



CHAIRMAN

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C. 20436

February 4, 2002

The Honorable Robert B. Zoellick
United States Trade Representative
600 Seventeenth Street, NW
Washington, DC 20506

Re: Steel, Inv. No. TA-201-73

Dear Mr. Ambassador:

On behalf of the Commission, I forward the response of the U.S. International Trade Commission to the first and third questions of your January 3, 2002, request pursuant to section 203(a)(5) of the Trade Act of 1974 for certain additional information concerning the above-referenced investigation. By letter dated January 9, 2002, I provided you with documents and information responding to the second question of your request, which sought additional information about the Commission's economic analysis of remedy options.

The first and third questions of your request sought additional information from the Commission relating to unforeseen developments and potential country-specific exclusions from any remedy the President may issue. The Commission's response to these questions is set forth in Attachments I, II, and III of this letter. Attachment I comprises the Commission's response to questions 1 and 3 of your January 3rd request. Attachment II comprises my individual response to questions 3.a.vi. and 3.b. of your letter, which sought additional information with respect to the NAFTA exclusion for stainless steel fittings. Attachment III comprises the separate response of Commissioner Lynn M. Bragg to questions 1 and 3 of your request.

Sincerely,

A handwritten signature in cursive script that reads "Steve Koplan".

Stephen Koplan

ATTACHMENT I

RESPONSE OF COMMISSION TO QUESTIONS 1 AND 3 OF USTR REQUEST OF JANUARY 3, 2002

We hereby respond to the January 3rd request of the United States Trade Representative for certain additional information under section 203(a)(5) of the Trade Act of 1974 in connection with the safeguards action on *Steel*, Inv. No. TA-201-73, USITC Pub. 3479 (December 2001).¹

Response to Question 1 -- Unforeseen developments.

We provide the following response to USTR's request that we identify any unforeseen developments that led to the relevant steel products being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat thereof. In the absence of other guidance, we have considered the term as construed by the World Trade Organization in recent safeguard actions. The Appellate Body has said that

the dictionary definition of "unforeseen", particularly as it relates to the word "developments", is synonymous with "unexpected".... Thus it seems to us that the ordinary meaning of the phrase "unforeseen developments" requires that the developments which led to a product being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers must have been "unexpected".²

Referring to this statement by the Appellate Body, a recent panel has said that it would focus on "what was and was not actually 'foreseen,' rather than what might or might not have been theoretically 'foreseeable'."³ The Appellate Body has further specified that its interpretation of the phrase "unforeseen developments" is consistent with that announced in an earlier case considered under GATT, namely, that the term "'unforeseen developments' should be interpreted to mean developments occurring after the negotiation of the relevant tariff concession which it would not be reasonable to expect that the negotiators of the country making the concession could and should have foreseen at the time when the concession was negotiated."⁴

Following this interpretation, we must first assess what the relevant tariff concessions are and when they were made. In the most recent round of multilateral trade negotiations, the Uruguay Round which concluded in 1994, the United States sought to negotiate a Multilateral Steel Agreement (MSA) that would effectively discipline the use of various government practices that have distorted international trade

¹ The response in Attachment I is for the Commission comprised of Chairman Koplan, Vice Chairman Okun, Commissioner Miller, and Commissioner Hillman. For each individual Commissioner, this response applies to those products referenced in the President's request for which he or she voted in the affirmative.

² *Korea - Definitive Safeguard Measure on Imports of Certain Dairy Products*, WT/DS98/AB/R, adopted on 12 January, 2000, para. 84; *see also United States - Definitive Safeguard Measures on Imports of Fresh, Chilled, or Frozen Lamb Meat from New Zealand and Australia*, WT/DS177/R and WT/DS178/R, adopted on 21 December, 2000, para. 7.21.

³ *United States - Lamb Meat*, para. 7.22.

⁴ *Korea - Dairy*, para. 89, *citing* GATT/CP/106, adopted on 22 October 1951, GATT/CP/6/SR.19, at paragraph 9; *see also United States - Lamb Meat*, para. 7.23.

in steel. One objective of the MSA was the reciprocal elimination of tariffs on steel products, including the products that were the subject of the Trade Representative's January 3, 2002 letter. Although a comprehensive MSA was not concluded, the United States, together with the EU, Japan, Korea, Canada, Austria, Sweden, Finland, and Norway, did agree to eliminate tariffs on steel products over a 10-year period. Prior to the Uruguay Round, U.S. steel tariffs ranged from zero to 11.6 percent, with a trade-weighted average tariff of 5.2 percent. Following negotiation of the Uruguay Round, the Commission was asked to analyze the potential impact of the Uruguay Round Agreements (URA), including these tariff concessions, on the U.S. economy. As part of this 1994 analysis, the Commission estimated that the overall changes in steel tariffs under the URA were likely to result in a small (from over 1 percent to 5 percent) increase in U.S. steel imports.⁵

In light of this negotiating history and in the absence of any other guidance, for purposes of this response we examined developments that occurred after the Uruguay Round's conclusion. In identifying these developments, we have referred to the record as a whole, including relevant questionnaire responses from domestic producers, foreign producers, importers, and purchasers. To the extent that WTO panel decisions have suggested that the concept of "unforeseen" developments relates to the expectations of negotiators of the relevant tariff concessions, we note that such an assessment is in many respects outside of the purview of this agency, since multilateral trade negotiations are not within its mandate, but are the responsibility of the USTR and relevant Executive Branch agencies.

At the time of the Uruguay Round negotiations, and for some time after its conclusion, there had been substantial overall economic growth in a number of emerging markets, most notably those in southeast Asia. Growth rates in those countries exceeded eight percent per year in the first half of the 1990s.⁶ These high growth rates were supported by even sharper growth in exports.⁷ As late as the fall of 1997, economists projected continued growth at similarly impressive rates for these emerging markets.⁸ Despite this period of intense growth and generally optimistic predictions, the "Asian Financial Crisis" began with the depreciation of the Thai baht in mid-1997.⁹ The depreciation of the baht and loss of investor confidence sparked a wider crisis that affected many developing markets. The crisis slowed economic growth and reduced demand for steel in many emerging country markets. Between 1997 and 1998, steel consumption in Indonesia, Korea, Malaysia, the Philippines, and Thailand fell by 29.6 million tons, a drop of 41.4 percent.¹⁰ In Korea alone finished steel consumption dropped by 14.5 million tons or 34.4 percent.¹¹ The crisis also led to depreciations in the currencies of the Philippines, Indonesia, Malaysia, and Korea with

⁵ See USITC Pub. 2790, Vol. I, *Potential Impact on the U.S. Economy and Industries of the GATT Uruguay Round Agreements*, at p. V-27.

⁶ World Economic Outlooks, October 1995-October 1997, Surveys by the Staff of the International Monetary Fund, Exh. 19 of Minimill 201 Coalition (Long Products) Prehearing Injury Brief.

⁷ World Economic Outlooks and APEC Economic Forecasts, Exhs. 19 and 20 of Minimill 201 Coalition (Long Products) Prehearing Injury Brief.

⁸ World Economic Outlooks, Exh. 19 of Minimill 201 Coalition (Long Products) Prehearing Injury Brief and pp. 20-21.

⁹ *Steel*, Inv. No. TA-201-73, USITC Pub. 3479 (Dec. 2001), Vol II at OVERVIEW-17.

¹⁰ USITC Pub. 3479, Vol. II at OVERVIEW-17.

¹¹ USITC Pub. 3479, Vol. II at OVERVIEW-17.

respect to the U.S. dollar.¹² By January 1998, these currencies had declined between 38 and 76 percent in nominal terms.¹³

Although the dissolution of the former Soviet Union and the resulting economic dislocations in the former Soviet republics predated the conclusion of the Uruguay Round, unanticipated financial difficulties led to a sharp increase in exports of steel from the former Soviet Union between 1996 and 1999.¹⁴ In particular, as Russia and other former republics experienced intense financial disruptions and currency fluctuations in this period, steel exports rose nearly 22 percent.¹⁵ Other Eastern European countries also emerged as net exporters of steel.¹⁶

While other markets experienced significant turmoil and contraction after 1997, demand in the United States remained robust. Indeed, the U.S. economy enjoyed an overall economic expansion in the 1990s of unprecedented length. Consequently, U.S. demand for steel remained strong. Apparent U.S. consumption of certain flat-rolled carbon steel products rose by 7.8 percent between 1996 and 2000, and apparent U.S. consumption peaked in 2000.¹⁷ Apparent U.S. consumption of long products rose by 20.5 percent between 1996 and 2000 and apparent U.S. consumption for the period peaked in 2000.¹⁸ Apparent U.S. consumption of tubular products rose 18.2 percent between 1996 and 2000, with apparent U.S. consumption peaking in 2000.¹⁹ Apparent U.S. consumption of stainless products increased 29.5 percent between 1996 and 2000, with apparent U.S. consumption peaking in 2000.²⁰

Continued growth in the U.S. market, combined with uncertainty and contraction in other markets, led to significant upward pressure on the U.S. dollar. The dollar appreciated significantly against many currencies during the period of investigation, and that appreciation became more notable after the foreign currency dislocations of 1997 and 1998. Between 1996 and the first quarter of 2001, many currencies experienced double-digit declines, in real terms, relative to the dollar.²¹ The high value of the U.S. dollar made the U.S. market an especially attractive market for steel products displaced from other markets.

Steel imports historically have played a role in the U.S. market.²² After the beginning of the Asian and Russian economic crises, however, unusually large volumes of foreign steel production were displaced from foreign consumption. The U.S. market, in which demand remained strong, was the destination for a significant portion of that displaced foreign production. Widespread currency devaluations made the displaced exports especially attractive to U.S. purchasers on price terms. As currency depreciations and

¹² USITC Pub. 3479, Vol. II at OVERVIEW-17.

¹³ USITC Pub. 3479, Vol. II at OVERVIEW-17.

¹⁴ Exports increased because reductions in steel production in the former Soviet Union did not keep pace with declines in consumption. Steel consumption fell more than 70 percent from 1991 to 1998. USITC Pub. 3479, Vol. II at Table OVERVIEW-4.

¹⁵ USITC Pub. 3479, Vol. II at OVERVIEW-19 and Table OVERVIEW-5.

¹⁶ Questionnaire Responses of U.S. producers, importers, purchasers, and foreign producers.

¹⁷ INV-Y-209 at Table FLAT-ALT7.

¹⁸ USITC Pub. 3479, Vol. III at Table LONG-C-1.

¹⁹ USITC Pub. 3479, Vol. III at Table TUBULAR-C-1.

²⁰ USITC Pub. 3479, Vol. III at Table STAINLESS-C-1.

²¹ USITC Pub. 3479, Vol. II at Table OVERVIEW-16.

²² USITC Pub. 3479, Vol. II at Figure OVERVIEW-10.

economic contractions disrupted other markets, the share of steel imports to the U.S. market increased sharply and U.S. prices declined.^{23 24}

Response to Question 3 -- Potential exclusions from safeguard actions under Section 201.

We provide the following response to USTR's request that, in the event that the President decides that conditions require the exclusion of imports from both Canada and Mexico from safeguard actions under Section 201, the Commission report on whether increased imports of certain steel products from all sources other than Canada and Mexico ("non-NAFTA imports") are a substantial cause of serious injury, or threat of serious injury, to the relevant domestic industries. In response to question 3.a., the Commission generally reports that its results would have been the same had imports from Canada and Mexico been excluded from the analysis. The Commission discusses in more detail below its analysis regarding non-NAFTA imports for each of the relevant determinations.²⁵

In response to question 3.c., the Commission indicates, in accord with its findings in the Views on Remedy,²⁶ that exclusion of imports from Israel and Jordan would not change the conclusions of the Commission or of individual Commissioners.

a. Exclusions of imports from both Canada and Mexico

i. Certain Carbon Flat-Rolled Steel

We report that increased imports of certain carbon flat-rolled steel from non-NAFTA countries are a substantial cause of serious injury to the domestic industry producing certain carbon flat-rolled steel.

²³ USITC Pub. 3479, Vol. II at Figures OVERVIEW-10 and OVERVIEW-16.

²⁴ Most of the increase in stainless and tool steel imports occurred late in the period of investigation. The record indicates that the dramatic changes in exchange rates for the U.S. dollar during the period of investigation led to increased imports of stainless and tool steel products during the latter half of the period. Moreover, while the Asian financial crisis and the dissolution of the Soviet Union (and the consequent changes in the Russian and Eastern European markets for steel) may have played a smaller role than they did on imports of other steel products covered by this investigation, their continued effect made the U.S. market more attractive to imports of stainless and tool steel products. These unforeseen developments affected the conditions of competition under which stainless and tool steel imports caused serious injury or threatened to cause serious injury to the domestic stainless bar, stainless wire rod, stainless wire, stainless fittings, and tool steel industries. *See* INV-Z-013.

²⁵ The issue of serious injury to the relevant domestic industries is unaffected by the universe of imports considered and therefore is not discussed herein.

²⁶ *See* USITC Pub. 3479 (Dec. 2001), Vol. I at 366 and n. 69 (certain carbon flat-rolled steel), 376 and n. 117 (carbon and alloy hot bar, carbon and alloy cold bar, and rebar), 385 and n. 155 (welded tubular products other than OCTG), 390 and n. 180 (carbon and alloy fittings), 399 and n. 225 (stainless steel bar), 405 and n. 268 (stainless steel rod). Findings by individual Commissioners include: Chairman Koplan, USITC Pub. 3479, Vol. I at 414 and n. 39 (stainless steel wire), 419 and n. 71 (tool steel), and 424-425 and n. 100 (stainless steel fittings and flanges); Vice Chairman Okun, USITC Pub. 3479, Vol. I at 457 and n. 158 (certain carbon flat-rolled steel), 464 and n. 181 (carbon and alloy hot-rolled bar), 470 and n. 208 (carbon and alloy cold-finished bar), 476-477 and n. 234 (carbon and alloy rebar), 484 and n. 274 (carbon and alloy welded pipe, other than OCTG), 492 and n. 315 (carbon and alloy fittings), 503 and n. 381 (stainless steel bar), and 513 and n. 446 (stainless steel rod); Commissioner Bragg, USITC Pub. 3479, Vol. I at 519, n. 7 and 522; and Commissioner Miller, USITC Pub. 3479 at 529 and n. 5 (tin mill products).

Non-NAFTA imports of certain carbon flat-rolled steel have increased. Imports of certain carbon flat-rolled steel from non-NAFTA sources increased from 14.5 million short tons in 1996 to 21.2 million short tons in 1998, an increase of 46.8 percent. Non-NAFTA imports were lower in 1999 and in 2000 but remained well above 1996 levels.²⁷

In addition, the increase in non-NAFTA imports as a share of domestic production was substantial. Non-NAFTA imports were equivalent to 7.8 percent of domestic production in 1996 and peaked at 11.1 percent of domestic production in 1998. Such imports were equivalent to 8.4 percent of domestic production in 2000, still above the 1996 level.²⁸

The average unit values of non-NAFTA imports followed the same pattern as the average unit values of imports from all sources. The average unit value of non-NAFTA imports peaked at \$372 per short ton in 1997, then fell notably in both 1998 and in 1999. The average unit value of non-NAFTA imports rose somewhat in 2000, although average unit values of non-NAFTA imports were lower in interim 2001 than in interim 2000.²⁹

Finally, excluding imports from Canada and Mexico from the database does not appreciably change import pricing trends during the period examined. Our finding that imports were generally priced below domestically-produced certain carbon flat-rolled steel, and that imports led to the decline in domestic prices, also applies to non-NAFTA imports.³⁰

Consequently, the same considerations that led us to conclude that increased imports of certain carbon flat-rolled steel are a substantial cause of serious injury to the domestic industry³¹ are also applicable to increased imports of certain carbon flat-rolled steel from all sources other than Canada and Mexico.

ii. Carbon and Alloy Hot-Rolled Bar

We report that increased imports of carbon and alloy hot-rolled bar and light shapes (“hot-rolled bar”) from non-NAFTA countries are a substantial cause of serious injury to the domestic industry producing hot-rolled bar.

Non-NAFTA imports of hot-rolled bar have increased. The quantity of these imports rose from 584,126 short tons in 1996 to 644,577 short tons in 1997 and to 1.1 million short tons in 1998. Non-NAFTA imports then declined to 925,711 short tons in 1999 and increased to 1.2 million short tons in 2000. Non-NAFTA imports increased by 107.9 percent from 1996 to 2000, and had major increases from 1997 to 1998 (when they increased by 70.4 percent) and from 1999 to 2000 (when they increased by 31.2 percent). These were the same years that imports from all sources increased most rapidly. Non-NAFTA imports, however, increased at a greater rate than imports from all sources.³²

²⁷ Non-NAFTA imports were lower in interim 2001 than in interim 2000. *See* INV-Y-209 at Table ALT7.

²⁸ Non-NAFTA imports were equivalent to a smaller share of domestic production in interim 2001 than in interim 2000. *See* INV-Y-209 at Table ALT7.

²⁹ *See* INV-Y-209 at Table ALT7.

³⁰ *See* USITC Pub. 3479, Vol. II at Table FLAT-77.

³¹ *See* USITC Pub. 3479, Vol. I at 59-65.

³² USITC Pub. 3479, vol. III at Table LONG-C-3. The quantity of non-NAFTA imports was lower in interim 2001, when it was 403,165 short tons, than in interim 2000, when it was 630,673 short tons.

The ratio of non-NAFTA imports of hot-rolled bar to domestic production also increased significantly during the period examined, growing from 6.8 percent in 1996 to 13.2 percent in 2000. The ratio increased most notably from 1997 to 1998 and from 1999 to 2000.³³

In our analysis of causation with respect to imports from all sources, we observed that increased imports caused domestic hot-rolled bar producers to lose market share at the same time prices were falling, leading to poor operating results and plant closures.³⁴ This is also applicable to non-NAFTA imports.

With respect to market share measured by quantity, hot-rolled bar imports from sources other than Canada and Mexico declined from 5.8 percent in 1996 to 5.7 percent in 1997, increased to 9.4 percent in 1998, declined to 8.4 percent in 1999, and then increased to 10.8 percent in 2000. Like imports from all sources, non-NAFTA imports posted their greatest increases in market share between 1997 and 1998 and between 1999 and 2000. Moreover, the bulk of the increased market share that all imports captured from the domestic industry during the period examined was attributable to non-NAFTA imports.³⁵

Average unit values of non-NAFTA imports declined during every full year of the period examined, as did average unit values of imports from all sources. However, the average unit values of non-NAFTA imports declined by a greater proportion from 1996 to 2000 than did imports from all sources. The average unit values of non-NAFTA imports fell from \$679 in 1996 to \$478 in 2000, a decline of 29.6 percent. By contrast, the average unit value of imports from all sources fell 13.5 percent over the same period.³⁶

In our analysis of import competition, we placed particular emphasis on underselling by imports from all sources during 1998 and the first half of 2000.³⁷ During these periods, non-NAFTA imports undersold domestically produced hot-rolled bar by substantial margins.³⁸ Indeed, non-NAFTA imports were priced lower than imports from all sources during these periods.³⁹

Consequently, the same considerations that led us to conclude that increased imports of hot-rolled bar are a substantial cause of serious injury are also applicable to increased imports of hot-rolled bar from all sources other than Canada and Mexico.

iii. Carbon and Alloy Cold-Finished Bar

We report that increased imports of carbon and alloy cold-finished bar (“cold-finished bar”) from non-NAFTA countries are a substantial cause of serious injury to the domestic industry producing cold-finished bar.

Non-NAFTA imports of cold-finished bar have increased. The quantity of these imports rose from 137,834 short tons in 1996 to 167,256 short tons in 1997 and then to 201,473 short tons in 1998. Non-

³³ USITC Pub. 3479, vol. II at Table LONG-5. The ratio was lower in interim 2001, at 10.4 percent, than it was in interim 2000, when it was 12.7 percent.

³⁴ USITC Pub. 3479, vol. I at 96.

³⁵ USITC Pub. 3479, vol. III at Table LONG-C-3. The market share of non-NAFTA imports was lower in interim 2001, when it was 8.2 percent, than in interim 2000, when it was 10.4 percent.

³⁶ USITC Pub. 3479, vol. III at Table LONG-C-3. Average unit values of imports from sources other than Canada and Mexico were higher in interim 2001 than in interim 2000.

³⁷ See USITC Pub. 3479, vol. I at 96-97.

³⁸ USITC Pub. 3479, vol. II at Table LONG-90

³⁹ Compare USITC Pub. 3479, vol. II at Table LONG-90, with Confidential Report (CR), Table LONG-ALT-90.

NAFTA imports then declined to 154,971 short tons in 1999 and increased to 233,940 short tons in 2000. Non-NAFTA imports had a major increase from 1999 to 2000, when they rose by 51.0 percent. This was the same year that imports from all sources increased most sharply. Non-NAFTA imports, however, increased at a greater rate than imports from all sources both from 1999 to 2000 and over the entire period examined.⁴⁰

The ratio of non-NAFTA imports of cold-finished bar to domestic production also increased significantly during the period examined, growing from 11.8 percent in 1996 to 17.6 percent in 2000. The ratio increased most notably from 1999 to 2000, when it rose by 6.4 percentage points.⁴¹

In our analysis of causation with respect to imports from all sources, we stated that aggressive pricing by imports during the latter portion of the period examined caused the industry to lose market share and revenues.⁴² This observation is applicable as well to non-NAFTA imports.

With respect to market share measured by quantity, cold-finished bar imports from non-NAFTA sources increased from 9.8 percent in 1996 to 10.5 percent in 1997 and then to 12.1 percent in 1998. The market share of these imports then declined to 9.6 percent in 1999 and increased to 14.3 percent in 2000. Like imports from all sources, non-NAFTA imports posted a significant increase in market share between 1999 and 2000. Indeed, non-NAFTA imports were responsible for the entire increase in import market share both during this period and the period between 1996 and 2000.⁴³

Average unit values of cold-finished bar imports from sources other than Canada and Mexico declined during every full year of the period examined, falling from \$919 in 1996 to \$758 in 2000. The 17.6 percent decline in average unit values for non-NAFTA imports from 1996 to 2000 was greater than the decline in average unit values for imports from all sources over the same period.⁴⁴

In our analysis of import competition, we discussed pricing trends and underselling of one-inch round C12L14 during 1999 and 2000.⁴⁵ For imported C12L14 from non-NAFTA sources, there were significant price declines during 1999. Prices declined further during 2000, particularly during the final quarter of the year. Between the second quarter of 1999 and the fourth quarter of 2000, non-NAFTA imports of C12L14 undersold the domestically-produced product by margins ranging from ***.⁴⁶ Both the pricing trends and the underselling data for non-NAFTA imports are similar to those for imports from all sources on which we relied in our injury determination.⁴⁷

Consequently, the same considerations that led us to conclude that increased imports of cold-finished bar are a substantial cause of serious injury are also applicable to increased imports of cold-finished bar from all sources other than Canada and Mexico.

⁴⁰ USITC Pub. 3479, vol. III at Table LONG-C-4. The quantity of non-NAFTA imports was lower in interim 2001, when it was 99,082 short tons, than in interim 2000, when it was 122,028 short tons.

⁴¹ USITC Pub. 3479, vol. II at Table LONG-6. The ratio was higher in interim 2001, at 17.5 percent, than it was in interim 2000, when it was 17.0 percent.

⁴² See USITC Pub. 3479, vol. I at 105.

⁴³ USITC Pub. 3479, vol. III at Table LONG-C-4. The market share of non-NAFTA imports was higher in interim 2001, when it was 14.2 percent, than in interim 2000, when it was 13.5 percent.

⁴⁴ USITC Pub. 3479, vol. III at Table LONG-C-4. The average unit values of non-NAFTA imports were higher in interim 2001 than in interim 2000.

⁴⁵ See USITC Pub. 3479, vol. I at 106-07.

⁴⁶ CR, Table LONG-92.

⁴⁷ Compare USITC Pub. 3479 at 105-07.

iv. Carbon and alloy fittings

We report that increased imports of carbon and alloy fittings from non-NAFTA countries are a substantial cause of serious injury to the domestic industry producing carbon and alloy fittings.

Non-NAFTA imports of carbon and alloy fittings have increased. Imports from sources other than the NAFTA countries increased from 76,079 short tons in 1996 to 100,592 short tons in 2000; non-NAFTA imports increased in each year of the period examined except 1997.⁴⁸ Similarly, the ratio of non-NAFTA imports to U.S. production increased in each year of the period examined except 1997; the ratio rose from 37.1 percent in 1996 to 51.8 percent in 2000, and was 69.0 percent in interim 2001 compared to 43.9 percent in interim 2000.⁴⁹

With respect to market share, measured by quantity, non-NAFTA imports increased from 25.7 percent in 1996 to 31.0 percent in 2000, and were 36.3 percent of the market in the first half of 2001, compared to 28.8 percent in the first half of 2001.⁵⁰

Average unit values of non-NAFTA imports were similar to the average unit values of imports from all sources and generally were above domestic average unit values.⁵¹ ***.⁵² ***.

Consequently, the same considerations that led us to conclude that increased imports of carbon and alloy fittings are a substantial cause of serious injury are also applicable to increased imports of carbon and alloy fittings from all sources other than Canada and Mexico.

The conclusion would not be different if only Mexico was excluded, or if only Canada was excluded.

v. Stainless Steel Bar

We report that increased imports of stainless bar and light shapes (“stainless bar”) from non-NAFTA countries are a substantial cause of serious injury to the domestic industry producing stainless bar.

Non-NAFTA imports of stainless bar have increased. In terms of quantity, imports of stainless bar and light shapes from non-NAFTA countries increased by 61.1 percent during the five full years of the period of investigation, growing from 81,426 short tons in 1996 to 131,184 short tons in 2000.⁵³ Although the quantity of non-NAFTA imports fluctuated somewhat during the period (remaining essentially stable in 1998 and declining somewhat in 1999 from its level in 1997 and 1998), a rapid and dramatic increase in the quantity of non-NAFTA imports occurred during the last full year of the period of investigation, when non-NAFTA imports of stainless bar grew by 38,843 short tons.⁵⁴

⁴⁸ USITC Pub. 3479, vol. III, at Table TUBULAR C-6.

⁴⁹ USITC Pub. 3479, vol. II, at Table TUBULAR-8.

⁵⁰ USITC Pub. 3479, vol. III, at Table TUBULAR C-6. Non-NAFTA imports increased from 45,537 short tons in interim 2000 to 63,226 short tons in interim 2000. *Id.*

⁵¹ USITC Pub. 3479, vol. I, at 176.

⁵² USITC Pub. 3479, vol. II, at Table TUBULAR-61.

⁵³ USITC Pub. 3479, Vol. III at Tables STAINLESS-6 & STAINLESS-C-4.

⁵⁴ USITC Pub. 3479, Vol. III at Tables STAINLESS-6 & STAINLESS-C-4. The quantity of these imports declined between interim 2000 and interim 2001, dropping from 73,738 short tons to 57,584 short tons. USITC Pub. 3479, Vol. III at Tables STAINLESS-6 & STAINLESS-C-4.

The ratio of non-NAFTA imports of stainless steel bar to domestic production also increased significantly during the period, growing from 43.1 percent in 1996 to 73.3 percent in 2000, with the largest single percentage increase in the ratio (17.1 percentage points) occurring in 2000.⁵⁵

In sum, non-NAFTA imports of stainless bar increased significantly, both in quantity terms and as a ratio to domestic production, between 1996 and 2000, with the largest single increase in imports occurring during the last full year of the period. Although there was a decline in non-NAFTA imports in terms of quantity and as a ratio to domestic production between interim 2000 and interim 2001, we report that non-NAFTA imports of stainless bar have increased.

As we concluded with respect to imports of stainless bar from all sources, we report that increases in non-NAFTA import volumes between 1996 and 2000 had a serious adverse impact on the production levels, shipments, commercial sales and market share of the domestic industry. During the period from 1996 to 2000, the quantity of non-NAFTA imports increased by 61.1 percent and the market share of those imports increased by 11 percentage points as well.⁵⁶ Although these import increases occurred during a period of growing demand, the industry's production volumes, shipment levels and sales revenues all declined significantly as a result of increases in non-NAFTA import volume during the period between 1996 and 2000,⁵⁷ with the industry's production levels falling by 5.3 percent,⁵⁸ its net commercial sales falling by *** percent,⁵⁹ and the value of its net commercial sales falling by *** percent during the period.⁶⁰ Moreover, the industry's share of the market also fell considerably, dropping from 64.6 percent in 1996 to 59.8 percent in 1999 and then to 53.5 percent in 2000, with imports from non-NAFTA sources accounting for all of the industry's market share loss during that period.⁶¹ Accordingly, we report that the increasing imports from non-NAFTA sources had a serious adverse impact on the production, shipment, sales and market share levels of the industry during the period of investigation.

Excluding imports from Canada and Mexico from our analysis also would not affect our conclusion that imports affected domestic prices of stainless bar negatively during the period of investigation. There were no reported prices for the price comparison products with respect to imports from Mexico and the exclusion of the reported price comparisons for Canadian imports results in an increase in the percentage of price comparisons in which underselling by imports occurred during the period.⁶² In particular, after excluding the data for Canada, the record indicates that imports from other sources undersold the domestic merchandise throughout the period of investigation in 40 of 43 possible quarterly comparisons at underselling margins of up to 51 percent.⁶³ Given these underselling trends and taking into account the analysis set forth in our pricing analysis for imports of stainless bar from all sources, we report that this underselling by non-NAFTA imports depressed and suppressed domestic prices

⁵⁵ USITC Pub. 3479, Vol. III at Table STAINLESS-6. The ratio of non-NAFTA imports to domestic production declined from 77.7 percent in interim 2000 to 70.4 percent in interim 2001. USITC Pub. 3479, Vol. III at Table STAINLESS-6.

⁵⁶ USITC Pub. 3479, Vol. III at Tables STAINLESS-67 & STAINLESS-C-4.

⁵⁷ USITC Pub. 3479, Vol. III at Tables STAINLESS-18, STAINLESS-30, & STAINLESS-C-4.

⁵⁸ USITC Pub. 3479, Vol. III at Tables STAINLESS-18 & STAINLESS-C-4.

⁵⁹ USITC Pub. 3479, Vol. III at Tables STAINLESS-30 & STAINLESS-C-4.

⁶⁰ USITC Pub. 3479, Vol. III at Tables STAINLESS-30 & STAINLESS-C-4.

⁶¹ USITC Pub. 3479, Vol. III at Tables STAINLESS-67 & STAINLESS-C-4.

⁶² USITC Pub. 3479, Vol. III at Tables STAINLESS-86, STAINLESS-87, STAINLESS-98, STAINLESS-99, & Figures STAINLESS-7 & STAINLESS-8.

⁶³ USITC Pub. 3479, Vol. III at Tables STAINLESS-87, STAINLESS-99, & Figure STAINLESS-9.

during the period of investigation and led to declines in the sales revenues and operating profits of the industry.

Consequently, the same considerations that led us to conclude that increased imports of stainless bar from all sources are a substantial cause of serious injury to the domestic industry are also applicable to increased imports of stainless bar from all sources other than Canada and Mexico.⁶⁴

vi. Stainless Steel Fittings

For a response to this section of question 3, see Attachment II (Response of Chairman Koplan) and Attachment III (Response of Commissioner Bragg).

vii. Welded tubular products other than OCTG

We report that increased imports of welded tubular products other than OCTG from non-NAFTA countries are a substantial cause of the threat of serious injury to the domestic industry producing welded tubular products other than OCTG.

Non-NAFTA imports of welded tubular products other than OCTG have increased. Imports from sources other than the NAFTA countries increased from 786,151 short tons in 1996 to 1,420,685 short tons in 2000, and from 724,859 short tons in interim 2000 to 870,944 short tons in interim 2001. Non-NAFTA imports had major increases of 20-30 percent in every year of the period examined except 1999.⁶⁵ Similarly, the ratio of non-NAFTA imports of such welded tubular products to U.S. production increased in each year except 1999 during the period examined; the ratio rose from 16.9 percent in 1996 to 29.7 percent in 2000, and was 34.5 percent in interim 2001 compared to 28.6 percent in interim 2000.⁶⁶

Similarly, with respect to market share, measured by quantity, non-NAFTA imports increased from 13.1 percent in 1996 to 19.8 percent in 2000, and were 22.7 percent of the market in the first half of 2001, compared to 18.9 percent in the first half of 2001.⁶⁷

Moreover, prices for standard pipe and mechanical pipe from non-NAFTA sources undersold comparable domestic products in all but one quarter (32 of 33 quarters) for which data were available. For both products, the prices of pipe from non-NAFTA countries fell over the period examined, including during the most recent quarter or quarters for which data are available.⁶⁸

Finally, excluding Canada and Mexico from the database does not appreciably alter projections for foreign production, capacity, and exports to the United States. Indeed, capacity, production, and exports to the United States from non-NAFTA countries are all projected to reach new peaks during the period 2001-2002.⁶⁹

⁶⁴ In this regard, we note that we would make this finding whether imports of stainless bar and light shapes from Mexico are included in the analysis outlined above or not. Imports of stainless bar and light shapes from Mexico accounted for a minuscule and declining share of the market and imports during the period of investigation and there was no reported price comparison data for imports from Mexico. Consequently, the analysis set forth above would apply whether or not the President chose to include imports from Mexico in any remedy imposed against imports of stainless bar and light shapes.

⁶⁵ USITC Pub. 3479, vol. III, at Table TUBULAR C-4.

⁶⁶ USITC Pub. 3479, vol. II, at Table TUBULAR-6.

⁶⁷ USITC Pub. 3479, vol. III, at Table TUBULAR C-4.

⁶⁸ USITC Pub. 3479, vol. II, at Table TUBULAR-58-59.

⁶⁹ USITC Pub. 3479, vol. II, at Tables TUBULAR-30-32.

Consequently, the same considerations that led us to conclude that increased imports of welded tubular products (other than OCTG) are a substantial cause of the threat of serious injury are also applicable to increased imports of welded tubular products (other than OCTG) from all sources other than Canada and Mexico.

ATTACHMENT II

CHAIRMAN KOPLAN'S RESPONSE TO QUESTION 3.a.vi. AND QUESTION 3.b FOR STAINLESS STEEL FITTINGS

Chairman Koplan reports that increased imports of stainless steel fittings and flanges ("stainless steel fittings") from non-NAFTA countries are a substantial cause of serious injury to the domestic industry producing stainless steel fittings.

Non-NAFTA imports of stainless steel fittings have increased. Imports of stainless steel fittings from non-NAFTA sources increased from 16,477 short tons in 1996 to 27,513 short tons in 2000, for a total increase of 67.0 percent from 1996 to 2000.⁷⁰ Non-NAFTA imports increased in each year of the period examined with the exception of 1999; however, in 1999 non-NAFTA imports were well above the 1996 level of such imports.⁷¹

Similarly, the ratio of imports from non-NAFTA sources to U.S. production increased in each year of the period examined except 1999. The ratio of non-NAFTA imports to U.S. production was *** percent in 1996, *** percent in 1997, *** percent in 1998, *** percent in 1999, and *** percent in 2000.⁷² In addition, the market share of non-NAFTA imports, measured by quantity, *** percent from 1996 to 2000.⁷³

The average unit values of non-NAFTA imports generally followed the same pattern as the average unit values of imports from all sources.⁷⁴ Moreover, the price comparison data indicate that non-NAFTA imports undersold the domestic product in every possible price comparison, at margins ranging from 23.7 percent to 51.8 percent.⁷⁵

Consequently, the same considerations that led me to conclude that increased imports of stainless steel fittings are a substantial cause of serious injury to the domestic industry are also applicable to increased imports of stainless steel fittings from all sources other than Canada and Mexico.⁷⁶ Accordingly, my finding with respect to stainless steel fittings would not be altered by the exclusion of imports from Canada and Mexico. Moreover, my conclusion would not be different if only Canada was excluded or if only Mexico was excluded.

⁷⁰ USITC Pub. 3479, vol. III at Tables STAINLESS-14 & STAINLESS-C-12.

⁷¹ USITC Pub. 3479, vol. III at Table STAINLESS-14.

⁷² USITC Pub. 3479, vol. III at Table STAINLESS-14.

⁷³ USITC Pub. 3479, vol. III at Table STAINLESS-C-12.

⁷⁴ *See* USITC Pub. 3479, vol. III at Table STAINLESS-C-12.

⁷⁵ USITC Pub. 3479, vol. III at Tables STAINLESS-95 & STAINLESS-107.

⁷⁶ USITC Pub. 3479, vol. I at 274-276.

ATTACHMENT III

RESPONSE BY COMMISSIONER LYNN M. BRAGG TO THE USTR REQUEST LETTER

Commissioner Lynn M. Bragg hereby responds to the United States Trade Representative's ("USTR") request for additional information, regarding request number 1 "Unforeseen developments" and 3 a-d "Potential exclusions from safeguard actions under Section 201." I have indicated in this separate response those portions of the Commission's response which I have joined. The Commission has previously provided USTR the additional information for request number 2 "Economic analysis of remedy options."

UNFORESEEN DEVELOPMENTS

- 1. For each affirmative determination under section 202(b)(1) of the Trade Act or determination under such section that the President, pursuant to section 330(d)(1) of the Tariff Act of 1930, 19 U.S.C. § 1330(d)(1), may consider to be an affirmative determination, could you please identify any unforeseen developments that led to the relevant steel products being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof?**

For each affirmative determination I rendered under section 202(b)(1) of the Trade Act, as I stated in my separate views on injury, I considered the condition of the domestic industry over the course of the relevant business cycle, in order to properly understand the role of imports in the U.S. market over the period of investigation. I further examined factors other than imports that may be a cause of serious injury or threat to the domestic industry.⁷⁷ Importantly, these other factors were also considered within the context of the relevant business cycle.

The framework of my injury analyses was based upon the statutory directive that the Commission consider the condition of each domestic industry over the course of the relevant business cycle,⁷⁸ as well as examine factors other than imports that may be a cause of serious injury or threat to the domestic industry.⁷⁹ Importantly, both the timing and trend of each domestic industry's business cycle are difficult, if not impossible to anticipate, as well as those conditions of competition which can magnify or diminish the operation of each domestic industry's business cycle. Although the nature and importance of the business cycle for each domestic industry is empirically recognized to varying degrees, it is only within the context

⁷⁷ In the investigation questionnaires, U.S. producers, U.S. importers, foreign producers, and U.S. purchasers identified certain developments (and whether the developments were unexpected) during the last ten years that resulted in certain steel products under investigation being imported into the United States in such increased quantities as to have an adverse impact on the domestic industries during the period January 1996 to June 2001. Generally, for each of the like product categories I found in my determinations, the responses identified several common unforeseen developments, including the Asian economic crisis, Russian economic crisis, the collapse of the U.S.S.R., emergence of Eastern Europe and China as global steel producers, increasing U.S. demand, the strength of the U.S. dollar relative to foreign currencies, and lower prices of imports. See Commission questionnaire responses from U.S. producers, U.S. importers, foreign producers, and U.S. purchasers indicating any developments and whether such developments were unexpected.

⁷⁸ 19 U.S.C. § 2252(c)(2)(A).

⁷⁹ 19 U.S.C. § 2252(c)(2)(B).

of the course of the relevant business cycle, including the unexpected and uncontrollable upturn and downturn in the cycle, together with the unprecedented level of injury demonstrated by the domestic industries and the unforeseen volume and timing of increased imports, that one can adequately determine the full and relevant impact of increased imports on the domestic industries over the entire period of investigation.

In particular, as the record data indicate, imports increased over the period of investigation with many product categories at issue experiencing peak import volumes in 1998. It is apparent that these increased imports were the result of the unforeseen global financial crises in Asia and Russia, as well as unanticipated levels of global steel overcapacity, the collapse of foreign steel markets, emerging countries beginning massive steel production, and foreign producers focusing their sales into the lucrative U.S. market, as discussed in my colleagues' response.⁸⁰ Each of these factors was identified in several questionnaire responses. The timing of these imports was such that the volume of imports increased just as the domestic producers expected to enjoy gains in profitability given the simultaneous upswing in the relevant business cycle. As stated in my views, historically, gains during upswings are essential for domestic producers to build financial resources to withstand the inevitable downturn in the cycle. Thus, here the impact of opportunities lost during an upswing in the cycle not only had an immediate impact on the domestic industry by virtue of suppressed and depressed prices, lost sales, and resulting lost revenues, but also produced carryover effects on the domestic industry, which lingered as the cycle turned lower.

Having lost opportunities to the unforeseen increase and timing of imports during the upturn in the relevant business cycle of each domestic industry, many of the industries were therefore weakened in their ability to withstand a downturn and unprepared for the continued impact of lower-priced and sustained imports. As the cycles turned lower towards the end of the investigation period, imports continued entering the United States at relatively high levels further pressuring the domestic market. The effects of injury carryover from the unexpected 1998 surges, together with the more contemporaneous injury resulting from imports continuing to enter the United States at high levels, had a combined hammering effect on the various domestic industries and disrupted the ability of each domestic industry to adjust to the business cycle. As a result, profits for most domestic industries declined sharply and several domestic producers were forced into bankruptcy.

Accordingly, the unforeseen developments identified in this investigation include the Asian economic crisis, Russian economic crisis, the collapse of the U.S.S.R., emergence of Eastern Europe and China as global steel producers, increasing U.S. demand, the strength of the U.S. dollar relative to foreign currencies, and lower prices of imports. Within the context of the relevant business cycle of each domestic industry, these unforeseen developments, as identified by several questionnaire responses, led to the relevant steel products being imported into the United States in such unforeseen timing and increased quantities as to be a substantial cause of unprecedented level of serious injury demonstrated by the domestic industry.

POTENTIAL EXCLUSIONS FROM SAFEGUARD ACTIONS UNDER SECTION 201

- 3.a. **Section 312(a) of the NAFTA Implementation Act requires the President to make a determination as to whether imports from Canada or Mexico account for a substantial share of total imports or contribute importantly to the serious injury, or threat thereof, found by the ITC. In the event that the President decides that conditions require the exclusion of both**

⁸⁰ I concur with my colleagues' discussion regarding the response to question 1- Unforeseen developments, with exception of the first three paragraphs. Although I do not necessarily disagree with the perspective provided in the first three paragraphs, I note that the parties and others did not have an opportunity to comment on this construction of "unforeseen developments."

Canada and Mexico from the following determinations or equally divided determinations, could you please report on whether increased imports of the following products from all sources other than Canada and Mexico are a substantial cause of serious injury or threat of serious injury, as those terms are interpreted under sections 201-204 of the Trade Act, to the domestic industries, as such industries were defined by the individual Commissioners:

i. Certain carbon flat-rolled steel (carbon and alloy slabs, plate, hot-rolled steel, cold-rolled steel, and coated steel); ii. Carbon and alloy hot bar; iii. Carbon and alloy cold bar; iv. Carbon and alloy fittings; v. Stainless steel bar; vi. Stainless steel fittings; and vii. Welded tubular products other than OCTG.

Consistent with my like product findings, I have identified six product categories which correspond to the seven products listed in the President's question 3: carbon and alloy flat products; carbon and alloy long products (including carbon and alloy hot bar and cold bar); carbon and alloy fittings, flanges, and tool joints; stainless and tool steel flat and long products; stainless fittings and flanges; and carbon and alloy welded tubular products.

In the event the President decides to exclude imports from both Canada and Mexico for each of my six product categories, the record continues to indicate that increased imports from all sources other than Canada and Mexico are a substantial cause of serious injury. Importantly, there is nothing in the record, in my view, which attaches any particular distinction or uniqueness regarding the volume and impact of increased imports from Canada and Mexico for each of the relevant determinations, such that the exclusion of import volumes from Canada and Mexico would alter my analysis or conclusion for each of my six product categories.

INCREASED IMPORTS

The record indicates that, for each of the six like products and corresponding domestic industries I have defined, imports increased in actual terms over the period of investigation. Excluding imports from Canada and Mexico accentuates the dramatic and persistent increase of imports from all other sources for each domestic industry. I note, however, that the exclusion of imports from Canada and Mexico from the volume of carbon and alloy welded tubular product imports does exclude a sizable portion of the increased imports from the analysis, which I will discuss further in the causation analysis. Nonetheless, even excluding imports from Canada and Mexico, imports of carbon and alloy welded tubular products from all other sources increased in actual terms over the period of investigation.

Carbon and alloy flat products - The absolute volume of carbon and alloy flat product imports from all sources other than Canada and Mexico increased 16.2 percent from 1996 to 2000, from 14,893,990 short tons in 1996 to 15,555,456 short tons in 1997, to 21,659,576 short tons in 1998, declining to 16,989,393 short tons in 1999, and increasing again to 17,299,977 short tons in 2000. Between the interim periods, imports of carbon and alloy flat products declined, from 9,425,244 short tons in interim 2000 to 5,363,565 short tons in interim 2001.⁸¹

Carbon and alloy long products - The absolute volume of carbon and alloy long product imports from all sources other than Canada and Mexico surged 108.8 percent from 1996 to 2000, increasing from 2,784,410 short tons in 1996 to 2,906,105 short tons in 1997, to 6,290,357 short tons in 1998, with a slight decline in 1999 to 4,911,380 short tons, and then rising again in 2000 to 5,814,793 short tons in

⁸¹ USITC Pub. 3479 (Dec. 2001), Vol. II at Table FLAT-3.

2000. Between the interim periods, imports of carbon and alloy long products decreased from 3,089,587 short tons in interim 2000 to 1,957,717 short tons in interim 2001.⁸²

Carbon and alloy fittings, flanges, and tool joints - The absolute volume of carbon and alloy fittings, flanges, and tool joint imports from all sources other than Canada and Mexico surged 32.2 percent from 1996 to 2000, decreasing from 76,079 short tons in 1996 to 74,533 short tons in 1997, and then increasing to 77,715 short tons in 1998, to 87,545 short tons in 1999, and to 100,592 short tons in 2000. Between the interim periods, imports of carbon and alloy fittings, flanges, and tool joints also increased from 45,537 short tons in interim 2000 to 63,226 short tons in interim 2001.⁸³

Stainless and tool steel flat and long products - The absolute volume of stainless and tool steel flat and long product imports from all sources other than Canada and Mexico surged 143.7 percent from 1996 to 2000, increasing from 259,137 short tons in 1996 to 302,212 short tons in 1997, to 395,442 short tons in 1998, to 571,315 short tons in 1999, and to 631,552 short tons in 2000. Between the interim periods, imports of stainless and tool steel flat and long products decreased from 343,922 short tons in interim 2000 to 266,017 short tons in interim 2001.⁸⁴

Stainless fittings and flanges - The absolute volume of stainless fittings and flange imports from all sources other than Canada and Mexico surged 67.0 percent from 1996 to 2000, increasing from 16,477 short tons in 1996 to 19,807 short tons in 1997, 21,151 short tons in 1998, falling slightly to 19,947 short tons in 1999, and then increasing again to 27,513 short tons in 2000. Between the interim periods, imports of stainless fittings and flanges declined from 15,970 short tons in interim 2000 to 11,470 short tons in interim 2001.⁸⁵

Carbon and alloy welded tubular products - The absolute volume of carbon and alloy welded tubular product imports from all sources other than Canada and Mexico surged 95.4 percent from 1996 to 2000, increasing from 841,426 short tons in 1996 to 1,167,361 short tons in 1997, 1,439,605 short tons in 1998, declining to 1,193,317 short tons in 1999, and then increasing to 1,643,925 short tons in 2000. Between the interim periods, imports of carbon and alloy welded tubular products also increased from 800,076 short tons in interim 2000 to 1,130,150 short tons in interim 2001.⁸⁶

SERIOUS INJURY

With respect to each of the statutory serious injury factors, the current analysis for each of the six product categories is identical to the analysis in my original determination. The record indicates that given the severely weakened condition of each domestic industry, each industry is, by any measure, seriously injured.

CAUSATION

Regarding the causation analysis, the requested analysis is identical to the analysis in my original determination. The record indicates that for each domestic industry increased imports from all sources other than Canada and Mexico accounted for a substantial volume of U.S. imports throughout the period of

⁸² INV-Y-209 at Table LONG-ALT2.

⁸³ USITC Pub. 3479 (Dec. 2001), Vol. II at Table TUBULAR-C-6.

⁸⁴ INV-Y-209 at Table STAINLESS-ALT4.

⁸⁵ USITC Pub. 3479 (Dec. 2001), Vol. II at Table STAINLESS-14.

⁸⁶ INV-Y-217 at Table TUBULAR-ALT4.

investigation.⁸⁷ In particular, over the course of the relevant business cycle for each domestic industry, domestic producers sustained unprecedented losses as apparent U.S. consumption and demand increased, while imports increasingly undersold the domestic products and prices in the U.S. market fell sharply. In fact, the negative price effects of imports from non-NAFTA countries represent a majority of instances of underselling for each product. These increased imports are therefore a substantial cause of serious injury to the domestic industries within the context of the relevant business cycle.⁸⁸

I note, as mentioned above, that the volume of carbon and alloy welded tubular product imports from all sources other than Canada and Mexico excludes a sizable portion of the increased imports from the analysis. I further note that in my original NAFTA findings I concluded that the exclusion of Mexico from the analysis does not change the recommended findings, *i.e.*, serious injury caused by increased imports. Accordingly, although I recognize the significant volume effect of excluding both NAFTA countries, nonetheless, even after excluding imports from both Canada and Mexico, imports of carbon and alloy welded tubular products from all other sources nearly doubled over the period of investigation and accounted for more than half the volume of total U.S. imports in each year of the period of investigation and in interim 2000 and interim 2001.

Consistent also with the analysis in my original determination, the record indicates that these increased imports were an important cause and a greater cause than any other cause of serious injury to the domestic welded tubular industry's performance as purchasers continued to shift to increasing volumes of lower-priced imports throughout the period of investigation. Thus, as imports from all sources other than Canada and Mexico surged into the U.S. market and the market share of these imports steadily increased, U.S. producers' market share eroded, resulting in drastic declines in the indicators of the domestic industry's performance. The price competition between imported and domestic welded tubular products plays an important role in the analysis given the commodity nature of many of the covered products. Thus, the fact that imports from all sources other than Canada and Mexico significantly undersold the domestic product in increasing volumes throughout the period supports and confirms the devastating effect of the surging imports from all sources other than Canada and Mexico.

Accordingly, the record indicates that increased imports from sources other than Canada and Mexico are a substantial cause of the serious injury sustained by the domestic producers of carbon and alloy flat products, carbon and alloy long products, carbon and alloy fittings, flanges, and tool joints, stainless steel and tool joint flat and long products, stainless steel fittings and flanges, and carbon and alloy welded tubular products.

b. With regard to items iv and vi of paragraph a, could you please indicate whether the conclusion would be different if (i) only Mexico were excluded and (ii) only Canada were excluded?

In the event the President decides to exclude imports from either Canada or Mexico from the carbon and alloy fittings, flanges, and tool joints or stainless fittings and flanges product categories, the record indicates that increased imports from all sources other than Canada or Mexico are a substantial cause of serious injury. There is nothing in the record, in my view, which attaches any particular

⁸⁷ The volume of imports from all sources other than Canada and Mexico, in terms of quantity, accounted for the following share of total U.S. imports in 2000 for each domestic industry: carbon and alloy flat products, 80.4 percent; carbon and alloy long products, 76.3 percent; carbon and alloy fittings, flanges, and tool joints, 74.3 percent; stainless and tool steel flat and long products, 89.3 percent; stainless fittings and flanges, 86.4 percent; and carbon and alloy welded tubular products, 57.5 percent.

⁸⁸ See USITC Pub. 3479 (Dec. 2001), Vol. II at Tables FLAT-76-77, LONG-89-96 & 98-100, TUBULAR-55-67, STAINLESS-84-90, 92, 95, 97-102, 104 & 107.

distinction or uniqueness regarding the volume and impact of increased imports from Canada or Mexico for each of the relevant determinations, such that the exclusion of import volumes from Canada or Mexico would alter my initial analyses or conclusion for either of these product categories.

(iv) Carbon and alloy fittings, flanges, and tool joints -

(i) If only imports from Mexico were excluded, the record indicates that increased imports from all sources other than Mexico⁸⁹ are a substantial cause of serious injury. The absolute volume of carbon and alloy fittings, flanges, and tool joint imports from all sources other than Mexico surged 35.0 percent from 1996 to 2000, increasing from 86,394 short tons in 1996 to 116,638 short tons in 2000. Between the interim periods, imports of carbon and alloy fittings, flanges, and tool joints increased from 52,978 short tons in interim 2000 to 71,404 short tons in interim 2001.⁹⁰

With regard to the serious injury substantially caused by imports from all sources other than Mexico, the analysis is identical to the analysis discussed above and in my original determination. In particular, the domestic industry still reflects the severely weakened condition of the domestic producers substantially caused by the unprecedented timing and surge of relatively lower priced U.S. imports. Accordingly, the record continues to indicate that increased imports of carbon and alloy fittings, flanges, and tool joints from all sources other than Mexico are a substantial cause of serious injury to the domestic industry.

(ii) If only imports from Canada were excluded, the record indicates that increased imports from all sources other than Canada⁹¹ are a substantial cause of serious injury. The absolute volume of carbon and alloy fittings, flanges, and tool joints imports from all sources other than Canada surged 28.1 percent from 1996 to 2000, increasing from 93,193 short tons in 1996 to 119,353 short tons in 2000. Between the interim periods, imports of carbon and alloy fittings, flanges, and tool joints increased from 54,147 short tons in interim 2000 to 73,202 short tons in interim 2001.⁹²

With regard to the serious injury substantially caused by imports from all sources other than Canada, the analysis is identical to the analysis discussed above and in my original determination. In particular, the domestic industry still reflects the severely weakened condition of the domestic producers substantially caused by the unprecedented timing and surge of relatively lower-priced U.S. imports. Accordingly, for the reasons stated in my original determination, the record also indicates that increased imports of carbon and alloy fittings, flanges, and tool joints from all sources other than Canada are a substantial cause of serious injury to the domestic industry.

(vi) Stainless fittings and flanges -

(i) If only imports from Mexico were excluded, the record indicates that increased imports from all sources other than Mexico⁹³ are a substantial cause of serious injury. The absolute volume of stainless

⁸⁹ The volume of imports from all sources other than Mexico are equivalent to 86.1 percent of total U.S. imports in 2000.

⁹⁰ USITC Pub. 3479 (Dec. 2001), Vol. II at Table TUBULAR-C-6.

⁹¹ The volume of imports from all sources other than Canada are equivalent to 88.6 percent of total U.S. imports in 2000.

⁹² USITC Pub. 3479 (Dec. 2001), Vol. II at Table TUBULAR-C-6.

⁹³ The volume of imports from all sources other than Mexico are equivalent to 94.1 percent of total U.S. imports
(continued...)

fittings and flanges imports from all sources other than Mexico surged 68.8 percent from 1996 to 2000, increasing from 17,858 short tons in 1996 to 29,950 short tons in 2000. Between the interim periods, imports of stainless fittings and flanges declined slightly from 17,166 short tons in interim 2000 to 12,469 short tons in interim 2001.⁹⁴

With regard to the serious injury substantially caused by imports from all sources other than Mexico, the analysis is identical to the analysis discussed above and in my original determination. In particular, the domestic industry still reflects the severely weakened condition of the domestic producers substantially caused by the unprecedented timing and surge of relatively lower-priced imports. Accordingly, for the reasons stated in my original determination, the record also indicates that increased imports of stainless fittings and flanges from all sources other than Mexico are a substantial cause of serious injury to the domestic industry.

(ii) If only imports from Canada were excluded, the record indicates that increased imports from all sources other than Canada⁹⁵ are a substantial cause of serious injury. The absolute volume of stainless fittings and flanges imports from all sources other than Canada surged 73.2 percent from 1996 to 2000, increasing from 16,964 short tons in 1996 to 29,389 short tons in 2000. Between the interim periods, imports of stainless fittings and flanges declined from 16,735 short tons in interim 2000 to 12,252 short tons in interim 2001.⁹⁶

With regard to the serious injury substantially caused by imports from all sources other than Canada, the analysis is identical to the analysis discussed above and in my original determination. In particular, the domestic industry still reflects the severely weakened condition of the domestic producers substantially caused by the unprecedented timing and surge of relatively lower-priced U.S. imports. Accordingly, for the reasons stated in my original determination, the record also indicates that increased imports of stainless fittings and flanges from all sources other than Canada are a substantial cause of serious injury to the domestic industry.

c. **Section 403 of the Trade and Tariff Act of 1984, 19 U.S.C. § 2112, note, and section 221 of the United States-Jordan Free Trade Area Implementation Act authorize the President to exclude imports from Israel and Jordan, respectively, from any safeguard action under Section 201. For each affirmative determination, equally divided determination, and response to items a and b, could you please indicate whether exclusion of imports from Israel and Jordan would change the conclusions of the Commission or of individual Commissioners?**

Given that imports from Israel and Jordan, respectively, are either negligible or nonexistent for each of my affirmative determinations, as discussed in my separate views on remedy,⁹⁷ I note that the recommended exclusion of imports from Israel and Jordan, respectively, from my injury analyses does not change my analyses or affirmative injury findings.

⁹³ (...continued)
in 2000.

⁹⁴ USITC Pub. 3479 (Dec. 2001), Vol. II at Table STAINLESS-14.

⁹⁵ The volume of imports from all sources other than Canada are equivalent to 92.3 percent of total U.S. imports in 2000.

⁹⁶ USITC Pub. 3479 (Dec. 2001), Vol. II at Table STAINLESS-14.

⁹⁷ See USITC Pub. 3479, Vol. I at 519, n.7 and 522.

- d. **With regard to Commissioner Bragg's affirmative determinations on carbon and alloy flat products, stainless and tool steel flat and long products, and stainless steel wire products, in each instance where she found that exclusion of Mexico or Canada from the analysis does not change the recommended findings, could you please indicate the basis for that conclusion?**

Carbon and alloy flat products - Based upon my affirmative determination for carbon and alloy flat products, pursuant to section 311(a) of the NAFTA Implementation Act, I found in the affirmative with respect to imports of carbon and alloy flat products from Mexico and in the negative with respect to imports from Canada. The exclusion of Canada from the analysis does not change the recommended finding that increased imports are a substantial cause of serious injury suffered by the domestic industry for the following reasons.

In determining whether imports from a NAFTA country, considered individually, account for a substantial share of total imports, section 311 provides that such imports shall not be considered to account to a substantial share if that country is not among the top 5 suppliers of the import share during the most recent 3-year period.⁹⁸ The record indicates that imports from Canada and Mexico, respectively, represent a substantial share of total imports, given that Canada and Mexico were each one of the top five suppliers of carbon and alloy flat products throughout the period of investigation.⁹⁹

Next, the Commission is to determine whether imports from a NAFTA country or countries, which account for a substantial share of total imports, contribute importantly to the serious injury, or threat thereof, under section 311. In doing so, the Commission must consider such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports from such country or countries.¹⁰⁰ Section 311 also provides that imports from a NAFTA country or countries shall not be considered contributing importantly if the growth rate of imports from NAFTA countries is appreciably lower than the growth rate of total imports from all sources during the period of injurious increase of imports.¹⁰¹

The record indicates that imports from Canada do not contribute importantly, but that the imports from Mexico do contribute importantly to the serious injury suffered by the domestic industry. In particular, from 1996 to 2000, Canada's share of U.S. imports decreased 2.6 percent, from 10.6 percent to 8.6 percent, and the absolute volume of Canadian imports declined 13.4 percent from 2,013,674 short tons to 1,743,492 short tons.¹⁰² In contrast, during the same period, Mexico's share of U.S. imports increased 1.2 percent from 10.3 percent to 11.5 percent, and the level of Mexican imports increased 26.9 percent from 1,943,496 short tons to 2,466,828 short tons.¹⁰³ Furthermore, from 1996 to 2000, the level of all sources of U.S. imports increased 14.1 percent, from 18,851,160 short tons to 21,510,296 short tons.¹⁰⁴ Thus, the record indicates that the growth rate of imports from Canada trended downward at the same time the growth rate from other countries trended upward; the growth rate of imports from Mexico, unlike Canada, trended upward and is appreciably higher than the growth rate from other countries.¹⁰⁵

⁹⁸ Sec. 311(b)(1), 19 U.S.C. § 3371(b)(1).

⁹⁹ INV-Y-209 at Table FLAT-C-1.

¹⁰⁰ Sec. 311(b)(2), 19 U.S.C. § 3371(b)(2).

¹⁰¹ Sec. 311(b)(2), 19 U.S.C. § 3371(b)(2).

¹⁰² USITC Pub. 3479 (Dec. 2001), Vol. II at Table FLAT-3; INV-Y-209 at Table FLAT-C-1.

¹⁰³ USITC Pub. 3479 (Dec. 2001), Vol. II at Table FLAT-3; INV-Y-209 at Table FLAT-C-1.

¹⁰⁴ USITC Pub. 3479 (Dec. 2001), Vol. II at Table FLAT-3; INV-Y-209 at Table FLAT-C-1.

¹⁰⁵ USITC Pub. 3479 (Dec. 2001), Vol. II at Table FLAT-3; INV-Y-209 at Table FLAT-C-1.

With regard to my finding that increased imports are a substantial cause of serious injury, the exclusion of imports from Canada does not alter the injury analysis, and thus my recommendation is identical to my original determination. There is nothing in the record, in my view, which attaches any particular distinction or uniqueness regarding the volume and impact of increased imports from Canada, such that the exclusion of import volumes from Canada would alter my analysis or conclusions. The domestic industry still reflects a severely weakened condition and serious injury of the domestic producers substantially caused by the unprecedented timing and surge of increased imports.

In particular, the record indicates that imports from all sources other than Canada increased in actual terms. Imports from sources other than Canada increased by 14.8 percent from 1996 to 2000 and decreased by 40.9 percent in the first half of 2001 relative to the first half of 2000.¹⁰⁶ In addition, prices for flat products from all sources other than Canada decreased between 1996 and 2000 and undersold domestic products in the majority of quarters for which data were available.¹⁰⁷ This increase in relatively low-priced imports from all sources other than Canada during the period of investigation coincided with the decline in industry performance described in the “Serious Injury or Threat” section of my separate views on injury. The record also indicates that increased imports from all sources other than Canada are a substantial cause of serious injury to the domestic industry as described in the “Causation” section of my separate views on injury and “unforeseen developments” of this response. Accordingly, I concluded in my determination that the exclusion of Canada from the analysis does not change the recommended finding of serious injury suffered by the domestic industry.

Stainless and tool steel flat and long products - Based upon my affirmative determination for stainless and tool steel flat and long products, pursuant to section 311(a), I found in the negative with respect to imports of stainless and tool steel flat and long products from Canada and Mexico, respectively. The exclusion of Canada and Mexico, respectively, from the analysis does not change the recommended finding of serious injury by reason of increased imports for the following reasons.

With respect to the first prong of section 311,¹⁰⁸ Canada was one of the top five suppliers of stainless and tool steel flat and long products during the POI, while Mexico was not.¹⁰⁹ Therefore, the record indicates that imports from Canada represent a substantial share of total imports. However, imports from Mexico do not represent a substantial share of total imports.

Regarding the second prong of section 311,^{110 111} the record indicates that imports from Canada do not contribute importantly to the serious injury suffered by the domestic industry. In particular, from 1996 to 2000, Canada’s share of U.S. imports decreased 16.1 percent, from 26.7 percent to 10.6 percent, and the level of Canadian imports declined 20.3 percent, from 94,441 short tons to 75,299 short tons.¹¹² In contrast, during the same period, the level of U.S. imports from all sources increased 63.2 percent, from

¹⁰⁶ USITC Pub. 3479 (Dec. 2001), Vol. II at Table FLAT3.

¹⁰⁷ USITC Pub. 3479 (Dec. 2001), Vol. II at Tables FLAT-76-77 & 66-75.

¹⁰⁸ Sec. 311(b)(1), 19 U.S.C. § 3371(b)(1).

¹⁰⁹ INV-Y-218 at Table STAINLESS ALT-4.

¹¹⁰ Sec. 311(b)(2), 19 U.S.C. § 3371(b)(2).

¹¹¹ I note that from 1998 to 2000, Mexico’s share of U.S. imports remained unchanged, the level of Mexican imports ranged from 377 short tons to 341 short tons, and the absolute volume of imports from Mexico stayed around 0.0 percent, which further supports the finding that imports from Mexico do not represent a substantial share of total imports nor contribute importantly to the serious injury suffered by the domestic industry. INV-Y-218 at Table STAINLESS ALT-4.

¹¹² INV-Y-218 at Table STAINLESS ALT-4.

353,955 short tons to 707,192 short tons.¹¹³ Thus, the record indicates that the growth rate of imports from Canada trended downward at the same time the growth rate from other countries trended upward.¹¹⁴

With regard to the serious injury substantially caused by imports, the exclusion of the imports from Canada and Mexico does not alter the injury analysis, and thus my recommendation is identical to my original determination. There is nothing in the record, in my view, which attaches any particular distinction or uniqueness regarding the volume and impact of increased imports from either Canada or Mexico, such that the exclusion of import volumes from Canada and Mexico would alter my analysis or conclusions. The domestic industry still reflects a severely weakened condition and serious injury of the domestic producers substantially caused by the unprecedented timing and surge of increased imports.

In particular, the record indicates that imports from all sources other than Canada and Mexico increased significantly, both in terms of import levels and trends. Imports from sources other than Canada and Mexico increased by 143.7 percent from 1996 to 2000 and decreased by 22.7 percent in the first half of 2001 relative to the first half of 2000.¹¹⁵ In addition, prices for stainless and tool steel flat and long products from all sources other than Canada and Mexico decreased between 1996 and 2000, and undersold domestic products in the majority of quarters for which data were available.¹¹⁶ This surge in relatively low-priced imports from all sources other than Canada and Mexico during the period of investigation coincided with the decline in industry performance described in the “Serious Injury or Threat” section of my separate views on injury. The record also indicates that imports from all sources other than Canada and Mexico are a substantial cause of injury to the domestic industry as described in the “Causation” section of my separate views on injury and “unforeseen developments” of this response. Accordingly, I note that the exclusion of Canada and Mexico from my analysis does not change the recommended finding of serious injury suffered by the domestic industry.

Stainless steel wire products - Based upon my affirmative determination for stainless wire products, pursuant to section 311(a), I found in the negative with respect to stainless steel wire products from Canada and Mexico, respectively. I also note that the exclusion of Canada and Mexico, respectively, from the analysis does not change the recommended finding that the domestic industry is threatened with serious injury based on the following reasons.

With respect to the first prong of the section 311 provision,¹¹⁷ the record indicates that imports from Canada and Mexico, respectively, do not represent a substantial share of total imports, given that neither Canada nor Mexico were one of the top five suppliers of stainless wire products during the period of investigation.^{118 119}

¹¹³ USITC Pub. 3479 (Dec. 2001), Vol. II at Table FLAT-3; INV-Y-209 at Table FLAT-C-1.

¹¹⁴ INV-Y-218 at Table STAINLESS ALT-4.

¹¹⁵ INV-Y-218 at Table STAINLESS ALT-4.

¹¹⁶ USITC Pub. 3479 (Dec. 2001), Vol. II at Tables STAINLESS 96-101 & 84-89.

¹¹⁷ Sec. 311(b)(1).

¹¹⁸ INV-Y-218 at Table STAINLESS-ALT5.

¹¹⁹ I note that from 1996 to 2000, Canada’s share of U.S. imports decreased 10.9 percent from 13.0 percent to 2.1 percent, and the level of Canadian imports into the U.S. declined 80.7 percent from 4,390 short tons to 848 short tons. During the same period, Mexico’s share of U.S. imports increased 1.3 percent from 0.0 percent to 1.3 percent and, although the level of Mexican imports increased 320.3 percent, the actual level of imports from Mexico was only 123 short tons in 1996 and 517 short tons in 2000. Furthermore, from 1996 to 2000, the level U.S. imports from all sources increased 21.1 percent from 33,647 short tons to 40,758 short tons. Thus, the record indicates that the growth rate of imports from Canada trended downward, while the growth rate from other countries trended downward. In addition, I note that Canada and Mexico’s respective shares of U.S. imports

(continued...)

With regard to the threat of serious injury substantially caused by imports, the exclusion of imports from Canada and Mexico does not alter the injury analysis, and thus my recommendation is identical to my original determination. There is nothing in the record, in my view, which attaches any particular distinction or uniqueness in the volume and impact of increased imports from either Canada or Mexico, such that the exclusion of import volumes from Canada and Mexico would alter my analysis or conclusions.

In particular, the record indicates that imports from all sources other than Canada and Mexico increased significantly, both in terms of import levels and trends. Imports from sources other than Canada and Mexico increased by 35.2 percent from 1996 to 2000 and decreased by 3.6 percent in the first half of 2001 relative to the first half of 2000.¹²⁰ Similarly, with respect to market share, imports from all sources other than Canada and Mexico increased from 24.6 percent in 1996 to 26.9 percent in 2000, and were 31.1 percent of the U.S. market in the first half of 2001, compared to 27.0 percent in the first half of 2000.¹²¹ Moreover, prices for stainless wire products from all sources other than Canada and Mexico decreased between 1996 and 2000, and undersold domestic products in the majority of quarters for which data were available.¹²²

This increase in relatively low-priced imports from all sources other than Canada and Mexico during the period of investigation coincided with the decline in industry performance described in the “Serious Injury or Threat” section of my separate views on injury. The record also indicates that imports from all sources other than Canada and Mexico are a substantial cause of threat of serious injury to the domestic industry as described in the “Causation” section of my separate views on injury and “unforeseen developments” of this response. Accordingly, I note that the exclusion of Canada and Mexico from the analysis does not change the recommended finding that increased imports are a substantial cause of threat of serious injury to the domestic industry.

¹¹⁹ (...continued)

further support the finding that imports from Canada and Mexico, respectively, do not represent a substantial share of total imports nor contribute importantly to the serious injury suffered by the domestic industry. INV-Y-218 at Table STAINLESS ALT-5.

¹²⁰ INV-Y-218 at Table STAINLESS ALT-5.

¹²¹ INV-Y-218 at Table STAINLESS ALT-5.

¹²² USITC Pub. 3479 (Dec. 2001), Vol. II at Tables STAINLESS 96, 102, 104, 90 & 92.