy, which included subject imports from the 11 cumulated countries currently at issue, did not threaten the domestic industry with material injury.<sup>70</sup> Our consideration of all statutory factors relevant to these investigations reveals that the same factual basis for our finding of no threat of material injury in our earlier determinations is present in these investigations.<sup>71</sup>

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<sup>67</sup> See Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int'l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

<sup>68</sup> See Certain Structural Steel Beams from Japan, Inv. No. 731-TA-853 (Final), USITC Pub. 3308 (June 2000).

<sup>69</sup> Cold-Rolled I at 40-41.

<sup>70</sup> Cold-Rolled I at 41-43.

<sup>71</sup> As we found with respect to the 13 countries cumulated for purposes of threat in Cold-Rolled I, subject imports from the 11 countries cumulated here declined in the interim 2002 period, and declined as a share of the merchant and total markets. CR at Table C-1, Memorandum INV-Z-134 at Table J-1 and PR at Table J-1, and Views Addendum Table 2. The quantity of cumulated subject imports from the 11 countries decreased from \*\*\* short tons in 1999 to \*\*\* short tons in 2000, then increased to \*\*\* short tons in 2001, slightly below the 1999 level. In the first half of 2002, these subject imports declined to \*\*\* short tons, compared with \*\*\* short tons in the first half of 2001, and declined even more dramatically in the second quarter of 2002 to \*\*\* short tons compared with \*\*\* short tons in the second quarter of 2001. The share of apparent U.S. consumption accounted for by the cumulated subject imports in the merchant market similarly declined from \*\*\* percent in 1999 to \*\*\* percent in 2000, then increased to \*\*\* percent in 2001 as apparent U.S. consumption declined. In the first half of 2002, these subject imports declined to \*\*\* percent of merchant market shipments compared with \*\*\* percent in the first half of 2001, and declined even more dramatically in the second quarter of 2002 to \*\*\* percent compared with \*\*\* percent in the second quarter of 2001. Views Addendum Table 2. In the total market, including captive consumption, cumulated subject imports' market share for the 11 countries decreased from \*\*\* percent in 1999 to \*\*\* percent in 2000, then increased to \*\*\* percent in 2001. In the first half of 2002, these subject imports declined to \*\*\* percent of total market shipments compared with \*\*\* percent in the first half of 2001, and declined even more dramatically in the second quarter of 2002 to \*\*\* percent compared with \*\*\* percent in the second quarter of 2001. Views Addendum Table 3. As a  
(continued...)

We conclude that it is unlikely that subject imports will increase to significant levels in light of the nature and magnitude of the subject import declines in 2002 in response to the Section 201 remedy, the availability of other markets to the subject producers, and the availability of additional capacity in the United States to supply demand.<sup>72 73</sup> Because we do not believe that there is a likelihood of substantially increased import volumes, we conclude it is likely that the subject imports will continue not to have significant price effects in the imminent future.

Accordingly, and for the additional reasons expressed in Cold-Rolled I, we do not find that the domestic industry is threatened with material injury by reason of the subject imports from Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, Spain, and Taiwan.<sup>74</sup>

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<sup>71</sup> (...continued)

ratio to U.S. production, the volume of subject imports from the 11 countries on a cumulative basis was \*\*\* percent in 1999, \*\*\* percent in 2000, and \*\*\* percent in 2001. In the first half of 2002, the volume of these subject imports declined to a ratio of \*\*\* percent compared with \*\*\* percent in the first half of 2001, and declined even more dramatically in the second quarter of 2002 to \*\*\* percent compared with \*\*\* percent in the second quarter of 2001. Compare Views Addendum Table 3 with CR and PR at Table C-1 and Memorandum INV-Z-134 at Table J-1 and PR at Table J-1. We find it unlikely that these 11 countries would increase subject imports to the United States in light of the additional tariffs to which these imports will be subject under the Section 201 remedy for the imminent future, notwithstanding some excess capacity of producers in the 11 countries, their ability to shift production from other products to increase subject imports to the United States, and inventories of the merchandise in the subject countries and in the United States. See Cold-Rolled I at 41-42; see also Views Addendum Tables 4 and 6.

<sup>72</sup> In making this finding, we have considered dumping findings and antidumping remedies in other countries against the same class of merchandise. See 19 U.S.C. § 1677(7)(F)(iii)(I). Exports of cold-rolled steel from 5 of the cumulated subject countries are subject to antidumping duties, a safeguard measure, or a suspension agreement: Belgium (exports to Canada), Brazil (to Argentina, Canada, and Mexico), France (to China and Hungary), Korea (to Canada, China, and EU), and Russia (to Argentina, Canada, Colombia, Egypt, Mexico, Philippines, South Africa, Thailand, and Venezuela). CR at VII-45, and PR at VII-14.

<sup>73</sup> We also make these findings notwithstanding excess capacity of producers in the 11 countries and inventories of the merchandise in the subject countries and in the United States. See Cold-Rolled I at 43-45. The cold-rolled steel industries in these 11 subject countries increased capacity from \*\*\* short tons in 1999 to \*\*\* short tons in 2001. Capacity utilization increased from \*\*\* percent in 1999, to \*\*\* percent in 2000, then declined to \*\*\* percent in 2001, and declined to \*\*\* percent in the first six months of 2002, compared with \*\*\* percent in that period in 2001. Exports accounted for \*\*\* to \*\*\* percent of total shipments between 1999 and 2001, and for \*\*\* percent in the first half of 2002. Views Addendum Table 4. In addition, the cold-rolled steel industries in the 11 subject countries maintained inventories of \*\*\* to \*\*\* short tons in their home countries between 1999 and 2001, with levels declining to \*\*\* short tons at the end of June 2002. Id. As a ratio to shipments, inventories fluctuated between \*\*\* percent and \*\*\* percent between 1999 and 2001, but declined to \*\*\* percent in the first half of 2002. Id. U.S. importers' inventories from the 11 subject countries decreased from \*\*\* short tons in 1999 to \*\*\* short tons in 2001. As of March 2002 (the latest period for which data are available), however, such U.S. inventories were only \*\*\* short tons. Views Addendum Table 6.

<sup>74</sup> See Cold-Rolled I at 41-43.



### C. Statutory Threat Factors: Four Subject Countries Not Subject To Section 201 Remedy

In Cold-Rolled I, we found that the cumulated subject imports from the 6 countries that were excluded from the Section 201 remedy, which included subject imports from the 4 cumulated countries currently at issue, did not threaten the domestic industry with material injury.<sup>75</sup> Our consideration of all statutory factors relevant to these investigations reveals that the same factual basis for our finding of no threat of material injury in our earlier determinations is present with respect to the 4 countries in these investigation that are excluded from the Section 201 remedy.<sup>76</sup>

Although these countries are excluded from the Section 201 remedies announced by the President on March 5, 2002, the President stated that the exclusionary status would be revoked for developing countries, in full or in part, if a surge in imports from exempted countries were to undermine the

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<sup>75</sup> Cold-Rolled I at 43-45.

<sup>76</sup> As we found with respect to the 6 developing countries cumulated for purposes of threat in Cold-Rolled I, subject imports from the 4 countries cumulated here declined in the interim 2002 period, and declined as a share of the merchant and total markets. Memorandum INV-Z-134 at Table J-1 and PR at Table J-1, and Views Addendum Table 2. The quantity of cumulated subject imports from the 4 countries decreased from \*\*\* short tons in 1999 to \*\*\* short tons in 2000, then increased to \*\*\* short tons in 2001, slightly below the 1999 level. In the first half of 2002, subject imports decreased to \*\*\* short tons compared with \*\*\* short tons in the first half of 2001. The share of apparent U.S. consumption accounted for by the cumulated subject imports in the merchant market similarly declined from \*\*\* percent in 1999 to \*\*\* percent in 2000, then increased to \*\*\* percent in 2001 as apparent U.S. consumption declined. In the first half of 2002, these subject imports declined to \*\*\* percent of merchant market shipments compared with \*\*\* percent in the first half of 2001. Views Addendum Table 2. In the total market, including captive consumption, cumulated subject imports' market share for the 4 countries decreased from \*\*\* percent in 1999 to \*\*\* percent in 2000, then increased to \*\*\* percent in 2001. In the first half of 2002, these subject imports declined to \*\*\* percent of total market shipments compared with \*\*\* percent in the first half of 2001. Views Addendum Table 3. As a ratio to U.S. production, the volume of subject imports from the 4 countries on a cumulative basis was \*\*\* percent in 1999, \*\*\* percent in 2000, and \*\*\* percent in 2001. In the first half of 2002, the volume of these subject imports declined to a ratio of \*\*\* percent compared with \*\*\* percent in the first half of 2001. Compare Views Addendum Table 3 with CR and PR at Table C-1 and Memorandum INV-Z-134 at Table J-1 and PR at Table J-1. The cold-rolled steel industries in Argentina, South Africa, Turkey, and Venezuela accounted for less than 14 percent of total subject capacity, production, shipments, and inventories in the 15 countries throughout the period 1999-2001 and the first half of 2002. Views Addendum Tables 4 and 5. Two of the 4 countries (Turkey and Venezuela) were among the 7 individually negligible sources of subject imports. Memorandum INV-Z-134 at Table IV-3, and PR at Table IV-3. Combined, the 4 countries exempted from the safeguard action on flat-rolled steel accounted for only \*\*\* percent of the U.S. open market between 1999 and 2001, and only \*\*\* percent in January-June 2002. These countries accounted for \*\*\* percent or less of the total U.S. market during the same time period. Views Addendum Tables 2 and 3. The record indicates that the volume and market penetration of cumulated subject imports from Argentina, South Africa, Turkey, and Venezuela declined following announcement of the Commission's remedy recommendations and the President's actual remedy under Section 201. Views Addendum Table 2.

effectiveness of the safeguard measure.<sup>77</sup> On July 18, 2002, Commerce announced proposed rules regarding a steel import licensing and surge monitoring system.<sup>78</sup>

We recognize that subject imports from these cumulated countries do not face the same immediate barrier as do imports from those countries covered by the Section 201 remedy. We conclude that it is unlikely that subject imports from these countries will increase to significant levels in light of their current and historically very low levels, the Section 201 monitoring measures applied to these countries,<sup>79</sup> the availability of other markets to the subject producers, the relatively low share of production exported to the United States by these countries during the period examined, and the availability of additional capacity in the United States to supply demand.<sup>80 81</sup> We also find that the likelihood of a shift of production to cold-rolled products from these countries is diminished by the fact that virtually all carbon and alloy steel flat products are covered by the Section 201 remedy while imports of all flat products from these 4 countries are excluded from Section 201 tariffs.<sup>82</sup>

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<sup>77</sup> The Presidential Proclamation imposing the Section 201 remedy provides that the safeguard measures shall not apply to imports from a developing country that is a member of the World Trade Organization (WTO) -- as long as that country's share of total imports of the product, based on imports during a recent representative period, does not exceed 3 percent, provided that imports that are the product of all such countries with less than 3 percent of import share collectively account for not more than 9 percent of total imports of the product. If I determine that a surge in imports of a product described in paragraph 7 of a developing country WTO member undermines the effectiveness of the pertinent safeguard measure, the safeguard measure shall be modified to apply to such product from such country.

Proclamation 7529 of March 5, 2002 at ¶ 12 (67 Fed. Reg. at 10555).

<sup>78</sup> 67 Fed Reg. 47338 (July 18, 2002).

<sup>79</sup> See Proclamation 7529 of March 5, 2002 at ¶ 12 (67 Fed. Reg. at 10555).

<sup>80</sup> CR and PR at Table VII-1. In making this finding, we have considered dumping findings and antidumping remedies in other countries against the same class of merchandise. See 19 U.S.C. § 1677(7)(F)(iii)(I). Exports of cold-rolled steel from Turkey are subject to antidumping duties, a safeguard measure, or a suspension agreement in Canada, China, and the EU. CR at VII-45, and PR at VII-14.

<sup>81</sup> We also make these findings notwithstanding excess capacity of producers in the 4 countries and inventories of the merchandise in the subject countries and in the United States. See Cold-Rolled I at 43-45. The cold-rolled steel industries in these 4 subject countries increased capacity from \*\*\* short tons in 1999 to \*\*\* short tons in 2001. Capacity utilization increased from \*\*\* percent in 1999, to \*\*\* percent in 2000, then declined to \*\*\* percent in 2001, and declined to \*\*\* percent in the first six months of 2002, compared with \*\*\* percent in that period in 2001. Exports accounted for \*\*\* to \*\*\* percent of total shipments between 1999 and 2001, and for \*\*\* percent in the first half of 2002. Views Addendum Table 5. In addition, the cold-rolled steel industries in the 4 subject countries maintained inventories of \*\*\* to \*\*\* short tons in their home countries between 1999 and 2001, with levels declining to \*\*\* short tons at the end of June 2002. Id. As a ratio to shipments, inventories fluctuated between \*\*\* percent and \*\*\* percent between 1999 and 2001, but declined to \*\*\* percent in the first half of 2002. Id. U.S. importers' inventories from the 4 subject countries increased from \*\*\* short tons in 1999 to \*\*\* short tons in 2001. As of March 2002 (the latest period for which data are available), however, such U.S. inventories were only \*\*\* short tons. Views Addendum Table 6.

<sup>82</sup> Petitioners assert that certain subject producers (Argentina, South Africa, and Thailand) subject to recent antidumping duties on hot-rolled flat products have an enhanced incentive to shift their hot-rolled production to cold-rolled production for export to the United States. Bethlehem, et al. Prehearing Brief at 77-78. We do not find this argument persuasive given the low level of imports from Argentina, South Africa, and Thailand during the period examined.

Even if imports from all 4 excluded countries were to return to their 2001 levels of approximately \*\*\* short tons, this would amount to only \*\*\* percent of the U.S. open market share in 2001 and only \*\*\* percent of the total market.<sup>83</sup> As discussed above, subject imports in general did not have significant price-depressing or -suppressing effects on the domestic like product at the end of the period examined. Because we find that import volumes from these 4 developing countries will not increase to a significant level, given their relative size and historic presence in the U.S. market, we conclude it is likely that these subject imports will continue not to have significant price effects in the imminent future.

Accordingly, and for the additional reasons expressed in Cold-Rolled I, we do not find that the domestic industry is threatened with material injury by reason of the subject imports from Argentina, South Africa, Turkey, and Venezuela.<sup>84</sup>

### **CONCLUSION**

For the foregoing reasons, we determine that the domestic industry producing certain cold-rolled steel is not materially injured or threatened with material injury by reason of imports of certain cold-rolled steel products from Brazil, France, and Korea that Commerce found to be subsidized and imports of certain cold-rolled steel products from Argentina, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela that Commerce found to be sold at less than fair value.

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<sup>83</sup> Views Addendum Tables 2 and 3.

<sup>84</sup> See Cold-Rolled I at 43-45.

Addendum Table 1

Cold-rolled steel: Summary data concerning the U.S. open market, 1999-2001, January-March 2001, January-March 2002, January-June 2001, and January-June 2002

Item	Reported data							Period changes				
	Calendar year			January-March		January-June		Calendar year			Jan.-Mar.	Jan.-Jun.
	1999	2000	2001	2001	2002	2001	2002	1999-01	1999-00	2000-01	2001-02	2001-02
	<b>Quantity (short tons)</b>							<b>Percent</b>				
U.S. open-market consumption	18,161,041	18,159,494	15,799,631	4,026,569	3,608,151	6,939,061	6,920,214	-13.0	0.0	-13.0	-10.4	-0.3
U.S. producers':												
U.S. commercial shipments	14,099,991	14,853,305	12,151,578	3,228,587	2,934,124	5,280,943	5,768,314	-13.8	5.3	-18.2	-9.1	9.2
U.S. company transfers <sup>1</sup>	953,804	754,684	751,798	184,426	186,903	354,505	392,509	-2.1	-20.9	-0.4	1.3	10.7
Total U.S. shipments	15,053,795	15,607,989	12,903,376	3,413,013	3,121,027	5,635,448	6,160,823	-14.3	3.7	-17.3	-8.6	9.3
U.S. imports from:												
Argentina	130,830	***	136,984	35,871	0	66,327	0	4.7	***	***	-100.0	-100.0
Belgium	303,864	255,786	168,845	15,031	363	51,663	9,301	-44.4	-15.8	-34.0	-97.6	-82.0
Brazil	***	***	***	***	***	116,825	15,816	***	***	***	***	-86.5
China	55,655	45,907	92,743	12,219	37,216	33,908	37,216	66.6	-17.5	102.0	204.6	9.8
France	***	***	106,245	32,020	24,920	60,657	30,716	***	***	***	-22.2	-49.4
Germany <sup>2</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	179,839	59,384	***	***	***	***	-67.0
The Netherlands <sup>2</sup>	***	***	***	***	***	***	***	***	***	***	***	***
New Zealand	27,422	29,409	23,175	5,370	5,438	11,567	5,438	-15.5	7.2	-21.2	1.3	-53.0
Russia	415,866	262,246	295,545	60,691	105,410	139,922	105,410	-28.9	-36.9	12.7	73.7	-24.7
South Africa	85,474	27,419	89,221	47	24,233	28,682	24,233	4.4	-67.9	225.4	51,685.0	-15.5
Spain <sup>4</sup>	1,226	593	333	103	106	235	128	-72.8	-51.6	-43.8	2.9	-45.7
Taiwan	80,605	20,842	98,388	9,795	9,478	18,904	9,495	22.1	-74.1	372.1	-3.2	-49.8
Turkey	85,291	37,989	67,200	17,568	1,778	47,330	1,778	-21.2	-55.5	76.9	-89.9	-96.2
Venezuela	58,495	9,566	52,737	21,089	18,443	30,581	18,443	-9.8	-83.6	451.3	-12.5	-39.7
Subtotal (15)	***	***	***	***	***	***	***	***	***	***	***	***
Australia	4,184	68,893	53,497	12,912	6,505	22,685	6,507	1,178.5	1,546.5	-22.3	-49.6	-71.3
India <sup>2 3</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	132,564	75,714	***	***	***	***	-42.9
Sweden	***	***	***	***	***	15,899	4,289	***	***	***	***	-73.0
Thailand	73,475	6,039	22,889	8,434	0	18,513	0	-68.8	-91.8	279.0	-100.0	-100.0
All other sources	624,375	806,678	441,649	132,735	107,053	239,385	292,027	-29.3	29.2	-45.3	-19.3	22.0
Total imports	3,107,246	2,551,505	2,896,255	613,556	487,124	1,303,613	759,391	-6.8	-17.9	13.5	-20.6	-41.7
	<b>Ratios (percent)</b>							<b>Percentage points</b>				
Producers' share:												
U.S. commercial shipments	77.6	81.8	76.9	80.2	81.3	76.1	83.4	-0.7	4.2	-4.9	1.1	7.3
U.S. company transfers <sup>1</sup>	5.3	4.2	4.8	4.6	5.2	5.1	5.7	-0.5	-1.1	0.6	0.6	0.6
Total U.S. shipments	82.9	85.9	81.7	84.8	86.5	81.2	89.0	-1.2	3.1	-4.3	1.7	7.8
Importers' share:												
Argentina	0.7	***	0.9	0.9	0.0	1.0	0.0	0.1	***	***	-0.9	-1.0
Belgium	1.7	1.4	1.1	0.4	( <sup>5</sup> )	0.7	0.1	-0.6	-0.3	-0.3	-0.4	-0.6
Brazil	***	***	***	***	***	1.7	0.2	***	***	***	***	-1.5
China	0.3	0.3	0.6	0.3	1.0	0.5	0.5	0.3	-0.1	0.3	0.7	0.0
France	***	***	0.7	0.8	0.7	0.9	0.4	***	***	***	-0.1	-0.4
Germany <sup>2</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	2.6	0.9	2.9	0.7	2.2	-0.5	-1.7
The Netherlands <sup>2</sup>	***	***	***	***	***	***	***	***	***	***	***	***
New Zealand	0.2	0.2	0.1	0.1	0.2	0.2	0.1	0.0	0.0	0.0	0.0	-0.1
Russia	2.3	1.4	1.9	1.5	2.9	2.0	1.5	-0.4	-0.8	0.4	1.4	-0.5
South Africa	0.5	0.2	0.6	( <sup>5</sup> )	0.7	0.4	0.4	0.1	-0.3	0.4	0.7	-0.1
Spain <sup>4</sup>	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	0.0	0.0	0.0	0.0	0.0
Taiwan	0.4	0.1	0.6	0.2	0.3	0.3	0.1	0.2	-0.3	0.5	0.0	-0.1
Turkey	0.5	0.2	0.4	0.4	( <sup>5</sup> )	0.7	( <sup>5</sup> )	0.0	-0.3	0.2	-0.4	-0.7
Venezuela	0.3	0.1	0.3	0.5	0.5	0.4	0.3	0.0	-0.3	0.3	0.0	-0.2
Subtotal (15)	***	***	***	***	***	***	***	***	***	***	***	***
Australia	( <sup>5</sup> )	0.4	0.3	0.3	0.2	0.3	0.1	0.3	0.4	0.0	-0.1	-0.2
India <sup>2 3</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	1.9	1.1	0.3	-0.7	0.9	0.1	-0.8
Sweden	***	***	***	***	***	0.2	0.1	0.0	-0.1	0.1	-0.1	-0.2
Thailand	0.4	( <sup>5</sup> )	0.1	0.2	0.0	0.3	0.0	-0.3	-0.4	0.1	-0.2	-0.3
All other sources	3.4	4.4	2.8	3.3	3.0	3.5	4.2	-0.6	1.0	-1.6	-0.3	0.8
Total imports	17.1	14.1	18.3	15.2	13.5	18.8	11.0	1.2	-3.1	4.3	-1.7	-7.8

1 \*\*\*

<sup>2</sup> Foreign producers' reported exports to U.S. used as U.S. imports.

<sup>3</sup> For the January-March periods six Indian firms reported data; however, for the January-June periods only three firms reported data.

<sup>4</sup> Data for Spain have been adjusted to exclude nonsubject imports.

<sup>5</sup> Less than 0.05 percent.

Note.--Because of rounding, figures may not add to the totals shown; shares are calculated from the unrounded figures. Except as noted imports are DOC (adjusted) for 1999-2001 and the January-March periods and unadjusted DOC for the January-June periods.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

## Cold-Rolled Steel Products

**Addendum Table 2**
**Cold-rolled steel: Summary data concerning the U.S. open market, 1999-2001, January-March 2001, January-March 2002, January-June 2001, and January-June 2002**

Item	Reported data							Period changes				
	Calendar year			January-March		January-June		Calendar year			Jan.-Mar.	Jan.-Jun.
	1999	2000	2001	2001	2002	2001	2002	1999-01	1999-00	2000-01	2001-02	2001-02
	<b>Quantity (short tons)</b>							<b>Percent</b>				
U.S. open-market consumption	18,161,041	18,159,494	15,799,631	4,026,569	3,608,151	6,939,061	6,920,214	-13.0	0.0	-13.0	-10.4	-0.3
U.S. producers <sup>1</sup> :												
U.S. commercial shipments	14,099,991	14,853,305	12,151,578	3,228,587	2,934,124	5,280,943	5,768,314	-13.8	5.3	-18.2	-9.1	9.2
U.S. company transfers <sup>1</sup>	953,804	754,684	751,798	184,426	186,903	354,505	392,509	-21.2	-20.9	-0.4	1.3	10.7
Total U.S. shipments	15,053,795	15,607,989	12,903,376	3,413,013	3,121,027	5,635,448	6,160,823	-14.3	3.7	-17.3	-8.6	9.3
U.S. imports from:												
Belgium	303,864	255,786	168,845	15,031	363	51,663	9,301	-44.4	-15.8	-34.0	-97.6	-82.0
Brazil	***	***	***	***	***	116,825	15,816	***	***	***	***	-86.5
China	55,655	45,907	92,743	12,219	37,216	33,908	37,216	66.6	-17.5	102.0	204.6	9.8
France	***	***	106,245	32,020	24,920	60,657	30,716	***	***	-32.8	-22.2	-49.4
Germany <sup>2</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	179,839	59,384	***	***	***	***	-67.0
The Netherlands <sup>2</sup>	***	***	***	***	***	***	***	***	***	***	***	***
New Zealand	***	***	***	***	***	***	***	***	***	***	***	***
Russia	415,866	262,246	295,545	60,691	105,410	139,922	105,410	-28.9	-36.9	12.7	73.7	-24.7
Spain <sup>3</sup>	1,226	593	333	103	106	235	128	-72.8	-51.6	-43.8	2.9	-45.7
Taiwan	80,605	20,842	98,388	9,795	9,478	18,904	9,495	22.1	-74.1	372.1	-3.2	-49.8
Subtotal (11)	***	***	***	***	***	***	***	***	***	***	***	***
Argentina	130,830	***	136,984	35,871	0	66,327	0	4.7	***	***	-100.0	-100.0
South Africa	85,474	27,419	89,221	47	24,233	28,682	24,233	4.4	-67.9	225.4	51,685.0	-15.5
Turkey	85,291	37,989	67,200	17,568	1,778	47,330	1,778	-21.2	-55.5	76.9	-89.9	-96.2
Venezuela	58,495	9,566	52,737	21,089	18,443	30,581	18,443	-9.8	-83.6	451.3	-12.5	-39.7
Subtotal (4)	***	***	***	***	***	***	***	***	***	***	***	***
Australia	4,184	68,893	53,497	12,912	6,505	22,685	6,507	1,178.5	1,546.5	-22.3	-49.6	-71.3
India <sup>2,4</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	132,564	75,714	***	***	***	***	-42.9
Sweden	***	***	***	***	***	15,899	4,289	***	***	***	***	-73.0
Thailand	73,475	6,039	22,889	8,434	0	18,513	0	-68.8	-91.8	279.0	-100.0	-100.0
All other sources	624,375	806,678	441,649	132,735	107,053	239,385	292,027	-29.3	29.2	-45.3	-19.3	22.0
Total imports	3,107,246	2,551,505	2,896,255	613,556	487,124	1,303,613	759,391	-6.8	-17.9	13.5	-20.6	-41.7
	<b>Ratios (percent)</b>							<b>Percentage points</b>				
Producers' share:												
U.S. commercial shipments	77.6	81.8	76.9	80.2	81.3	76.1	83.4	-0.7	4.2	-4.9	1.1	7.3
U.S. company transfers <sup>1</sup>	5.3	4.2	4.8	4.6	5.2	5.1	5.7	-0.5	-1.1	0.6	0.6	0.6
Total U.S. shipments	82.9	85.9	81.7	84.8	86.5	81.2	89.0	-1.2	3.1	-4.3	1.7	7.8
Importers' share:												
Belgium	1.7	1.4	1.1	0.4	( <sup>5</sup> )	0.7	0.1	-0.6	-0.3	-0.3	-0.4	-0.6
Brazil	***	***	***	***	***	1.7	0.2	***	***	***	***	-1.5
China	0.3	0.3	0.6	0.3	1.0	0.5	0.5	0.3	-0.1	0.3	0.7	0.0
France	***	***	0.7	0.8	0.7	0.9	0.4	***	***	***	-0.1	-0.4
Germany <sup>2</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	2.6	0.9	***	***	***	***	-1.7
The Netherlands <sup>2</sup>	***	***	***	***	***	***	***	***	***	***	***	***
New Zealand	0.2	0.2	0.1	0.1	0.2	0.2	0.1	-0.0	0.0	-0.0	0.0	-0.1
Russia	2.3	1.4	1.9	1.5	2.9	2.0	1.5	-0.4	-0.8	0.4	1.4	-0.5
Spain <sup>3</sup>	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	0.0	0.0	0.0	0.0	0.0
Taiwan	0.4	0.1	0.6	0.2	0.3	0.3	0.1	0.2	-0.3	0.5	0.0	-0.1
Subtotal (11)	***	***	***	***	***	***	***	***	***	***	***	***
Argentina	0.7	***	0.9	0.9	0.0	1.0	0.0	0.1	***	***	-0.9	-1.0
South Africa	0.5	0.2	0.6	( <sup>5</sup> )	0.7	0.4	0.4	0.1	-0.3	0.4	0.7	-0.1
Turkey	0.5	0.2	0.4	0.4	( <sup>5</sup> )	0.7	( <sup>5</sup> )	-0.0	-0.3	0.2	-0.4	-0.7
Venezuela	0.3	0.1	0.3	0.5	0.5	0.4	0.3	0.0	-0.3	0.3	-0.0	-0.2
Subtotal (4)	***	***	***	***	***	***	***	***	***	***	***	***
Australia	( <sup>5</sup> )	0.4	0.3	0.3	0.2	0.3	0.1	0.3	0.4	-0.0	-0.1	-0.2
India <sup>2,4</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	1.9	1.1	***	***	***	***	-0.8
Sweden	***	***	***	***	***	0.2	0.1	***	***	***	***	-0.2
Thailand	0.4	( <sup>5</sup> )	0.1	0.2	0.0	0.3	0.0	-0.3	-0.4	0.1	-0.2	-0.3
All other sources	3.4	4.4	2.8	3.3	3.0	3.4	4.2	-0.6	1.0	-1.6	-0.3	0.8
Total imports	17.1	14.1	18.3	15.2	13.5	18.8	11.0	1.2	-3.1	4.3	-1.7	-7.8

<sup>1</sup> \*\*\*

<sup>2</sup> Foreign producers' reported exports to U.S. used as U.S. imports.

<sup>3</sup> Data for Spain have been adjusted to exclude nonsubject imports.

<sup>4</sup> For the January-March periods six Indian firms reported data; however, for the January-June periods only three firms reported data.

<sup>5</sup> Less than 0.05 percent.

Note.—Because of rounding, figures may not add to the totals shown; shares are calculated from the unrounded figures. Except as noted imports are DOC (adjusted) for 1999-2001 and the January-March periods and unadjusted DOC for the January-June periods.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

**Addendum Table 3**  
**Cold-rolled steel: Summary data concerning the U.S. market, 1999-2001, January-March 2001, January-March 2002, January-June 2001, and January-June 2002**

Item	Reported data							Period changes				
	Calendar year			January-March		January-June		Calendar year			Jan.-Mar.	Jan.-Jun.
	1999	2000	2001	2001	2002	2001	2002	1999-01	1999-00	2000-01	2001-02	2001-02
	Quantity (short tons)							Percent				
U.S. consumption	39,842,746	39,620,695	35,582,831	9,064,987	8,557,919	16,096,141	17,222,158	-10.7	-0.6	-10.2	-5.6	7.0
U.S. producers	36,735,500	37,069,190	32,686,576	8,451,431	8,070,795	14,792,528	16,462,767	-11.0	0.9	-11.8	-4.5	11.3
U.S. imports from:												
Belgium	303,864	255,786	168,845	15,031	363	51,663	9,301	-44.4	-15.8	-34.0	-97.6	-82.0
Brazil	***	***	***	***	***	116,825	15,816	-31.6	-82.3	286.2	-75.1	-86.5
China	55,655	45,907	92,743	12,219	37,216	33,908	37,216	66.6	-17.5	102.0	204.6	9.8
France	***	***	106,245	32,020	24,920	60,657	30,716	***	***	***	-22.2	-49.4
Germany <sup>1</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	179,839	59,384	378.8	102.2	136.8	-32.4	-67.0
The Netherlands <sup>1</sup>	***	***	***	***	***	***	***	***	***	***	***	***
New Zealand	27,422	29,409	23,175	5,370	5,438	11,567	5,438	-15.5	7.2	-21.2	1.3	-53.0
Russia	415,866	262,246	295,545	60,691	105,410	139,922	105,410	-28.9	-36.9	12.7	73.7	-24.7
Spain <sup>2</sup>	1,226	593	333	103	106	235	128	-72.8	-51.6	-43.8	2.9	-45.7
Taiwan	80,605	20,842	98,388	9,795	9,478	18,904	9,495	22.1	-74.1	372.1	-3.2	-49.8
Subtotal (11)	***	***	***	***	***	***	***	***	***	***	***	***
Argentina	130,830	***	136,984	35,871	0	66,327	0	4.7	***	***	-100.0	-100.0
South Africa	85,474	27,419	89,221	47	24,233	28,682	24,233	4.4	-67.9	225.4	51,685.0	-15.5
Turkey	85,291	37,989	67,200	17,568	1,778	47,330	1,778	-21.2	-55.5	76.9	-89.9	-96.2
Venezuela	58,495	9,566	52,737	21,089	18,443	30,581	18,443	-9.8	-83.6	451.3	-12.5	-39.7
Subtotal (4)	***	***	***	***	***	***	***	***	***	***	***	***
Australia	4,184	68,893	53,497	12,912	6,505	22,685	6,507	1,178.5	1,546.5	-22.3	-49.6	-71.3
India <sup>3</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	132,564	75,714	4.8	-53.8	126.7	-2.2	-42.9
Sweden	***	***	***	***	***	15,899	4,289	2.8	-37.0	63.1	-59.2	-73.0
Thailand	73,475	6,039	22,889	8,434	0	18,513	0	-68.8	-91.8	279.0	-100.0	-100.0
All other sources	624,375	806,678	441,649	132,735	107,053	239,385	292,027	-29.3	29.2	-45.3	-19.3	22.0
Total imports	3,107,246	2,551,505	2,896,255	613,556	487,124	1,303,613	759,391	-6.8	-17.9	13.5	-20.6	-41.7
	Ratios (percent)							Percentage points				
Producers' share:	92.2	93.6	91.9	93.2	94.3	91.9	95.6	-0.3	1.4	-1.7	1.1	3.7
Importers' share:												
Belgium	0.8	0.6	0.5	0.2	( <sup>4</sup> )	0.3	0.1	-0.3	-0.1	-0.2	-0.2	-0.3
Brazil	***	***	***	***	***	0.7	0.1	***	***	***	***	-0.6
China	0.1	0.1	0.3	0.1	0.4	0.2	0.2	0.1	0.0	0.1	0.3	0.0
France	***	***	0.3	0.4	0.3	0.4	0.2	***	***	***	-0.1	-0.2
Germany <sup>1</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	1.1	0.3	***	***	***	***	-0.8
The Netherlands <sup>1</sup>	***	***	***	***	***	***	***	***	***	***	***	***
New Zealand	0.1	0.1	0.1	0.1	0.1	0.1	( <sup>4</sup> )	0.0	0.0	0.0	0.0	-0.1
Russia	1.0	0.7	0.8	0.7	1.2	0.9	0.6	-0.2	-0.4	0.2	0.6	-0.3
Spain <sup>2</sup>	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	0.0	0.0	0.0	0.0	0.0
Taiwan	0.2	0.1	0.3	0.1	0.1	0.1	0.1	0.1	-0.2	0.2	0.0	-0.1
Subtotal (11)	***	***	***	***	***	***	***	***	***	***	***	***
Argentina	0.3	***	0.4	0.4	0.0	0.4	0.0	0.1	***	***	-0.4	-0.4
South Africa	0.2	0.1	0.3	( <sup>4</sup> )	0.3	0.2	0.1	0.0	-0.1	0.2	0.3	0.0
Turkey	0.2	0.1	0.2	0.2	( <sup>4</sup> )	0.3	( <sup>4</sup> )	0.0	-0.1	0.1	-0.2	-0.3
Venezuela	0.1	( <sup>4</sup> )	0.1	0.2	0.2	0.2	0.1	0.0	-0.1	0.1	0.0	-0.1
Subtotal (4)	***	***	***	***	***	***	***	***	***	***	***	***
Australia	( <sup>4</sup> )	0.2	0.2	0.1	0.1	0.1	( <sup>4</sup> )	0.2	0.2	0.0	-0.1	-0.1
India <sup>3</sup>	***	***	***	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	0.8	0.4	***	***	***	***	-0.4
Sweden	***	***	***	***	***	0.1	( <sup>4</sup> )	***	***	***	***	-0.1
Thailand	0.2	( <sup>4</sup> )	0.1	0.1	0.0	0.1	0.0	-0.1	-0.2	0.1	-0.1	-0.1
All other sources	1.6	2.0	1.2	1.5	1.3	1.5	1.7	-0.3	0.5	-0.8	-0.2	0.2
Total imports	7.8	6.4	8.1	6.8	5.7	8.1	4.4	0.3	-1.4	1.7	-1.1	-3.7

<sup>1</sup> Foreign producers' reported exports to U.S. used as U.S. imports.

<sup>2</sup> Data for Spain have been adjusted to exclude nonsubject imports.

<sup>3</sup> For the January-March periods six Indian firms reported data; however, for the January-June periods only three firms reported data.

<sup>4</sup> Less than 0.05 percent.

Note.—Because of rounding, figures may not add to the totals shown; shares are calculated from the unrounded figures. Except as noted imports are DOC (adjusted) for 1999-2001 and the January-March periods and unadjusted DOC for the January-June periods.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

**Addendum Table 4**

**Cold-rolled steel: Summary data for producers in 11 countries, 1999-2001, January-June 2001, January-June 2002, and projections for 2002 and 2003**

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**Addendum Table 5**

**Cold-rolled steel: Summary data for producers in 4 countries, 1999-2001, January-June 2001, January-June 2002, and projections for 2002 and 2003**

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**Views Addendum Table 6**

**Cold-rolled steel: U.S. importers' end-of-period inventories of imports, 1999-2001, January-March 2001, and January-March 2002**

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**CERTAIN COLD-ROLLED STEEL PRODUCTS FROM ARGENTINA, BELGIUM, BRAZIL, CHINA, FRANCE, GERMANY, KOREA, THE NETHERLANDS, NEW ZEALAND, RUSSIA, SOUTH AFRICA, SPAIN, TAIWAN, TURKEY, AND VENEZUELA**

**Invs. Nos. 701-TA-423-425 (Final) and 731-TA-964, 966-970, 973-978, 980, and 982-983 (Final)**

**DISSENTING VIEWS OF COMMISSIONER LYNN M. BRAGG**

Based upon the record in these final phase investigations, I find that an industry in the United States is materially injured by reason of imports of certain cold-rolled steel products from Argentina, Belgium, Brazil, China, France, Germany, Korea, The Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela, that have been found to be sold in the United States at less than fair value (“LTFV”), and those from Brazil, France, and Korea, that have been found to be subsidized. I therefore dissent from the negative determination rendered by the Commission.

**I. Material Injury:**

The instant investigations arise out of a group of simultaneously filed petitions that also included the Commission’s recently completed investigations of certain cold-rolled steel products from Australia, India, Japan, Sweden, and Thailand.<sup>1</sup> Under section 771(7)(G)(iii) of the Tariff Act of 1930, as amended, the Commission is required to render determinations in the instant investigations based upon the same record as that of the Commission’s determinations regarding subject imports from Australia, India, Japan, Sweden, and Thailand, except that the record in these investigations also includes Commerce’s final CVD determinations<sup>2</sup> and final LTFV determinations,<sup>3</sup> as well as the parties’ final comments concerning the significance of such determinations.<sup>4</sup> The record in the instant investigations is otherwise identical to that examined by the Commission in determinations regarding imports from Australia, India, Japan, Sweden, and Thailand; as supplemented below, I adopt herein the findings, analyses, and conclusions, contained in my determination regarding imports from the those five countries<sup>5</sup> with respect to the definition of the domestic like product and domestic industry, negligibility, cumulation,<sup>6</sup> captive production and other

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<sup>1</sup> Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand, Inv. Nos. 731-TA-965, 971-972, 979, and 981 (Final), USITC Pub. 3536 (September 2002).

<sup>2</sup> See 67 Fed. Reg. 62,106 (Oct. 3, 2002) (Argentina); 67 Fed. Reg. 62,128 (Oct. 3, 2002) (Brazil); 67 Fed. Reg. 62,111 (Oct. 3, 2002) (France); 67 Fed. Reg. 62,102 (Oct. 3, 2002) (Korea).

<sup>3</sup> See 67 Fed. Reg. 62,138 (Oct. 3, 2002) (Argentina); 67 Fed. Reg. 62,130 (Oct. 3, 2002) (Belgium); 67 Fed. Reg. 62,134 (Oct. 3, 2002) (Brazil); 67 Fed. Reg. 62,107 (Oct. 3, 2002) (China); 67 Fed. Reg. 62,114 (Oct. 3, 2002) (France); 67 Fed. Reg. 62,116 (Oct. 3, 2002) (Germany); 67 Fed. Reg. 62,124 (Oct. 3, 2002) (Korea); 67 Fed. Reg. 62,112 (Oct. 3, 2002) (The Netherlands); 67 Fed. Reg. 62,100 (Oct. 3, 2002) (New Zealand); 67 Fed. Reg. 62,121 (Oct. 3, 2002) (Russia); 67 Fed. Reg. 62,136 (Oct. 3, 2002) (South Africa); 67 Fed. Reg. 62,132 (Oct. 3, 2002) (Spain); 67 Fed. Reg. 62,104 (Oct. 3, 2002) (Taiwan); 67 Fed. Reg. 62,126 (Oct. 3, 2002) (Turkey); 67 Fed. Reg. 62,119 (Oct. 3, 2002) (Venezuela).

<sup>4</sup> 19 U.S.C. § 1677(7)(G)(iii); see, e.g., Certain Hot-Rolled Steel Products from Brazil and Russia, Inv. Nos. 701-TA-384 (Final) and 731-TA-806 and 808 (Final), USITC Pub. 3223 at 3 (August 1999).

<sup>5</sup> Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand, *Dissenting Views of Chairman Lynn M. Bragg*, Inv. Nos. 731-TA-965, 971-972, 979, and 981 (Final), USITC Pub. 3536 at 57-80 (September 2002).

<sup>6</sup> I again determine to cumulate subject imports from all twenty countries for which petitions were filed on the same day, notwithstanding the fact that a Commission majority has previously rendered negative determinations with  
(continued...)



conditions of competition, the limited relevance of preexisting safeguard relief to the analysis of material injury, and present material injury by reason of subject imports, in the instant investigations of subject imports from Argentina, Belgium, Brazil, China, France, Germany, Korea, The Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela.

In addition to my previous findings, analyses, and conclusions, I note that Commerce has issued final LTFV margins for the 15 countries subject to the instant investigations.<sup>7</sup> As I explained previously, I believe that the existence of section 201 safeguard relief imposed by the President on March 5, 2002, is not relevant to the analysis of material injury in these investigations, except to the extent that such relief masks the injurious presence of subject imports in the U.S. market.<sup>8</sup> Although I do not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers,<sup>9</sup> in this case I note that Commerce's final LTFV margins for China, Russia, South Africa, Spain, and Venezuela, range from 41.90 percent to 137.33 percent; margins for each of these subject countries substantially exceed the 30 percent *ad valorem* tariff imposed during

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<sup>6</sup> (...continued)

respect to Australia, India, Japan, Sweden, and Thailand. *See* USITC Pub. 3536 at 1. In my view, the record closing provision of 19 U.S.C. § 1677(7)(G)(iii) precludes the Commission from considering any information that postdates the final closing of the record in these investigations on August 26, 2002, except as expressly provided for by statute (*i.e.* Commerce's final antidumping and countervailing duty determinations and final party comments thereon). I have previously articulated this approach in similar circumstances. *See* Certain Cold-Rolled Steel Products from Turkey and Venezuela, Inv. Nos. 731-TA-839-840 (Final), USITC Pub. 3297 at 14 n.4 (May 2000); Certain Cold-Rolled Steel Products from China, Indonesia, Slovakia, and Taiwan, Inv. Nos. 731-TA-831-832, 835, and 837 (Final), USITC Pub. 3320 at 14 n.5 (July 2000); *see also* 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 (March 1998) (cross-cumulation of imports subject to countervailing duty investigations warranted in staggered determinations notwithstanding the fact that the CVD investigations previously had been terminated). Once the prerequisites for cumulation are satisfied (*i.e.* filing of petitions on the same day coupled with a reasonable overlap of competition), I do not believe that the statute dictates disparate analyses simply because certain of the investigations are concluded before others; indeed, to conclude otherwise carries implications for the analysis beyond the question of cumulation. For example, as the instant investigations illustrate, if, in a series of staggered final phase investigations, imports subject to previously terminated investigations are no longer deemed to be "subject imports" in the remaining investigations, the Commission may be required in certain circumstances to revisit its findings concerning negligibility in the remaining investigations. This raises the prospect that non-negligible imports subject to an affirmative preliminary determination could thereafter be deemed negligible solely by virtue of the procedural posture of the final phase investigations; in my view, such a result would be contrary to the legislative intent underlying the statute.

<sup>7</sup> The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). Commerce's final LTFV margins in the instant investigations are as follows: Argentina (27.18 percent); Belgium (11.56 percent); Brazil (33.88 percent); China (105.35 percent); France (11.59 percent); Germany (12.56 percent); Korea (from 5.15 percent to 11.13 percent); The Netherlands (6.28 percent); New Zealand (21.72 percent); Russia (137.33 percent); South Africa (41.90 percent); Spain (46.20 percent); Taiwan (from 4.02 percent to 16.80 percent); Turkey (4.32 percent); Venezuela (from 53.90 percent to 58.95 percent). *See supra* n.3.

I note that ordinarily I do not consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. *See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China*, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 at 33-36 (June 1996).

<sup>8</sup> *See Dissenting Views of Commissioner Lynn M. Bragg*, USITC Pub. 3536 at 72-73.

<sup>9</sup> *See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China*, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 at 33-36 (June 1996).

the first year of the safeguard relief period.<sup>10</sup> In my view, the failure to fully redress the injurious unfair trade practices evident in these investigations with antidumping and countervailing duties of comparable magnitude can only serve to undermine the ability of the domestic industry to restructure and thereby help perpetuate the condition of the industry that led to the need for 201 relief in the first place.<sup>11</sup> In any event, as I explained previously, even if the impact of the 201 relief is taken into account, the most recent data available on the record in these investigations indicate that the domestic cold-rolled steel industry has yet to achieve profitability and that subject imports are, and continue to be, a cause of material injury to the domestic industry.<sup>12</sup>

In sum, based upon my cumulative analysis of subject imports from the twenty countries for which petitions were filed on the same day, I find that the domestic industry is materially injured by reason of subject imports from Argentina, Belgium, Brazil, China, France, Germany, Korea, The Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela.

## **II. Critical Circumstances:**

Commerce has rendered final determinations that critical circumstances exist with respect to subject imports from China, Korea, The Netherlands, and Russia.<sup>13</sup> Because I find that a domestic industry is materially injured by reason of these imports, I must further determine whether these imports “are likely to undermine seriously the remedial effect” of antidumping duty orders covering such imports.<sup>14</sup> To begin, I note that in my previous determination involving the first set of countries subject to investigation, I made negative critical circumstances findings with respect to imports from Australia and India.<sup>15</sup> Here, however, I note that with respect to China, Korea, and Russia, for each country the total volume of imports that entered the United States during the six months following the filing of the petitions was at least three times the volume of imports from either Australia or India during the same period; with respect to The Netherlands, the six month post-petition volume was at least 70 percent greater than the volume of imports from either Australia or India.<sup>16</sup> For the reasons set forth below, I render affirmative critical circumstances findings with respect to China, Korea, the Netherlands, and Russia, in these investigations.

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<sup>10</sup> Similarly, I note that Commerce’s final LTFV margin for Brazil is 33.88 percent. I also note that Commerce’s final LTFV margins in the related investigations for India, Japan, Sweden, and Thailand, ranged from 40.54 percent to 153.65 percent. *See Dissenting Views of Commissioner Lynn M. Bragg*, USITC Pub. 3536 at 73.

<sup>11</sup> 19 U.S.C. § 1677(7)(C)(iii) instructs the Commission, in examining the impact of subject imports on the domestic industry, to evaluate factors affecting domestic prices. The imposition of safeguard relief has had an impact on prices for cold-rolled steel in the U.S. market; as noted, however, in my view the relevant inquiry under this provision is the extent to which temporary and declining safeguard relief masks the injurious presence of subject imports in the U.S. market.

<sup>12</sup> *See Dissenting Views of Commissioner Lynn M. Bragg*, USITC Pub. 3536 at 74-79.

<sup>13</sup> *See* 67 Fed. Reg. 62,107 (Oct. 3, 2002) (China); 67 Fed. Reg. 62,124 (Oct. 3, 2002) (Korea); 67 Fed. Reg. 62,112 (Oct. 3, 2002) (The Netherlands); 67 Fed. Reg. 62,121 (Oct. 3, 2002) (Russia). In the case of Korea, Commerce found that critical circumstances exist except with respect to Dongbu Steel Company.

<sup>14</sup> 19 U.S.C. § 1673d(b)(4)(A)(i). The statute further provides that in making this determination, the Commission shall consider, among other factors it considers relevant: (I) the timing and volume of the imports; (II) a rapid increase in inventories of the imports; and (III) any other circumstances indicating that the remedial effect of the antidumping duty order will be seriously undermined. 19 U.S.C. § 1673d(b)(4)(A)(ii).

<sup>15</sup> *See Dissenting Views of Commissioner Lynn M. Bragg*, USITC Pub. 3536 at 79-80.

<sup>16</sup> *Compare* Table I-9, USITC Pub. 3536 at I-14 *with* Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, Public Report (“PR”) at I-8.

In the case of China, a comparison of the first month preceding the filing of the petitions (*i.e.* September 2001) versus the following month (*i.e.* October 2001) indicates roughly an 81 percent increase in subject import volume; furthermore, a comparison of the three month period preceding the filing of the petitions (*i.e.* July through September 2001) versus the following three month period (*i.e.* October through December 2001) indicates roughly a 75 percent increase in subject imports from China, while a comparison of the six month period preceding the filing of the petitions (*i.e.* April through September 2001) versus the following six month period (*i.e.* October 2001 through March 2002) indicates roughly a 73 percent increase in subject import volume.<sup>17</sup> Moreover, the absolute volumes of subject imports from China that entered the United States after the filing of the petitions were equivalent to roughly 1.0 percent to 1.4 percent of average apparent U.S. consumption in the open market, as well as from about 6.4 percent to 9.0 percent of the average volume of cumulative subject imports from all twenty countries, during the respective one month, three month, and six month periods following the filing of the petitions.<sup>18</sup> Based upon all the foregoing and in light of the prevailing conditions of competition in the U.S. market for cold-rolled steel, I find that imports from China that are subject to a critical circumstances determination are likely to undermine seriously the remedial effect of an antidumping duty order.

In the case of Korea, Commerce found that critical circumstances exist except with regard to Dongbu Steel Company;<sup>19</sup> consequently, I have adjusted the monthly data for Korea by subtracting the average monthly export volume reported by Dongbu in its questionnaire response.<sup>20</sup> A comparison of the first month preceding the filing of the petitions versus the following month indicates roughly a \*\*\* percent increase in subject import volume; furthermore, a comparison of the three month period preceding the filing of the petitions versus the following three month period indicates roughly an \*\*\* percent increase in the adjusted volume of subject imports from Korea, while a comparison of the five month period preceding the filing of the petitions (*i.e.* May through September 2001) versus the following five month period (*i.e.* October 2001 through February 2002) indicates roughly a \*\*\* percent increase in subject import volume.<sup>21</sup> Importantly, these percentage increases are based upon very substantial absolute volumes of imports. Thus, the absolute volumes of subject imports from Korea (as adjusted) that entered the United States after the filing of the petitions were equivalent to roughly \*\*\* percent to \*\*\* percent of average apparent U.S. consumption in the open market, as well as from about \*\*\* percent to \*\*\* percent of the average volume of cumulative subject imports, during the respective one month, three month, and five month periods following the filing of the petitions.<sup>22</sup> Based upon all the foregoing and in light of the prevailing conditions of competition in the U.S. market for cold-rolled steel, I find that imports from

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<sup>17</sup> See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, PR at I-8.

<sup>18</sup> See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, PR at I-8 and Tables C-1 & C-2, USITC Pub. 3536 at C-3 & C-7. Average apparent U.S. consumption in the open market and the average volume of cumulative subject imports were each calculated based upon the respective monthly averages for 2001 and for the first quarter of 2002.

<sup>19</sup> See Memorandum INV-Z-171 (Oct. 9, 2002) at I-8, PR at I-7; 67 Fed. Reg. 62,124 (Oct. 3, 2002).

<sup>20</sup> Specifically, I subtracted \*\*\* short tons from each month of the monthly import data reported in Table I-6 for Korea in 2001; similarly, I subtracted \*\*\* short tons from each month of the monthly import data reported in Table I-6 for Korea in 2002. See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, PR at I-8. The adjusted data for March 2002 indicate the volume of subject imports from Korea was \*\*\* short tons; consequently, for Korea I have relied upon a comparison of the five month periods preceding and following the filing of the petitions, rather than a comparison of six month periods.

<sup>21</sup> See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9 (as adjusted), PR at I-8.

<sup>22</sup> See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, PR at I-8 and Tables C-1 & C-2, USITC Pub. 3536 at C-3 & C-7.

Korea that are subject to a critical circumstances determination are likely to undermine seriously the remedial effect of an antidumping duty order.

In the case of The Netherlands, a comparison of the first month preceding the filing of the petitions versus the following month indicates roughly an 8.4 percent increase in subject import volume; furthermore, a comparison of the three month period preceding the filing of the petitions versus the following three month period indicates roughly a 43 percent increase in subject imports from The Netherlands, while a comparison of the six month period preceding the filing of the petitions versus the following six month period indicates roughly a 44 percent increase in subject import volume.<sup>23</sup> Moreover, the absolute volumes of subject imports from The Netherlands that entered the United States after the filing of the petitions were equivalent to roughly 0.5 percent to 0.8 percent of average apparent U.S. consumption in the open market, as well as from about 3.9 percent to 5.3 percent of the average volume of cumulative subject imports, during the respective one month, three month, and six month periods following the filing of the petitions.<sup>24</sup> Based upon all the foregoing and in light of the prevailing conditions of competition in the U.S. market for cold-rolled steel, I find that imports from The Netherlands that are subject to a critical circumstances determination are likely to undermine seriously the remedial effect of an antidumping duty order.

In the case of Russia, a comparison of the first month preceding the filing of the petitions versus the following month indicates roughly a 41 percent increase in subject import volume; furthermore, a comparison of the three month period preceding the filing of the petitions versus the following three month period indicates roughly a 26 percent increase in subject imports from Russia, while a comparison of the six month period preceding the filing of the petitions versus the following six month period indicates roughly a 30 percent increase in subject import volume.<sup>25</sup> Moreover, the absolute volumes of subject imports from Russia that entered the United States after the filing of the petitions were equivalent to roughly 1.9 percent to 2.7 percent of average apparent U.S. consumption in the open market, as well as from about 12 percent to 20 percent of the average volume of cumulative subject imports, during the respective one month, three month, and six month periods following the filing of the petitions.<sup>26</sup> Based upon all the foregoing and in light of the prevailing conditions of competition in the U.S. market for cold-rolled steel, I find that imports from Russia that are subject to a critical circumstances determination are likely to undermine seriously the remedial effect of an antidumping duty order.

### **III. Conclusion:**

Based upon my cumulative analysis (as supplemented herein) of subject imports from all 20 countries for which petitions were filed on September 28, 2001, I find that the record in these investigations contains compelling evidence of price-driven material injury to the domestic industry by reason of cumulated subject imports.<sup>27</sup> I therefore dissent from the negative determinations rendered by the Commission majority, and I find that the domestic industry producing certain cold-rolled steel products is materially injured by reason of LTFV imports from Argentina, Belgium, Brazil, China, France, Germany, Korea, The Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey,

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<sup>23</sup> See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, PR at I-8.

<sup>24</sup> See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, PR at I-8 and Tables C-1 & C-2, USITC Pub. 3536 at C-3 & C-7.

<sup>25</sup> See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, PR at I-8.

<sup>26</sup> See Table I-6, Memorandum INV-Z-171 (Oct. 9, 2002) at I-9, PR at I-8 and Tables C-1 & C-2, USITC Pub. 3536 at C-3 & C-7.

<sup>27</sup> See *Dissenting Views of Commissioner Lynn M. Bragg*, USITC Pub. 3536 at 74-79.

and Venezuela, and by reason of subsidized imports from Brazil, France, and Korea. Finally, I make affirmative critical circumstances findings with respect to subject imports from China, Korea, The Netherlands, and Russia.