

Manufacturing Focus

It seems impossible to write any story about steel without focusing on China. In 2014, as its domestic demand became tepid, the country exported 93.78 million metric tons of steel, up more than 50% from 2013. That excess steel—“priced to sell,” as a realtor might say—flooded the global market, worsening an already ailing industry. The results have been felt around the globe. Sadly, it is also the direct or indirect focus of most of the elements in this feature, which includes a look at woeful steel prices, willful rule-breaking and frustrating trade cases.

The need to ‘ENFORCE’ existing trade rules

Trade rules exist, and so do anti-dumping (AD) and countervailing duties (CVD), but what do you do when a cheating competitor does a “go around” on such protective measures? At a meeting earlier this year of the American Wire Producers Association, a presentation was made by Leggett & Platt, Incorporated (L&P), explaining why the company strongly supports passage of pending legislation—Enforcing Orders and Reducing Circumvention Evasion Act (ENFORCE)—to counter such cheating. Below, L&P replies to questions on the topic.

WJI: How can egregious trade violations (such as those outlined on p. 50) take place without there being some recourse for U.S. manufacturers? What about the WTO?

L&P: Customs & Border Protection is the agency charged with applying and enforcing AD and CVD orders on imports at the border. While it has made some efforts to improve its enforcement mechanisms, it continues to lack any sort of real process for responding to allegations of evasion. Investigations may drag on for years, denying American industries the relief provided under the law, creating uncertainty in the potential duty liabilities of importers, and, in some cases, encouraging bad actors to continue this unlawful behavior.

The WTO has recognized the prevalence of AD/CVD evasion occurring in the U.S. and other countries, but enforcement of orders made by the U.S. International Trade Commission and the Department of Commerce are rightfully the purview of the U.S. government.

WJI: What is ENFORCE, and why is it so important?

L&P: The ENFORCE Act creates a procedure for Customs, within its already existing authorities, to investigate allegations of duty evasion in a timely manner, with proscribed deadlines, increased transparency and accountability, and judicial review of its decisions. Importantly, ENFORCE is a civil process—determining whether or not imported merchandise is covered by an order and should have been subject to duties, without regard to the intent of the importer—and, while it doesn’t preclude further

penalties, it primarily seeks to simply impose and collect lawfully owed duties.

WJI: Will ENFORCE have the resources to be effective, especially in terms of response time?

L&P: While the bill, if passed, would require implementing regulations to be written further defining agency processes under the law, we believe Customs already has the capability to make these civil determinations in a much more expedient fashion, but it needs the Congressional mandate to pursue action in this manner as opposed to much more lengthy, complicated and infrequent criminal actions.

WJI: Is ENFORCE likely to become a law this year?

L&P: Key members of Congress, from leadership to members of the Ways & Means and Finance committees, have repeatedly stated that a Customs and Enforcement package is integral to the trade legislative agenda they undertook when Trade Promotion Authority and other parts of that agenda were passed earlier this summer. We fully expect Congress to fulfill that commitment and members of the House and Senate who voted in favor of other pieces of trade legislation with the expectation that an enforcement package would also become law are likely to press the negotiators to deliver a bill. Assuming a bill emerges from conference, we are confident that the negotiators now recognize the challenge of duty evasion and that they will include strong language, substantially similar to the Senate ENFORCE Act, in the conference report.

China's steel overcapacity: A concern, sure, but don't go freaking out quite yet

By Steve Cavanaugh, *The Steel Report*



Cavanaugh

In January 2015, after months of investigations and preliminary rulings, after years of ever-increasing tonnage levels at ever-decreasing price points, the U.S. finally shut China out of its import wire rod market. With final anti-dumping orders set between 106.19-110.25% and countervailing duties falling between 178.46-193.31%, even the lowest offers from Chinese mills could no longer compete in the U.S.

And so U.S. wire rod producers rejoiced, right? Not so fast. Chinese wire rod had already been out of the market for almost a year prior to the final ruling; typically, the initiation of a trade investigation by the U.S. Department of Commerce is the kiss of death for offshore producers. Traders stop taking mill rep's calls, customers start inquiring about alternative sources, and arrivals at the port begin to slow to a trickle. Why? Because the specter of "critical circumstances"—when duties are implemented retroactively—haunts every trade case at the outset.

So by the time the DOC bangs the gavel and announces final determinations, the "let's party" ship has already sailed. Unless, of course, the ruling defies expectations (as it did with recent rebar and pipe cases) and U.S. producers grab torches and pitchforks and head to Washington, D.C. instead.

Now, it's true that Chinese wire rod offers at the time of the initial investigation were no lower than current offers from Turkey (in fact, Turkish offers are quite a bit lower at this point), so it might seem strange that prices were such a cause for concern in initial petition. But tonnage

levels were the main point of contention, with China shipping almost twice as much wire rod to the U.S. in 2014 than Turkey (especially impressive considering imports from China plummeted mid-year when preliminary results were announced in June). Everyone knew China had a massive—and growing—overcapacity problem, but if U.S. wire rod producers thought that by shutting China out of the import market would solve all those pesky completion problems, they were sadly mistaken.

Because here's the thing about China's steel overcapacity: it affects EVERYTHING. All products, all countries (at least those active in global trade, which is pretty close to all of them). Take Chinese wire rod out of the U.S. equation? Guess what—they'll ship that rod somewhere else. Like the Middle East, where Turkey is usually the Top Dog among long product import sources. And what happens when Turkey has to compete with Chinese rod priced so low they might as well be giving it away? Turkey lowers its export offers, not just to the Middle East, but everywhere because thanks to the Internet (and steel intel sites like *The Steel Report*), they can no longer compartmentalize their pricing policies.

Turkish wire rod offers to the U.S. are typically a little higher than offers to other destinations, but Turkey is especially careful about not letting export offers to the U.S. drop too low, lest the snag the attention of the DOC. A price decrease anywhere is usually a price decrease everywhere, which is why Turkish wire rod offers to the US have been steadily dropping for months. Not much to rejoice about now, is there U.S. producers?

However, they shouldn't entirely freak out—China's steel production frenzy has apparently hit its peak. According to the China Iron and Steel Association, China's crude steel output could decline by as much as 2% this year (industry

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stalwart Worldsteel pegs that decline closer to 0.5%). But excess capacity remains, to the tune of 425 million metric tons, and steel exports from China could reach 100 million metric tons in 2015, up from 53 million metric tons just two years ago. The glut is so bad that the world's largest steel producer, ArcelorMittal, recently cut its steel demand growth forecast to zero for this year.

In June, The American Iron and Steel Institute, the Steel Manufacturers Association, the Canadian Steel Producers Association, the European Steel Association, the Turkish Steel Producers Association and five other groups released a plea for action, asking governments around the world to reject China's request to be treated as a market economy.

"We reaffirm our call on each national government to address this issue in their own country and make every effort in their own trade diplomacy and regulations to confront and challenge those government policies that are feeding the overcapacity that is at the root of the current steel crisis and provide a level playing field in the steel market," the groups said, pointing out that Chinese goods are currently subjected to special antidumping rules because of the extent to which the government controls and directs the Chinese economy.

Other than changing trade rules, many wonder why China doesn't address the problem itself with a widespread slash in production. The answer is similar to why U.S. producers don't cut production unless something

drastic happens (like the 2009 economic crisis or pipe producers idling in the wake of record-low oil prices earlier this year), but not exactly the same: jobs. U.S. producers don't want to deal with massive layoffs any more than anyone, but Chinese steelmakers (which, remember, are state-owned) have another layer of concern. Massive unemployment in one of the nation's largest industries is not exactly good PR for the ruling political party.

But it's not like they're sitting on their thumbs, doing nothing while the global steel economy crashes. The country has been ramping up infrastructure investment in other countries to keep its own steel industry afloat. Major projects in Africa and South America have already been announced, with many more to likely follow.

So for now, steel wire rod buyers out there in the U.S., don't worry—China's overcapacity might still be influencing your purchase (or selling) prices, but that doesn't mean the end is nigh.

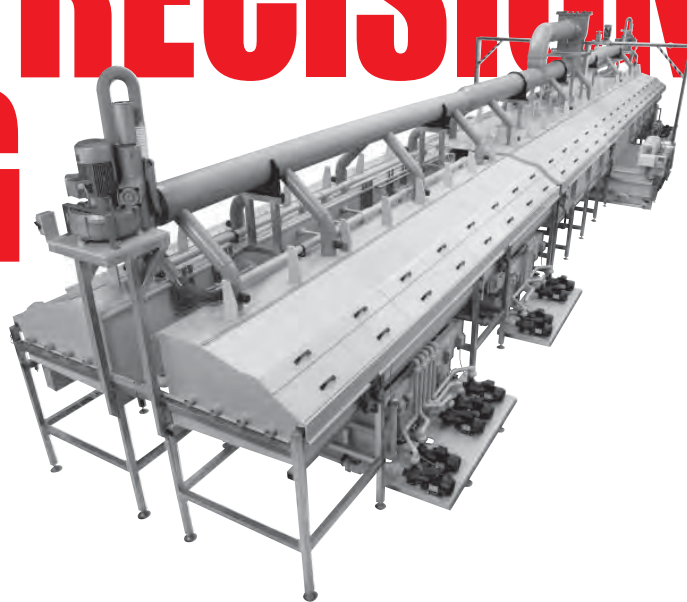
Steve Cavanaugh is a venture capitalist looking to turn great ideas into profitable entities. With decades of experience in business theory, corporate communication, marketing management and vision questing, his most recent investment is The Steel Report, gathering the brightest minds in the industry to report the hottest trends and freshest prices in the U.S. steel market. For more, go to www.thesteelreport.com.

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Expert: countries ok to enforce WTO rules

Cliff Stevenson, an expert on trade remedies, has provided consultancy for more than 25 years to companies accused of dumped/subsidized imports. He completed an evaluation of EU anti-dumping and countervailing duty policy on behalf of the European Commission in 2005, and is the founder of antidumpingpublishing.com, a unique global resource. Below, he cites key statistics and shares his view on trade actions.

WJI: Is the U.S. a world leader when it comes to filing of trade actions?



Stevenson

Stevenson: The U.S. has been one of the most active users of trade actions since the creation of the World Trade Organization (WTO). Anti-Dumping: the U.S. was the 4th biggest user in 2014 with 19 AD investigations initiated, following India, with 38; Brazil, with 35; and Australia, with 22. For the period 1995-2014, the U.S. is the second biggest user of AD by number of cases initiated (India had 740, U.S. had 527, and EU had 468). Countervailing duty: The U.S.

was biggest user in 2014 with 18 initiations (Canada had 12, Egypt had 6). For 1995-2014, the U.S. was the biggest user with 156 cases initiated (second was the EU, with 74, followed by Canada, with 49). Safeguards: The U.S. hasn't initiated a safeguard investigation since 2001. Top users for period 95-14 are India, with 39, Indonesia, with 26, and Turkey, with 20. U.S. used to use safeguards and ranks 9th in users for 95-14 with 10 safeguard investigations initiated.

WJI: What exactly is a "safeguard"?

Stevenson: A safeguard is another trade remedy. It can be a duty or a quota. Unlike ADs and CVDs, which are targeted against individual countries, it has to be applied to all sources of imports. There's no requirement for unfair trade but there has to be a sudden surge of imports due to unforeseen circumstances and it must cause serious injury rather than material injury. The U.S. used to use safeguards quite a lot. There were a lot of steel safeguard cases globally around 2001/2002.

Safeguards provide the best protection for domestic industry because they are guaranteed to work

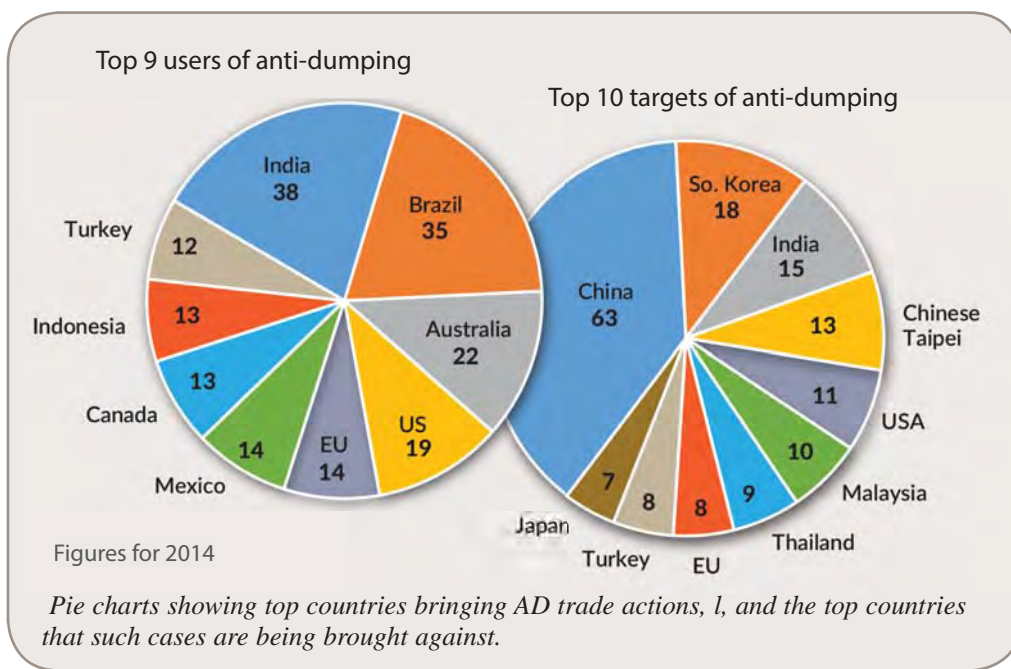
and can't be circumvented by transshipment. However, because they are much more trade restrictive, they hurt the economy more by increasing the cost of all imports. They are politically more difficult to use for this reason. They tend to be more used by developing countries these days as they are actually much easier to use than AD and CVD (no need to prove dumping or subsidy).

WJI: What percentage of AD and CVD cases are brought against China?

Stevenson: China was the target of 27% of AD investigations globally in 2014. Over the period 1995-2014 it has been the target of 22% of AD investigations. CVD: China is also the biggest target of CVD investigations: 31% of CVD investigations in 2014 were against Chinese imports. For 1995-2014, China accounted for 24% of cases. China has only been a target of CVD investigations for the past 10 years which is linked to its transition towards being considered a market economy by the major AD regimes.

WJI: There's an old saying about a DA being able to get a grand jury to indict a ham sandwich: does that hold to some degree for ADs or CVDs?

Stevenson: The odds are stacked against exporters in AD investigations. At the same time not all anti-dumping investigations result in measures: 64% of cases initiated globally from 1995-2014 resulted in measures, while a



third of investigations were terminated with no measures. For CVD, 47% of investigations have resulted in measures, so more than half were terminated with no measures). For the U.S. these figures are 65% AD and 55% CVD (measures adopted).

WJI: How effective is the World Trade Organization (WTO)? Could a new body be formed that could better address some of the trade issues?

Stevenson: Trade remedies have a political role as a safety valve that has permitted the dramatic trade liberalization that has occurred since 1995. Trade remedy actions can often involve trade that from an economic perspective would not be considered to be unfair. For companies that are suffering from unfairly traded imports (e.g. subsidized imports that are unambiguously unfair or predatory pricing practices), it is certainly true that the case are a long drawn out process and involve considerable expense. However, given that trade remedy measures increase the price of imports and thus harm downstream industries using the products subject to measures, the current procedures are probably a good overall balance.

I don't think that a global body would be practical beyond what already exists at the WTO. This is an area where countries would definitely want to retain sovereignty over. The WTO was already a great step forward in establishing agreements governing the use of anti-dumping, countervailing duties and safeguards. WTO members have

to adhere to these provisions. Trade remedies have been one of the most active areas of dispute settlement and many measures have been successfully challenged.

WJI: There are widespread reports of companies prevailing in a trade case only to find it a Pyrrhic win because the loser then transships the same contested product via a third country: is this something the WTO does (or should) address?

Stevenson: The WTO agreement does not address transshipment or circumvention of measures. This leaves the issue as a gray area. Countries are free to adopt transshipment/circumvention provisions as long as it is not inconsistent with the WTO agreements. At one level, this is merely a customs issue. If a country has imposed a WTO-consistent AD measure, it has a right to enforce that duty via customs legislation. Just as if any regular import duty was avoided. If fraud takes place and a product from country X is transshipped through country Y and labeled under country Y, then this is fraud and can usually be dealt with under customs law. However, there are cases which fall in a gray area. If parts are shipped to a third country and assembled into the completed product, not much transformation may have taken place yet the product may change origin under regular customs laws. Without a consensus at the WTO on this issue (which currently there isn't) uncertainty is created about what anti-circumvention actions are consistent with the WTO.

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Vulcan Threaded Products: Company's court win was undone by transshipping deception

In 2008, Vulcan Threaded Products (VTP), the largest U.S. domestic manufacturer and supplier of threaded rod, asked the U.S. Department of Commerce and the U.S. International Trade Commission to impose anti-dumping (AD) penalties on Chinese companies for selling threaded rod at below fair value. After both agencies conducted a year-long investigation, substantial countrywide dumping margins were imposed. That win, however, soon proved to be Pyrrhic in nature. Below are edited excerpts from a presentation made earlier this year at an American Wire Producers Association (AWPA) meeting by Alan Logan, VTP's vice president of government affairs, about what happened following the court ruling, and why more effective enforcement is needed.

Chinese threaded rod has been subject to a dumping order in the U.S. since 2009, with a country-wide duty on Chinese threaded rod of 206%. Since that order was put in place, Chinese manufacturers tried numerous methods to circumvent the duties, with one such method being transshipping of the products through Malaysia.

Prior to the dumping order, there was no reported threaded rod production in Malaysia, but over time it began to export this product to the U.S. in very large quantities. In 2011, we suspected that the vast majority of such rod was being transshipped from China to avoid dumping duties. The above table shows figures for such shipments from 2010 through the first quarter of 2015. We believe that the threaded rod, made in China,

Kilograms of Threaded Rod Reportedly Imported from Malaysia into the United States by Year

2010	2011	2012	2013	2014	2015*
2,522,480	1,770,325	1,812,983	1,581,913	1,825,012	608,787*

* 2015 figures are January - March

has been shipped to Malaysia, where the paperwork changed and a Malaysian Bill of Lading was produced so that the products were then able to be shipped to the U.S. with "proof" of Malaysian origin.

In April 2012, two VTP representatives flew to Kuala Lumpur, Malaysia, to visit the threaded rod exporter, Lee Fasteners, which was responsible for shipping more than 90% of the threaded rod from Malaysia into the U.S. Prior to that trip, we made numerous attempts to contact Lee Fasteners to set up a visit, but were unsuccessful. When our reps arrived at the address from copies of incoming Bills of Lading, we found a small store front in a mixed commercial/residential area of Klang, Malaysia. There was no visible evidence of manufacturing.

Why the need to 'ENFORCE' existing rules

For Leggett & Platt (L&P), the need became obvious. The company saw Chinese innersprings enter the U.S. in the early 2000s, at prices lower than domestic cost of production. As L&P also makes innersprings in China for the Asian market, it knew that it was not cost-effective to produce and ship innersprings from China to the U.S., but the innersprings continued to be imported.

In late 2007, Leggett filed successful trade cases against China and other countries, so as of February 2009, Chinese innersprings were subject to AD duties from 164% to 234%. But before the final AD was even issued, Chinese innersprings were being transshipped to

the U.S. via third countries to evade duties. Prior to July 2008, no innersprings were shipped from Hong Kong (HK), but in Sept. 2008, over 35 containers per month—\$1.5 million a month in commercial sales, and much more in duties—were being shipped to the U.S.

An L&P investigation showed no evidence of legitimate production in HK, despite 13 shipments of innersprings from China to HK then to the U.S., in a two-month period. An estimated 1 million innerspring units illegally evade the antidumping order every year. Conservatively, this represents over \$50 million dollars in uncollected duties owed to the U.S. Treasury.

The owner, Mr. Lee, allowed us to enter his store, which was no larger than 100 sq m. There were small inventories of nuts, washers, screws and other bolts, but no threaded rod. Over the next 20 minutes, Mr. Lee told us several contradictory stories. He said he had a factory, but that it was far away. He also said that he used to have a factory, but that it was now closed, and that he was waiting for money from another investor to start a factory.

In February 2013, a VTP employee received an email from a Chinese threaded rod manufacturer, soliciting us for sales. Our employee asked the Chinese company to quote a price. He also asked if the threaded rod would be subject to anti-dumping duties, to which he was told that we could evade those duties by paying a small fee to have the threaded rods transshipped. He provided the address, which happened to be in Malaysia, from which the threaded rods would be shipped: it was exact same address of Lee Fasteners in Klang.

There is very strong evidence that suggests that all of the Malaysian threaded rod entering the U.S. is, in fact, coming from China. We believe that it is being illegally transshipped to evade the Chinese dumping order, and that these practices hurt the American threaded rod industry and its workers as well as depriving the U.S. government of millions of dollars in duties.

VTP has pursued other actions against unfairly traded threaded rod, including a successful anti-circumvention case against threaded rod from China which contained small amounts of chromium in order to try to avoid dumping duties.



It may not look like much, but the above shop is the listed address for the company that, on paper at least, was responsible in 2012 for shipping 90% of Malaysia's threaded rod to the U.S.

Editor's note: VTP reports that the company now suspects that Chinese threaded rod is also being transshipped through Singapore and Indonesia.

Trade cases: A time of action for 9 AWPA

Below is a list of members of the American Wire Producers Association with trade actions:

- M&B Metal Products, Inc.
AD orders against steel wire garment hangers from China, Taiwan and Vietnam and a CVD order from Vietnam
- Leggett & Platt, Incorporated
AD orders against innerspring units from China, Vietnam, and South Africa
- Mid-Continent Nail
AD orders against steel nails from China and the United Arab Emirates
- Vulcan Threaded Products
AD order against steel threaded rod from China
- Insteel Industries
AD/CVD orders against prestressed concrete (PC) strand from China, Brazil, India, Korea, Mexico, Thailand
- American Spring Wire
AD orders against PC strand from China, Brazil, India, Korea, Mexico, Thailand, and a CVD order on India
- Sumiden Wire Products
AD orders against PC strand from China, Brazil, India, Korea, Mexico, Thailand, and a CVD order on India
- SSW Holding Company
AD/CVD orders against kitchen appliance shelving and racks from China
- Nashville Wire Products
AD/CVD orders against kitchen appliance shelving and racks from China

Unfair trade: a legal perspective

Attorney Frederick (Fred) Waite represents foreign and domestic manufacturers, trade associations, multinational trading companies and domestic industrial consumers in antidumping, countervailing duty, safeguard, and other trade-related proceedings. The Harvard Law School grad, who works at the Washington DC office of Vorys, focuses on international trade and customs law. He has represented the American Wire Producers Association since it was founded in 1981. Below, he shares his thoughts on trade cases.

WJI: How many trade cases have you been part of, and of those, how many of those have been for the wire and cable industry? Are wire and cable cases any easier or harder to bring forth?



Waite

Waite: The first trade case on which I worked was an anti-dumping investigation of caustic soda from Germany, which was also one of the first proceedings in which the U.S. International Trade Commission (ITC) was required to make a preliminary injury determination. Since then, I have been involved in more than 50 antidumping (AD) and countervailing duty (CVD) investigations, administrative reviews, circumvention inquiries, and sunset reviews on products ranging from steel plate, coils, pipe, rebar,

wire rod, and wire products to magnesium and silicon metal to citric acid and xanthan gum. Just over a dozen of those cases have involved wire products, such as steel wire garment hangers, threaded rod, nails, galvanized wire, and stainless wire.

The statutory requirements for filing AD and CVD petitions are the same, regardless of the product. Nevertheless, because wire products are often produced by small and medium-sized privately-owned companies, there can be a challenge to meet the injury standard of the trade laws. The “Big Steel” sector of the industry, which is dominated by multinational and multi-billion dollar enterprises, can carry losses on specific product lines over extended periods, strengthening injury arguments before the ITC. Wire products manufacturers cannot do that and stay in business. Instead, they will often abandon money-losing product lines and shift to other products which may not be impacted by unfairly-traded imports, and this complicates showing injury to the ITC.

WJI: Is there a sameness to such cases? A checklist to follow and be ready to “grind it out”?

Waite: I do not see a sameness in preparing trade petitions because each industry is unique, involving different products and markets as well as different groups of U.S. producers, U.S. customers, and foreign countries. While the statutory regime may be the same, the infor-

mation that must be presented in support of a petition is specific to the case and must be developed on a case-by-case basis. This is one circumstance where a “cookie cutter” approach does not apply.

WJI: From the time of inception, how long does a typical case take, and is there any one element that takes the most time?

Waite: It usually takes the U.S. Department of Commerce (Commerce) and the ITC about one year to complete an AD or CVD investigation. Preparation of AD and CVD cases for filing can take anywhere from a few months to a year, depending on import volumes, market conditions, the U.S. industry’s performance, and a myriad of other factors that are considered in an AD or CVD investigation. On average, developing the data and arguments on injury takes more time and effort than collecting the information to support a dumping and/or subsidy allegation.

WJI: Is the alleged cheating that goes on often blatant, with plenty of evidence to deploy, or is it sometimes difficult to prove?

Waite: Both. We have seen cases where foreign producers and importers are fairly transparent in their schemes to evade AD and CVD duties, such as misclassifying merchandise or declaring merchandise as not subject to AD or CVD duties when it is. On the other hand, some transshipment schemes involve elaborate deception, including the falsification of country-of-origin certificates, unloading and reloading merchandise in a third country, and production of bogus commercial invoices. There have been instances where U.S. companies have engaged investigators who traveled to the transshipping countries and collected evidence that the products in question were not made there – in fact, could not have been made there.

WJI: Have any of the cases you’ve done stood out from the rest, be it in scope or ingenuity in cover-up?

Waite: If you are referring to duty evasion schemes, we have seen the gamut in terms of both stupidity and ingenuity. A few years ago, the staff of Senator Wyden conducted an experiment by setting up a fictitious U.S. company and then contacting Chinese firms to see how AD and CVD orders could be evaded. The results were breathtaking: for product after product,

the Senator's staff found firms that explained how they were evading dumping and countervailing duties and how they could assist other companies in doing the same. The Wyden report can be accessed at the following website, and it should be read to understand the extent of the illegal activities by Chinese companies to violate U.S. law. https://www.wyden.senate.gov/download/staff-report-duty-eva-tion_-harming-us-in-dustry-and-ameri-can-workers



Steel wire rod in China awaits shipments to other markets.

often at very large margins – as well as subsidized by almost every level of the Chinese government.

WJI: *Is the two-tier process (ITC and US DoC) effective? Could the ITC do this on its own (or vice-versa)?*

Waite: This bifurcated process is required by U.S. law, and I believe that it works very well. Commerce and the ITC have developed extensive expertise to conduct their separate investigations, although

WJI: *Is an anti-dumping charge easier or harder to prove than a subsidized product?*

Waite: It depends on the country and the product involved. For example, the U.S. government has found that steel products from China are generally dumped –

it sometimes is confusing to business people that only Commerce determines the dumping and subsidy margins and only the ITC determines whether there is injury as a result of dumping or subsidization. Both

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agencies must make affirmative determinations for an order to be imposed.

WJI: Can a defense lawyer's goal be not to win, but to drag the process out as long as possible?

Waite: Perhaps. However, given the statutory deadlines in AD and CVD investigations and administrative reviews, there is actually little opportunity to drag out these proceedings. Subsequent court appeals can delay the eventual outcome, but if the agency decisions are adverse to foreign producers, importers will nevertheless have to make cash deposits of dumping and countervailing duties while the appeals proceed. If the appeals are unsuccessful, CBP will collect interest on the underlying dumping and countervailing duties, thus increasing the cost to the importers.

WJI: Does the legal process, as is, work? Could there be a better way to do this?

Waite: If you are asking about AD and CVD investigations and administrative reviews by Commerce and the ITC, I would answer "yes" to the first question. The statutory and regulatory process is transparent and fair. On the other hand, the enforcement side of the equation—especially by CBP—can be improved. Two suggestions are (1) passage of the ENFORCE Act by Congress, which

would establish clear procedures for CBP's investigation of evasion claims; and (2) investigation of transshipment claims by Commerce in the context of administrative reviews. The former does not expand CBP's authority, just makes the exercise of that authority more predictable and transparent; Commerce already has the authority to do the latter, but has chosen not to do so.

WJI: Did the editor miss a big point that should have been covered above? If so, what would it be?

Waite: The only point is the magnitude of the duty evasion schemes with respect to products from China. As the Wyden report shows, these schemes are not limited to AD and CVD orders on wire products. They affect dozens of products, hundreds of U.S. companies, and tens of thousands of American workers. In the 40 years that I have practiced international trade law—as counsel to both U.S. petitioners and to foreign producers and their U.S. customers—I have never seen duty evasion schemes and unlawful behavior on the scale that I have with respect to products from China that are subject to AD and/or CVD orders. Indeed, other countries have suffered from the same experience; a review of the website of the European Union's Anti-Fraud Office (OLAF) is instructive in this regard. http://ec.europa.eu/anti_fraud/index_en.htm.

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Profile: American Wire Producers Association

Founded in 1981 and based in Alexandria, Virginia, USA, the American Wire Producers Association (AWPA) represents the ferrous wire and wire products industry in North America. AWPA members include wire producers located in the U.S., Canada and Mexico, manufacturers and distributors of wire rod, and suppliers of machinery, dies and equipment to the wire industry. It has also been active in trade cases. Below, AWPA Executive Director Kimberly Korbelt discusses the association's role, challenges and evolution. For more details go to www.awpa.org.

WJI: When did you become executive director of the AWPA, and what were the most pressing issues at that time?

Korbelt: I joined AWPA in September of 1984 when they held their first meeting in Washington, DC and I became the executive director in 1991. The association had been formed by a merger of the Fine and Specialty Wire Association and Independent Wire Producers Association in 1981. As a relatively new organization, AWPA was just beginning to organize its government relations activities. I recall that while we were at a 1984 Capitol Hill meeting, Bethlehem Steel announced that it was filing a Section 201 Trade Case on all the steel products it manufactured. In the 80's Bethlehem did everything from melting steel to making nails, so wire rod and a number of wire products were included in the case. It was the first trade case in which AWPA became involved. Association President, George Hynson, of Philadelphia Steel and Wire, presented comments on behalf of the independent wire drawing industry in the course of that investigation. The outcome of that case was the Voluntary Restraint Agreements on the imports of steel products, which lasted until 1987. Since that time, international trade has been a constant issue on the AWPA agenda.

WJI: What were the initial goals of AWPA, and how much have those changed over the years?

Korbelt: Our primary mission, has always been to assure free access to the global supply of carbon, alloy and stainless steel wire rod, as it is today. The one thing all wire producers have in common, whether they make PC strand or nails, is that wire rod is one of the largest costs of production. To be competitive with imports of their products, members have to have access to competitively priced wire rod.

In the last 10 years, AWPA has been faced with a flood of unfairly traded imports of wire and wire products, particularly from China. Many AWPA member companies have filed antidumping (AD) and countervailing duty (CVD) investigations to halt imports that are subsidized

by governments and priced below market value. Our International Trade Mission has expanded to include the following:

- AWPA supports and promotes U.S. policy, legislation and international agreements which seek to eliminate trade-distorting subsidies and government intervention in the free market.
- AWPA supports compliance by the U.S. and our trading partners with international trade agreements and enforcement of obligations our trading partners have agreed to.
- AWPA supports broad international trade liberalization with effective reciprocal market access.

WJI: When did the AWPA start lobbying?

Korbelt: AWPA held its first Lobby Day in 1983. The Government Affairs Conference became an annual event, at which members make visits to

their legislators and sometimes hold a Congressional Reception. We typically visit between 85 and 120 Congressional Offices each year.

WJI: Is it hard to convince members to go on lobbying trips?

Korbelt: I think conceptually, everyone understands that political engagement is important. With AWPA efforts centered on trying to impact trade policy and legislation, and later labor and regulatory issues, it was clear we needed to have friends in Congress. Initially, there was some anxiousness about the visits. In the first two years, we grouped members together, for moral support. They quickly became experts and established relationships with legislators and their staffers. We hold a debriefing breakfast where members enjoy telling the stories of their visits.

We have had some major successes with the requests we have made of the Congressmen and women who represent districts with wire production. Our first big success was during the Clinton Administration when our lobbying efforts helped to mitigate the effects of the Tariff Rate



Quota (TRQ) program, which restricted the imports of wire rod. Over the years, our legislators have weighed in on policy issues, requesting support and assistance for the industry from the U.S. Trade Representative and the U.S. Department of Commerce. Currently, we have had much support from Congress for a piece of legislation which will assist in the enforcement of existing duty orders, called the Enforcing Orders and Reducing Circumvention and Evasion (ENFORCE) Act. This bill is contained in legislation which has passed the Senate and is headed to conference with the House where a similar bill has passed. The bills are commonly called the Customs Reauthorization Bill. We hope the final bill will be passed this fall.



AWPA Executive Director Kimberly Korbel at a 2012 association meeting with key members (l-r) John Martin III, Mar-Mac Wire; Walter Robertson III, Johnstown Wire Technologies, Inc. now retired; and Milton Magnus III, M&B Products Co., Inc., the current AWPA president.

WJI: AWPA had a presentation at a recent meeting (highlighted elsewhere in this report) about enforcement of existing trade actions: how important is this issue?

Korbel: There are currently 11 countries against which there are outstanding AD and CVD orders in eight sectors of wire products; nails, garment hangers, innerspring units, threaded rod, wire shelving, PC strand, steel grating and PC rail tie wire. The blatant evasion of these orders are products under order from China. Products are made in China and then sent to a

third country where they are repackaged or relabeled and sent into the U.S. as a product of the third country to avoid paying the duties.

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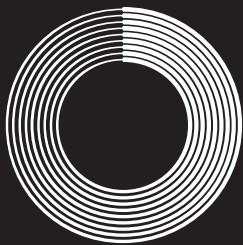
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blades, and tissue paper products are also part of a coalition which have supported this legislation. It costs millions of dollars to file and win a trade case, when foreign countries evade the duties that have been lawfully put into place, it negates the remedy and the unfair competition continues, hurting U.S. producers who are abiding by international trade laws.

WJI: Are trade actions that much more important because of the harsh market conditions?

Korbel: AWPA members have always asserted that they are competitive manufacturers and can compete with anyone in the world, when market forces are the basis of trade. AWPA is an organization based on free trade, but we insist that foreign competitors meet their international trade obligations, so that everyone is playing by the same rules.

WJI: If resources were not an issue, what would you like to be able to offer AWPA members someday?

Korbel: One of the issues we've been spending time discussing has been workforce development. With the imminent retirement of long term employees from the baby boomer generation, attracting a new generation of employees to manufacturing and the wire industry is very important. We haven't found any magic solutions yet, but we're talking about working with post-secondary educational institutions to fill the skills gap; national skills standards and certification programs.

WJI: What other resources does AWPA provide to its members?

Korbel: As a trade association, we are uniquely positioned to gather and provide industry statistics to assist our members in benchmarking themselves against other manufacturers.

Of note, AWPA's political engagement was raised another level with the 2010 formation of a Wire and Wire Products Caucus in the U.S. House of Representatives. Working with bi-partisan leadership, AWPA members asked their Representatives for support, and today more than 40 are Caucus members. AWPA and the Caucus hold briefings about important issues facing the industry. The Caucus has supported our initiatives by signing Dear Colleague letters, cosponsoring legislation and working to pass bills.

At times, political engagement is frustrating, and introducing and passing legislation is a long-term process. However, with the Congressional relationships our members cultivate and the coalitions we build in DC, we are hoping, for the first time, to pass a bill this fall which originated with AWPA members. n