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November 28, 2017

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Ms. Lisa R. Barton
Secretary to the Commission
U.S. International Trade Commission
500 E Street, S.W.
Washington, DC 20436

Inv. Nos. 701-TA-573-574,
731-TA-1349-1358 (Final)

NON-CONFIDENTIAL VERSION

Confidential Business Proprietary Information
Deleted from pages 3-6, 9, 14, and 15.

Re: *Carbon and Certain Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom, Inv. Inv. Nos. 701-TA-573-574 & 731-TA-1349-1358 (Final);* Turkish Exporters' & Producers' Posthearing Brief

Dear Ms. Barton:

On behalf of the Turkish Steel Exporter's Association (Celik Ihracatcilari Birigli, or "CIB"), its Members, and Icdas Celik Tersane ve Ulasim Sanayi A.S. ("Icdas") ("Turkish Exporters and Producers"), and in accordance with 19 C.F.R. § 207.25, we hereby submit the confidential version of our Posthearing Brief in the above-referenced proceedings.

Pursuant to 19 C.F.R. § 201.6, we respectfully request that certain information contained in this submission, identified by brackets, be accorded proprietary treatment. The disclosure of such business proprietary information as described below is likely to have the effect of either: (1) impairing the Commission's ability to obtain such information as is necessary to perform its statutory functions; or (2) causing substantial harm to the competitive position of the person, firm, partnership, corporation, or other entity from which the information was obtained. This information relates to production, capacity, sales, pricing, shipments, financial data, conditions of competition related to the U.S. domestic producers and to the respondents in this proceeding. Substantially identical information is not available to the public, and unauthorized disclosure of this information could cause substantial harm to the business operations and competitive position of Turkish Exporters and Producers.

Copies of this document have been served on all interested parties as set forth in the attached Certificate of Service. An attorney certification pursuant to 19 C.F.R. § 207.3(a) and 19 C.F.R. §201.6(b)(3)(iii) is attached to this submission.

If you have any questions or require any additional information, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Matthew M. Nolan
Matthew M. Nolan
Nancy A. Noonan
Andrew Jaxa-Debicki

Counsel for Turkish Steel Exporter's Association (Celik Ihracatcilari Birigli, or "CIB"), its Members, and Icdas Celik Tersane ve Ulasim Sanayi A.S.

CERTIFICATION

CITY OF WASHINGTON)
) SS:
DISTRICT OF COLUMBIA)

In accordance with section 201.6(b)(3)(iii) of the rules of the U.S. International Trade Commission (the "Commission") (19 C.F.R. § 201.6(b)(3)(iii)), I, Andrew Jaxa-Debicki, of Arent Fox LLP, counsel to Turkish Steel Exporter's Association (Celik Ihracatcilari Birigli, or "CIB"), its Members, and Icdas Celik Tersane ve Ulasim Sanayi A.S., hereby certify that I have read the foregoing submission in the above referenced proceeding and that the information contained in the attached submission is accurate and complete to the best of my knowledge. Further, I certify pursuant to 19 C.F.R. § 201.6(b)(3)(iii), that the confidential information contained in this submission is not available to the public in substantially identical form.

Dated: November 27, 2017

Andrew Jaxa-Debicki

Arent Fox LLP
1717 K Street, NW
Washington, DC 20006

District of Columbia, ss:
Subscribed and sworn to before me this 27th day of November, 2017.

Notary Public

My Commission Expires: May 31, 2021

MARY T. LABOUNTY
NOTARY PUBLIC
EXP. 5-31-21
DISTRICT OF COLUMBIA

CERTIFICATION

CITY OF WASHINGTON)
) SS:
DISTRICT OF COLUMBIA)

In accordance with section 201.6(b)(3)(iii) of the rules of the U.S. International Trade Commission (the "Commission") (19 C.F.R. § 201.6(b)(3)(iii)), I, Nancy A. Noonan, of Arent Fox LLP, counsel to Turkish Steel Exporter's Association (Celik Ihracatcilari Birigli, or "CIB"), its Members, and Icdas Celik Tersane ve Ulasim Sanayi A.S., hereby certify that I have read the foregoing submission in the above referenced proceeding and that the information contained in the attached submission is accurate and complete to the best of my knowledge. Further, I certify pursuant to 19 C.F.R. § 201.6(b)(3)(iii), that the confidential information contained in this submission is not available to the public in substantially identical form.

Dated: November 27, 2017

Nancy A. Noonan

Arent Fox LLP
1717 K Street, NW
Washington, DC 20006

District of Columbia, ss:
Subscribed and sworn to before me this 27th day of November, 2017.

Notary Public

My Commission Expires: May 31, 2021

MARY T. LABOUNTY
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PUBLIC CERTIFICATE OF SERVICE

Carbon and Certain Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom: Inv. Nos. 701-TA-573-574 & 731-TA-1349-1358 (F)

I, Mary T. LaBounty, hereby certify that I caused a copy of the attached to be served on the parties listed below, by hand delivery, this 28th day of November, 2017:

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

Carbon and Certain Steel Wire Rod From Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates and The United Kingdom.	**NON-CONFIDENTIAL VERSION** Inv. Nos. 701-TA-573-574 and 731-TA-1349-1358 (Final) Business Proprietary Information Deleted from Pages 3-6, 9, 14, & 15.

POSTHEARING BRIEF OF THE TURKISH EXPORTERS AND PRODUCERS

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November 27, 2017

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I. INTRODUCTION

On behalf of the Turkish Steel Exporters Association and Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. ("Turkish Exporters and Producers"), and in accordance with 19 C.F.R. § 207.25, and the scheduling notice published in the *Federal Register* on September 20, 2017,[1] we hereby submit this posthearing brief in the final phase investigation on *Carbon and Certain Alloy Steel Wire Rod From Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and United Kingdom*, Inv. Nos. 701-TA-573-574 and 731-TA-1349-1358 (Final).

As set forth below, the U.S. International Trade Commission (the "Commission") should find that subject imports have not caused and do not threaten to cause material injury to the U.S. wire rod industry. The data compiled by the Commission, the Pre-Hearing Staff Report[2] and the testimony provided at the hearing on November 16, 2017[3] show that the domestic industry, which is highly integrated and in many ways insulated from competition by imports, did not lose significant market share during the period of investigation ("POI") and performed at levels that do not support a finding of injury or threat of injury.

Petitioners' case rests in large part on a concept of derivative injury: subject imports came flooding in at low prices to replace departed Chinese imports and prevented the domestic industry's recovery from the injury caused by China. Subject imports have extended or continued injury originally caused by China. The fundamental problem with Petitioners' claim is that these investigations concern subject imports, not imports from China. Injury by reason of subject

[1] *Wire Rod From Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and the United Kingdom*; *Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations*, 82 Fed. Reg. 44001 (Int'l Trade Comm'n Sept. 20, 2017).
[2] Prehearing Staff Report (Nov. 2, 2017) ("Staff Report").
[3] *Carbon & Certain Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom,* Final Hearing Transcript (Nov. 16, 2017) ("Hearing Tr.").

imports cannot be inferred simply because the U.S. industry did not get everything it wanted or expected after China left the market.

Several factors serve to insulate the domestic industry from import competition. These include upstream and downstream integration, Buy America and other preferences or restrictions and geographical and logistical advantages stemming from transportation barriers to imports. These advantages are reflected in steady capacity utilization rates and other positive performance indicators, particularly when internal transfers to affiliated downstream operations are taken into account.

Any declines over the POI in U.S. industry shipment volumes and market share are the result of reductions in capacity and production due to the closure of the Arcelor Mittal ("AM") mill in Georgetown, SC and the idling of the Republic Steel ("RS") facility in Lorain, OH for reasons that have nothing to do with subject imports. When these reductions are properly accounted for, the data show that the U.S. industry's commercial shipments and market share held steady or increased over the POI.

The second core element of Petitioners' case is that domestic and imported wire rod compete solely on the basis of price. Low prices for subject imports enabled imported wire rod to capture market share that would otherwise have gone to U.S. producers while also forcing down prices for domestic product. Petitioners' argument attempts to dismiss evidence on the record that price is not the sole determinant of purchaser decisions to buy imported product. Other factors, many of which favor the domestic industry such as lead time, quality and reliability have an equal if not greater influence on purchaser decisions than price.

The demonstrable link between scrap prices and wire rod prices further undercuts Petitioners' pricing argument. Ups and downs in U.S. prices for wire rod tie directly to changes in the price of scrap. Lower scrap prices during the POI drew wire rod prices down, not price competition from Turkish or other imports. In short, domestic and imported wire rod do not compete solely on the basis of price. Availability, not price, is the driving concern.

Consistent with the preliminary antidumping ("AD") and countervailing duty ("CVD") determinations[4] issued by the Department of Commerce ("Commerce"), the Commission should find that critical circumstances do not exist with respect to imports of wire rod from Turkey.

Finally, imports from Turkey pose no threat of material injury to the U.S. industry and, in the event the Commission makes a threat determination, imports from Turkey should not be cumulated with those from other subject countries for purposes of that determination.

II. THERE IS NO MATERIAL INJURY TO A U.S. INDUSTRY BY REASON OF SUBJECT IMPORTS

As discussed below, the record of these investigations does not support Petitioners' claim of injury by reason of subject imports.

A. Injury By Reason Of Subject Imports Cannot Be Inferred From Prior Injury Caused By Non-Subject Imports

The essence of Petitioners' case is that injury arises from the domestic industry's failure, due to subject imports, to recover from injury caused by imports from China. The U.S. industry "should have been in a position to take advantage of our investments to increase our volume and profitability," but "the expected improvements never materialized" because low price subject imports replaced Chinese imports.[5]

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[4] *See Carbon and Alloy Steel Wire Rod from Turkey*, 82 Fed. Reg. 50377 (Dep't of Commerce Oct. 31, 2017) (prelim. affirm. LTFV determ. & neg. crit. circumstances) ("*AD Wire Rod Prelim. Determ.*") and *Carbon and Alloy Steel Wire Rod from Turkey*, 82 Fed. Reg. 41929 (Dep't of Commerce Sept. 5, 2017) (prelim. affirm. determ. & affirm. crit. circumstances in part) ("*CVD Wire Rod Prelim. Determ.*"). Commerce preliminarily made a negative critical circumstances determination in the CVD investigation for the two mandatory respondents that in 2016 accounted for [ ] of wire rod. *See also* Section V, *infra*.

[5] Hearing Tr. at 41-42 (Armstrong).

The notion that there is injury merely because the domestic industry did not receive the benefits it desired or expected as the result of China's departure from the market is preposterous. There is no right or entitlement to market share, and Petitioners' speculative assumptions about the market share they "should have" gained do not constitute a legal basis for injury.

In addition, the facts do not support Petitioners' claim that subject imports are responsible for the domestic industry's not getting all that it hoped or expected from China's exit. Imports from China fell by 373,032 short tons ("ST") over the POI.[6] This exceeded the increase in subject imports of 252,045 ST over the same period by almost 33%.[7] Properly adjusted for the closures – which, as discussed below, are not attributable to imports – of the AM and RS mills, U.S. producers' volume over the POI increased by [ ] ST.[8] Subject imports were not taking away volume that U.S. producers might expect to gain from China's departure.

Total import volumes were stable during the POI, declining slightly from 1.8 million ST in 2014 to 1.77 million ST in 2016.[9] While imports were constant, there were changes in the relative shares of imports from subject and non-subject sources. Non-subject imports totaled 1,350,698 ST in 2014 and fell 279,771 ST to 1,070,927 ST in 2016,[10] a decline larger than the increase in subject imports. Non-subject imports held a larger share of total import volumes throughout the POI, while subject imports merely replaced some non-subject sources. Increases in subject imports did not affect the domestic industry.

An increase in subject imports alone is not sufficient to warrant a finding of material injury.[11] The Commission has also made a negative injury determination in factual circumstances

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[6] Staff Report at IV-4 (Table IV-2).
[7] *Id.*
[8] *Id.* at C-5 (Table C-2). Figures adjusted using U.S. commercial shipment data from Preliminary phase producer questionnaire response for Republic and Final phase producer response for Arcelor Mittal.
[9] *Id.* at IV-4 (Table IV-2).
[10] *Id.*
[11] *See, e.g.*, *Oil Country Tubular Goods from Austria, Brazil, China, France, Germany, India, Indonesia, Romania,*

very similar to those in this case.[12] In *Butt-Weld Pipe Fittings*, orders resulted in the departure from the U.S. market of two leading sources (China and Thailand) of imports, which, as here, was followed by increases during the POI in shipments and market share for both the U.S. industry and subject imports. The Commission found the increases in volume and market share for subject imports resulted from the rapid decline in imports from China and Thailand and did not come at the expense of U.S. producers.[13]

The Commission did not find that the departure of Chinese and Thai imports as a result of orders created a U.S. industry right to capture the market share previously held by those imports. The exit of Chinese and Thai product was deemed a condition of competition,[14] a precedent the Commission should follow with respect to Chinese imports in this case.

B. The Conditions Of Competition Favor The U.S. Industry And Serve To Insulate It From Import Competition

Competitive advantages over imports enjoyed by the U.S. wire rod industry that serve to insulate it from import competition include vertical integration, domestic supply preferences, and physical and logistical barriers to imports.

The U.S. wire rod market is dominated by a small number of leading domestic producers, four of which are petitioners while the fifth, [ ] the petition. In 2016, the five accounted for nearly [ ] of U.S. wire rod capacity,[15] [ ] of production,[16] and [ ] by value of

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South Africa, Spain, Turkey, Ukraine and Venezuela, Inv. Nos. 701-TA-428 and 731-TA-992-994 and 996-1005, USITC Pub. 3511, at 1 (May 2002) (prelim.)

[12] *Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, The Republic of Korea, Thailand, the United Kingdom, and Venezuala*, Inv. Nos. 701-TA-360-361 and 731-TA-688-695, USITC Pub. 2870, at I-3 (April 1995) (final) ("*Butt-Weld Pipe Fittings*").

[13] *Id.* at I-23 (Views of the Commission). *See also Polyvinyl Alcohol from Germany and Japan*, Inv. Nos. 731-TA-1015-1016, USITC Pub. 3604, at 22-23 (June 2003) (final), in which the Commission made a negative determination despite increases in volume and market share of subject imports. While apparent domestic consumption declined during the POI, both the domestic industry and subject imports experienced increases in volume and market share that occurred as non-subject imports from China and Taiwan declined substantially.

[14] *Butt-Weld Pipe Fittings* at I-10.

[15] Staff Report. at III-5 (Table III-3)

[16] *Id.*

net sales.[17] The wire rod operations of the five leading firms are part of larger steel groups, and all have related downstream wire production operations.[18] The U.S. industry's combined volume of internal consumption and transfers to related firms in 2016 represented [ ] of its total shipments.[19]

Vertical integration through upstream scrap operations affords U.S. producers more secure sources of the main input used to make wire rod and confers significant cost advantages. Scrap facilities aligned with the producers' mills can be operated as cost centers, allowing the mills to assume the profits. Higher quality scrap can be reserved for internal use while some costs can be deferred by selling excess lower quality scrap. Turkish producers have no such luxury. They must purchase scrap on the open market at whatever price it is available.

Downstream wire production and fabrication operations provide even more protection against import competition. Petitioners' wire rod mills are used to feed their own wire operations, which then compete with independent wire producers who must purchase from the U.S. industry, or import.[20] Downstream fabrication units make higher value added products that capture greater revenue and allow U.S. producers to extract profits from both wire rod and fabricated products, or to allocate profits. Sales at [ ] to downstream operations confer competitive benefits on those operations *vis-à-vis* independent wire producers and fabricators,[21] as well as imports. Turkish imports do not benefit from downstream operations in the U.S. and do not ship fabricated products to the U.S.

[17] Derived from Staff Report, Table F-1, at 1.
[18] Staff Report at III-2 (Table III-1, notes) and at III-11 n.6.
[19] *Id.* at III-9 (Table III-5).
[20] *See, e.g.*, Hearing Tr. at 149 (Johnson).
[21] Prehearing Brief of the Turkish Exporters and Producers at 5-6 (Nov. 9, 2017) ("Turkish Exporters Producers Br.").

A significant part of the U.S. market is reserved to the U.S. industry by domestic preference programs such as Buy America(n) that provide considerable price incentives to use domestic steel in federal and state projects.[22] A majority of U.S. purchasers reported that domestic product was required by law for anywhere from 2% to 68% of their purchases.[23] In addition, for a variety of reasons including lead time, reliability, and quality, many purchasers continue to prefer wire rod from domestic sources if it is available.[24] Either by law or purchaser preference, a considerable segment of the market is reserved for the U.S. industry.

A variety of physical and logistical factors provide the U.S. industry with additional protections against import competition. Domestic producers located throughout the U.S. are able to meet the requirements of customers who maintain "just-in-time" inventories. Average lead times for produced to order shipments are much shorter than those for imports.[25] While ocean freight rates are lower than U.S. inland freight rates, imports lose this advantage once they reach a U.S. port. Inland freight costs the same for all, and imports incur it on top of ocean freight. The delivered price is what matters to the customer, and domestic mills located closer to U.S. customers enjoy significant logistical cost advantages.

Subject imports do not enjoy the substantial competitive advantages accruing to U.S. producers from vertical integration. They are excluded from a significant segment of the market by Buy America(n) programs and customer preferences for domestic product. They must contend with logistical and physical barriers not faced by domestic producers. As compared with Turkey, a majority of purchasers rated U.S. producers superior in 15 out of 16 categories,

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[22] *See*, *e.g.*, 49 U.S.C. § 24405(a)(2)(D). Buy America provisions appear in a variety of federal and state procurement laws. A survey of these laws was conducted by the Congressional Research Service ("CRS"). *See* J. Luckey, CRS, *Domestic Content Legislation: The Buy American Act and Complementary Little Buy American Provisions* (Apr. 25, 2013), available at http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1917&context=key_workplace.
[23] Staff Report at II-16.
[24] *Id.* at II-15 (Table II-6) & II-18 - II-30 (Table II-8) and Hearing Tr. at 154 (Moffitt).
[25] *Id.* at II-12.

including availability, delivery time, reliability and transportation costs.[26] The conditions of competition clearly favor the U.S. industry and serve to insulate it from import competition.

C. Subject Imports Have Not Had Significant Adverse Price Effects

Petitioners contend that domestic and imported wire rod are interchangeable and compete "principally" on price.[27] Sales are lost to subject imports "strictly on the basis of price," not due to quality, availability or other issues.[28] Were it not for aggressive underselling by subject imports calculated to capture market share, the U.S. industry would have been able to recover from the injury caused by Chinese imports.[29]

The record shows that price is an important factor in purchasers' decisions to buy wire rod, but it is by no means the only factor, and it is often not even the primary factor.[30] Of all parties reporting to the Commission on the significance of non-price differences between domestic and imported wire rod, only U.S. producers state that non-price factors "never" matter, while purchasers and importers tell a different story.[31] Non-price factors driving decisions to purchase wire rod include delivery time, product consistency, quality and reliability of supply.[32] In many instances, the overriding concern regardless of price is the availability of product meeting the purchaser's needs.[33]

Petitioners' assumption that import prices are set soley to undercut U.S. producer prices in order to capture market share ignores the fact there is a highly competitive global market for

[26] *Id.* at II-19 (Table II-8).
[27] *See, e.g.*, Hearing Tr. at 46 (Nystrom).
[28] *Id.* at 51 (Canosa).
[29] *Id.* at 49 (Canosa).
[30] *See* Staff Report at II-12 – II-35.
[31] *Id.* at II-34 and II-35 (Table II-11).
[32] *Id.* at II-15 (Table II-6). *See also* Hearing Tr. at 147-150 (Johnson) and at 150-152 (Stauffer).
[33] Staff Report at II-15 (Table II-6). *See*, *e.g.*, Hearing Tr. at 147 (Johnson), at 152 (Stauffer) and at 156 (Moffitt).

wire rod. Prices for imports are set primarily in that market[34] and are not merely a function of U.S. prices.

Petitioners claim that low prices for imports are responsible for holding or forcing down U.S. prices during the POI. But, while underselling data on the record does not correlate with U.S. price declines, there is demonstrably a close correlation between prices for scrap and wire rod.[35] The fact is that "{n}egotiations with the domestic mills always start with the price of scrap."[36] Published reports of changes in wire rod prices generally cite to [ ] and are widely monitored by sellers and buyers.[37] As Petitioners know, U.S. pricing of wire rod "is extremely transparent,"[38] which makes their attempt to deny that scrap prices are the key determinant of wire rod prices all the more disingenuous.

Subject imports did not cause suppression or depression of U.S. producer prices, and the record does not support Petitioners' claim that targeted underselling by imports is a root cause of injury to the domestic industry.

D. The Georgetown And Lorain Mill Closures Are Not Related To Imports

Petitioners set great store by ambiguous statements issued by RS and AM at the time of the closing of their mills in Lorain, OH and Georgetown, SC that allude to import competition as a reason for the closure.[39] Given the long history of U.S. steel producers bringing trade cases, the only surprise would have been if the statements had not cited imports as a cause. This would not be the first time that a U.S. steel company's management blamed imports for its failings. In any

[34] Hearing Tr. at 188-189
[35] Staff Report at V-1 – V-3 and Turkish Exporters Producers Br., Exh. 4, attaching American Metal Market, *Past Monthly Averages for Scrap & Wire Rod, Jan. 2014 - Sept. 2017* (Oct. 30, 2017) ("*AMM Pricing Data*").
[36] Hearing Tr. at 152 (Stauffer). *See also id.* at 157 (Moffitt)
[37] Turkish Exporters Producers Br. at Exh. 4, *AMM Pricing Data*.
[38] Hearing Tr. at 49 (Canosa).
[39] *Id.* at 37 (Rosenthal).

event, even if imports were among the causes of the mills' problems, it is clear to answer Vice Chairman Johanson's question,[40] that subject imports were not the cause of the closures.

The RS Lorain mill was focused on the production of bar products, primarily for use in the oil and gas industry. Its wire rod production was incidental to bar production and consisted of products that mostly did not compete with either imported or domestic rod. The closure of the mill was due to a collapse in demand for bar products related to depressed conditions in the oil and gas sector and was completely unrelated to wire rod imports.[41]

The AM Georgetown mill was an aged, outdated and very high cost facility.[42] Its checkered history included bankruptcy, takeover by an investment firm that plundered the company and shutdowns due to persistent fuel leaks, fires and the great recession. The mill's harbor has silted up, and neither the federal nor the local government is willing to spend $70 million or more to dredge it. The local municipality wants to put the site to other uses. Finally, Nucor's construction of a new, state-of-the-art mill only 100 miles away in Darlington, SC has rendered the mill redundant.[43] None of these problems were due to imports. Either singly or in combination they provided ample, independent cause for closing the mill regardless of whether there were also problems caused by imports.

The closures of the Lorain and Georgetown mills for reasons other than import competition are significant because corresponding volumes "lost" to the domestic industry more than account for all of the declines in domestic industry shipments during the POI. In fact, eliminating either one from the calculation eliminates the false decline in U.S. industry market share attributed to imports. Once the closures are properly recognized as not due to imports and

[40] *Id.* at 82 (Johanson).
[41] *Id.* at 140-143 (Shields).
[42] Turkish Exporters Producers Br. at 19 and Exh. 5, attaching articles related to closing of Georgetown Mill.
[43] Hearing Tr. at 183-184 (Stauffer).

correctly accounted for, it is evident that the U.S. industry's market share increased substantially during the POI.[44]

III. U.S. IMPORTS FROM TURKEY SHOULD NOT BE CUMULATED WITH OTHER SUBJECT IMPORTS FOR PURPOSES OF COMMISSION'S THREAT ANALYSIS

Petitioners argue that subject imports should be cumulated for purposes of the threat analysis, in part, because "subject producers in multiple countries are members of large, complex, multi-national steel organizations, such as Arcelor Mittal or the CELSA Group, {and} cumulation is warranted to prevent subject producers from shifting purchases {*sic*}."[45] Producers in Turkey are not members of such steel organizations and this concern does not apply to Turkey.

The Commission should exercise its discretion and not cumulate for the purposes of determining threat of material injury because imports from Turkey have consistently been present in the U.S. market for the entire POI and even before. Turkish imports are not increasing at a similar rate as other imports, do not have similar margins of underselling and will not have price suppressing effect on domestic prices of merchandise due to the low volumes of imports compared to U.S. apparent consumption.[46]

IV. TURKISH IMPORTS DO NOT POSE A THREAT OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

The evidence on the record does not show any intention by Turkish producers to increase levels of export shipments to the United States such that the U.S. industry is threatened with

[44] Staff Report at C-5 (Table C-2). Figures adjusted using U.S. commercial shipment data from Preliminary phase producer questionnaire response for Republic and Final phase producer response for Arcelor Mittal.
[45] Pre-Hearing Brief on Behalf of Nucor Corporation at 15 (Nov. 9. 2017) (footnote omitted) ("Nucor Br.").
[46] Turkish Exporters Producers Br. at 21-24.

injury. Petitioners' claim that "Turkish exporters have demonstrated a 'hit-and-run' pattern of targeting the United States,"[47] is unsupported by the evidence on the record. U.S. imports from Turkey have consistently been present in the U.S. market throughout the entire period of review, and in previous years as well.[48] The market share for the U.S. merchant market of U.S. imports from Turkey was 3.6% between January to September 2017, which is consistent with its market share over the period of investigation which ranged from 2.3% to 5.9%.[49]

Petitioners' allegation that Turkish producers "are increasingly being pushed out of their home market by Chinese imports,"[50] is similarly not supported by the evidence on the record. The Staff Report shows that the home market shipments consistently take more than 70% of Turkey's wire rod shipments, and that percentage is projected to grow in 2017 and 2018 to almost 75%.[51] In 2016 when Turkish producers' shipments to their home market represented 72.6% of their total shipments, the lowest percentage over the period of investigation, exports from Turkey to the United States were also their lowest—at 4.0% of Turkish producers' shipments.[52] Petitioners' argument may be based on outdated articles from 2015.[53]

Petitioners express concern over the expansion of capacity in Turkey despite alleged decline in demand.[54] This concern is unfounded. As the Staff Report shows, the Turkish Producers have produced wire rod at high capacity utilization levels, and projected capacity utilization of 87.0% in 2017 and 88.5% in 2018, even taking into account their projections to

[47] Nucor Br. at 38.
[48] *See* Staff Report at VII-42 (Table VII-22) and Post-Conference Brief of the Turkish Producers & Exporters at Exh. 12, Turkey Wire Rod Exports by Country (April 21, 2017).
[49] Staff Report at IV-31 (Table IV-15).
[50] Nucor Br. at 38.
[51] Staff Report at VII-42 (Table VII-22).
[52] *Id.*
[53] *See* Nucor Br. at 38.
[54] *Id.* at 39.

modestly increase capacity from 2016 to 2018.[55] The evidence attached to our Pre-Hearing Brief included articles regarding the strength of the construction market in Turkey and the overall economic growth that is expected in Turkey as projected by the International Monetary Fund.[56]

Finally, Petitioners point to increases in export shipments from Turkey to both the United States and other countries as evidence that "Turkish producers will continue to ship massive quantities of wire rod to the United States" absent trade relief and also allege that Turkish producers face trade restraints in many other countries.[57] First, it is simply false that Turkish imports are facing increasing trade restraints in the countries listed by Petitioners. Only Egypt has a current AD/CVD investigation on Turkish wire rod; no other countries have issued AD/CVD duties against Turkish wire rod. Further, those countries are not major export destinations for Turkish wire rod, and none of the major export destinations for Turkish wire rod have restrictions. Second, while shipments of Turkish wire rod to the United States between January to September 2017 are higher than the volume shipped in 2016, the 2017 projection is still more than 100,000 short tons below the 2014 and 2015 volumes.[58] This does not qualify as shipping "massive quantities of wire rod to the United States." Similarly, the strength of other export markets for Turkish producers makes it less likely that those exports would be diverted to the United States. In our Pre-Hearing Brief we provided evidence that demand in those export markets remains strong.[59]

In sum, Petitioners' claims of unused capacity and weak domestic and export demand are not supported by the record. Due to high capacity utilization rates and strong demand in the domestic and export markets, Turkish producers do not threaten injury to the domestic industry.

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[55] Staff Report at VII-42 (Table VII-22).
[56] Turkish Exporters Producers Br. at Exhs. 10-12.
[57] *See* Nucor Br. at 40.
[58] Staff Report at VII-42 (Table VII-22).
[59] Turkish Exporters Producers Br. at Exhs. 7, 8, and 9.

V. THE COMMISSION SHOULD FIND THAT CRITICAL CIRCUMSTANCES DO NOT EXIST FOR TURKEY

If the Commission reaches the critical circumstances issue, it will determine whether any imports subject to Commerce's affirmative critical circumstances determination "are likely to undermine seriously the remedial effect of the countervailing duty order to be issued. . . ."[60] The Commission typically considers the following factors, among any other relevant factors:

> (I) the timing and the volume of the imports,
> (II) any rapid increase in inventories of the imports, and
> (III) any other circumstances indicating that the remedial effect of the countervailing duty order will be seriously undermined.[61]

Commerce preliminarily made a negative critical circumstances determination in the countervailing duty investigation for the two mandatory respondents from Turkey.[62] According to Table IV-3 in the Staff Report, U.S. imports from Turkey from the other producers increased by [ ] short tons between October 2016-March 2017 and April-September 2017.[63] In the April-September 2017 period, imports appeared in [ ].[64] "U.S. importers reported that [ ] percent of their commercial shipments were produced-to-order, with lead times averaging 101 days."[65] On a timing basis, product that arrived in the United States in April, May and June would have been ordered in December 2016 or January-March 2017. The timing does not support a determination that the imports were triggered by the filing of the petition on March 28, 2017 because the product is produced to order and has on average a 101 day lead time. Further, the volume of the increase in U.S. imports from Turkey subject to the critical

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[60] 19 U.S.C. 1671d(b)(4)(A)(i). The Commission also makes this determination for any imports subject to Commerce's affirmative critical circumstances determination relating to an antidumping duty order pursuant to 19 U.S.C. 1673d(b)(4)(A) but at this time, Commerce has made a negative critical circumstances finding in its antidumping duty investigation. *See Carbon and Alloy Steel Wire Rod From Turkey*, 82 Fed. Reg. 50377 (Dep't Commerce Oct. 31, 2017) (prelim. affirm. LTFV determ. & neg. crit. circumstances).
[61] 19 U.S.C. 1671d(b)(4)(A)(ii).
[62] *See AD Wire Rod Prelim. Determ.* at 41930.
[63] Staff Report at IV-9 (Table IV-3).
[64] *Id.*
[65] Staff Report at II-12.

circumstances determination as a percentage of apparent U.S. consumption from January-September 2017 is approximately [ ]%.[66] This percentage does not support a finding that these imports undermine seriously the remedial effects of the order.

Producers of wire rod in Turkey had decreases in end-of-period inventories from 2014-2016 of approximately 30%,[67] and inventories will remain below the 2014 level.[68] Inventory levels do not support a finding that these imports undermine seriously the remedial effects of the order. Commerce's negative critical circumstances determination as to all U.S. imports from Turkey subject to the antidumping duty investigation[69] and for imports from the two mandatory respondents in the countervailing duty investigation,[70] are additional circumstances that support a determination that the imports subject to the affirmative critical circumstances determination do not undermine seriously the remedial effects of the order.

VI. CONCLUSION

For the reasons stated we respectfully urge the Commission to make a negative determination of material injury or threat of material injury to a U.S. industry by reason of imports of subject merchandise from Turkey.

Respectfully submitted,

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[66] *See id.* at IV-31 (Table IV-15).
[67] *Id.* at VII-42 (Table VII-22).
[68] *Id.*
[69] *See AD Wire Rod Prelim. Determ.* at 41930.
[70] *See CVD Wire Rod Prelim. Determ.* at 41930.