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May 27, 2014

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Inv. Nos. 701-TA-417 and 731-TA-953, 957-959, 961, and 962 (Second Review)
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NON-CONFIDENTIAL VERSION

VIA ELECTRONIC FILING AND HAND DELIVERY

Ms. Lisa R. Barton
Acting Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Re: ***Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine***: Nucor Corporation's Final Comments

Dear Acting Secretary Barton:

On behalf of Nucor Corporation ("Nucor"), a domestic interested party in this proceeding, please find enclosed four copies of the non-confidential version of Nucor's Final Comments in the above-referenced sunset review.

The requisite certification is enclosed in accordance with Sections 201.6 and 207.3 of the Commission's rules.

NON-CONFIDENTIAL VERSION

If you have any questions regarding this submission, please do not hesitate to contact the undersigned.

Respectfully submitted,

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ATTORNEY CERTIFICATION

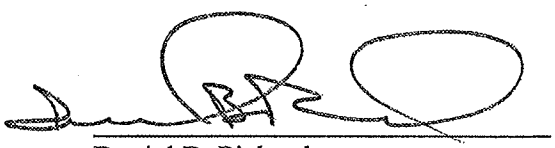
Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine
Inv. Nos. 701-TA-417 and 731-TA-953, 957-959, 961, and 962 (Second Review)

In accordance with section 207.3(a) of the Commission's rules (19 C.F.R. § 207.3(a)), I, Daniel B. Pickard, of Wiley Rein LLP, counsel to Nucor Corporation, certify that under penalty of perjury under the laws of the United States of America and pursuant to the Commission's regulations:

(1) I have read the foregoing submission in the above referenced case;

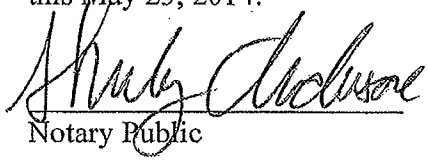
(2) to the best of my knowledge and belief, the information contained therein is accurate and complete; and

(3) in accordance with section 201.6(b)(3)(iii) of the Commission's rules (19 C.F.R. 206.6(b)(3)(iii), that information substantially identical to that for which we request confidential treatment is not available to the general public and the public disclosure of such information would cause substantial harm to the persons, firms, and other entities from which the information was obtained.



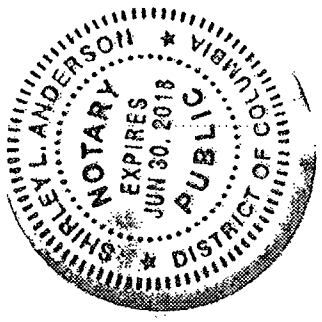
Daniel B. Pickard

DISTRICT OF COLUMBIA: SS
Sworn and subscribed to before me
this May 23, 2014.



Notary Public

My commission expires: 6-30-18



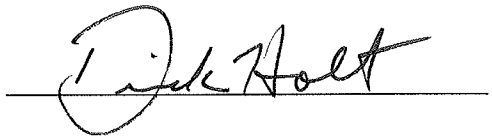
CERTIFICATE OF SERVICE

PUBLIC SERVICE

Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago and Ukraine

701-TA-417 and 731-TA-953, 057-959, 961, and 962 (2nd Review)

I certify that a copy of this document was served on the following parties via hand delivery, on May 27, 2014.



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BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

CARBON AND CERTAIN ALLOY STEEL WIRE ROD FROM BRAZIL, INDONESIA, MEXICO, MOLDOVA, TRINIDAD AND TOBAGO, AND UKRAINE	Inv. Nos. 701-TA-417 and 731-TA-953, 957-959, 961, and 962 (Second Review) **Business Proprietary Information has been removed from pages 1-2 and 4-14** **May Be Released Under APO** **NON-CONFIDENTIAL VERSION**

NUCOR CORPORATION'S FINAL COMMENTS

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May 27, 2014

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I. INTRODUCTION

The final record of these reviews, including the Final Staff Report[1] and post-hearing data, confirms that the antidumping and countervailing duty orders on carbon and certain alloy steel wire rod from Brazil, Indonesia, Mexico, Moldova, Trinidad & Tobago and Ukraine should remain in place. If the orders are revoked, producers in each of the six subject countries will ship large volumes of wire rod to the large, open, and attractive U.S. market. These imports will quickly take U.S. market share by underselling the domestic like product at a time when U.S. wire rod producers have already been weakened by the recession and by an incursion of low-priced Chinese imports. The result will be a recurrence and/or continuation of material injury.

Respondents' arguments to the contrary fall flat. Despite the self-contradictory statements made by Mexican producer Deacero S.A. de C.V. ("Deacero"),[2] the record shows that if the orders are revoked, Mexican producers will utilize their invariable business strategy – dumping – to push their products in the United States.[3] In fact, the reasons that Deacero has proffered as a basis for decumulation[4] actually demonstrate that Mexican producers will export significant volumes of wire rod to the U.S. market in the event of revocation.

Likewise, Ukrainian producers have [ ], are [ ], and can obtain better pricing in the United States than in alternative markets. The Metinvest-owned Yenakiieve Iron and Steel Works ("Metinvest") has provided only unpersuasive arguments to the contrary.[5] Metinvest relies on ArcelorMittal's supposed "regional supply policy" to argue for the decumulation of Ukraine, but ArcelorMittal itself [

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1 *See* Final Staff Report to the Commission (May 16, 2014) ("Final Staff Report").
2 *See infra* Part II.A.
3 *See infra* Part II.B.
4 *See* Letter from White & Case LLP to Acting Sec'y of Commission, re: *Post-Hearing Brief* (May 1, 2014) at 3-6 ("Deacero's Post-Hearing Brief").
5 *See* Letter from Hogan Lovells LLP to Acting Sec'y of Commission, re: *Post-Hearing Brief* (May 1, 2014) ("Metinvest's Post-Hearing Brief).

].[6] Indeed, the company's [

].[7] Moreover, Metinvest's [ ] transportation cost figure is plainly aberrant in comparison to other subject country producers' reported transportation costs of $[ ]-$[ ] per ton.[8] Indeed, it includes approximately [ ] in miscellaneous, unexplained "discounts" and Ukrainian inland transportation costs, and is based on a commercially unreasonable quote for [ ] tons of wire rod.[9]

The domestic wire rod industry is in a fragile state due to the recession and Chinese imports. In its present condition, the domestic wire rod industry cannot withstand a new wave of dumped and subsidized imports from the six subject countries without material injury.

II. IMPORTS FROM MEXICO WILL LEAD TO MATERIAL INJURY

In the course of these reviews, Deacero has made several representations regarding its 4.75mm wire rod product that contradict the representations it made to the Department of Commerce ("Commerce") during its anticircumvention inquiry.[10] While Deacero appears to have no problem telling Commerce one thing and the Commission another, the record shows that Deacero's business practices have remained constant – it dumps its products to steal market share from domestic producers. As a result, Deacero's proffered reasons for decumulation, such as Mexico's constant presence in the U.S. market, its close proximity to the United States, and the on-going circumvention litigation regarding 4.75mm wire rod, only serve to confirm that Deacero and Mexican producers generally will return to the U.S. market using their tried and true business tactic – dumping – in the event of revocation.

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6 Final Staff Report at III-19.
7 *Id.* at III-18 and Table III-9.
8 *Id.* at III-19 and V-5.
9 Metinvest's Post-Hearing Brief at Exhibit 2.
10 *Compare* Deacero's Post-Hearing Brief at Exhibit 5 *with* Hearing Transcript (Apr. 22, 2014) at 181-82 (Mr. Gutierrez), 218 (Mr. Campbell) ("Tr.").

A. Deacero's Conflicting Characterizations of 4.75mm Wire Rod Product Confirm Its Desire to Ship

In its post-hearing submissions, Deacero placed information on the record demonstrating that it has made contradictory factual representations to the Commission and Commerce regarding its 4.75mm wire rod product. The representations are in direct conflict, demonstrating that Deacero has provided strikingly different characterizations of the product in different fora, based on whatever it feels will be most advantageous for its ultimate goal: shipping large quantities of wire rod to the United States at dumped prices.

For example, in Commerce's anticircumvention inquiry, Deacero claimed that 4.75mm wire rod was commercially distinct from wire rod of 5.5mm and above. Indeed, Deacero argued that "the two products are not substitutable,"[11] providing Commerce with twelve statements from its customers to support the position that 4.75mm wire rod was a separate and distinct product.[12] Before the Commission, however, Deacero admitted that 4.75mm wire rod and 5.5mm wire rod are entirely substitutable products – used in the same applications, by the same users, for the same uses.[13] Indeed, Deacero's counsel made a startling and directly contradictory about-face from the company's representations to Commerce, explicitly stating that, "{a}s U.S. producers note in their prehearing brief, *4.75 millimeter rod is a substitute for 5.5 millimeter rod*, the most common size sold in the U.S. market."[14] The following statements illustrate Deacero's conflicting substitutability claims:

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[11] *See* I&D Memo re: Final Circumvention accompanying 77 Fed. Reg 59,892 (Oct. 1, 2012) at 14 ("Circ Memo").

[12] *See* Deacero's Post-Hearing Brief at Exhibit 5.

[13] *See* Tr. at 19-20, 218 (Mr. Campbell).

[14] Tr. at 19-20 (Mr. Campbell) (emphasis added).

STATEMENTS FROM DEACERO AND ITS CUSTOMERS REGARDING SUBSTITUTABILITY

Commerce's Anticircumvention Inquiry	The Commission's Second Sunset Review
"At the same time, we do not consider 4.75mm wire rod to be a substitute for 5.5mm wire rod. . . . Consequently, we cannot use 4.75mm wire rod to produce any of the wire sizes we produce using 5.5mm wire rod."[15]	"5.5 is the most common size diameter in the U.S. market, 4.75 is a *substitute* and 4.75 can *substitute* for 5.5 millimeter wire rod for any wire gauge where you are drawing down below .187 inch."[16]
"4.75mm gauge wire rod is not a variant of larger-diameter rod, but rather is separate and distinct from other gauge rod."[17]	"4.75 is a *substitute* for the main size (5.5mm) used in the industrial quality segment of the market where imports are concentrated."[18]
"4.75mm wire rod is an important material input for which there are no substitutes."[19]	"Deacero's supply of 4.75 **(a *substitute* for the main diameter used in the U.S).** . . ."[20]
"4.75mm wire rods and 5.5mm wire rods are not always interchangeable."[21]	"the lack of any adverse impact from imports of 4.75 **(a *substitute* for the main diameter used in the U.S.)**"[22]
"...we cannot substitute 5.5mm wire rod for 4.75mm rod..."[23]	"As discussed, 4.75mm wire rod: (1) is a *substitute* for the most common diameter (5.5mm) sold in the U.S."[24]
"...we cannot use 5.5mm wire rod as a substitute for 4.75mm rod . . . ."[25]	"We agree with U.S. producers that 4.75mm rod is a *substitute* for 5.5mm rod . . . ."[26]
"{W}e cannot use 5.5mm wire rod in the same application for which we use 4.75mm rod . . . we also cannot use 4.75mm rod as a substitute for 5.5mm rod. . ."[27]	"As set forth in Deacero's briefs and noted repeatedly during the hearing, 4.75mm wire rod: (1) is a *substitute* for the most common diameter (5.5mm) of wire rod sold in the U.S. market."[28]

[

].[29] In the anticircumvention inquiry, Deacero represented to Commerce that 4.75mm wire rod [

15 Deacero's Post-Hearing Brief at Exhibit 5, Affidavit of [ ]
16 Tr. at 217-218 (Mr. Campbell) (emphasis added).
17 *See* Deacero's Post-Hearing Brief at Exhibit 5, Letter from Illinois Tool Works Inc.
18 *Id.* at 1 (emphasis added).
19 *Id.* at Exhibit 5, Affidavit of [ ]
20 *Id.* at 10 (emphasis added).
21 *Id.* Brief at Exhibit 5, Affidavit of [ ].
22 *Id.* at 13 (emphasis added).
23 *Id.* at Exhibit 5, Affidavit of [ ].
24 *Id.* at Responses to Commissioner's Questions No. 5, pg. 13 (emphasis added).
25 *Id.* at Exhibit 5, Affidavit of [ ].
26 *Id.* at Responses to Commissioner's Questions No. 5, pg. 16 (emphasis added).
27 *Id.* at Exhibit 5, Affidavit of [ ]
28 *Id.* at Responses to Commissioner's Questions No. 10, pg. 32 (emphasis added).
29 *Compare* Deacero's Post-Hearing Brief at Exhibit 3 *with* Tr. at 182 (Mr. Campbell).

].[30] Specifically, the Vice President of Industrial Sales for Deacero explained to Commerce, "under the penalty of perjury," that Deacero "charge{s} [ ] per ton for 4.75mm wire rod compared to a 5.5mm wire rod."[31] [ ], Deacero provided data to the Commission showing that its 4.75mm wire rod product [ ], and Deacero explained at the Hearing and in its subsequent submissions that it sold 4.75mm wire rod at a "discount" in order to obtain U.S. volume.[32] The following statements illustrate [ ].

STATEMENTS FROM DEACERO AND ITS CUSTOMERS [ ]	
Commerce's Anticircumvention Inquiry	**The Commission's Second Sunset Review**
"4.75mm wire rod [ ]"[33]	"Deacero must slightly decrease its prices of 4.75 because U.S. purchasers tend {sic} prefer domestic wire rod."[34]
"[ ]"[35]	"Deacero was introducing a, you know, a product that is new to a lot of purchasers, so they need to test it out, they need an incentive to take the time to test the product, to approve it, so they have to offer an additional discount."[36]
"[ ][37]	"Deacero temporarily discounted its prices as an incentive to try the diameter."[38]

30 *See* Letter from White & Case LLP to Acting Sec'y of Commission, re: *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine; Inv. Nos. 701-TA-417 and 731-TA-953, 957-959, 961, and 962 (Second Review): Prehearing Brief* ("Deacero's Pre-Hearing Brief") at Exhibit 3; *see also* Circ Memo at 17.

31 *Id.*, Affidavit of Daniel M. Gutierrez Rodriguez, Deacero.

32 Tr. at 182 (Mr. Campbell).

33 Deacero's Pre-Hearing Brief at Exhibit 3, Affidavit of Daniel M. Gutierrez Rodriguez, Deacero.

34 Deaceor's Post-Hearing Brief at 11.

35 *Id.*, Affidavit of [ ].

36 Tr. at 182 (Mr. Campbell).

37 *Id.* at Exhibit 4. This statement appears to be citing the Affidavit of [ ] at ¶¶2-3.

38 *Id.* at 11.

Commerce's Anticircumvention Inquiry	The Commission's Second Sunset Review
"Ivaco still offers 4.75mm wire rod today, but they generally charge an additional [ ] per pound more for 4.75mm than they charge for 5.5mm. . . . Most wire rod manufacturers do not produce 4.75mm wire rod because it is significantly more costly to do so. By producing larger diameter wire rod, they can produce more tons per hour, spreading their costs over a larger output."[39]	Although [ ] which would have added extra costs, "Deacero offered a discount as an incentive to try the diameter, and lowered the discount as customers became accustomed to the product."[40]

In its posthearing brief, Deacero attempts to further explain [ ] that 4.75mm wire rod does not command a substantial premium as based on the fact that Deacero's 4.75mm wire rod is industrial-quality wire rod, unlike the wire rod that Ivaco Rolling Mills LP ("Ivaco") sells.[41] [ ].[42] This [ ][43] Moreover, even by Deacero's own lights, the [ ] for high carbon steel is only [ ].[44] The [ ] cannot justify the more than $[ ] per short ton difference between Deacero's AUVs for 4.75mm wire rod and MEPs pricing for [ ].[45]

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39 *Id.* at Exhibit 5, Affidavit of [ ].

40 *Id.* at Response to Commissioner's Question No. 2, p 6. Although Deacero's witnesses claimed that after initially offering the product at a discount, they then moved to charging a premium, Tr. at 181-82 (Mr. Gutierrez), [ ]. *Compare* Final Staff Report at Table I-1, *with id.* at Appendix F.

41 *See* Deacero's Post-Hearing Brief at 4 ("Deacero can . . . sell 4.75 without charging a substantial premium"); Responses to Commissioner's Questions No. 2, pg. 4 ("In contrast, Deacero predominantly supplies low to medium-low carbon industrial quality wire rod. These products do not command a premium price to compensate for specialized, high-cost physical characteristics.")

42 *See* Deacero's Pre-Hearing Brief at Exhibit 3.

43 *Id.*; *see also* Deacero's Post-Hearing Brief at Exhibit 5, Affidavit of [ ] ("Most wire rod manufacturers do not produce 4.75mm wire rod because it is significantly more costly to do so. By producing larger diameter wire rod, they can produce more tons per hour, spreading their costs over a larger output."); *see also* [ ], including in May 21, 2014 APO Release.

44 *See* Deacero Pre-Hearing Brief at Exhibit 3.

45 *Compare* Appendix F, Table F-4 (showing that Deacero's AUVs for small diameter wire rod export shipments to the United States were $[ ] per short ton) *with* Final Staff Report at IV-90 (Table IV-38) (showing

In sum, Deacero and its customers have made seriously conflicting representations regarding 4.75mm wire rod. But Deacero's conflicting evidence shows one thing clearly: it will do anything (up to and including providing misleading evidence to federal agencies), in order to sell wire rod in the United States without dumping duties. Anything, that is, except ceasing to dump.

B. Underselling is Mexican Producers' Preferred Strategy for Obtaining U.S. Market Share

Although Deacero's 4.75mm story has yo-yoed significantly between Commerce's anticircumvention inquiry and the Commission's sunset review, one constant has been the fact that Deacero and Mexican producers have dumped their products over the review period, and will continue to dump their products in the United States without the discipline of an order. Deacero testified during the hearing and explained in its post-hearing brief that it had to provide "discounts" to attract customers and sell 4.75mm product in the United States.[46] The record confirms that Deacero rapidly increased U.S. sales of 4.75mm rod by dumping its product, underselling [ ].[47] And Deacero is not alone: the record shows that dumping is Mexican producers' universal business tactic for capturing market share in export destinations: the larger the market, on average, the lower their prices[48] – and the more likely that they will be subjected to trade remedies, such as Colombia's recent safeguard.[49]

Not only did Deacero's 4.75mm wire rod undersell the U.S. like product over the review period, but Mexican producers as a whole continued to ship larger-diameter rod to the United

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an average [ ]). The pricing for [ ].

46 Tr. at 181-82 (Mr. Gutierrez); Post-Hearing Brief, Responses to Commissioner's Question No.2, at 6.

47 *Compare* Final Staff Report at Table I-1, *with id.* at Appendix F.

48 *See* Final Staff Report at Table I-1 and Table IV-19.

49 Contrary to the testimony provided by Deacero, Tr. at 143-144 (Mr. Gutierrez), the Colombian safeguard will negatively affect Mexico's ability to export wire rod to that market. *See* Nucor Corporation's Post-Hearing Brief (May 1, 2014) at Exhibit 1 n. 149 ("Nucor's Post-Hearing Brief").

States throughout the review period, at [

].[50] Indeed, the [ ] between U.S. prices and Mexican export AUVs reached [ ] in 2013.[51] As a result, if the orders are revoked, based on their history of dumping and manifest interest in the U.S. market, Mexican producers will significantly increase imports at rock-bottom prices, lead to the continuation/recurrence of material injury to the U.S. wire rod industry.

C. Deacero's Arguments for Decumulation Demonstrate that Mexican Producers Will Significantly Increase Their Exports of Wire Rod to the United States

During this proceeding, Deacero has proffered arguments for Mexico's decumulation.[52] They are odd arguments, to say the least, as each of them underscores Mexican producers' desire to ship into this market. Deacero has argued that Mexico should be decumlated because Mexican wire rod has had a constant presence in the U.S. market during the POR,[53] Mexico's proximity to the United States gives it non-price advantages,[54] and the on-going circumvention litigation regarding 4.75mm wire rod makes Mexico unique.[55] These arguments for decumulation actually support cumulation of all six-subject countries. As Commissioner Pinkert correctly noted, there is something perverse to the notion that a country that, like other subject countries, has excess capacity, limited alternative markets, and can obtain extremely attractive pricing in the United States as compared to alternative markets, should be decumulated on the basis of factors that only underscore the likelihood that its exports will injure the U.S. industry.[56]

First, it is clear that Mexican producers will dump their products in the U.S. market at

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50 Final Staff Report at V-18 n.15 and Table V-8.
51 *Id.*
52 Deacero's Post-Hearing Brief at 3-6.
53 *Id.* at 5.
54 *Id.* at 6.
55 *Id.*
56 *See* Nucor's Post-Hearing Brief at Exhibit 1 at 35.

prices that substantially undersell U.S. producers to obtain market share.[57] Deacero argues that in the first sunset review of these orders, the Commission decumulated Canada partly because Canada had maintained a presence in the U.S. market.[58] But Mexico's situation in this review is completely different from that of Canada in the first review. There, Canadian wire rod oversold the domestic like product in 117 of 118 quarterly comparisons.[59] Here, as the Final Staff Report confirms, Mexican imports undersold the domestic like product in "30 of 37 instances" with "margins of underselling ranging from [ ] to [ ] percent."[60] Indeed, the best post-recessionary year from the domestic industry was 2011,[61] when [

],[62]

and dumped Chinese imports had yet to arrive.[63]

Deacero's argument that Mexico's proximity to the United States warrants decumulation is similarly unavailing.[64] Mexican in-land transportation costs are comparable to global ocean freight rates obtainable by the other subject producers and do not give Mexican producers a significant advantage over producers in the other subject countries.[65] Furthermore, because Mexican, as well as the other subject producers' export AUVs are [

],[66] lead times appear to be less of a factor, as demonstrated by the 600,000 short tons of low-priced Chinese wire rod imported into the United States in 2013.[67]

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57 *See supra* Part II.B.
58 *See* Deacero's Post-Hearing Brief at 5.
59 Views of the Commission at 18-19 (First Sunset Review).
60 Final Staff Report at V-18.
61 *Id.* at Table I-1.
62 *Id.* at Appendix F.
63 *Carbon and Certain Alloy Steel Wire Rod from* China, USITC Pub No. 4458, Inv. Nos. 701-TA-512 and 731-TA-1248 (Mar. 2014) (Preliminary) ("USITC Pub No. 4458") at Table IV-4.
64 Deacero's Post-Hearing Brief at 6.
65 *See* Nucor's Post-Hearing Brief at Exhibit 1, Answers to Commissioner's Questions.
66 *Id.* at 5.
67 *See* USITC Pub No. 4458 at 17.

Finally, the 4.75mm wire rod litigation does not provide support for decumulation. Rather, it demonstrates how interested Deacero is in the U.S. market. Specifically, [

]68 to gain access to the U.S. market. Deacero's circumvention by the sale of 4.75mm wire rod is simply a demonstration of Mexico's keen interest in the U.S. market, and its desire to ship wire rod here at any cost. Beyond this, Mexican producers continued to ship non-4.75mm wire rod product to the United States over the review period, at prices that undersold the domestic like product in the majority of comparisons, at margins [ ].69 As a result, these arguments demonstrate that Mexico should be cumulated with the remaining subject countries as Mexico faces the same incentives that all the subject countries have to increase exports – excess capacity at home, limited alternative markets, and the opportunity to obtain far more attractive pricing in the United States than elsewhere.

III. ARCELORMITTAL'S PRESENCE IN SUBJECT COUNTRIES WILL NOT DETER EXPORTS

Respondents argue that the presence of ArcelorMittal mills in subject countries justifies decumulation of certain countries, or otherwise shows that there will be only inconsequential exports in the event of revocation.[70] But the record here confirms that the presence (or absence) of ArcelorMittal mills in subject countries does not support the decumulation of any subject country, or revocation of any subject country either individually or on a cumulated basis.

The Commission has previously found that when ArcelorMittal has a small footprint in

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68 *Compare* [ ], *with* Final Staff Report at Appendix F. *See* Nucor's Post-Hearing Brief at Exhibit 1, Answers to Commissioner's Questions at 21 ("[ ]. [ ]. But instead, [ ]").

69 Final Staff Report at V-18 n.15 and Table V-8.

70 Metinvest's Post-Hearing Brief at 7.

the domestic industry, imports from countries with ArcelorMittal-affiliated production facilities are likely to return and cause injury in the event that orders are revoked.[71] In the current review, ArcelorMittal[72] accounted for [ ] percent of U.S. wire rod production.[73] Moreover, [

].[74] In fact, they were closed for large portions of the POR,[75] and are now run only on a limited basis.[76]

Not only does [

],[77] [ ] that they would restart shipping in the event the orders are revoked.[78] In fact, the company's overall [

].[79] ArcelorMittal itself has explained that [

].[80] Indeed, as just one example, ArcelorMittal is importing increasing volumes of Belgian cold-rolled material into the U.S. market, to the detriment of U.S. producers' sales.[81]

In the first review of these orders, the same ArcelorMittal subject country affiliations

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71 *See Steel Concrete Reinforcing Bar from Belarus, China, Indonesia, Latvia, Moldova, Poland, and Ukraine*, Inv. Nos. 731-TA-873-875, 878-880, and 882 (Second Review), USITC Pub. 4409 (July 2013) at 1.

72 Final Staff Report at Table I-11.

73 *Id.*

74 See [ ].

75 Final Staff Report at III-8 and III-18.

76 Tr. at 96-97 (Mr. Sanderson).

77 *Compare* [ ], *with* [ ], [ ], [ ], [ ].

78 *See* [ ]. Although [ ], it has approximately [ ] market. [ ].] explained that [

79 Final Staff Report at III-18 and Table III-9.

80 *Id.* at III-19.

81 *See* Ex 6. to Nucor's Post-Hearing Brief.

existed but the Commission chose not to segregate countries on the basis of such affiliations.[82] ArcelorMittal's limited U.S. footprint encourages the company to maximize its global profits by increasing imports into the U.S. from its subject plants with low capacity utilization. As such, the Commission should not view the presence of ArcelorMittal-related mills as a reason for decumulating any individual country, or for finding that subject imports are likely to be limited in the event of revocation.

IV. UKRAINE WILL SHIP TO THE UNITED STATES IN THE EVENT OF REVOCATION

The record before the Commission demonstrates that Ukrainian wire rod producers have compelling incentives to ship to the United States if the orders are revoked. Like producers in other subject countries, they have [ ],[83] and can obtain better prices in the U.S. market than elsewhere.[84] Moreover, Ukrainian producers are [ ] export-dependent,[85] and are increasing capacity.[86] Metinvest has conceded that political turmoil has not dampened the country's steel exports.[87] Quite the opposite – Metinvest's CFO has stated that, as far as Ukraine's steel trade is concerned, it's "business as usual."[88] Nonetheless, Metinvest has offered three arguments in favor of revocation – all equally unconvincing.[89]

First, Metinvest argues that Ukraine should be decumulated, relying on Ukraine's supposed focus on supplying nearby export markets.[90] But, like all of the subject countries,

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82 *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China*, Inv. Nos. 701-TA-512 and 731-TA-1248 (Review), USITC Pub. 4014 (June 2008) ("First Sunset Review Determination") at 19 and IV-19.

83 *See* Nucor's Post-Hearing Brief at 5, 5 n26; *see also* Final Staff Report at Table IV-29.

84 Compare Final Staff Report at Table III-6, with *id.* at Table IV-29; *see also* Ex. 2 to Nucor's Br. ([ ].

85 Final Staff Report at IV-68 (describing Ukraine as a net exporter) and Table IV-29.

86 *See* Nucor's Prehearing Brief at 14-15 and Exhibit 2 ([ ]).

87 *See, e.g.*, Tr. at 199 (Ms. Dimitrova) and Ex. 25 to Nucor's Posthearing Brief.

88 *See* Ex. 26 to Nucor's Post-Hearing Brief.

89 Metinvest's argument that the presence of an ArcelorMittal mill in Ukraine justifies the country's decumulation is addressed above in Section III.

90 Metinvest's Post-Hearing Brief at 1-7.

Ukraine has [ ], and can obtain better pricing here than in other markets.[91] Moreover, the record contradicts Metinvest's argument that Ukraine is uniquely focused on nearby markets. Relatively few of Ukraine's exports are destined for its European neighbors.[92] Over the POR, Ukrainian producers quickly shifted in and out of export markets.[93] Indeed, Metinvest's own description of Ukraine's "regional" markets includes far-flung destinations such as Nigeria and Senegal, on the western coast of Africa.[94] Importantly, Metinvest's witness at the hearing conceded that Ukrainian producers would resume U.S. shipments in the event of revocation. The stunning [ ] between U.S. shipments AUVs and Ukrainian export AUVs guarantees it.[95]

Second, Metinvest's post-hearing brief repeats its argument that transportation costs to the United States cancel out any price advantages that the U.S. market could offer.[96] But as Commission's Staff has found, Metinvest's transportation cost build-up incorporates inland transportation costs that necessarily must be paid on all Ukrainian exports, and reflects unexplained and suspicious amounts for "lead time and other discounts."[97] Additionally, Metinivest's transportation quote is based on a commercially unreasonable volume – [ ] tons.[98] It is also plainly aberrant in comparison to other subject country producers' reported transportation costs of $[ ]-$[ ] per ton.[99] In reality, it would cost approximately $[ ] for Ukrainian producers to export wire rod to the United States.[100] In 2013, U.S. producers' shipment AUVs were [ ] Ukrainian export AUVs in 2013, leaving Ukrainian

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91 *See supra* note 83.
92 Final Staff Report at Table IV-29; *see also id.* at Table IV-31.
93 *Id.* at Table IV-31 (showing, for example, significant shifts over the POR in shipments to Jordan, Romania, Iran, and Italy.
94 Metinvest's Post-Hearing Brief at 3.
95 Compare Final Staff Report at Table III-6 with *id.* at Table IV-29.
96 Metinvest's Post-Hearing Brief at 13.
97 Final Staff Report at V-5 n.10.
98 *See* Metinvest's Post-Hearing Brief at Exhibit 2.
99 Final Staff Report at V-5.
100 Nucor's Post-Hearing Brief at 13 and Exs. 19 and 20.

producers with plenty of margin.[101] Thus, Metinvest's transportation cost argument should be ignored.

Fourth, Metinvest has claimed that privatization has changed the conditions under which Ukrainian producers operate, such that they no longer have any incentive to ship significant volumes of wire rod to the United States, or to undersell U.S. competitors.[102] But as Nucor pointed out in its post-hearing brief, privatization occurred during the first review period,[103] and did not result in more responsible pricing behavior. In 2003, prior to ArcelorMittal Kryvyi Rih's privatization, Ukrainian export AUVs were [ ].[104] Ten years later, in 2013, responding Ukrainian producers' export AUVs were [ ].[105]

Congress has charged the Commission with determining whether subject imports are likely to result in continued/recurrent material injury in the event of revocation.[106] Here, Ukrainian producers have compelling reasons to significantly increase imports if the orders are revoked, and have stated that their ability to export has been unaffected by political events. Thus, the political situation provides no support for revocation of the orders.[107] Importantly, it is simply

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101 *Compare* Final Staff Report Table III-6, *with id.* at Table IV-29.

102 Metinvest's Post-Hearing Brief at 7-13.

103 *See* Ex. 18 to Nucor's Post-Hearing Brief.

104 *Compare* First Sunset Review Determination at Table I-1, *with id.* at Table IV-35.

105 *Compare* Final Staff Report at Table IV-29, *with id.* at Table I-1. Likewise, Ukrainian producers' argument that the U.S. industry underreported transfer value, Tr. at 173 (Mr. Stoel); Metinvest Posthearing Br. at 14-15 and Answers to Questions at 43-46, is also contradicted by the record. *See* Nucor's Posthearing Br. at Exhibit 1, pp 9-10 (explaining that differences in AUVs between commercial shipments and internal consumption/transfers reflect product mix). Neither the statute nor GAAP require the AUV of internal transfers/ consumption to meet or exceed the AUV of U.S. commercial shipments, and any claim that they must reflects either a fundamental misunderstanding of accounting principles or the concept of "fair market value." Indeed, respondents do not cite any relevant accounting standard that justifies their preferred approach. As reflected in the Commission's questionnaires, there are many factors that influence "fair market value," including timing, volume, and product mix. As such, the fact that the AUV of internal transfers/consumption are below U.S. commercial shipment AUVs for a particular period does not mean that they have been reported at less than "fair market value."

106 19 U.S.C. §1675a.

107 Even if foreign policy considerations were within the scope of this review, it would remain that, although revocation is not particularly likely to assist Ukraine in resisting Russian incursions, maintenance of the orders could provide Russia with reason to be less aggressive in its approach to the Ukraine, by presenting the possibility that orders on Ukraine would be extended to Russia. *See, e.g., Brass Sheet and Strip from the Federal Republic of Germany*, 57 Fed. Reg. 276 (Jan. 3, 1992) (amended final results of antidumping duty administrative review)

unclear at this time what the outcome of the current political tension will be; therefore, any decision that rests on political considerations would necessarily be based on speculation. Rather than speculate in advance of the facts, the Commission must base its determination on the record before it. Should future events in Ukraine or elsewhere result in changes that impact Ukrainian producers' shipments or pricing behavior, then affected producers will have the option of requesting a changed circumstances review under 19 U.S.C. §1675(b).

V. CONCLUSION

For the reasons described above, Nucor urges the Commission to retain the trade orders on Brazilian, Mexican, Indonesian, Moldovan, Trinidadian, and Ukrainian wire rod.

Respectfully submitted:

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(applying trade order on West German merchandise to entirety of unified German territory as of date of political unification); *Industrial Belts and Components and Parts Therefor, Whether Cured or Uncured, from the Federal Republic of Germany*, 56 Fed Reg. 9,672 (Mar. 7, 1991).