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May 23, 2014

**Inv. Nos. 701-TA-417 and 731-TA-953, 957-959, 961 and 962
(2ND Review)**

PUBLIC VERSION

BPI information removed from pages
3-4, 10-12

APO information removed from pages
2-3, 7-15

VIA EDIS

The Honorable Lisa R. Barton
Acting Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

Re: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago and Ukraine: Yenakiiieve Final Comments

Dear Secretary Barton:

On behalf of Public Joint Stock Company Yenakiiieve Iron and Steel Works ("Yenakiiieve"), enclosed is the public version of Yenakiiieve's final comments for the above-referenced review.

Pursuant to 19 C.F.R. § 201.6, Yenakiiieve respectfully requests confidential treatment for its confidential business information, which has been removed from brackets on pages 3-4, 10-12. The bracketed information includes confidential business proprietary information pertaining to, among other topics, Yenakiiieve's operations, production, and sales as well as other information of commercial value. Such information is not available to the public, and its disclosure to the public likely will have the effect of either impairing the Commission's ability to obtain such information as is necessary to perform its statutory functions or causing substantial harm to Yenakiiieve's competitive position. Accordingly, it is the type of information normally treated as confidential business information pursuant to 19 C.F.R. § 201.6(a).

Included in this submission is the certification required by 19 C.F.R. 201.6(b)(3)(iii) and 207.3(a). Service has been effectuated as required by 19 C.F.R. 201.16 and 207.3(b).

The Honorable Lisa R. Barton
May 23, 2014
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Please contact the undersigned if there are any questions concerning this matter.

Respectfully submitted,

HOGAN LOVELLS US LLP

By: /s/ Craig A. Lewis
Craig A. Lewis
Jonathan T. Stoel
Wesley V. Carrington

*Counsel to Public Joint Stock Company "Yenakieve
Iron and Steel Works"*

CERTIFICATION

CITY OF WASHINGTON)
)
DISTRICT OF COLUMBIA) SS:

I, Craig A. Lewis, having been duly sworn on this 23rd day of May, 2014, do hereby swear in accordance with the International Trade Commission's regulations, 19 C.F.R. § 201.6(b)(3)(iii), that information substantially identical to the information for which we are requesting proprietary treatment in the attached submission is not available to the public.

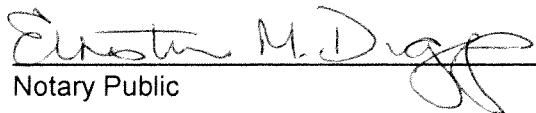
In accordance with the International Trade Commission's regulations, 19 C.F.R. § 207.3(a), I further certify that the information contained in the attached submission is accurate and complete to the best of my knowledge.



Craig A. Lewis

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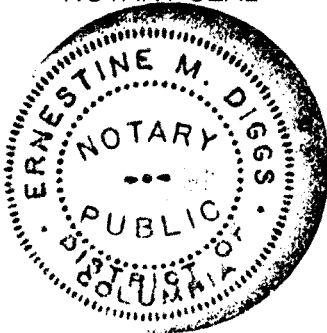
Sworn and subscribed before me this 23rd Day of May, 2014, in the District of Columbia.



Notary Public

My commission expires: 10/31/2014

NOTARY SEAL



**PUBLIC
CERTIFICATE OF SERVICE**

**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 (2ND Review))

I, Wesley V. Carrington, hereby certify that on May 23, 2014, a copy of the foregoing submission was served by hand delivery on the following parties:

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/s/ Wesley V. Carrington
Wesley V. Carrington
Hogan Lovells US LLP

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**BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

CARBON AND CERTAIN ALLOY STEEL)
WIRE ROD FROM BRAZIL, INDONESIA,)
MEXICO, MOLDOVA, TRINIDAD AND)
TOBAGO, AND UKRAINE)

Case Nos. 701-TA-417 and 731-TA-
953, 957-959, 961, and 962 (2nd
Review)

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Business Proprietary Information
removed from pages 3-4, 10-12

APO information removed from
pages 2-3, 7-15

**FINAL COMMENTS OF THE
RESPONDENT PUBLIC JOINT STOCK COMPANY
“YENAKIIEVE IRON AND STEEL WORKS”**

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May 23, 2014

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**FINAL COMMENTS OF
PUBLIC JOINT STOCK COMPANY “YENAKIEVE IRON AND STEEL WORKS”**

I. INTRODUCTION

The original investigation period examined by the Commission in this case covered 1999 through 2001. In 1999 the euro was first established, President Bill Clinton was acquitted in impeachment proceedings, and Boris Yeltsin was the President of Russia. Closer to home, the newly independent country of Ukraine was struggling to transition to a market-based economy after 70 years of Communist rule. The Ukrainian steel sector was still dominated by state-owned enterprises. During this period Ukrainian steel producers were motivated by non-commercial objectives such as production volumes and full employment, and they marketed their products in export markets through trading companies rather than direct relationships with customers. As Yenakieve’s hearing witness described it, “it was like crazy sales, without understanding the cost of, and understanding of markets”^{1/} It is hardly surprising under these circumstances that subject imports from Ukraine were cumulated with other subject imports and found to have caused material injury.

However, that was nearly fifteen years ago. While Petitioners would like to freeze the clock at 1999, time has marched forward. Ukraine and the Ukrainian steel industry have undergone dramatic fundamental changes that cannot be ignored by the Commission and must be taken into consideration in evaluating the likely volume and pricing behavior of Ukrainian producers if the antidumping order is lifted. The evidence before the Commission, as reflected in the Commission’s staff report, hearing testimony, and briefs, shows that:

- The Ukrainian industry has completely privatized and now operates strictly on market principles under the professional management of sophisticated corporate management groups;

^{1/} Hearing Transcript (“Tr.”) at 211 (E. Dimitrova).

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- Ukraine has joined the WTO and gained duty- and quota-free access to the European Union;
- Krivorozhstal, Ukraine's largest wire rod producer and exporter, by far – and the company believed to be responsible for [] – is now under the control and management of ArcelorMittal – a company that has a significant investment in U.S. wire rod capacity and pursues a local supply strategy that will limit exports to the United States;
- Ukrainian exporters face significant logistics costs and lead-time disadvantages that generally make exports to the United States less attractive than other regional alternatives;
- Ukraine's wire rod producers market directly or through carefully-controlled proprietary distribution channels – spot sales to trading companies are no longer the principal marketing channel;
- Yenakiiieve, the only significant Ukrainian producer not under ArcelorMittal's restrictive marketing policies, has very limited capacity to export significant volumes to the United States; and
- The U.S. industry has further consolidated and invested, improved its productivity, and maintained solid operational and financial performance.

Together, these and other facts established before the Commission in this second sunset review paint a very different picture than that of 1999. Unlike nearly fifteen years ago, it is not reasonable for the Commission to cumulate Ukraine imports with other subject imports. It is also no longer reasonable to conclude that revocation of the order on Ukraine would result in significant volumes of exports to the United States at injurious prices. As Yenakiiieve's witness explained at the hearing, revocation would at most make it possible for the company to export very modest volumes of product – up to 20,000 tons annually – at profit-maximizing market prices. Such imports are unlikely to have any adverse impact on the domestic industry.

II. IMPORTS FROM UKRAINE SHOULD NOT BE CUMULATED WITH OTHER SUBJECT IMPORTS

A. Imports from Ukraine are Likely to Have No Discernible Adverse Impact

The governing statute prohibits the Commission from cumulatively assessing subject

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imports if they are likely to have “no discernible adverse impact.” ^{2/} The Commission has found that subject imports from a foreign country are likely to have no discernible adverse impact on the domestic industry in the following circumstances, among others: (1) the volume of imports from that country is low during the period of review; (2) the producers in that country have limited excess capacity; and (3) the producers in the foreign country focus on their domestic market or a particular non-U.S. market and do not plan to export to the United States. ^{3/}

The above conditions are all present with respect to subject imports from Ukraine. First, there have been zero Ukraine imports during the period of review, with the last imports occurring in 2005 (and then in only a minimal amount – 738 tons). ^{4/} Second, there is only limited relevant available capacity in Ukraine for exports to the United States. Yenakiieve is the only Ukrainian producer relevant to this analysis because ArcelorMittal’s established marketing policies (as confirmed by both its counsel ^{5/} and [] ^{6/}) will continue to restrict exports from Kryvyi Rih to its regional market. Yenakiieve’s capacity utilization rates for 2011, 2012, and 2013 were [] percent, [] percent, and [] percent, respectively. ^{7/} With such high utilization rates, Yenakiieve has very limited ability to ship additional product to

^{2/} See Nucor Corp. v. United States, 594 F. Supp. 2d 1320, 1345-46 (Ct. Int’l Trade 2008), aff’d, 601 F.3d 1291 (Fed. Cir. 2010).

^{3/} See, e.g., Hot-Rolled Steel Products from Argentina, China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine, Inv. Nos. 701-TA-404-408 and 731-TA-898-902, and 904-908 (Review), USITC Pub. No. 3956 (Oct. 2007), at 8-9 (determining that Argentinian imports likely would have no discernible impact on the domestic industry because of the low volume of Argentinian imports during the period of review as well as the Argentinian industry’s high capacity utilization rate and orientation towards the South American market).

^{4/} May 16, 2014 Final Staff Report, Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad & Tobago, and Ukraine, Inv. Nos. 701-TA-417 and 731-TA-953, 957-959, 961, and 962 (Second Review), at I-8 and C-5, Table I-1 (“2014 Final Report”).

^{5/} ArcelorMittal et al. Post-Hearing Q&A at 55-56.

^{6/} []

^{7/} Yenakiieve Foreign Producers’/Exporters’ Questionnaire Response at II-12 (“Yenakiieve Questionnaire Response”).

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new export markets.

Assessing these circumstances and the company's competitive position, Yenakiieve's marketing director testified that, at most, the company could spare between 3,000 to 5,000 tons of wire rod per quarter, or roughly 12,000 to 20,000 tons per year, ^{8/} an amount equivalent to only 0.4 percent of total U.S. consumption (based on 2013 figures). ^{9/} Such a small amount could not possibly have a discernible adverse impact on the domestic industry of some 5.3 million tons. ^{10/}

B. Imports from Ukraine are Likely to Compete Under Different Conditions of Competitions Than Imports from Other Subject Countries

The Commission also should not cumulate Ukraine with the other subject countries under review because Ukrainian imports compete under different conditions of competition. The Commission's conditions of competition analysis is particularly important in this review because of the dramatic transformation of Ukraine and its wire rod industry.

1. Unlike all other subject countries, Ukraine's focus is on the Ukrainian market and regional exports to Europe and the Middle East/North Africa

Ukraine follows a domestic and regional supply strategy that is fundamentally different from the other subject countries – of the subject countries, only Ukraine faces the unique demand and supply conditions present in the Ukrainian market and its regional European and Middle East/North Africa export markets. Global Trade Atlas has identified Ukraine's leading export destinations – all of them are in Europe, the Middle East, or Africa. ^{11/} Yenakiieve, the only relevant producer for purposes of the Commission's analysis of likely exports to the United States, is [] selling wire rod [] to its home

^{8/} Tr. at 192 (E. Dimitrova).

^{9/} 2014 Final Report at I-10.

^{10/} Id.

^{11/} Id. at IV-75, Table IV-31.

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market and regional export markets (Europe and the Middle East/North Africa).

The regional focus of Ukraine producers on Europe, the Middle East, and Africa is an important condition of competition that distinguishes Ukrainian exports: (1) Brazil's exports are to the United States and Canada, South America, and East Asia; (2) Indonesia's exports are to Oceania and Asia; (3) Mexico's exports are to North America, Central America, and South America; and (4) Trinidad & Tobago's exports are to Central and South America. ^{12/} As for Moldova, its industry is not participating in this review, and only one of Moldova's top 10 export markets – Romania – overlaps with Ukraine's top export markets. ^{13/} Ukrainian wire rod producers thus face different demand and supply conditions, different pricing structures, and different logistics costs than any of the other countries under review. It is not reasonable to cumulatively assess Ukraine with producers facing such different competitive conditions.

2. Ukraine should be decumulated from Mexico and Brazil, which continue to ship wire rod to the U.S. market

The Commission should similarly decumulate Ukraine from Mexico and Brazil because producers in these countries have longstanding historical ties to the U.S. market and have continued to ship meaningful quantities of wire rod to the U.S. market since the POI, unlike Ukrainian producers.

Ukrainian producers have not shipped any subject wire rod to the United States since 2005. ^{14/} By contrast, Mexico maintained a presence in the U.S. market throughout the period of review and U.S. purchasers are familiar with Mexican product. ^{15/} Brazil also has continued to ship regularly to the U.S. market, mostly through non-subject shipments of 1080 grade tire

^{12/} *Id.* at IV-25, Table IV-10; IV-35, Table IV-14; IV-48, Table IV-19; IV-62, Table IV-26.

^{13/} *Id.* at IV-53, Table IV-22.

^{14/} *Id.* at I-8, Table I-1, and C-5, Table I-1.

^{15/} Tr. at 153-54 (J. Campbell).

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cord or tire bead wire quality wire rod. ^{16/} In contrast to wire rod from Mexico and Brazil, U.S. purchasers would need time to become familiar with Ukrainian producers; the Commission's staff found that "{U.S.} {p}urchaser responses were sparse except for comparisons between U.S.-Mexico, U.S.-Brazil, and U.S.-nonsubject countries." ^{17/} Even more telling, 29 purchasers "don't know" if Ukrainian wire rod has the ability to meet their quality specifications; zero purchasers reported that Ukrainian wire rod would "always", "usually", "sometimes", or even "rarely or never" meet their specifications. ^{18/}

The specific products shipped by Brazilian and Mexican producers to the U.S. market are also very different from the products produced by the Ukrainian industry. For example, at the Commission's hearing, counsel for Deacero explained that "Mexico is the only subject country that produces 4.75 {mm wire rod}. With this advantage the Mexican industry would compete under different conditions of competition than the other subject{} countries." ^{19/} Brazil's exports to the U.S. market consist of high carbon products mostly for the auto industry. Wire rod manufactured in Ukraine, on the other hand, is not designed for the auto industry.

3. Ukraine should be decumulated from Indonesia, Moldova, and Trinidad & Tobago due to Ukraine's active participation before the Commission

Finally, the Commission should decumulate Ukraine from Indonesia, Moldova, and Trinidad & Tobago based on levels of participation in this review and the quality of the record before the Commission. According to the Commission, ArcelorMittal Kryvyi Rih and Yenakiiieve have provided questionnaire data "theoretically yielding full coverage of Ukrainian

^{16/} 2014 Final Report at IV-2 & IV-8, Table IV-2 (showing that Brazil shipped more than 100,000 tons to the U.S. market in four out of the six years of the review period).

^{17/} *Id.* at II-30.

^{18/} *Id.* at II-37, Table II-10.

^{19/} Tr. at 153-54 (J. Campbell).

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production during 2013.” 20/ Yenakiiieve has fully participated, filing pre- and post-hearing briefs and industry witness testimony. This stands in stark contrast to the non-responsive industries in Indonesia, Moldova, and Trinidad & Tobago. The Commission received *only two questionnaires* from the industries in these countries, and the questionnaire received from the Indonesian producer/exporter accounted for only [] percent of total Indonesian capacity in 2013. 21/

Representatives of the U.S. industry have questioned the relevance of industry participation to the cumulation decision. 22/ However, the Commission has wide discretion to determine the factors relevant to its analysis. It would be both inaccurate and unfair for a fully cooperative country like Ukraine to be cumulated with non-cooperating countries for whom the Commission lacks basic questionnaire data and must resort to extrinsic sources for relevant information. Ukraine’s likely future behavior should be evaluated on the basis of the accurate and complete data that was submitted by Ukraine producers and not on the basis of partial data cobbled together from public sources.

III. ANY VOLUME OF FUTURE IMPORTS FROM UKRAINE WILL BE SMALL

Yenakiiieve has demonstrated throughout this proceeding that any possible volume of imports from Ukraine, if the antidumping order were revoked, will be small. This is due to at least three principal factors: (1) ArcelorMittal’s local supply strategy makes any exports from its Ukrainian affiliate highly unlikely; (2) Yenakiiieve’s ability to export is severely limited by capacity and commercial constraints; and (3) the U.S. market is not economically attractive to Yenakiiieve due to substantial shipping and handling costs.

20/ 2014 Final Report at IV-66-67.

21/ Id. at IV-29.

22/ See ArcelorMittal et. al Post-Hearing Brief at 7-8.

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A. ArcelorMittal Will Not Ship Wire Rod to the U.S. Market

The record before the Commission confirms that that ArcelorMittal Kryvyi Rih is not likely to ship any wire rod to the U.S. market in the foreseeable future, regardless of pricing levels. ArcelorMittal reported the following to the Commission after the hearing:

ArcelorMittal employs a commercial coordination policy that [

]. 23/

ArcelorMittal's commercial coordination policy favoring [

] present in this review strongly merit against any exports from ArcelorMittal Kryvyi Rih to the U.S. market in the foreseeable future. Those circumstances include geography. In addition to its own significant capacity located in the United States, ArcelorMittal has several other mills from which wire rod could be exported to the U.S. market that are much closer to the United States than Ukraine, including in Canada, Mexico, and Trinidad & Tobago. In fact, ArcelorMittal [

]. 24/ Moreover, ArcelorMittal has already explained to the Commission the [] under which [] would consider importing wire rod into the U.S. from Ukraine. [

]. 25/ On the other hand, [

23/ 2014 Final Report at III-19 (citing ArcelorMittal et. al Post-Hearing Q&A at 56-57).

24/ See, e.g., id. at III-19, Table III-9.

25/ []

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J. 26/ Accordingly, for purposes of determining the possible volume of wire rod imports into the U.S. market from Ukraine, the Commission should ignore all data (capacity, production, export propensity, etc.) pertaining to AcelorMittal Kryvyi Rih and evaluate the Ukrainian industry solely on the basis of Yenakiiieve.

B. The Only Relevant Ukrainian Producer for the Commission’s Analysis, Yenakiiieve, Lacks Both Available Capacity and Commercial Incentives to Ship Wire Rod to the U.S. Market

The Commission’s consideration of likely volumes of subject imports from Ukraine should focus solely on the ability of Yenakiiieve to ship to the U.S. market because (1) as discussed immediately above, AcelorMittal Kryvyi Rih will not ship to the U.S. market due to its local supply policy, and (2) there are no other meaningful producers of wire rod in Ukraine. Petitioners have sought to confuse the latter issue throughout this review, citing to vague articles and speculation about new mills or new wire rod production. 27/ But, as the Commission Staff’s final report correctly explains, and as Ms. Dimitrova of Yenakiiieve testified to the Commission, the only other possible wire rod manufacturers (*i.e.*, Donetsk Electrometallurgical Mill and Euro Finance) do not produce wire rod. 28/ Yenakiiieve thus concurs entirely with Commission Staff with respect to the errors in []; there is simply no credible, non-speculative basis for [] or the Commission to believe that Ukrainian capacity is likely to increase in the foreseeable future. 29/

On the contrary, Yenakiiieve actually rebalanced its production capacity during the review

26/ Nucor Post-Hearing Q&A at 14 & n.54 (citing relevant []).

27/ See, e.g., Nucor Post-Hearing Q&A at 41; Nucor Prehearing Brief at Exhibits 14-15.

28/ 2014 Final Report at IV-67 (“ . . . {T}he additional capacity reported by [] is for firms that are not believed to be producers of wire rod in Ukraine ([]”); Tr. at 160 (E. Dimitrova).

29/ 2014 Final Report at IV-66-67, Table IV-28 (reporting an []).

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period, consistent with market conditions, executing a substantial reduction of its capacity by [] tons through the decommissioning of an entire wire rod mill following Yenakiiieve's acquisition of CJSC Makiivka Steel in October 2010. 30/ Although this decommissioning was entirely ignored by [] in its data, at Yenakiiieve's request, Commission Staff []].

But, Table IV-29 of the Final Staff Report []

[] of [] short tons is included in the Ukraine capacity data for 2008 and 2009, it is evident that the Ukrainian industry's wire rod capacity remained essentially [] during the review period.

Having demonstrated that the Commission's likely volume analysis for Ukraine should reasonably focus only on Yenakiiieve, we reiterate that the record contains substantial evidence that Yenakiiieve will not ship meaningful quantities (i.e., more than 20,000 tons annually) to the U.S. market in the foreseeable future. First, Yenakiiieve reported to the Commission that its capacity utilization over the past three years has been [] percent or higher, meaning that the company lacks the ability to make meaningful shipments to the U.S. market, *i.e.*, larger than the negligible maximum of 5,000 tons per quarter testified to by Ms. Dimitrova at the Commission's hearing (based on Yenakiiieve's internal estimates). 31/

Second, notwithstanding false assertions by the Petitioners that new trade remedy proceedings or the political uncertainty in Ukraine will cause Yenakiiieve to reverse its historical pattern of not shipping to the U.S. market, Yenakiiieve has demonstrated its steadfast

30/ See *id.* at IV-73-74; Tr. at 160 (E. Dimitrova).

31/ Tr. at 192 (E. Dimitrova).

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commitment to its home market, European, and Middle East regional customers. ^{32/} In fact, the record demonstrates that Yenakiiieve ships [] to these customers; the company does [

] Moreover, the data provided by Yenakiiieve in Exhibit 1 to its post-hearing answers to the Commission's questions demonstrate that Yenakiiieve already has committed approximately [] percent (or more than [] tons) of its anticipated 2014 and 2015 production to existing customers in these markets. In sum, Yenakiiieve's capacity utilization and its business planning both confirm that any possible volumes of wire rod that could be exported to the U.S. market will be insignificant.

C. The Very Substantial Transportation and Logistical Costs to the U.S. Market are a Major Deterrent to Ukrainian Exports

Petitioners have inaccurately asserted throughout this proceeding that the U.S. market is highly desirable for Yenakiiieve and other Ukrainian producers, citing, for example, that U.S. prices were allegedly \$ [] Ukrainian export AUVs in 2013. ^{33/} Yenakiiieve demonstrated that these claims are false due to the very substantial transportation and logistical costs that necessarily would accompany any Ukrainian exports to the U.S. market. In response, Nucor has entirely shifted its line of argument after the Commission hearing, instead seeking to denigrate Yenakiiieve's shipping and logistical cost estimates as being "without any documentation or support," "undocumented", and "fictitious." ^{34/} Nucor further estimates that it would cost only \$ [] per short ton to ship wire rod to the U.S. market. ^{35/} Nucor is wrong on all counts, and Yenakiiieve stands by its freight estimates.

^{32/} Yenakiiieve Post-Hearing Brief at 9-12; Yenakiiieve Post-Hearing Q&A at 11.

^{33/} Nucor Post-Hearing Brief at 13.

^{34/} Id. at 12-13.

^{35/} Id. at 13.

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Yenakiiieve has carefully explained and documented its \$ [] estimate for shipping and logistical costs to the U.S. market. 36/ Unlike the transportation costs provided by Petitioners and by producers in other markets to the Commission Staff, 37/ Yenakiiieve documented its likely costs of shipments to the U.S. market all the way from the Ukrainian mill gate to the potential final U.S. customer destination. In particular, Yenakiiieve:

- Detailed each of the components of the \$ [] transportation and logistical costs, tying each component to Yenakiiieve's internal transportation, financial, and freight department data and to an external shipping quote from a third-party shipping company. 38/
- Provided the declaration of [] to demonstrate that the \$ [] transportation and logistical costs are the sum of the following: (1) \$ [] in transportation costs from the Ukraine mill to the port; (2) \$ [] for international ocean freight from Ukraine to the United States; (3) \$ [] for inland U.S. freight costs; and (4) \$ [] for related lead time and other discounts.
- Demonstrated why Petitioners' international ocean freight estimate of \$ [] per ton significantly underestimates Yenakiiieve's potential freight costs due to [] and []. 39/

Yenakiiieve has thus provided substantial evidence to the Commission that actual business considerations are a substantial deterrent to shipments of wire rod to the U.S. market in the foreseeable future. This evidence strongly supports a Commission finding that exports of wire rod from Ukraine to the U.S. market, if the antidumping order were revoked, would be negligible. Consequently, as any volumes shipped from Ukraine upon revocation would be insignificant, there would be no likely adverse price effects on the domestic industry.

36/ Yenakiiieve Post-Hearing Q&A at 13-17.

37/ 2014 Final Report at V-5.

38/ Yenakiiieve Post-Hearing Q&A at 13-17 and Exhibit 2.

39/ Part of Nucor's error is in unrealistically assuming Yenakiiieve is likely or capable of obtaining lower freight rates by shipping []. However, Yenakiiieve has repeatedly explained that the maximum volume of wire rod Yenakiiieve is likely to ship to the U.S. market per quarter is 5,000 tons.

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IV. THE DOMESTIC INDUSTRY IS NOT VULNERABLE TO IMPORTS FROM UKRAINE

The record before the Commission also shows that the domestic industry is not vulnerable to the very limited quantity of subject imports from Ukraine that could possibly be shipped to the U.S. market if the antidumping order were revoked. The domestic industry's strength is evidenced by several favorable factors, including: (1) positive operating margins in five of the six years of the review period despite challenging market conditions; ^{40/} (2) the number of production workers, total hours worked, and wages paid all bounced back strongly from 2009 recession lows, and worker productivity was at a period high of 858.4 short tons per 1,000 hours in 2013; ^{41/} (3) significant, period-high capital expenditures in 2012 and 2013, totaling more than \$250 million, contributed by [

]; ^{42/} and (4) the domestic industry has shown the ability to raise prices, including through its ability to control the quantity and timing of its production. ^{43/}

We particularly want to focus the Commission on one important issue: the domestic industry's [] transfers and internal consumption (which when combined account for nearly 27 percent of the domestic industry's "sales"). These transfers and internal consumption appear to have been undervalued by the domestic industry, with Nucor even admitting that "the difference between commercial and internal consumption/transfer values ... {has} [

] over time." ^{44/} The result has been a significant underreporting to the Commission of

^{40/} 2014 Final Report at III-24, Table III-11.

^{41/} Id. at III-20, Table III-10.

^{42/} Id. at III-45-47, Table III-14 and C-1, Table C-1.

^{43/} See Yenakiieve Post-Hearing Q&A at 42; "Mill Outages Will Support Higher US Long Steel Prices", Metal Bulletin (Nov. 14, 2013) (describing how planned maintenance outages at wire rod mills support U.S. prices), posted as ITC Staff research material on May 21, 2014.

^{44/} Nucor Post-Hearing Q&A at 10.

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the domestic industry's operating profit by \$362 million. To pick an example, in 2013, the domestic industry appears to have undervalued its internal consumption and transfers by \$73.54 per short ton, meaning that the industry's 2013 operating profit was \$73.85 million higher and the industry's actual 2013 operating margin was 7.1 percent. 45/

The domestic industry has responded that this undervaluation and distorted financial reporting is due to "product mix." 46/ But, the record evidence before the Commission tells another story. In its U.S. Producers' Questionnaire, at Question II-15e, the Commission specifically asked the domestic industry to "comment on any differences, including qualities and end uses, of the wire rod that you internally consume or transfer to related firms, and that which you sell in the merchant market." [] of the ten domestic producers of wire rod – [

[] – identified transfers and/or internal consumption in their questionnaire responses. [] companies – or [] – informed the Commission that [] .

Moreover, [] informed the Commission that [] . Even the domestic producer questionnaire responses of [] do not facially support their own claims, with [] declaring (emphases

added):

45/ Yenakiiieve Post-Hearing Brief at 14-15; see 2014 Final Report at III-29, Table III-13.

46/ ArcelorMittal et. al Post-Hearing Q&A at 36 (" . . . product mix differences can affect relative average unit values."); Nucor Post-Hearing Q&A at 9 (" . . . simply reflects differences in the product mix of internal transfers and commercial shipments.").

[

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Yenakiiieve respectfully submits that the Commission must account for the systematic undervaluation of the domestic industry's transfers and internal consumption. For the reasons previously explained, the domestic industry's treatment of these sales has heavily discounted both its reported revenue and profits during this review period.

V. CONCLUSION

Yenakiiieve respectfully submits that the Commission should revoke the antidumping order with respect to Ukraine.

Respectfully submitted,

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May 23, 2014