

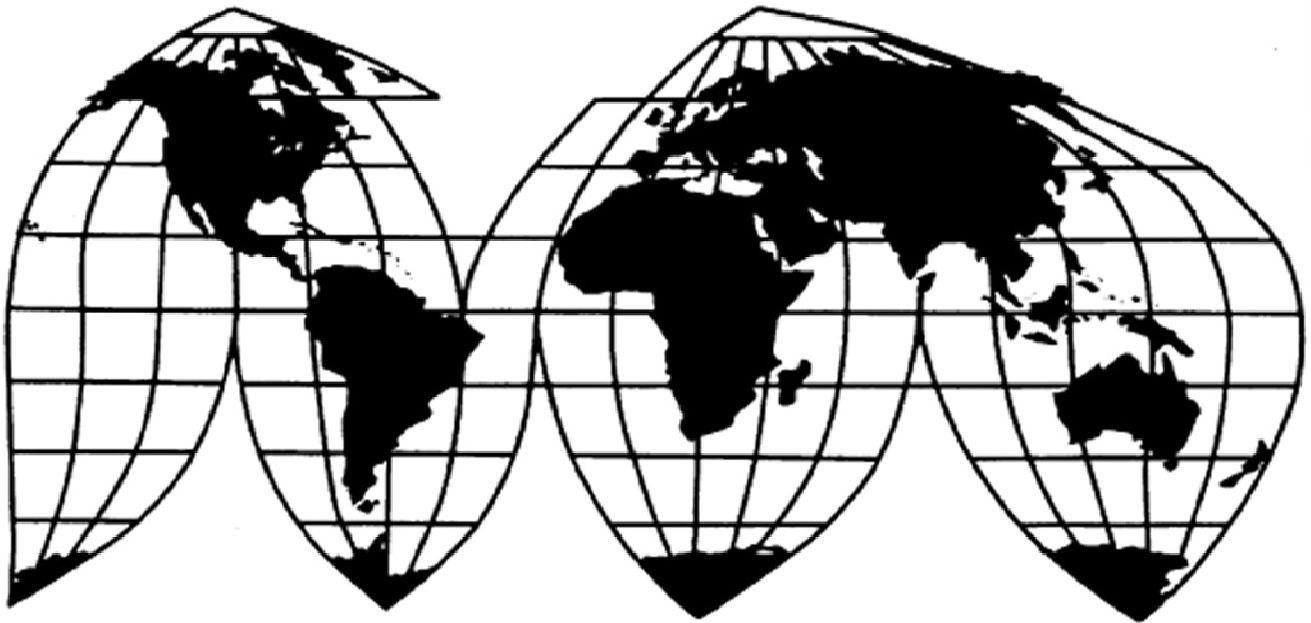
# **Certain Steel Nails From China and the United Arab Emirates**

Investigation Nos. 731-TA-1114 and 1115 (Preliminary)

**Publication 3939**

**August 2007**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1114 and 1115 (Preliminary)

## CERTAIN STEEL NAILS FROM CHINA AND THE UNITED ARAB EMIRATES

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China and the United Arab Emirates of certain steel nails, provided for in subheadings 7317.00.55, 7317.00.65, and 7317.00.75 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

### COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

### BACKGROUND

On May 29, 2007, a petition was filed with the Commission and Commerce by Davis Wire Corp. (Irwindale, CA), Gerdau Ameristeel Corp. (Tampa, FL), Maze Nails (Peru, IL), Mid-Continent Nail Corp. (Poplar Bluff, MO), and Treasure Coast Fasteners, Inc. (Fort Pierce, FL), alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain steel nails from China and the United Arab Emirates. Accordingly, effective May 29, 2007, the Commission instituted antidumping duty investigation Nos. 731-TA-1114 and 1115 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 4, 2007 (72 FR 30831). The conference was held in Washington, DC, on June 19, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).





## VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain steel nails (“nails” or “steel nails”) from China and the United Arab Emirates (“UAE”) that allegedly are sold in the United States at less than fair value (“LTFV”).

### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.<sup>1</sup> In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”<sup>2</sup>

### II. BACKGROUND

The antidumping petition in these investigations was filed on May 29, 2007. The petitioners, Davis Wire Corporation, Gerdau Ameristeel Corporation, Maze Nails, Mid Continent Nail Corporation, Treasure Coast Fasteners, Inc., and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“Petitioners”), are domestic producers and a union representing workers engaged in the production of certain steel nails. Petitioners participated at the June 19, 2007 conference conducted in these investigations and filed a postconference brief.<sup>3</sup> Five respondent parties participated in the conference and filed postconference briefs: (1) Dubai Wire FZE (“Dubai Wire”), \*\*\* UAE exporter and an UAE producer of subject nails; (2) a group of 24 Chinese producers and exporters (“Chinese Producers”); (3) Illinois Tool Works Inc. (“ITW”), a domestic producer that also is an importer from \*\*\* and has a subsidiary that is a Chinese producer of subject merchandise; (4) Hitachi Koki USA, Ltd. (“HKU”), an importer of subject merchandise from the UAE \*\*\*; and (5) a group of eight U.S. importers of subject nails from China (“U.S. Importers”). Four other respondents or groups of respondents participated at the conference but did not file briefs, including:

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<sup>1</sup> 19 U.S.C. § 1673b(a); see also, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

<sup>2</sup> American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

<sup>3</sup> These producers account for \*\*\* of U.S. production of steel nails. Confidential Staff Report (“CR”) and Public Staff Report (“PR”) at Table III-1. The Commission received questionnaire responses from 15 U.S. producers, accounting for \*\*\* of U.S. production of steel nails in 2006. CR/PR at III-1. The Commission also received questionnaire responses from 38 importers, of which 33 firms reported imports from China, accounting for (\*\*\*) of total U.S. imports from China during 2004 to 2006, and \*\*\* reported imports from the UAE, accounting for (\*\*\*) of total U.S. imports from the UAE during 2004 to 2006. CR/PR at IV-1 and Table IV-1. Finally, the Commission received questionnaire responses from 43 Chinese producers of steel nails, accounting for about 71 percent of U.S. imports from China in 2006, and one UAE producer, Dubai Wire, \*\*\* of steel nails to the United States. CR at VII-2 and VII-6/ PR at VII-2 and VII-4.

(1) Continental Materials, Inc., an importer of subject merchandise; (2) ITOCHU Building Products Co., Inc., an importer of subject merchandise from \*\*\*; (3) Black & Decker (U.S.), Inc. (“Black & Decker”), an importer of subject merchandise from \*\*\*; and (4) a second group of Chinese producers and a U.S. importer, XM International, Inc. (collectively, “XM”). Finally, one other respondent party, Stanley Fastening Systems, LP (“Stanley”), a domestic producer and an importer of subject nails from \*\*\*, filed a brief.

### III. DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY

#### A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>4</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>5</sup> In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . .”<sup>6</sup>

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.<sup>7</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>8</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>9</sup> Although the Commission must accept the determination of the U.S. Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly sold at LTFV,<sup>10</sup> the Commission

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<sup>4</sup> 19 U.S.C. § 1677(4)(A).

<sup>5</sup> 19 U.S.C. § 1677(4)(A).

<sup>6</sup> 19 U.S.C. § 1677(10).

<sup>7</sup> See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

<sup>8</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>9</sup> Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

<sup>10</sup> See, e.g., USEC, Inc. v. United States, Slip Op. 01-1421 (Fed. Cir. April 25, 2002) at 9 (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

determines what domestic product is like the imported articles Commerce has identified.<sup>11</sup> The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.<sup>12</sup>

## **B. Product Description**

In its notice of initiation, Commerce defined the imported merchandise subject to these investigations as:

certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to these proceedings are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.

Certain steel nails subject to these proceedings are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65 and 7317.00.75.

Excluded from the scope of these proceedings are roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope of these proceedings are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of these proceedings are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of these proceedings are thumb tacks, which are currently classified under HTSUS 7317.00.1000.<sup>13</sup>

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<sup>11</sup> Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

<sup>12</sup> Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int'l Trade 2000); Nippon Steel Corp. v. United States, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int'l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int'l Trade 1988).

<sup>13</sup> Certain Steel Nails from the People's Republic of China and the United Arab Emirates: Initiation of Antidumping Duty Investigations, 72 Fed. Reg. 38816 (July 16, 2007).

The subject merchandise includes certain steel nails, having a shaft length of up to 12 inches, produced from various grades of steel, and having a variety of finishes, heads, shanks, points and sizes. Specifically excluded from the subject merchandise are roofing nails of any length or diameter, either collated or in bulk, and whether or not galvanized.

### C. Domestic Like Product

Petitioners propose, and all respondents, except one, agree for purposes of the preliminary phase investigations that a single domestic like product should be found: certain steel nails, coextensive with the scope of investigation.<sup>14</sup> At the Commission conference, importer Black & Decker proposed that the scope of investigation cover “two distinct like products . . . [and] domestic industries – construction-based nails and woodworking-based nails,” also commonly known as finish nails.<sup>15</sup>

Based on the evidence, as discussed below,<sup>16</sup> we find that certain steel nails are all part of a continuum with no clear dividing line between different types of nails.<sup>17</sup> Thus, we define a single domestic like product consisting of certain steel nails, coextensive with the scope of investigation.

*Physical Characteristics and End Uses.* All steel nails share the same basic characteristics, consisting of a head, shaft, and point, and are produced to the same industry-wide standards.<sup>18</sup> Steel nails may be produced of low-carbon steel, stainless steel (to resist corrosion), or hardenable medium- to high-carbon steel.<sup>19</sup> Steel nails are made in a wide variety of types, sizes and finishes.<sup>20</sup> They have a common

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<sup>14</sup> Petitioners’ Postconference Brief at 2-6; Conference Tr. at 41-44 and 166; Chinese Producers’ Postconference Brief at 3; Dubai Wire’s Postconference Brief at 1. Petitioners, moreover, contend that the domestic like product should not be subdivided into two separate like products, one for construction nails and one for woodworking nails, as proposed by importer Black & Decker. Petitioners’ Postconference Brief at 2.

<sup>15</sup> Conference Tr. at 156. According to Black & Decker, “[w]oodworking nails and construction nails are not interchangeable and have different physical characteristics, uses, channels of distribution, production processes, customer perceptions and price.” Conference Tr. at 156-162 and Attachment (Black & Decker – Nail Anti-dumping Investigation). Black & Decker’s proposal does not include a distinction between collated and bulk nails. *Id.* at 168. Black & Decker also alleges that “imports are not causing material injury or the threat of material injury to the domestic industry producing woodworking nails.” *Id.* at 156 and 161-162. Black & Decker estimated that the steel nail market is about 84 percent construction nails and 16 percent woodworking nails. *Id.* at 156-157.

<sup>16</sup> See CR at I-10-I-18; PR at I-10-I-13.

<sup>17</sup> Accord Softwood Lumber from Canada, Inv. Nos. 701-TA-404 and 731-TA-928 (Final), USITC Pub. 3509 at 6-15 (May 2002); Professional Electric Cutting and Sanding/Grinding Tools from Japan, Inv. No. 731-TA- 571 (Final), USITC Pub. 2658 at 8-10, and 49-51 (July 1993); Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea (“PET Film”), USITC Pub. 2383 at 8 and 10 (May 1991).

<sup>18</sup> CR at I-11; PR at I-9; Petitioners’ Postconference Brief at 4.

<sup>19</sup> CR at I-11; PR at I-9.

<sup>20</sup> For example, some types of steel nails (and specific characteristics for each) include: common nail (flat head, diamond point); finishing nail (cupped brad head, diamond point); flooring nail (casing head, blunt point); pallet nail (flat head, screw shank, diamond point); and drywall nail (sinker head, ring shank, needle point). See e.g., Certain Steel Wire Nails from the People’s Republic of China, Inv. No. 731-TA-266, USITC Pub. 1842 at A-5 (Figure 1) and A-49-53 (Appendix C) (May 1986). Nails also are produced in a variety of finishes, including bright (unfinished), galvanized (i.e., zinc coated to impart corrosion-resistance), vinyl coated (facilitates driving), cement coated (facilitates grip once driven), and painted. Petition at 8. About 75 percent by quantity and 60 percent by value of U.S. producers’ reported U.S. shipments of steel nails in 2006 had a bright finish, whereas about 20 percent by quantity and 34 percent by value had a galvanized finish. Calculated from CR/PR at Table III-5.

end use of fastening two pieces of material, generally wood, together.<sup>21</sup> Specific uses for nails include the building of houses and other structures – both for structural framing and interior applications, decks and fences, cabinets and furniture, and crates and pallets for shipping.<sup>22</sup> Nails are either packaged in bulk, *i.e.*, loose in a container, or collated, *i.e.*, joined with wire, paper strips, plastic strips, or glue, into coils or straight strips for use in pneumatic nailing tools.<sup>23</sup> While woodworking nails generally may be of shorter length and smaller diameter than construction-type nails,<sup>24</sup> there is no clear delineation regarding the types and/or sizes of nails that would be included in each of these categories or such other possible categories of nails as industrial-type nails used to make crates or pallets.<sup>25</sup>

*Interchangeability.* There are some limitations on the interchangeability of steel nails resulting from differences in types, sizes and finishes, as well as the compatibility of even the same type of nail with different nailing tools.<sup>26</sup> However, limitations on interchangeability among a wide variety of types of products comprising a continuum is not unexpected.

*Channels of Distribution.* Both U.S. producers and U.S. importers of subject merchandise primarily sold their steel nails to distributors.<sup>27</sup> While the evidence provided by Black & Decker shows some differences in channels of distribution for construction-based nails and woodworking-based nails, there still is significant overlap in the channels of distribution for both product types.<sup>28</sup>

*Manufacturing Facilities, Production Processes, and Employees.* Most steel nails are produced from steel wire, with a small share of nails produced from steel plate and referred to as “cut nails.”<sup>29</sup> Wire nails are produced by one of two general methods: single wire and multiple wire.<sup>30</sup> Using the more common single-wire method, a wire is fed into a nail machine that automatically straightens the wire, forms the head and cuts the nail from the wire. Depending on the type of machinery used, either rotary heading or cold heading, the head of the nail can be formed either first or last in the process.<sup>31</sup> Both types of nail machines are used to produce all styles of nails, including finish nails, and some manufacturers

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<sup>21</sup> CR at I-8; PR at I-6; Petitioners’ Postconference Brief at 4-5; USITC Pub. 1842 at A-4.

<sup>22</sup> CR/PR at II-1.

<sup>23</sup> CR at I-11; PR at I-9. About 77 percent by quantity and 85 percent by value of U.S. producers’ reported U.S. shipments of steel nails in 2006 were collated nails. CR/PR at Table III-5.

<sup>24</sup> Black & Decker specifically contends that the woodworking nails generally are shorter in length and smaller in diameter than construction nails and are used for molding installation, indoor use, and in cabinet and woodworking shops, whereas construction nails are used for stick framing, new construction, and deck and fence building. Conference Tr. at 156-162 and Attachment (Black & Decker – Nail Anti-dumping Investigation).

<sup>25</sup> CR/PR at II-1.

<sup>26</sup> Petitioners’ Postconference Brief at 5; Conference Tr. at 158 and Attachment.

<sup>27</sup> CR/PR at Table II-1. In 2006, sales to distributors accounted for 84.1 percent of U.S. producers’ U.S. shipments, 88.0 percent of U.S. importers’ U.S. shipments of imports from China, and \*\*\* of U.S. importers’ U.S. shipments of imports from the UAE. *Id.*

<sup>28</sup> According to Black & Decker, construction nails primarily are sold at independent specialty shops (82 percent), and woodworking nails “primarily” are sold by large retailers (58 percent), but with 42 percent sold to independent specialty shops. Conference Tr. at 159.

<sup>29</sup> CR at I-12; PR at I-9. Although cut nails may be made for carpentry use, the main uses are for joining masonry or concrete and for flooring in applications where an antique appearance is required. CR at I-15; PR at I-11.

<sup>30</sup> CR at I-12; PR at I-9.

<sup>31</sup> CR at I-12 and I-13; PR at I-9 and I-10; Petitioners’ Postconference Brief at 5.

have both types in their facilities.<sup>32</sup> On the other hand, the multiple wire method is limited to the production of small-diameter nails with no head or a countersinkable head, often called “brads” or “finish nails.”<sup>33</sup>

*Producer and Customer Perceptions.* Overall, producers and customers perceive certain steel nails to be a single product comprised of a broad mix of nail types.<sup>34</sup> Nevertheless, depending on the application, a purchaser may use one specific type and/or finish of steel nail and not another type of nail.

*Price.* The evidence suggests that prices for woodworking-based nails are substantially higher than those for construction-based nails.<sup>35</sup> However, it is not clear whether there are similar price variations across the continuum of other types of steel nails.<sup>36</sup>

*Conclusion.* Certain steel nails, whether used by the construction industry, woodworkers, or other sectors, including industrial applications, share certain general physical characteristics and uses, are sold primarily to distributors, are produced in similar production processes, and generally are perceived to be similar products. Limitations in interchangeability among types of steel nails comprising a continuum product are not unexpected.<sup>37</sup> Thus, we define a single domestic like product consisting of certain steel nails, coextensive with the scope of investigation.

#### **D. Domestic Industry and Related Parties**

##### **1. Domestic Industry**

The domestic industry is defined as the domestic “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>38</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

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<sup>32</sup> CR at I-14; PR at I-11. Both type of machines are capable of producing a range of nail sizes and head and point styles by changing tooling and adjustments. *Id.* While Respondents have alleged that many types of nails imported from China and the UAE are not made by domestic producers, such producers indicate that they collectively are capable of producing the full range of nail products. Compare Chinese Producers’ Postconference Brief at 21 and Conference Tr. at 80.

<sup>33</sup> CR at I-14; PR at I-11; Conference Tr. at 159-160.

<sup>34</sup> See, e.g., Petitioners’ Postconference Brief at 6. According to Black & Decker, customers of construction nails typically shop based on price and have the option of many generic brands, whereas customers of woodworking nails typically shop based on compatibility, quality, and convenience, along with a strong brand name. Conference Tr. at 160 and Attachment.

<sup>35</sup> According to Black & Decker, the average retail price of woodworking nails was \$2.74 per pound compared to \$0.81 per pound for construction nails. Conference Tr. at 161 and Attachment.

<sup>36</sup> CR at I-17; PR at I-13.

<sup>37</sup> See, e.g., Carbon and Certain Alloy Steel Wire Rod from China, Germany, and Turkey, Inv. Nos. 731-TA-1099-1101 (Preliminary), USITC Pub. 3832 at 10 (January 2006) (“a lack of interchangeability among products comprising a continuum is not unexpected and not inconsistent with finding a single like product”); Outboard Engines from Japan, Inv. No. 731-TA-1069 (Preliminary), USITC Pub. 3673 at 7-8 (March 2004) (“A lack of interchangeability between products at either end of a continuum is not inconsistent with a finding of a single domestic like product when the products are all part of a continuum.”).

<sup>38</sup> 19 U.S.C. § 1677(4)(A).

Based on our finding that the domestic like product is certain steel nails, for purposes of these preliminary determinations we define a single domestic industry corresponding to the merchandise subject to investigation.

## 2. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.<sup>39</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>40</sup>

### a. Parties' Arguments

*Petitioners.* Petitioners contend that "appropriate circumstances exist to exclude \*\*\* – from the U.S. industry as related parties."<sup>41</sup> According to Petitioners, "[e]ach of these companies \*\*\*."<sup>42</sup>

*Respondents.* Chinese Producers, Dubai Wire, ITW, and Stanley urge the Commission not to exclude any U.S. producers as related parties.<sup>43</sup> They contend that the primary interests of these related parties lie in increasing U.S. production and that excluding the related party U.S. producers would skew

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<sup>39</sup> 19 U.S.C. § 1677(4)(B).

<sup>40</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g., Torrington Co. v. United States*, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. These latter two considerations were cited as appropriate factors in *Allied Mineral Products, Inc. v. United States*, —F. Supp. 2d—, Slip Op. 04-139 (Ct. Int'l Trade November 12, 2004) at 5-6 ("The most significant factor considered by the Commission in making the 'appropriate circumstances' determination is whether the domestic producer accrued a substantial benefit from its importation of the subject merchandise."); *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 12 (Ct. Int'l Trade 2001) ("the provision's purpose is to exclude from the industry headcount domestic producers substantially benefitting from their relationships with foreign exporters."), *aff'd*, Slip Op. 01-1421 (Fed. Cir. April 22, 2002); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) ("where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry").

<sup>41</sup> Petitioners' Postconference Brief at 8. Petitioners also maintain that \*\*\* other U.S. producers, \*\*\* that are related parties because they imported subject merchandise should not be excluded. *Id.* at 15.

<sup>42</sup> Petitioners' Postconference Brief at 8. They contend that it is necessary to exclude these companies to avoid skewing the industry database. *Id.* at 7-15.

<sup>43</sup> *See* Chinese Producers' Postconference Brief at 3-10; Stanley's Postconference Brief at 2-10; ITW's Postconference Brief at 3-11; Dubai Wire's Postconference Brief at 17.

the pertinent industry data and “inaccurately portray the U.S. industry as less healthy than it is by focusing the Commission’s analysis on producers accounting for the \*\*\* of the U.S. industry.”<sup>44</sup>

## b. Analysis

Seven U.S. producers, \*\*\* reported that they imported the subject merchandise during the period of investigation.<sup>45</sup> Thus, they qualify as “related parties” under 19 U.S.C. § 1677(4)(B) and, therefore, we must consider whether “appropriate circumstances” exist to exclude any of these U.S. producers from the domestic industry on the basis of those importations.<sup>46</sup>

For purposes of the preliminary phase of these investigations, we determine that appropriate circumstances exist to exclude four U.S. producers (ITW, Senco, Specialty Fasteners, and Stanley) from the domestic industry.<sup>47</sup> As discussed below, each of these four domestic producers has imported \*\*\* and increasing volumes of subject merchandise over the period of investigation as their domestic production of steel nails has declined, indicating that their primary interest is shifting from domestic production to importation. Moreover, the evidence suggests, at least for some of those excluded, that they may have benefitted from the importation of subject merchandise.<sup>48</sup> We recognize that, in determining that appropriate circumstances exist to exclude these producers, we have excluded producers accounting for \*\*\* of total U.S. production in 2006. Thus, in any final phase of these investigations, we intend to reexamine the appropriate application of the related parties provision, as well as the factual allegations. In doing so, we will explore more fully the extent to which the significant importation by a number of firms indicates a primary interest in importation as opposed to domestic production. For example, importation may be due to a need to provide customers with a full product line by supplementing domestic production with imports, or it may indicate a shift away from domestic production. The evidence in the preliminary phase of these investigations also shows significant disparities in the

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<sup>44</sup> Stanley’s Postconference Brief at 9; see also ITW’s Postconference Brief at 11; Chinese Producers’ Postconference Brief at 3-10.

<sup>45</sup> CR/PR at Table III-6. While another U.S. producer, \*\*\*, also reported importing from China in 2006 and 2007, \*\*\*. Id. at Tables III-1 and III-6. According to \*\*\*. Id. at Table III-6, n.3.

<sup>46</sup> In addition, two other U.S. producers, \*\*\* reported purchases of subject merchandise that if deemed to constitute control of a large volume of subject imports would also qualify them as related parties. CR/PR at Table III-6. \*\*\*. Id. at III-9, n.7. \*\*\*. Based on the limited information regarding these purchases and \*\*\* as well as the relatively small volumes involved, we do not find either of these U.S. producers to be a related party for purposes of these preliminary phase investigations. However, we plan to seek information regarding these purchases and any relationship with importers of subject merchandise, and thus will reconsider this issue in any final phase investigations.

<sup>47</sup> Commissioner Lane determines that appropriate circumstances exist to exclude three U.S. producers, ITW, Senco, and Stanley, from the domestic industry. She notes that the fourth U.S. producer, Specialty Fasteners, excluded by the Commission majority accounted for \*\*\* of domestic production in 2006. CR/PR at Table III-1. Thus, for the most part, the data for the domestic industry defined by Commissioner Lane varies \*\*\* from the data for the domestic industry defined by the Commission majority.

<sup>48</sup> Consistent with her practice in past investigations and reviews, Vice Chairman Aranoff does not rely on individual-company operating income margins in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic shipments and whether its primary interests lie in domestic production or importation.

In these preliminary investigations, she has determined that the primary interests of the four excluded producers lie principally in importation rather than domestic production based on \*\*\*.



performance indicators, particularly regarding profitability, among the domestic producers.<sup>49</sup> We intend to seek information in any final phase of these investigations regarding the extent to which any related parties are benefitting from the subject imports and whether they conduct their operations, including the types of products they import and the types of products they produce domestically, so as to be shielded from any injurious effects of the subject imports.

*ITW.* ITW<sup>50</sup> imported increasing volumes of subject merchandise from \*\*\* in 2005 and 2006.<sup>51</sup> ITW accounted for \*\*\* of reported U.S. steel nail production in 2006.<sup>52</sup> Its ratio of combined subject imports to production was \*\*\* in 2006; its ratio for combined subject imports to U.S. production was \*\*\*.<sup>53</sup> According to ITW, \*\*\* resulted in its establishment of a facility in China – “\*\*\*.”<sup>54</sup> As ITW started importing subject merchandise in \*\*\* and as such imports increased in 2006, its domestic production of steel nails declined \*\*\* from \*\*\* in 2006.<sup>55</sup> ITW’s total volume of domestic production and subject imports in 2006 of \*\*\* is similar to its total volume in 2005 of \*\*\*, although the share of the total consisting of domestic production is \*\*\*.<sup>56</sup> While it appears that ITW may have imported from \*\*\*,<sup>57</sup> its \*\*\* to its wholly owned facility in China suggests that its primary interest is shifting to importation rather than domestic production, although it still remains a significant U.S. producer. Moreover, as it has shifted to importation, its operating income as a ratio of net sales has \*\*\* in 2006.<sup>58</sup> This suggests that ITW’s domestic operations may be \*\*\* from importing subject merchandise. Furthermore, ITW opposes the petition in these investigations.<sup>59</sup> We find that appropriate circumstances

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<sup>49</sup> For purposes of these preliminary investigations, Commissioner Pinkert does not rely upon related parties’ financial performance as a factor in determining whether there are appropriate circumstances to exclude them from the domestic industry and relies instead on other information relevant to this issue. The present record is not sufficient to infer from the related parties’ profitability on U.S. operations that they have derived a specific benefit from importing or from their relationships to foreign producers. See *Allied Mineral Products*, Slip Op. 04-139, at 8. For the final investigations, Commissioner Pinkert invites the parties to provide any information they may have with respect to whether related parties are benefitting financially from their status as related parties.

<sup>50</sup> ITW consists of three divisions that produce subject nails: Industrial Fastening, Paslode, and Ramset. \*\*\*.  
CR at III-9, n.7; PR at III-6, n.7.

<sup>51</sup> ITW imported \*\*\*. CR/PR at Table III-6.

<sup>52</sup> Calculated from CR/PR at Table III-1.

<sup>53</sup> CR/PR at Table III-6. Its ratio of imports from \*\*\* in 2006. *Id.*

<sup>54</sup> CR/PR at Table III-6, n.6; ITW’s Postconference Brief at 6. According to ITW, “its paramount interests lie in domestic production, it is not shielded from injury based on its importing activities, and its inclusion in the domestic industry does not skew the industry results.” ITW’s Postconference Brief at 4. ITW contends that it “is first and foremost a U.S. producer of nails, despite its ownership of a plant in China and its importing activities.” *Id.* ITW maintains that it began production in June 2005 at a wholly owned production facility in Shanghai, China “because of the lack of ready and consistent availability of wire rod in the U.S. market starting in 2004” and that its “imports from its plant in China consist of specialized, premium priced products, comparable to the other premium products that it makes in its U.S. facilities.” *Id.* at 6.

<sup>55</sup> CR/PR at Table III-6.

<sup>56</sup> CR/PR at Table III-6.

<sup>57</sup> CR/PR at Table III-6, n.6; ITW’s Postconference Brief at 7 (ITW indicated that it “\*\*\* to expand ITW’s range of customer offerings.”).

<sup>58</sup> CR/PR at Table VI-2. ITW reported an operating income margin of \*\*\* in interim period 2007. *Id.*

<sup>59</sup> CR/PR at Table III-1. The Commission may consider whether a producer supports or opposes the petition as one factor in deciding whether appropriate circumstances exist to exclude that producer as a related party, but support or opposition to the petition is not dispositive of the question. See e.g., *Allied Mineral Products, Inc. v.*

(continued...)

exist to exclude ITW from the domestic industry for purposes of the preliminary phase of these investigations. However, we plan to reconsider this exclusion in any final phase of these investigations.

*Senco.* Senco imported steadily increasing volumes of subject merchandise from \*\*\*<sup>60</sup> and produced steadily decreasing volumes at its domestic production facility over the period of investigation.<sup>61</sup> Senco accounted for \*\*\* of reported U.S. steel nail production in 2006.<sup>62</sup> Its ratio of imports from \*\*\* in 2006.<sup>63</sup> According to Senco, it imports steel nails because of a “\*\*\*.”<sup>64</sup> Its decreasing domestic production and \*\*\* increases in subject imports, both in volume and as a share of its U.S. production, indicate that its primary interest is \*\*\*. Moreover, Senco may be \*\*\*.<sup>65</sup> Furthermore, Senco \*\*\* the petition in these investigations.<sup>66</sup> We find that appropriate circumstances exist to exclude Senco from the domestic industry for purposes of the preliminary phase of these investigations. However, we plan to reconsider this exclusion in any final phase of these investigations.

*Specialty Fasteners.* Specialty Fasteners imported subject merchandise from \*\*\* in steadily increasing amounts from 2005 to 2006.<sup>67</sup> In 2006, it accounted for \*\*\* of domestic production.<sup>68</sup> As Specialty Fasteners’ domestic production \*\*\* over the period of investigation, its importation increased. Its ratio of imports from \*\*\* in 2006.<sup>69</sup> According to Specialty Fasteners, “\*\*\*.”<sup>70</sup> It is not clear whether Specialty Fasteners has \*\*\*.<sup>71</sup> Moreover, \*\*\* Specialty Fasteners \*\*\* the petition,<sup>72</sup> its primary interests seem to be \*\*\*. We find that appropriate circumstances exist to exclude Specialty Fasteners from the domestic industry for purposes of the preliminary phase of these investigations.<sup>73</sup> However, we plan to reconsider this issue in any final phase of the investigations.

*Stanley.* Stanley imported subject merchandise from \*\*\* in ever-increasing amounts during the period of investigation, while its domestic production declined over the same period.<sup>74</sup> Stanley accounted

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<sup>59</sup> (...continued)

United States, Slip Op. 04-139 (Ct. Int’l Trade Nov. 12, 2004) at 9-10 & n. 5.

<sup>60</sup> \*\*\*. CR at III-9, n.7; PR at III-6, n.7. Senco imported. Id. at Table III-6.

<sup>61</sup> Senco’s domestic production of steel nails declined from \*\*\* in 2006. CR/PR at Table III-6.

<sup>62</sup> CR/PR at Table III-1.

<sup>63</sup> CR/PR at Table III-6. Senco’s ratio of subject imports to U.S. production was \*\*\* in interim period 2007. Id.

<sup>64</sup> CR/PR at Table III-6, n.7.

<sup>65</sup> CR/PR at Table VI-2. Senco’s operating income as a ratio of net sales \*\*\* in 2006; it reported an operating income margin of \*\*\* in interim period 2007. Id.

<sup>66</sup> CR/PR at Table III-1.

<sup>67</sup> Specialty Fasteners imported \*\*\* in January-March 2007. CR/PR at Table III-6. \*\*\* in 2005, 2006, and interim period 2007. Id.

<sup>68</sup> CR/PR at Table III-1.

<sup>69</sup> CR/PR at Table III-6. Specialty Fasteners’ ratio of \*\*\* to its U.S. production \*\*\*. Id.

<sup>70</sup> CR/PR at Table III-6, n.10.

<sup>71</sup> CR/PR at Table VI-2. For example, Specialty Fasteners’ operating income as a ratio of net sales \*\*\* in 2006; it reported an \*\*\* in interim period 2007. Id.

<sup>72</sup> CR/PR at Table III-1.

<sup>73</sup> Commissioner Lane does not join this conclusion.

<sup>74</sup> \*\*\* CR at III-9, n.7; PR at III-6, n.7. Stanley imported \*\*\*. CR/PR at Table III-6. \*\*\* in 2005, 2006 and interim period 2007. Id. at Table III-6. Stanley’s domestic production of steel nails fluctuated between years and  
(continued...)

for \*\*\* of reported U.S. steel nail production in 2006.<sup>75</sup> Its ratio of combined subject imports to U.S. production increased from \*\*\* in 2006.<sup>76</sup> Its ratio of combined subject imports to U.S. production was \*\*\* in interim period 2007.<sup>77</sup> While Stanley indicates that it imports to \*\*\*, it adds that “\*\*\*.”<sup>78</sup> Stanley’s increasing importation through its affiliation with Chinese producers as its domestic production declined \*\*\* indicates that its primary interest is shifting to importation rather than domestic production. The record indicates that Stanley’s financial performance \*\*\*.<sup>79</sup> Furthermore, Stanley \*\*\* the petition.<sup>80</sup> We find that appropriate circumstances exist to exclude Stanley from the domestic industry for purposes of the preliminary phase of these investigations. However, we plan to reconsider this exclusion in any final phase of the investigations.

\*\*\*. \*\*\* imported \*\*\* quantities of subject merchandise from \*\*\* in 2005.<sup>81</sup> These imports as a share of \*\*\*’s U.S. production in 2004 and 2005 were only about \*\*\*.<sup>82</sup> \*\*\* accounted for \*\*\* of domestic production in 2006.<sup>83</sup> Its domestic production continued to \*\*\* the volume of its subject import shipments over the period of investigation and, therefore, its interests appear to be primarily those of a domestic producer.<sup>84</sup> \*\*\* is a petitioner and supports the petition.<sup>85</sup> Moreover, its financial performance \*\*\*<sup>86</sup> which suggests that \*\*\* does not appear to have \*\*\*. We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry.

\*\*\*. \*\*\* has imported \*\*\* volumes of subject merchandise from \*\*\* in each year of the period of investigation.<sup>87</sup> While the subject import volume has remained constant, it has \*\*\* \*\*\*’s declining

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<sup>74</sup> (...continued)

declined overall from \*\*\* in 2006. CR/PR at Table III-6.

<sup>75</sup> CR/PR at Table III-1.

<sup>76</sup> Calculated from CR/PR at Table III-6. Stanley’s ratio of imports from \*\*\* in 2006. Id.

<sup>77</sup> Calculated from CR/PR at Table III-6.

<sup>78</sup> CR/PR at Table III-6, n.9. According to Stanley, it “imports nails from China as an element of a coordinated marketing strategy that supports and increases production of nails \*\*\* in the United States. This marketing strategy enables Stanley to continue manufacturing nails in Rhode Island and to compete effectively in the U.S. market.” Stanley’s Postconference Brief at 5. According to Stanley, its “primary interest is as a U.S. manufacturer of nails \*\*\*. The output of Stanley’s affiliated factory in China supports Stanley’s production of nails in Rhode Island by contributing to Stanley’s \*\*\*.” Id. at 10.

<sup>79</sup> CR/PR at Table VI-2. For example, Stanley’s operating income as a ratio of net sales \*\*\* in 2006; it reported an operating income margin of \*\*\* in interim period 2007. Id.

<sup>80</sup> CR/PR at Table III-1.

<sup>81</sup> CR/PR at Table III-6.

<sup>82</sup> CR/PR at Table III-6.

<sup>83</sup> CR/PR at Table III-1.

<sup>84</sup> According to \*\*\*, it has imported in an effort to \*\*\*. CR/PR at Table III-6 at n. 2.

<sup>85</sup> CR/PR at Table III-1.

<sup>86</sup> For example, \*\*\*’s operating income as a ratio of net sales \*\*\* in 2006; its operating income margin of \*\*\* in interim period 2007. CR/PR at Table VI-2.

<sup>87</sup> CR/PR at Table III-6. According to \*\*\*, “\*\*\*.” Id. at n. 8.

U.S. production.<sup>88</sup> \*\*\* accounted for \*\*\* of domestic production in 2006,<sup>89</sup> and even though its domestic production has \*\*\*, its interests appear to be primarily those of a domestic producer, as its ratio of imports to U.S. production is \*\*\*. Furthermore, \*\*\* supports the petition in these investigations.<sup>90</sup> We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry.

\*\*\*. \*\*\* imported subject merchandise from \*\*\*, respectively.<sup>91</sup> \*\*\* accounted for \*\*\* of domestic production in 2006,<sup>92</sup> and even though its domestic production has \*\*\*, its interests appear to be primarily those of a domestic producer. Its ratio of imports from \*\*\* in 2006 and \*\*\* in interim period 2007.<sup>93</sup> According to \*\*\*, “\*\*\*.”<sup>94</sup> While the record indicates that \*\*\*’s financial performance \*\*\*,<sup>95</sup> \*\*\* the petition.<sup>96</sup> We find that appropriate circumstances do not exist to exclude Tree Island from the domestic industry.

#### IV. CUMULATION

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.<sup>97</sup> In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered the following factors:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.<sup>98</sup>

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject

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<sup>88</sup> Its subject imports as a ratio of U.S. production \*\*\* in 2006, and were \*\*\* in interim period 2007. CR/PR at Table III-6.

<sup>89</sup> CR/PR at Table III-1. \*\*\*. CR/PR at VI-1, n.1.

<sup>90</sup> CR/PR at Table III-1.

<sup>91</sup> CR/PR at Table III-6.

<sup>92</sup> CR/PR at Tables III-1.

<sup>93</sup> CR/PR at Table III-6.

<sup>94</sup> CR/PR at Table III-6, n.12.

<sup>95</sup> CR/PR at Table VI-2. For example, \*\*\*’s operating income margin as a ratio of net sales \*\*\* in 2006; it reported an operating income margin of \*\*\* in interim period 2007. *Id.*

<sup>96</sup> CR/PR at Table III-1.

<sup>97</sup> 19 U.S.C. § 1677(7)(G)(i).

<sup>98</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff’d*, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade), *aff’d*, 859 F.2d 915 (Fed. Cir. 1988).

imports compete with each other and with the domestic like product.<sup>99</sup> Only a “reasonable overlap” of competition is required.<sup>100</sup>

Petitioners contend that subject imports from China and the UAE should be cumulated on the basis that they are fungible with the domestic product and each other, are sold in the same geographic markets through common or similar channels of distribution, and were both present in the U.S. market during the three-year period of investigation.<sup>101</sup> Respondents generally do not contest cumulation and present arguments that are based on the assumption that subject imports will be cumulated for purposes of assessing the volume and effects of subject imports for determining material injury. However, one respondent, Dubai Wire, contends that “there is no reasonable overlap in competition between the UAE and others (i.e., the domestic industry or China) with respect to sales of steel nails in the United States.”<sup>102</sup>

In these investigations, the threshold criterion is met since the antidumping petitions with respect to subject imports from China and the UAE were both filed on the same day, May 29, 2007. None of the statutory exceptions to cumulation is applicable.<sup>103</sup> Subject imports from China and the UAE are thus eligible for cumulation. We next examine the four factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition.

*Fungibility.* The evidence indicates that there generally is interchangeability between domestically produced steel nails and steel nails from China and the UAE.<sup>104</sup> Steel nails, whether domestically produced or subject imports, are produced to certain industry specifications, including ICC and ASTM.<sup>105</sup> There are allegations that domestically produced steel nails are not available in the complete range of types of steel nails provided by subject imports<sup>106</sup> and that subject imports from the UAE in collated form may not be fully fungible with the domestic product and subject imports from China in bulk.<sup>107</sup> The evidence, however, shows that the domestic producers are capable of producing the full range of steel nail products offered by subject imports, if they are not already doing so,<sup>108</sup> and that

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<sup>99</sup> See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

<sup>100</sup> The SAA (at 848) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) (“cumulation does not require two products to be highly fungible”); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

<sup>101</sup> Petitioners' Postconference Brief at 20-22; Conference Tr. at 45-47.

<sup>102</sup> Dubai Wire's Postconference Brief at 2-16. According to Dubai Wire, “nails from the UAE are not fungible with nails from United States and China” because: 1) only Dubai Wire nails meet all quality standards, whereas other steel nail suppliers only satisfy one or two of these criteria; 2) Dubai Wire sells the full range of steel nail products and tailors shipments to reflect customer needs, “which largely distinguishes it from domestic producers (especially petitioners) and Chinese suppliers”; 3) only Dubai Wire's nails are essentially 100 percent “on spec quality-wise,” have superior packaging, and have a strong reputation for timely supply on a consistent basis; and 4) the UAE only supplies collated steel nails and thus is not present in the bulk steel nail market. Id.

<sup>103</sup> See 19 U.S.C. § 1677(7)(G)(ii).

<sup>104</sup> CR at I-15 and II-11-13; PR at I-11 and II-6-8.

<sup>105</sup> Conference Tr. at 46; Petitioners' Postconference Brief at 21.

<sup>106</sup> See, e.g., Chinese Producers' Postconference Brief at 20-26; HKU's Postconference Brief at 1-8; U.S. Importers' Postconference Brief at 2-4; Dubai Wire's Postconference Brief at 21-22; Conference Tr. at 117, 119, and 145.

<sup>107</sup> Dubai Wire's Postconference Brief at 3-4.

<sup>108</sup> See, e.g., Conference Tr. at 80.

there is simply a degree of customization or tailoring of the product mix for customer orders.<sup>109</sup> Although there is conflicting evidence regarding whether subject imports from the UAE are in both collated and bulk form,<sup>110</sup> the collated nails represent a substantial share of both subject imports from China and U.S.-produced steel nails.<sup>111</sup>

Finally, the majority of U.S. producers and importers found domestically produced steel nails are always or frequently interchangeable with steel nails from China and the UAE.<sup>112</sup> A majority of market participants who compared subject imports from different sources also found them to be always or frequently interchangeable.<sup>113</sup>

*Geographic Overlap.* The market for steel nails is not limited by geography and tends to be nationwide. U.S. producers reported nationwide sales of steel nails.<sup>114</sup> While subject imports may enter specific customs districts, they are sold throughout the United States.<sup>115</sup>

*Channels of Distribution.* During the period of investigation, the majority of shipments of domestically produced steel nails and the subject imports from China and the UAE were sold to distributors.<sup>116</sup>

*Simultaneous Presence.* Between 2004 and March 2007, subject imports of steel nails from China and the UAE have simultaneously been present in the U.S. market.<sup>117</sup> Specifically, subject imports from China and the UAE have entered the U.S. market in each of the 39 months from January 2004 to March 2007.<sup>118</sup>

*Conclusion.* The record indicates that both U.S.-produced steel nails and subject imports from China and the UAE are sufficiently fungible to support a finding of a reasonable overlap of competition, are primarily sold to distributors, have geographic overlaps in sales, and have been simultaneously present in the U.S. market during the entire period of investigation. We consequently conclude that the subject imports from China and the UAE compete with each other and with the domestic like product, and

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<sup>109</sup> See, e.g., Conference Tr. at 145-147, 151 and 153.

<sup>110</sup> Dubai Wire indicated that it only supplied collated nails. Dubai Wire's Postconference Brief at 3 and 4; CR/PR at Table C-4. However, Dubai Wire could not explain why official import statistics reported that collated steel nails accounted for only about 61 percent by quantity and 62 percent by value of total subject imports from the UAE in 2006. Calculated from CR/PR at Tables IV-3 and IV-4; Dubai Wire's Postconference Brief at n.15.

<sup>111</sup> About 46 percent by quantity and 52 percent by value of U.S. imports of steel nails from China in 2006 were collated nails. Calculated from CR/PR at Tables IV-3 and IV-4. Similarly, about 77 percent by quantity and 85 percent by value of U.S. shipments of steel nails in 2006 were collated nails. CR/PR at Table III-5.

<sup>112</sup> CR/PR at Table II-2.

<sup>113</sup> CR/PR at Table II-2.

<sup>114</sup> CR/PR at II-1. Specifically, nine of 16 responding U.S. producers reported nationwide sales, and another five reported sales to at least three regions. *Id.*

<sup>115</sup> CR/PR at Table IV-5. Specifically, 19 of 37 responding importers indicated that they sold nationwide, and another seven reported sales to at least three regions. *Id.* at II-1.

<sup>116</sup> CR/PR at Table II-1. Dubai Wire asserts that UAE steel nails have different marketing channels, given that "the vast majority of sales of Dubai Wire steel nails in the United States were conducted through a single purchaser \*\*\*," whereas U.S. product and imports from China are distributed through a variety of U.S. customers. Dubai Wire's Postconference Brief at 16.

<sup>117</sup> CR/PR at Table IV-6.

<sup>118</sup> CR/PR at Table IV-6.

we cumulatively assess the volume and effects of subject imports in determining a reasonable indication of material injury by reason of subject imports.

## **V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS<sup>119</sup>**

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.<sup>120</sup> In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>121</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>122</sup> In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>123</sup> No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>124</sup>

For the reasons stated below, we determine that there is a reasonable indication that the domestic industry producing certain steel nails is materially injured by reason of subject imports from China and the UAE.

### **A. Conditions of Competition and the Business Cycle**

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

#### **1. Demand Conditions**

Steel nails are primarily used to fasten or hold separate pieces of wood together.<sup>125</sup> They are produced in many different lengths, with a wide variety of heads, shanks, points, and finishes,<sup>126</sup>

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<sup>119</sup> Negligibility is not an issue in this investigation under 19 U.S.C. § 1677(24). The petition was filed on May 29, 2007. Subject imports from China accounted for 69.8 percent, and subject imports from the UAE accounted for 8.0 percent, of total imports of nails for the most recent 12-month period (May 2006-April 2007) for which data were available that preceded the filing of the petition. CR at IV-9; PR at IV-5 and IV-6.

<sup>120</sup> 19 U.S.C. §§ 1671b(a) and 1673b(a).

<sup>121</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

<sup>122</sup> 19 U.S.C. § 1677(7)(A).

<sup>123</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>124</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>125</sup> CR at I-8; PR at I-6.

<sup>126</sup> Nails are produced uncoated (bright) or with any of several different coatings such as zinc (to retard corrosion), cement (to provide better adherence in wood or other material into which the nail is to be driven), and paint (for improved appearance). CR at I-8; PR at I-6.

depending on the intended use. Steel nails are used primarily in the construction and industrial sectors.<sup>127</sup> In the construction sector, nails are used in the building of houses and other structures, while in the industrial sector, nails are used to make shipping crates and pallets. Nails are packaged either in bulk, *i.e.*, loose in a container, or collated, *i.e.*, joined with wire, paper or plastic strips, or glued into coils or straight strips for use in pneumatic nailing tools.<sup>128</sup> There has been a shift from bulk nail sales to collated nails due in large part to the increased availability and affordability of nail guns.<sup>129</sup>

Apparent U.S. consumption of steel nails declined steadily during the period examined from 1.24 million short tons in 2004 to 1.15 million short tons in 2006, for an overall decrease of 6.8 percent.<sup>130</sup> Demand for steel nails largely is determined by the size of the construction market, the single largest end user of steel nails. According to questionnaire responses, demand for steel nails was high in 2004 and 2005 due to a boom in new construction and declined in the second half of 2006 due to a notable slowdown in construction.<sup>131</sup> This slowdown in construction is evident in apparent U.S. consumption for interim period 2007 (199,261 short tons), which is 33.7 percent lower than interim period 2006 (300,597 short tons).<sup>132</sup>

## 2. Supply Conditions

During the period of investigation, there were 17 domestic producers accounting for \*\*\* U.S. production of steel nails.<sup>133</sup> The domestic industry's capacity to produce steel nails has not only declined substantially during the period of investigation, but its capacity utilization has also dropped; thus, the

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<sup>127</sup> CR/PR at II-1.

<sup>128</sup> CR at I-11; PR at I-9.

<sup>129</sup> CR/PR at II-1 and Tables III-5, IV-3, and IV-4. About 77 percent by quantity and 85 percent by value of U.S. producers' reported U.S. shipments of steel nails in 2006 were collated nails. CR/PR at Table III-5. About 46 percent by quantity and 52 percent by value of U.S. imports of steel nails from China in 2006 were collated nails. Calculated from CR/PR at Tables IV-3 and IV-4. While Dubai Wire indicated that it only supplied collated nails, the official import statistics reported that collated steel nails accounted for only about 61 percent by quantity and 62 percent by value of total subject imports from the UAE in 2006. Calculated from *Id.* at Tables IV-3 and IV-4; Dubai Wire's Postconference Brief at 3 and 4.

<sup>130</sup> CR/PR at Tables IV-7 and C-3. Responses from domestic producers and importers were mixed regarding whether demand had increased during the period of investigation. However, the trend that many responding firms describe is the same: demand rose in 2004 as a result of a housing boom and a strong hurricane season, remained high or rose through 2005, and fell in 2006 as the housing boom slowed. CR at II-8; PR at II-6.

<sup>131</sup> CR/PR at II-1. Respondents argued that 2004 was "an aberrational year" and urged the Commission not to use it as a benchmark. *See, e.g.*, Conference Tr. at 15, 121 and 210; Chinese Producers' Postconference Brief at 26-28. Petitioners contended that 2004 was not a boom year and urged the Commission to use the three-year period of investigation beginning with 2004, which is consistent with longstanding Commission practice. Petitioners' Postconference Brief at 16-18.

<sup>132</sup> CR/PR at Tables IV-7 and C-3.

<sup>133</sup> CR/PR at Table III-1. The Commission received questionnaire responses from 15 of the 17 U.S. producers. *Id.* at III-1. As discussed above, we determine that appropriate circumstances exist to exclude four U.S. producers from the domestic industry as related parties for purposes of the preliminary phase of these investigations.



industry has substantial and increasing excess capacity.<sup>134</sup> A number of U.S. producers of steel nails reported both mill closures and the consolidation and curtailment of production from 2004 to 2006.<sup>135</sup>

The domestic industry historically has supplied only a portion of the U.S. market for steel nails with the remainder supplied by imports.<sup>136</sup> Domestic producers' share of the U.S. market by quantity has declined steadily from \*\*\* in 2004 to \*\*\* in 2006.<sup>137</sup> Subject imports' share of the U.S. market by quantity has increased from 33.3 percent in 2004 to 60.5 percent in 2006.<sup>138</sup> Finally, the U.S. market share by quantity held by nonsubject imports decreased steadily from 38.1 percent in 2004 to 19.9 percent in 2006.<sup>139</sup>

### **3. Substitutability and Other Conditions**

Steel nails are produced to certain industry specifications, including ICC and ASTM.<sup>140</sup> While the type, size and finish may limit the interchangeability of a specific product for a particular end use, this limitation applies whether it is a U.S. product, subject import, or non-subject import. Thus, the record supports the conclusion that steel nails are generally interchangeable within type, size and finish, regardless of where produced. The majority of responding U.S. producers and importers reported that the U.S. product, the subject imports, and non-subject imports are frequently or always interchangeable.<sup>141</sup>

The parties, however, disagree on whether the types of nails supplied by the domestic producers compete with nails imported from China and the UAE. Respondents allege that U.S. producers only manufacture a limited range of products that does not compete with the wider range and variety of packaging options available from Chinese or UAE producers.<sup>142</sup> They allege there are numerous categories of subject nails, including common varieties, that domestic producers do not produce and that competition between domestically produced nails and a substantial volume of the subject imports is therefore attenuated.<sup>143</sup> Domestic producers counter that "the problem is not an inability of U.S.

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<sup>134</sup> CR/PR at Table C-3. The domestic industry's capacity declined by \*\*\* from 2004 to 2006. Id. Moreover, capacity utilization decreased from \*\*\* in 2005, and then to \*\*\* in 2006. Id.

<sup>135</sup> CR at III-5 and Tables III-2 and C-3; PR at III-3 and Tables III-2 and C-3. Examples of closures and consolidations include: Mid Continent \*\*\* a newly opened steel nail facility in Texas in 2004, but then in early 2007 discontinued its manufacturing of steel nails at the Texas plant and closed its Virginia plant; \*\*\* Keystone Steel and Wire Co. shut down its nail production operations in December 2006, and is selling off its inventory and equipment and exiting the nail business because "[o]ur business declined because we could not compete with the low prices offered by dumped nail imports. . . . Keystone no longer finds it financially sensible to produce nails in this country due to the import onslaught." Id. and Conference Tr. at 20 and 37.

<sup>136</sup> CR/PR at Table IV-7.

<sup>137</sup> CR/PR at Table C-3. The U.S. market share held by domestic producers excluded from the domestic industry as related parties also declined steadily from \*\*\* in 2006. Id.

<sup>138</sup> CR/PR at Tables IV-8 and C-3.

<sup>139</sup> CR/PR at Tables IV-8 and C-3. The volume of nonsubject imports also decreased by 51.3 percent from 2004 to 2006. Id. The sources of nonsubject imports are: Korea, Canada, Taiwan, Mexico, Poland, Malaysia, and 27 other countries. Id. at IV-5.

<sup>140</sup> Conference Tr. at 46.

<sup>141</sup> CR/PR at Table II-2.

<sup>142</sup> Chinese Producers' Postconference Brief at 20-26; HKU's Postconference Brief at 1-8; U.S. Importers' Postconference Brief at 2-4; Dubai Wire's Postconference Brief at 21-22.

<sup>143</sup> HKU's Postconference Brief at 1-8; U.S. Importers' Postconference Brief at 2-4; Chinese Producers' Postconference Brief at 20-26 (\*\*\*) ; see also Conference Tr. at 113-114 ("The first crucial statement that was made that was wrong is that a nail is a nail. Prime Source sells more than a thousand different types of nails – framing (continued...)

producers to supply nails or a lack of attempting to do so, it is an unwillingness of the purchasers to pay the prices sought.”<sup>144</sup> They also dispute the assertions of attenuated competition between subject imports and the U.S. product and that “one-stop” shopping is available in China but not from U.S. producers; Petitioners maintain that “[d]omestic producers can collectively supply the full range of nail products needed.”<sup>145</sup> In any final phase of these investigations, we will seek additional information regarding the degree of overlap between the nails produced domestically and those imported from subject sources.

The majority of responding U.S. producers and importers reported that there were no direct substitutes for steel nails.<sup>146</sup> The most frequently offered substitutes are screws, staples, and powder-activated tool nails or fasteners, with other potential substitutes including concrete made from wire, glue or epoxy, light duty anchors, and roofing nails.<sup>147</sup> Each of the potential substitutes, however, is usable only in certain specific applications.

Although quality is the most common non-price factor listed, as long as nails meet the specifications required for the specific end use, price generally is the largest single factor affecting purchase decisions.<sup>148</sup> Steel nails are sold almost exclusively on a spot basis, and U.S. inland transportation costs can range from 2 to 25 percent of the total delivered cost.<sup>149</sup>

## **B. Volume of the Subject Imports**

Section 771(7)(C) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”<sup>150</sup>

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<sup>143</sup> (...continued)

nails, drywall nails, siding nails, flooring nails, concrete nails. These nails are not interchangeable.”), 117, 119-120 (“we estimate, over 1,000 types of nails demanded by the market, many of these are not commercially available in the United States. . . . Mid Continent promotes on their own catalog . . . 21 bulk nail SKUs, roughly three percent of the product line. Gerdau Ameristeel, zero. Treasure Coast Fasteners, zero. Davis W[ire], 71 SKUs or 11 percent of the product line. That’s bulk nails. Now collated nails. Mid Continent sells 23 SKUs, nine percent. Gerdau Ameristeel, 38 SKUs, 15 percent. . . .Why aren’t we looking at an investigation on the very limited SKUs actually produced here.”), 145 and 181-190.

We note that a Stock Keeping Unit (SKU) “is a code number, typically used as a machine-readable bar code, assigned to a single item of inventory. As part of a system for inventory control, the SKU represents the smallest unit of a product that can be sold from inventory, purchased, or added to inventory.” Encyclopaedia Britannica. 2007. Encyclopaedia Britannica Online. 27 July 2007 (<http://www.britannica.com/eb/article-9387747>). Thus, a merchant may assign different SKUs to a product for inventory control purposes based on differences in packaging, model variations, or locations of the inventory.

<sup>144</sup> Petitioners’ Postconference Brief at 16-17; Conference Tr. at 80 (Mid-Continent: “As far as our equipment is concerned, it can produce any nail, except cut;” Davis Wire Pueblo: “at one point in time, we made a full line of nails, much like Keystone. But, today, because of pricing, we do not make all the nails, but we can make them again.”).

<sup>145</sup> Petitioners’ Postconference Brief at 16-19. According to Petitioners, “Domestic producers estimate that the percentage of types of nails not currently produced in the United States is less than \*\*\* of the total market, and even those types could be produced if a reasonable price was paid.” *Id.* at 17.

<sup>146</sup> CR at II-9; PR at II-6.

<sup>147</sup> CR at II-9; PR at II-6.

<sup>148</sup> CR at II-9 and II-12; PR at II-6 and II-8.

<sup>149</sup> CR at V-2 and V-3; PR at V-2.

<sup>150</sup> 19 U.S.C. § 1677(7)(C)(i).

The volume of cumulated subject imports is significant and increased substantially from 2004 to 2006, both in absolute terms and relative to consumption and production in the United States. The volume of cumulated subject imports measured by quantity increased from 412,726 short tons in 2004 to 561,038 short tons in 2005, and then to 698,662 short tons in 2006, for an overall increase of 69.3 percent from 2004 to 2006.<sup>151</sup> The market share by quantity held by cumulated subject imports increased from 33.3 percent in 2004 to 60.5 percent in 2006.<sup>152</sup> The ratio of cumulated subject imports to U.S. production rose steadily from \*\*\* in 2004 to \*\*\* in 2005, and then to \*\*\* in 2006.<sup>153</sup>

Subject imports made significant gains in market share over the period examined at a time of declining consumption.<sup>154</sup> The increase in the subject import share of the U.S. market from 2004 to 2006 was accompanied by a steady decline in domestic producers' market share, from \*\*\* in 2004 to \*\*\* in 2006.<sup>155</sup> <sup>156</sup> Nonsubject imports, both in absolute terms and relative to U.S. consumption, also steadily declined from 2004 to 2006.<sup>157</sup> <sup>158</sup> <sup>159</sup> Thus, subject imports gained market share at the expense of the

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<sup>151</sup> CR/PR at Table IV-2. Cumulated subject imports were 160,553 short tons in interim period 2006 and 123,833 short tons in interim period 2007. *Id.* Cumulated subject imports measured by value increased from \$349.6 million in 2004 to \$469.5 million in 2005, and then to \$563.9 million in 2006, for an overall increase of 61.3 percent from 2004 to 2006. *Id.* Imports of subject merchandise by domestic producers excluded from the domestic industry as related parties accounted for 13.3 percent of total subject imports in 2006. Calculated from *Id.* at Tables III-6 and IV-2.

<sup>152</sup> CR/PR at Table IV-8. The market share held by cumulated subject imports was 53.4 percent in interim period 2006 and 62.1 percent in interim period 2007. *Id.*

<sup>153</sup> Calculated from CR/PR at Table IV-2 and C-3.

<sup>154</sup> CR/PR at Table IV-8 and C-3. Apparent U.S. consumption declined by 6.8 percent from 2004 to 2006 and was 33.7 percent lower in interim period 2007 compared with interim period 2006. *Id.*

<sup>155</sup> CR/PR at Table C-3. The U.S. market share held by domestic producers excluded from the domestic industry as related parties also declined steadily from \*\*\* in 2006. *Id.*

<sup>156</sup> Commissioner Lane notes that domestic producers' market share, including Specialty Fasteners, declined from \*\*\* in 2006. CR/PR at Table C-2.

<sup>157</sup> CR/PR at Tables IV-2, IV-7, and IV-8. Nonsubject imports were 471,722 short tons in 2004, 343,963 short tons in 2005, and 229,529 short tons in 2006; they were 70,797 short tons in interim period 2006 and 36,238 short tons in interim period 2007. *Id.* at Tables IV-2 and IV-7. The U.S. market share held by nonsubject imports was 38.1 percent in 2004, 28.5 percent in 2005, and 19.9 percent in 2006; nonsubject imports' market share was 23.6 percent in interim period 2006 and 18.2 percent in interim period 2007. *Id.* at Tables IV-8 and C-3.

<sup>158</sup> We note that there is limited information on the record regarding the role of nonsubject imports of steel nails in the U.S. market. In any final phase investigations, we will seek information on the role of nonsubject imports of steel nails in the U.S. market. We invite parties to comment in any final phase investigations on whether Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006) is applicable to the facts of these investigations. The Commission also invites parties to comment on what additional information the Commission should collect to address the issues raised by the Court and how that information should be collected and to identify which of the various nonsubject sources should be the focus of additional information gathering by the Commission in any final phase investigations.

<sup>159</sup> Chairman Pearson and Commissioner Okun do not join the preceding footnote. The U.S. Court of Appeals for the Federal Circuit did not address the application of its mandate in Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006), to preliminary investigations. In that case the Court indicated that, in cases involving commodity products in which imports from non-subject countries are price-competitive and are a significant factor in the U.S. market, in order to establish a causal link between subject imports and material injury the Commission must evaluate whether the non-subject imports would replace subject imports and thereby eliminate the benefit to the domestic industry of an antidumping or countervailing duty order.

The legal standard for preliminary antidumping and countervailing duty determinations requires the

(continued...)

domestic industry. Moreover, as the volume of subject imports increased and apparent U.S. consumption declined, U.S. importers' inventories of subject merchandise almost doubled, increasing from \*\*\* in 2006.<sup>160</sup>

For the foregoing reasons, we find for purposes of the preliminary phase of these investigations that both the volume and increase in volume of cumulated subject imports were significant, both in absolute terms and relative to consumption and production in the United States.

### **C. Price Effects of the Subject Imports**

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>161</sup>

The record reflects some divergence in views by market participants on the importance of price in purchasing decisions. As noted above, the majority of responding domestic producers and importers found that subject imports from China and the UAE were always or frequently interchangeable with domestically produced steel nails.<sup>162</sup> However, while the majority of responding domestic producers reported that non-price differences between subject imports and the domestic like product were never a factor in purchasing decisions, the majority of responding importers reported that non-price differences were always, frequently, or sometimes an important factor, with only a few responding that such differences were never a factor.<sup>163</sup>

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<sup>159</sup> (...continued)

Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly unfairly traded imports. 19 U.S.C. §§ 1671b(a), 1673b(a) (2000). Thus, Chairman Pearson and Commissioner Okun conclude that they must conduct a Bratsk analysis as they would any other type of causation analysis in a preliminary investigation. Based on the information available in these preliminary investigations, Chairman Pearson and Commissioner Okun find that Bratsk is triggered. See Separate and Additional Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Concerning Bratsk Aluminum v. United States.

<sup>160</sup> CR/PR at Table C-3. U.S. importers' inventories of subject imports as a share of subject imports increased from 6.5 percent in 2004 to 8.1 percent in 2006. Id. at Table VII-4.

<sup>161</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>162</sup> CR/PR at Table II-2.

<sup>163</sup> CR/PR at Table II-3. Nine of 16 responding U.S. producers reported that non-price differences between U.S.-produced and Chinese-produced steel nails were never a factor in their sales of steel nails; similarly, eight of 13 responding U.S. producers reported that non-price differences between U.S.-produced and UAE-produced steel nails were never a factor. Id. In contrast, only six of 32 responding U.S. importers reported that non-price differences were never a factor between U.S.-produced and Chinese-produced steel nails, and only four of 15 responding U.S. importers reported that such differences were never a factor regarding UAE-produced steel nails. Id.

In these investigations, U.S. producers and importers provided quarterly pricing data for six types of steel nails.<sup>164</sup> While the Commission received a relatively adequate overall response, the pricing data may be limited in their accuracy due to issues with unit conversion.<sup>165</sup> Specifically, for the collated products (Products 1, 2, 3, and 6), the pricing data were requested to be reported in short tons. However, these collated products normally are sold in thousand count of nails. The methods used by responding firms to convert quantities to short tons do not appear to be consistent. We find that the conversion issues limit the accuracy and consequently the probative value of the collected pricing data both for a price underselling analysis and for consideration of price movements over the period of investigation.<sup>166</sup> In addition, we find that consideration of average unit values would not provide a reliable substitute for a price underselling analysis due to the wide variety of types of steel nails. Thus, we have no clear evidence of price underselling of the domestic like product by the subject imports in the preliminary phase of these investigations. In any final phase of these investigations, we will seek more accurate and comparable pricing data, including data for collated nails on the basis of the number of nails rather than tonnage.

While we have not relied on the evidence of collected price comparison data or average unit values over the period examined, we find a reasonable indication that subject imports prevented domestic price increases that otherwise would have occurred. The domestic industry's cost of goods sold ("COGS") as a share of net sales increased over the period examined.<sup>167</sup> While net unit sales values increased from \*\*\* in 2004 to \*\*\* in 2005, these increases were not sufficient to completely offset the increases in unit COGS, which rose from \*\*\* in 2004 to \*\*\* in 2005.<sup>168</sup> Moreover, net unit sales values declined overall to \*\*\* in 2006 and were not offset by declines in unit COGS, which decreased to \*\*\* in 2006.<sup>169</sup> These data indicate that, as the domestic industry's costs increased and significant volumes of lower-priced subject imports entered the U.S. market, the domestic producers were unable to raise their prices sufficiently to cover increasing costs. This evidence suggests some price suppression in the form of a cost-price squeeze due in part to the subject imports. In addition, there is evidence of confirmed lost sales and revenues, which provides additional support for our finding that subject imports have suppressed prices to a significant degree.<sup>170</sup>

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<sup>164</sup> The six types of steel nails for which pricing data were requested are: Product 1 – 3" by 0.131" bright smooth, plastic-strip collated nails; Product 2 – 3" by 0.120" bright smooth, plastic-strip collated nails; Product 3 – 2<sup>3</sup>/<sub>8</sub>" by 0.113" bright screw and ring shank nails, plastic-strip collated; Product 4 – 3<sup>1</sup>/<sub>4</sub>" by 0.148" 16D smooth vinyl-coated sinkers, bulk; Product 5 – 2" by 0.113" bright drive screw, machine quality pallet nails, bulk; and Product 6 – 2" by 0.99" bright, drive screw, wire-welded collated in coils. CR at V-5; PR at V-4.

<sup>165</sup> CR at V-6; PR at V-4. By quantity, pricing data reported by responding firms accounted for 16.5 percent of U.S. commercial shipments of U.S.-produced steel nails, 17.3 percent of U.S. commercial shipments of Chinese-produced steel nails, and 34.8 percent of U.S. commercial shipments of UAE-produced steel nails during the period of January 2004-March 2007. *Id.*

<sup>166</sup> While the conversion issue does not seem to apply to the pricing data collected for two bulk nail products, the responses reporting such data were limited to domestic product and subject imports from China. One product in particular involved quantities that were too small to be reliable. CR/PR at Tables V-4 and V-5.

<sup>167</sup> CR/PR at Table C-3.

<sup>168</sup> CR/PR at Table C-3.

<sup>169</sup> CR/PR at Table C-3.

<sup>170</sup> The Commission confirmed \*\*\* of the alleged \$14.7 million in lost sales that staff attempted to verify during the period of investigation. CR at V-18 and V-19, and Table V-8; PR at V-11 and V-12, and Table V-8. The Commission also confirmed \*\*\* of the alleged \$727,282 in lost revenues that staff attempted to verify. CR at V-18 and V-19, and Table V-7; PR at V-11 and V-12, and Table V-7.

For the foregoing reasons, we find for purposes of these preliminary determinations that subject imports have prevented price increases, which otherwise would have occurred, to a significant degree. Thus, we find that subject imports have had significant adverse effects on domestic prices.

**D. Impact of the Subject Imports on the Domestic Industry**<sup>171</sup>

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”<sup>172</sup> These factors include output, sales, inventories, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>173</sup>

We have examined the performance indicators in the trade and financial data for the domestic industry producing steel nails. These data indicate declining overall trends each year during the period examined.

U.S. production, capacity utilization, shipments, and net sales quantity and value all declined overall from 2004 to 2006. Domestic producers’ U.S. production and U.S. shipments of steel nails declined each year for an overall decline of \*\*\* respectively, from 2004 to 2006.<sup>174 175</sup> Although industry capacity declined by \*\*\* from 2004 to 2006, capacity utilization followed production and shipment trends and declined each year from 2004 to 2006. Capacity utilization decreased from \*\*\* in 2005, and then to \*\*\* in 2006.<sup>176</sup>

As apparent U.S. consumption declined from 2004 to 2006, increasing subject imports gained U.S. market share at the expense of the market share held by domestic producers.<sup>177</sup> Domestic producers’ share of the U.S. market declined from \*\*\* in 2006, although the subject import share increased from 33.3 percent in 2004 to 60.5 percent in 2006.<sup>178</sup> U.S. importers’ inventories of subject imports also increased by 95.2 percent from 2004 to 2006 and rose as a share of subject imports from 6.5 percent in 2004 to 8.1 percent in 2006.<sup>179</sup>

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<sup>171</sup> In its notice of initiation, Commerce estimated the dumping margins for imports of subject steel nails from China as 55.19 percent, 97.15 percent and 118.04 percent, and from the United Arab Emirates as 70.77 percent and 71.50 percent. 72 Fed. Reg. at 38821 (July 16, 2007).

<sup>172</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”). SAA at 885.

<sup>173</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

<sup>174</sup> U.S. production declined from \*\*\* in 2004 to \*\*\* in 2005 and then \*\*\* in 2006; U.S. production was \*\*\* in interim period 2007. CR/PR at Table C-3. U.S. shipments declined from \*\*\* in 2004 to \*\*\* in 2005 and \*\*\* in 2006; U.S. shipments were \*\*\* in interim period 2007. Id.

<sup>175</sup> Commissioner Lane notes that the declines in domestic producers’ U.S. production and U.S. shipments, including Specialty Fasteners, were \*\*\* respectively, for 2004 to 2006. CR/PR at C-2.

<sup>176</sup> CR/PR at Table C-3. Capacity utilization was \*\*\* in interim period 2007. Id.

<sup>177</sup> CR/PR at Tables IV-8 and C-3.

<sup>178</sup> CR/PR at Table C-3.

<sup>179</sup> CR/PR at Table VII-4.

The average number of production and related workers, hours worked, and wages paid for producing steel nails declined from 2004 to 2006.<sup>180</sup> Despite fluctuations from year to year and \*\*\* overall decline in hourly wages from 2004 to 2006, the domestic industry's average unit labor cost rose steadily over the period examined.<sup>181</sup> Productivity declined steadily from 2004 to 2006.<sup>182</sup>

The domestic industry's financial indicators – operating income, operating margins, and net sales measured by quantity and value – declined steadily over the period of investigation. Operating income declined in each successive year of the period examined.<sup>183</sup> The industry's ratio of operating income to net sales followed a similar trend, declining from \*\*\* in 2006.<sup>184 185</sup>

Net sales measured both by quantity and value decreased each year, for an overall decline of \*\*\* respectively, from 2004 to 2006.<sup>186</sup> As discussed previously, COGS as a ratio to sales increased overall from 2004 to 2006. COGS was \*\*\* of sales in 2004, \*\*\* in 2005 and \*\*\* in 2006.<sup>187</sup> Even though the net unit sales values increased from 2004 to 2005, this increase only partially offset even \*\*\*.<sup>188</sup> Moreover, net unit sales values declined from \*\*\* in 2005 to \*\*\* in 2006, a level lower than reported in 2004 \*\*\*.<sup>189</sup> Although some unit costs (unit raw material costs<sup>190</sup> and unit direct labor expenses) declined from 2004 to 2006, these declines in unit costs did not offset steady increases in unit other factory costs (including increases in energy costs) and SG&A expenses.<sup>191</sup> As the result of this cost/price squeeze, the

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<sup>180</sup> The average number of production workers declined from \*\*\* in 2004 to \*\*\* in 2006. The hours worked also decreased from \*\*\* in 2004 to \*\*\* in 2006. The wages paid steadily decreased from \*\*\* in 2004 to \*\*\* in 2006, even though the hourly wages fluctuated between years and declined \*\*\* from 2004 to 2006. Similar trends for all employment indicators were reported in interim period 2007 compared to interim period 2006, except for hourly wages, which increased. CR/PR at Table C-3.

<sup>181</sup> The domestic industry's average unit labor costs were: \*\*\* in 2004, \*\*\* in 2005, and \*\*\* in 2006, for an overall increase of \*\*\*. CR/PR at Table C-3.

<sup>182</sup> Productivity decreased from \*\*\* in 2004 to \*\*\* in 2005, and then to \*\*\* in 2006. CR/PR at Table C-3.

<sup>183</sup> CR/PR at Table C-3. Operating income decreased from \*\*\* in 2004 to \*\*\* in 2006; operating income/losses were \*\*\* in interim period 2007. Id.

<sup>184</sup> CR/PR at Table C-3. The industry's ratio of operating income/losses to net sales was \*\*\* in interim period 2007. Id.

<sup>185</sup> Commissioner Lane notes that with Specialty Fasteners included the absolute levels and trends in financial results were \*\*\*. The domestic industry's operating income was \*\*\* in 2006; operating income/losses were \*\*\* in interim period 2007. The ratio of operating income to net sales was \*\*\* in 2006. In interim 2006 and 2007, including Specialty Fasteners, the ratio of operating income/losses to net sales \*\*\*. CR/PR at C-2.

<sup>186</sup> CR/PR at Table C-3. Net sales measured by quantity declined from \*\*\* in 2004 to \*\*\* in 2005 and \*\*\* in 2006; net sales by quantity were \*\*\* in interim period 2007. Net sales measured by value decreased from \*\*\* in 2004 to \*\*\* in 2005 and then to \*\*\* in 2006; net sales by value were \*\*\* in interim period 2007. Id.

<sup>187</sup> CR/PR at Table C-3.

<sup>188</sup> Calculated from CR/PR at Tables VI-1 and C-3, and \*\*\*.

<sup>189</sup> CR/PR at Table C-3.

<sup>190</sup> Domestic producers reported a \*\*\* decline in raw material costs in absolute value and as a share of cost of goods sold from \*\*\* in 2006. Calculated from CR/PR at Tables VI-1 and C-3, and \*\*\*. This decrease in raw material costs was reported despite a rise in the cost of the primary raw material, wire rod, over the period examined. CR/PR at V-1 and Figure V-1.

<sup>191</sup> Calculated from CR/PR at Tables VI-1 and C-3, and \*\*\*. The costs of both natural gas and electricity increased, with natural gas prices rising by 20.8 percent and electricity prices raising by 16.0 percent from 2004 to 2006. CR/PR at V-1.

industry reported steady declines at the operating and net income levels in each year of the period examined.<sup>192</sup>

For purposes of these preliminary determinations, we conclude that subject imports are having an adverse impact on the condition of the domestic industry during the period of investigation. In particular, we find that the absolute and relative volumes of subject imports are significant, and that subject imports have gained market share at the expense of the domestic industry, have adversely affected sales of the domestic product, and have suppressed domestic prices to a significant degree. The suppressed domestic prices, combined with the confirmed lost sales and revenues, have caused declines in the domestic industry's financial performance over the period of investigation.

### **CONCLUSION**

For the reasons stated above, we find that there is a reasonable indication that the domestic industry producing certain steel nails is materially injured by reason of cumulated subject imports of certain steel nails from China and the UAE that allegedly are sold in the United States at less than fair value.

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<sup>192</sup> Eight domestic producers reported capital expenditures for the domestic industry, including \*\*\* in 2006. CR/PR at Tables VI-5 and C-3. \*\*\* reported research and development expenses during the period examined. Id. at Table VI-5.



**SEPARATE AND ADDITIONAL VIEWS OF CHAIRMAN DANIEL R.  
PEARSON AND COMMISSIONER DEANNA TANNER OKUN CONCERNING  
BRATSK ALUMINUM V. UNITED STATES**

**I. Legal Issues Concerning Bratsk Aluminum Smelter v. United States**

In the recent case of Bratsk Aluminum Smelter et al. v. United States, 444 F.3d 1369 (Fed. Cir. 2006) (“Bratsk”), the Court of Appeals for the Federal Circuit reaffirmed that the requisite causal link to subject imports is not demonstrated if such imports contributed only “‘minimally or tangentially to the material harm.’”<sup>1</sup> <sup>2</sup> Applying that standard to an investigation involving a commodity product, *i.e.*, silicon metal, and the significant presence of non-subject imports, the Court held that the Commission had not sufficiently explained whether non-subject imports simply would have replaced subject imports during the period of investigation had an antidumping order been in place and continued to cause injury to the domestic industry.<sup>3</sup>

As a threshold matter, it is not immediately clear how the Commission should interpret the Bratsk opinion in terms of its effect on our analysis of causation in Title VII investigations. At a minimum, we can discern at least two possible interpretations which differ substantially: (1) that Bratsk mandates application of an additional test apparently not contemplated by the statute (the so-called “replacement/benefit test”), and (2) that Bratsk is a further development of the causation approach prescribed by Gerald Metals.

**A. Separate Causation Analysis – Replacement/Benefit Test**

The statute sets forth specific factors for the Commission to consider in analyzing the volume, price effects and impact of subject imports. 19 U.S.C. § 1677(7). The Uruguay Round Agreements Act Statement of Administrative Action (“SAA”) explains further that in analyzing causation the Commission must examine factors other than subject imports to ensure that it is not attributing injury from these sources to the subject imports, but is not required to isolate the injury caused by other factors from injury caused by unfair imports.<sup>4</sup> Beyond this, the statute does not provide any further limitations on how the Commission’s causation analysis shall be conducted.

The Court’s decision, however, states that the Commission must perform an additional “specific” causation analysis in the form of a replacement/benefit test. Using somewhat varying phrasing, the Court stated that the Commission must determine “whether non-subject imports would have replaced subject imports without any beneficial effect on domestic producers,” must “explain why the elimination of subject imports would benefit the domestic industry instead of resulting in the non-subject imports’ replacement of the subject imports’ market share without any beneficial impact on domestic producers,”

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<sup>1</sup> 444 F.3d at 1373 (Fed. Cir 2006), quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997). The Commission filed a petition for rehearing *en banc*, which the Court denied on July 24, 2006. The Court’s mandate was issued on August 7, 2006.

<sup>2</sup> Commissioner Okun did not participate in the underlying investigation nor the subsequent litigation.

<sup>3</sup> 444 F.3d at 1371, 1375-1376.

<sup>4</sup> H.R. Doc. No. 103-316, Vol. I (1994) at 851-52 (“SAA”); Taiwan Semiconductor Industry Ass’n v. United States, 266 F.3d at 1339, 1345 (Fed. Cir. 2001).

and must explain “why the non-subject imports would not replace the subject imports and continue to cause injury to the domestic industry.”<sup>5</sup>

Such a “replacement/benefit” test is not among the statutory factors Congress has required the Commission to consider. The statutory scheme contemplates that subject imports may remain in the U.S. market after an order is imposed and even that the industry afterward may continue to suffer material injury.<sup>6</sup> Thus, the decision in Bratsk misconstrues the purpose of the antidumping and countervailing duty laws, which is not to bar subject imports from the U.S. market or award subject import market share to U.S. producers, but instead to “level competitive conditions” by imposing a duty on subject imports at a level to offset the amount of dumping or subsidization and thus enabling the industry to compete against fairly traded imports.<sup>7</sup> It is not uncommon for subject imports to remain in the U.S. market in significant quantities even after the issuance of an antidumping or countervailing duty order, as shown by the hundreds of millions of dollars in antidumping and countervailing duties collected every year.

Bratsk, therefore, appears to require that the Commission apply an extra-statutory causation test with respect to non-subject imports and to determine that the domestic industry will benefit from the antidumping duty or countervailing duty order. We respectfully disagree with the Court that such a causation analysis is legally required.<sup>8</sup> However, given that the Federal Circuit’s mandate has now been issued and the decision has become binding precedent, we discuss infra our interpretation of the Bratsk standard and perform the analysis based on the record in these preliminary investigations.<sup>9</sup>

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<sup>5</sup> 444 F.3d at 1375-1376.

<sup>6</sup> SAA at 851-52, 885, 889-90. The Commission has indicated that the possibility that an order might not be effective does not preclude a finding of present material injury. The Commission also has concluded that the statute does not provide for the Commission to perform an additional injury test to predict the future effectiveness of import relief:

{W}e note that nothing in the statute or case law requires (or allows) us to consider the likely effectiveness of a dumping order in making our injury determination. The possibility that non-subject imports will increase in the future after an antidumping order is imposed is . . . not relevant to our analysis of whether subject imports are currently materially injuring the industry.

Wooden Bedroom Furniture From China, Inv. No. 731-TA-1058 (Final), USITC Pub. 3743, n.222 (Dec. 2004).

<sup>7</sup> Huaiyin Foreign Trade Corp. v. United States, 322 F.3d 1369, 1380 (Fed. Cir. 2003).

<sup>8</sup> The Commission set out in detail its objections to the Court’s decision in its petition for rehearing to the Federal Circuit. See Petition for Rehearing en Banc (May 25, 2006), Bratsk Aluminum Smelter et al. v. United States, 444 F.3d 1369 (Fed. Cir. 2006)(No. 05-1213) (petition denied July 24, 2006). As noted above, Commissioner Okun did not participate in that proceeding.

<sup>9</sup> While it is not an issue in these investigations, it is unclear whether the Court intended its approach to apply to analyses of threat of material injury, or only to analyses of present material injury. Given that one of the Court’s formulations of the standard is framed in terms of likely future events, we have interpreted the Court’s decision as applying both to the context of present injury and threat of injury.

## **B. Gerald Metals Causation Analysis**

Alternatively, we also find support for interpreting the Bratsk decision to be reminding the Commission of its obligation under Gerald Metals that the Commission may not satisfy the “by reason of” causation requirement by showing that subject imports contributed only “minimally or tangentially to the material harm.”<sup>10</sup>

This may be a reasonable interpretation of the Bratsk decision as the Court noted that the “sole point of contention in this appeal is whether the Commission established that the injury to the domestic industry was ‘by reason of’ the subject imports.”<sup>11</sup> In explaining its conclusion, the Court emphasized that the Commission had “dismissed” Gerald Metals as being factually distinguishable,<sup>12</sup> extensively explained its holdings in Gerald Metals and Taiwan Semiconductor,<sup>13</sup> and noted that the underlying investigation in Bratsk “revealed the same conditions that triggered the additional causation inquiry in Gerald Metals and Taiwan Semiconductor.”<sup>14</sup> Further, the Court noted that

Gerald Metals thus requires the Commission to explain why – notwithstanding the presence and significance of the non-subject imports – it concluded that the subject imports caused material injury to the domestic industry. While there may be support for the Commission’s ultimate determination of material injury in the record here, we find that the Commission did not sufficiently explain its decision in this regard.<sup>15</sup>

Therefore, the Court may not have been creating a new extra-statutory causation test, but rather was simply reminding the Commission of its existing obligation under Federal Circuit precedent. In other words, the Bratsk Court’s relatively short discussion of the underlying determination may not have established a new and rigid replacement/benefit test. Rather, the Court may have discussed the triggering factors (i.e., commodity product and price-competitive non-subject imports) and the replacement/benefit factors (i.e., whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers)<sup>16</sup> as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports.

The statute requires the Commission to determine whether the domestic industry is “materially injured by reason of” the unfairly traded imports.<sup>17</sup> Thus, the Commission must evaluate the effects of the unfairly traded imports on the domestic industry in order to determine if those imports are causing material injury. In most investigations, there are other economic factors that also may be causing injury to the domestic industry. The statute’s legislative history states that the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”<sup>18</sup> While the statute is clear that the Commission is not to weigh or prioritize the factors that are

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<sup>10</sup> Gerald Metals, 132 F.3d at 722.

<sup>11</sup> 444 F.3d at 1372.

<sup>12</sup> 444 F.3d at 1372.

<sup>13</sup> 444 F.3d at 1373-1375.

<sup>14</sup> 444 F.3d at 1375.

<sup>15</sup> 444 F.3d at 1375.

<sup>16</sup> 444 F.3d at 1375.

<sup>17</sup> 19 U.S.C. § 1673d(b).

<sup>18</sup> S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 46-47 (1979).

independently causing material injury,<sup>19</sup> the Commission cannot assign the cause of material injury to factors other than subject imports. Under this interpretation, the reference in Bratsk to “whether non-subject imports would have replaced subject imports without any beneficial effect on domestic producers” could be asking the Commission to interpret “benefit” to mean that if the subject imports are indeed causing harm, then the removal of the unfairly traded imports should “benefit” the domestic industry, but if the removal of the unfairly traded imports would not benefit the domestic industry, the injury must be attributable to other factors. Thus, the Commission must analyze the effects of the unfairly traded imports in a way that enables the Commission to conclude that it has not attributed the effects of other factors to the subject imports.

If this interpretation of Bratsk is correct, then we concur with the Federal Circuit that the Commission is required to identify and assess the competitive effects of subject imports to ensure that they contribute more than “minimally or tangentially to the material harm” of the domestic industry. To the extent that we had the relevant information, this analysis was included in the Commission’s causation analysis. We will re-examine this in any final phase of these investigations once the Commission has collected further relevant information (e.g., information about the market from purchasers).

## **II. Under the Bratsk Replacement/Benefit Test, Non-Subject Imports Likely Would Not Negate the Beneficial Effect of an Order on Subject Imports from China and the United Arab Emirates**

Having found that there is a reasonable basis to determine that an industry in the United States is materially injured by reason of subject imports from China and the United Arab Emirates, we now must assess whether the facts of these investigations trigger a Bratsk analysis under the “replacement/benefit test” interpretation of Bratsk. Based on the record, we conclude for purposes of these preliminary investigations that Bratsk is triggered, but that non-subject imports likely would not negate the beneficial effect of the orders on subject imports from China and the United Arab Emirates. We intend, however, to reexamine this issue in any final investigations.

### **A. Analysis**

#### **1. Triggering Factors**

Petitioners assert that nails are not a commodity product within that meaning of Bratsk.<sup>20</sup> Although recognizing that nails are made to specifications and compete with one another within those specifications, Petitioners argue that replacement could occur only if third countries made the same type of nails as China and the United Arab Emirates. Petitioners rely on respondent testimony to show that the same types of nails cannot be obtained from subject countries and there are quality differences between subject and non-subject imports.

The Chinese producers argue that there is broad agreement among the parties that steel nails are a commodity product. While recognizing that one type of nail may not be readily substituted for a nail of another type, nails of one type produced by a variety of countries can be easily substituted.<sup>21</sup>

For purposes of these preliminary investigations, we find that steel nails are a commodity product. The record supports the conclusion that steel nails of the same type are broadly interchangeable for the same uses regardless of where it is produced. The majority of U.S. producers and importers reported that the U.S. product, the subject imports, and non-subject imports are frequently or always

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<sup>19</sup> S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 74 (1979); H.R. Rep. No. 317, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 46-47.

<sup>20</sup> Petitioners’ Postconference Brief at 33.

<sup>21</sup> Chinese Producers’ Postconference Brief at 37-38.

comparable.<sup>22</sup> While the size, type, and finish may limit the interchangeability of a specific product for a particular end use, this limitation applies whether it is a U.S. product, subject import, or non-subject import. In any final investigations, we intend to examine closely whether and to what extent the product mix from both subject and non-subject countries impacts the commodity nature of the product.

With respect to the second trigger factor (whether price competitive non-subject imports are a significant factor in the U.S. market), non-subject imports as a share of total imports by quantity declined steadily from 53.3 percent in 2004 to 24.7 percent in 2006.<sup>23</sup> By comparison, subject imports accounted for 46.7 percent of total imports (on a quantity basis) in 2004, 62.0 percent in 2005, and 75.3 percent in 2006.<sup>24</sup> The U.S. market share of non-subject imports also declined steadily from 38.1 percent in 2004 to 19.9 percent in 2006,<sup>25</sup> while that of subject imports ranged from 33.3 percent in 2004 to 60.5 percent in 2006.<sup>26</sup> While subject imports have increased in absolute volume and market share over the period of investigation, non-subject imports have declined, but to a lesser degree in value than in volume. While non-subject imports experienced declines during the period, they remained a significant presence in the U.S. market.<sup>27</sup>

The Commission requested, but did not receive, any price data for non-subject imported steel nails. Therefore, the only information in the record on the pricing of non-subject imports is average unit values derived from official import statistics.<sup>28</sup> This evidence demonstrates that the imports from the largest non-subject suppliers, Korea, Taiwan, and Canada, have had increasing average unit values (“AUV”) that are substantially higher than the AUVs for subject imports from both China and the UAE. The average unit values of all non-subject imports, with one exception,<sup>29</sup> were higher than those of subject imports throughout the period of investigation, and were generally higher but more in line with the domestic AUVs, particularly at the end of the POI.<sup>30</sup> Given that there are potential differences in product mix between imports from different countries and even from the same country in different years, it is difficult to draw a conclusion about the price competitiveness of non-subject imports vis-a-vis the subject product at this time. However, given the significant, although declining volumes of non-subject imports during the period of investigation, we find that the second triggering factor is met for purposes of these preliminary investigations.

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<sup>22</sup> CR/PR at Table II-2.

<sup>23</sup> Non-subject imports as a share of total imports by value also declined steadily from 58.3 percent in 2004 to 34.5 percent in 2006. CR/PR at Table IV-2.

<sup>24</sup> CR/PR at Table IV-2. Subject imports as a share of total imports by value also increased steadily from 41.7 percent in 2004 to 65.5 percent in 2006. *Id.*

<sup>25</sup> Non-subject imports as a share of apparent U.S. consumption by value also declined steadily from 36.5 percent in 2004 to 24.6 percent in 2006. CR/PR at Table IV-8.

<sup>26</sup> CR/PR at Table IV-8.

<sup>27</sup> *See* CR/PR at Tables VII-6. The largest supplier of non-subject imports is Korea, which accounted for 7.9 percent of total U.S. imports in 2006; followed by Taiwan (4.3 percent), Canada (4.1 percent), Mexico (3.6 percent), Poland (1.0 percent), Malaysia (1.0 percent), and 27 other countries ranging between less than 0.05 percent and 0.6 percent of total 2006 U.S. imports of steel nails. CR at IV-5 and VII-11. The U.S. market share held by imports of steel nails from Korea was 6.3 percent of apparent U.S. consumption in 2006, followed by Taiwan (3.5 percent), Canada (3.3 percent), Mexico (2.9 percent), Malaysia (0.8 percent), and Poland (0.78 percent). Calculated from CR/PR at Tables IV-7 and VII-6.

<sup>28</sup> CR at V-5, n.9.

<sup>29</sup> The small quantity of imports from Malaysia generally had higher unit values than imports from China, but generally had lower than imports from the United Arab Emirates. CR/PR at Table VII-6.

<sup>30</sup> CR/PR at Tables IV-2 and VII-6, Table C-3. Steel nail imports from Malaysia have fluctuated between years and overall declined from 9,749 short tons in 2004 to 9,598 short tons in 2006, and were 1,847 short tons in interim period 2006 and 1,566 short tons in interim period 2007. *Id.*

## 2. Replacement/Benefit Factors

Having determined that the Bratsk test is triggered for purposes of these preliminary investigations, we now analyze whether non-subject imports are likely to replace subject imports and continue to cause injury to the domestic industry. One of the relevant factors we must examine in assessing this issue is the size of the non-subject supplier industries and the amount of excess capacity in those industries. There is, however, no information on the record concerning the capacity of non-subject suppliers, or their capacity utilization rates. Accordingly, we cannot determine whether non-subject imports would be likely to have sufficient capacity to replace subject imports if the order were to be imposed.

We note, however, that trends in the U.S. market share for subject and non-subject imports relative to U.S. producers' market share during the period examined may provide some indication of the likely import pattern if subject imports were not in the U.S. market. Apparent U.S. consumption of steel nails declined by 6.8 percent from 2004 to 2006, and declined by 33.7 percent in interim (Jan.-Mar.) 2007 compared with the same period in 2006.<sup>31</sup> The market share of subject U.S. imports rose sharply throughout the period examined, from 27.4 percent in 2004 to 53.3 percent in 2006. Subject import market share was 56.5 percent in interim 2007 compared with 45.9 percent in interim 2006. The market share of U.S. imports of non-subject steel nails, by contrast, declined steadily from 2004 to 2006, from 38.1 percent in 2004 to 19.9 percent in 2006, and was 18.2 percent in interim 2007 compared with 23.6 percent in interim 2006. The record thus indicates that subject imports were taking both domestic and non-subject market share. The trends do not permit us to determine that non-subject imports would replace subject imports and negate the beneficial effect of the order. In addition, while they may be of limited probative value, the record shows that the AUVs of the non-subject imports were generally higher than those of the subject imports. In any final phase of these investigations, we will seek information on production capacity of major non-subject producers of steel nails in order to complete our analysis under *Bratsk*. For purposes of these preliminary determinations, we determine that non-subject imports would not negate any benefit to the domestic industry from the imposition of the orders.

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<sup>31</sup> CR at Table C-3.

## PART I: INTRODUCTION

### BACKGROUND

These investigations result from a petition filed by Davis Wire Corp. (“Davis Wire”), Irwindale, CA); Gerdau Ameristeel Corp. (“Gerdau”), Tampa, FL; Maze Nails (“Maze Nails”), Peru, IL; Mid Continent Nail Corp. (“Mid Continent”), Poplar Bluff, MO; and Treasure Coast Fasteners, Inc. (“Treasure Coast”), Fort Pierce, FL, on May 29, 2007,<sup>1</sup> alleging that an industry in the United States is materially injured or threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of certain steel nails<sup>2</sup> from China and the United Arab Emirates (“UAE”). Information relating to the background of the investigations is provided below.<sup>3</sup>

Effective date	Action
May 29, 2007	Petition filed with Commerce and the Commission; institution of the Commission's investigations (72 FR 30831, June 4, 2007)
June 19, 2007	Commission's conference <sup>1</sup>
June 21, 2007	Commission's revised schedule (72 FR 34276)
July 16, 2007	Commerce's notice of initiation (72 FR 38816)
July 20, 2007	Commission's vote
July 30, 2007	Commission's determinations and views transmitted to Commerce
<sup>1</sup> A list of witnesses appearing at the conference is presented in app. B.	

### ORGANIZATION OF THE REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

*shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

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<sup>1</sup> On June 22, 2007, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union was added as a co-petitioner.

<sup>2</sup> The definition of the steel nails subject to these investigations (“steel nails”) is presented later in Part I of this report under the section headers “The Subject Product,” “Commerce’s Scope.”

<sup>3</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

*In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*

...

*In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*

...

*In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to*

...

*(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

*Part I* of this report presents information on the subject merchandise, alleged dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume and pricing of imports of the subject merchandise, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury.

## **U.S. MARKET SUMMARY**

Consumption of steel nails totaled approximately \$1.2 billion (1.2 million short tons) in the U.S. market in 2006. Currently, 17 firms are known to produce steel nails in the United States.<sup>4</sup> U.S. producers' U.S. shipments of steel nails totaled \$348.5 million (226,666 short tons) in 2006, and accounted for 28.8 percent of apparent U.S. consumption by value and 19.6 percent by quantity. U.S. imports from subject sources totaled \$563.9 million (698,662 short tons) in 2006 and accounted for

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<sup>4</sup> Parker Metal ceased production in 2005.



46.6 percent of apparent U.S. consumption by value and 60.5 percent by quantity. U.S. imports from nonsubject sources totaled \$297.3 million (229,529 short tons) in 2006 and accounted for 24.6 percent of apparent U.S. consumption by value and 19.9 percent by quantity.

### SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigations is presented in appendix C. Except as noted, U.S. industry data are based on questionnaire responses of 17 firms that accounted for \*\*\* of U.S. production of steel nails during 2006. U.S. imports are based on official statistics from the Department of Commerce (“Commerce”) except where noted.

### PREVIOUS AND RELATED INVESTIGATIONS<sup>5</sup>

On November 21, 1977, a complaint was filed by Armco Steel Corp.; Atlantic Steel Co.; Bethlehem Steel Corp.; CF & I Steel Corp.; Keystone Steel & Wire Division of Keystone Consolidated Industries, Inc.; Northwestern Steel & Wire Co.; and the Penn-Dixie Steel Corp., alleging that certain steel wire nails from Canada were being sold at LTFV.<sup>6</sup> In November 1978, the Department of Treasury (“Treasury”) determined that certain steel wire nails from Canada, except those produced by Tree Island Steel Co., Ltd. and the Steel Co. of Canada, Ltd., were being, or were likely to be, sold in the United States at LTFV.<sup>7</sup> In February 1979, the Commission determined that the domestic steel wire nails industry was not being, and was not likely to be, injured and was not prevented from being established, by reason of the importation of certain steel wire nails from Canada that were being, or were likely to be, sold at LTFV.<sup>8</sup>

On April 20, 1979, Treasury, in conjunction with its administration of a “Trigger Price Mechanism,” self-initiated an investigation to determine whether certain steel wire nails from Korea were being sold at LTFV. The investigation was subsequently terminated under the Antidumping Act, but was continued under section 731 of the Tariff Act of 1930, as amended. Commerce found that certain steel wire nails from Korea were being sold at LTFV.<sup>9</sup> However, the Commission determined that the domestic steel wire nails industry was not materially injured and was not threatened with material injury, and that the establishment of an industry in the United States was not materially retarded, by reason of imports of certain steel wire nails from Korea.<sup>10</sup>

On July 2, 1981, Commerce self-initiated antidumping investigations concerning imports of certain steel wire nails from Japan, the Republic of Korea, and Yugoslavia pursuant to additional information developed under the trigger price mechanism.<sup>11</sup> Specifically, Commerce found that subject imports from these countries were likely being sold below trigger prices and, therefore, possibly at LTFV. Although the Commission made a negative material injury determination with respect to certain steel wire nails from Korea in the previous year, Commerce found new evidence indicating that sales of Korean

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<sup>5</sup> This section is derived from Exhibit General 4 of the petition in these investigations.

<sup>6</sup> 42 FR 64942, December 29, 1977.

<sup>7</sup> 43 FR 51743, November 6, 1978.

<sup>8</sup> *Steel Wire Nails from Canada, Investigation No. AA1921-189*, USITC Pub. 937, February 1979.

<sup>9</sup> 45 FR 34941, May 23, 1980.

<sup>10</sup> *Certain Steel Wire Nails From The Republic of Korea, Investigation No. 731-TA-26 (Final)*, USITC Pub. 1088, August 1980.

<sup>11</sup> 46 FR 34613-34615, July 2, 1981.

nails may be having an injurious effect on the domestic industry.<sup>12</sup> The investigation of imports from Japan was subsequently terminated, while the investigation of imports from Yugoslavia resulted in a negative material injury determination by the Commission.<sup>13</sup> After a final affirmative material injury determination by the Commission, an antidumping duty order was issued against steel wire nails from Korea.<sup>14</sup> The order against Korea was revoked effective October 1, 1984 following a Voluntary Restraint Agreement<sup>15</sup> concerning imports of nails from Korea.<sup>16</sup>

On January 19, 1982, Armco Inc.; Tree Island Steel, Inc.; Atlantic Steel Co.; Florida Wire and Nails; New York Wire Mills; and Virginia Wire and Fabric filed a petition alleging that certain steel wire nails from the Republic of Korea were being subsidized.<sup>17</sup> In September 1982, however, the countervailing duty investigation was terminated following a determination by Commerce that Korean producers and exporters of nails were not receiving benefits that constituted subsidies.<sup>18</sup>

On January 24, 1984, the United Steelworkers of America, AFL-CIO/CLC and Bethlehem Steel Corp. filed a petition under section 201 of the Trade Act of 1974 alleging that carbon and certain alloy steel products, including steel wire nails, were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported articles.<sup>19</sup> Following the Commission's affirmative determinations in July 1984 for several of the products, including steel wire nails, the United States negotiated various agreements to limit the importation of steel products into the United States, such as the VRAs.<sup>20</sup>

On June 5, 1985, petitions were filed alleging that certain steel wire nails from China, Poland, and Yugoslavia were being, or were likely to be, sold in the United States at LTFV.<sup>21</sup> The petitions concerning imports from Poland and Yugoslavia were subsequently withdrawn following VRAs with Poland and Yugoslavia with respect to exports of steel wire nails to the United States. As a result, Commerce terminated the investigations with respect to Poland and Yugoslavia.<sup>22</sup> The investigation with respect to China led to a finding that the domestic steel wire nails industry was materially injured by reason of LTFV imports of certain steel wire nails from China.<sup>23</sup>

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<sup>12</sup> 46 FR 34615, July 2, 1981.

<sup>13</sup> 46 FR 41122, August, 14, 1981; and *Certain Steel Wire Nails From Japan, The Republic of Korea, and Yugoslavia, Investigation Nos. 731-TA-45, 46, and 47 (Preliminary)*, USITC Pub. 1175, August 1981.

<sup>14</sup> 47 FR 35266, August 13, 1982.

<sup>15</sup> On September 18, 1984, the President established a national policy for the steel industry that led to the creation of the Voluntary Restraint Agreements ("VRAs"). These VRAs established new measures limiting steel exports into the United States from certain steel-supplying countries. 49 FR 36813, September 20, 1984. The VRAs expired on March 31, 1992.

<sup>16</sup> 50 FR 40045, October 1, 1985.

<sup>17</sup> 47 FR 6458, February 8, 1982.

<sup>18</sup> 47 FR 39549, September 8, 1982.

<sup>19</sup> *Carbon and Alloy Steel Products, Investigation No. TA-201-51*, USITC Pub. 1553, July 1984, p. 7.

<sup>20</sup> *Ibid.*

<sup>21</sup> The petitions were filed by Atlantic Steel Co.; Atlas Steel & Wire Corp.; Continental Steel Corp.; Dickson Weatherproof Nail Co.; Florida Wire & Nail Co.; Keystone Steel & Wire Co.; Northwestern Steel & Wire Co.; Virginia Wire & Fabric Co.; and Wire Products Co. 50 FR 27479, July 3, 1985.

<sup>22</sup> 51 FR 4205, February 3, 1986, and 50 FR 35281, August 30, 1985.

<sup>23</sup> *Certain Steel Wire Nails From The People's Republic of China, Investigation No. 731-TA-266 (Final)*, USITC Pub. 1842, April 1986; 51 FR 10247, March 25, 1986. An antidumping duty order was imposed on certain steel wire nails from China on May 21, 1986 (51 FR 18640), but because of changed circumstances ("petitioners'

(continued...)

On April 20, 1987, a petition was filed alleging that certain steel wire nails from New Zealand and Thailand were receiving bounties or grants.<sup>24</sup> Commerce conducted a section 303 investigation and made affirmative findings with respect to both countries and issued countervailing duty orders against steel wire nails from Thailand and New Zealand in October 1987.<sup>25</sup> On August 9, 1995, the orders were revoked by Commerce as no domestic interested party requested a review.<sup>26</sup>

On March 22, 1989, a petition was filed alleging that certain steel wire nails from Malaysia were receiving bounties or grants.<sup>27</sup> Commerce, however, determined that no benefits which constitute bounties or grants were being provided to Malaysian producers or exporters.<sup>28</sup>

On November 26, 1996, a petition was filed alleging that collated roofing nails imported from China, Korea, and Taiwan were being sold at LTFV.<sup>29</sup> These investigations led to a finding that the domestic collated roofing nails industry was threatened with material injury by reason of LTFV imports of collated roofing nails from China and Taiwan.<sup>30</sup> The investigation with respect to collated roofing nails from Korea was terminated by the Commission following a negative determination by Commerce.<sup>31</sup> On November 19, 1997, Commerce issued antidumping duty orders against collated roofing nails from China and Taiwan.<sup>32</sup> These orders were revoked effective November 19, 2002 because no domestic interested party responded to Commerce's notice of initiation of five-year reviews.<sup>33</sup>

On July 3, 2001, following a request from the United States Trade Representative ("USTR") and subsequently a request from the Senate Finance Committee, a section 201 investigation was initiated by the Commission to determine whether certain steel products were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry. The Commission, however, made a negative determination with respect to carbon and alloy steel nails.<sup>34</sup>

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<sup>23</sup> (...continued)

affirmative statement of no interest in continuation of the antidumping duty order"), the order was revoked on September 3, 1987 (52 FR 33463).

<sup>24</sup> The petition was filed by Air Nail Co.; Atlas Steel & Wire Corp.; CF & I Steel Corp.; Davis-Walker Corp.; Dickson Weatherproof Nail Co.; Exposaic Industries, Inc.; Keystone Steel and Wire Co.; and Northwestern Steel & Wire Co. 52 FR 18590, May 18, 1987; 52 FR 18591, May 18, 1987.

<sup>25</sup> 52 FR 36987, October 2, 1987, and 52 FR 37196, October 5, 1987.

<sup>26</sup> 60 FR 40568, August 9, 1995.

<sup>27</sup> The petition was filed by members of the Nail Committee of the American Wire Producers Association. 54 FR 15534, April 18, 1989.

<sup>28</sup> 54 FR 36841, September 5, 1989.

<sup>29</sup> The petition was filed by Paslode Division of Illinois Tool Works Inc. 61 FR 67306, December 20, 1996.

<sup>30</sup> *Collated Roofing Nails From China and Taiwan, Investigation Nos. 731-TA-757 and 759 (Final)*, USITC Pub. 3070, November 1997.

<sup>31</sup> 62 FR 51420, October 1, 1997, and 62 FR 53799, October 16, 1997.

<sup>32</sup> 62 FR 61729, November 19, 1997, and 62 FR 61730, November 19, 1997.

<sup>33</sup> 67 FR 70578, November 25, 2002.

<sup>34</sup> *Steel, Investigation No. TA-201-73*, USITC Pub. 3479, December 2001.

## NATURE AND EXTENT OF ALLEGED SALES AT LTFV

Effective July 16, 2007, Commerce initiated the antidumping duty investigations concerning steel nails from China and the United Arab Emirates. The alleged dumping margins for subject producers in China range from 55.19 percent *ad valorem* to 118.04 percent *ad valorem*, for an average of 86.62 percent *ad valorem*, and for producers in the United Arab Emirates range from 70.77 percent *ad valorem* to 71.50 percent *ad valorem*, for an average of 71.14 percent *ad valorem*.<sup>35</sup>

### THE SUBJECT PRODUCT

The imported products subject to these investigations are steel nails. A nail is “a slender, typically rod-shaped rigid piece of metal, usually in any of numerous standard lengths from a fraction of an inch to several inches and having one end pointed and the other enlarged and flattened, for hammering into or through wood, other building materials, etc., as used in building, in fastening, or in holding separate pieces together.”<sup>36</sup> Nails are produced in many different lengths, and with many different styles of heads, shanks, and points, depending upon the intended use. Nails are produced uncoated (bright) or with any of several different coatings such as zinc (to retard corrosion), cement (to provide better adherence in the wood or other material into which the nail is to be driven), and paint (for improved appearance).

### Commerce’s Scope

Commerce has defined the imported product subject to these investigations as:<sup>37</sup>

*certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to these proceedings are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.*

*Certain steel nails subject to these proceedings are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65 and 7317.00.75.*

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<sup>35</sup> 72 FR 38816, July 16, 2007.

<sup>36</sup> *Dictionary.com*. Unabridged (v 1.1). Random House, Inc. <http://dictionary.reference.com/browse/Nail> (accessed June 01, 2007).

<sup>37</sup> 72 FR 38816, July 16, 2007.

*Excluded from the scope of these proceedings are roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope of these proceedings are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of these proceedings are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of these proceedings are thumb tacks, which are currently classified under HTSUS 7317.00.1000.*

*While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.*

### **U.S. Tariff Treatment**

Imports of steel nails are entered under subheadings 7317.00.55, 7317.00.65, and 7317.00.75 of the Harmonized Tariff Schedule of the United States (“HTS”). Commerce’s scope excludes collated roofing nails which are properly classified under statistical reporting number 7317.00.5501. Official Commerce statistics for the above-named subheadings (minus those for statistical reporting number 7317.00.5501) are used for import data compilation purposes in this report. Table I-1 presents data on the current tariff rates of the subheadings identified above.

### **THE DOMESTIC LIKE PRODUCT**

The Commission’s determination regarding the appropriate domestic product that is “like” the subject imported product is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

Petitioners contend that there is a single domestic like product that is coextensive with the scope of the case, and further argue that the minor variations in nail features do not justify segmenting various types of nails into separate domestic like products.<sup>38</sup> The respondents, with the exception of Black and Decker, have not contested petitioners’ proposed domestic like product.<sup>39</sup>

Respondent Black and Decker requests that the Commission determine that there are two separate domestic like products and two domestic industries producing steel nails. According to Black and Decker, collated framing or finish nails (“woodworking nails”), produced by the multiple-wire method, comprise a domestic like product separate from all other steel nails (“construction nails”).<sup>40</sup> They state that woodworking nails are generally of shorter length and smaller diameter than “construction nails,” which is a name they give to steel nails other than woodworking nails. Woodworking nails are 5/8 to 2½ inches in length and of 15 to 23 gage wire (0.072 to 0.0258 inch in diameter). Construction nails are typically 2 to 3½ inches in length and 0.099 to 0.162 inch in diameter. Further, construction nails are

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<sup>38</sup> Conference transcript, p. 41 (Cannon).

<sup>39</sup> Conference transcript, p. 14 (Levine), p. 156 (Suro).

<sup>40</sup> Conference transcript, pp. 155-156, 199-200 (Suro).

used for stick framing, new construction, and deck and fence building, whereas woodworking nails are used for molding installations, indoor use, and in cabinet and woodworking shops.<sup>41</sup>

**Table I-1**  
**Steel nails: HTS rates, 2007**

HTS provision	Article description	General	Special	Column 2
		Rates (percent ad valorem)		
7317.00	Nails, tacks, drawing pins, corrugated nails, staples (other than those of heading 8305) and similar articles, of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper:			
7317.00.55	Other: Of one piece construction: Made of round wire . . . . .	Free		3.5
	Collated nails:			
	Other than collated roofing nails:			
	Assembled in a wire coil:			
02	Galvanized . . . . .			
03	Other . . . . .			
	Assembled in a plastic strip:			
05	Galvanized . . . . .			
07	Other . . . . .			
08	Assembled in a paper strip . . . . .			
11	Assembled in a wire strip . . . . .			
18	Other . . . . .			
	Other: With a length of less than 25.4 mm and with a diameter of less than 1.65 mm . . . . .			
19				
	Other: Smooth shank:			
20	Not coated, plated or painted . . . . .			
	Coated, plated or painted:			
30	Galvanized . . . . .			
40	Vinyl, resin or cement coated . . . . .			
50	Other . . . . .			
	Other:			
60	Not coated, plated or painted . . . . .			
	Coated, plated or painted:			
70	Galvanized . . . . .			
80	Vinyl, resin or cement coated . . . . .			
90	Other . . . . .			
7317.00.65	Other . . . . .	Free		5.5
	Cut . . . . .			
	Other . . . . .			
7317.00.75	00 Of two or more pieces . . . . .	Free		8

Source: HTS (2007).

<sup>41</sup> Conference transcript, pp. 157-158 (Suro).

## Physical Characteristics and Uses

Although most steel nails are produced of low-carbon steel, nails are also produced of stainless steel (to resist corrosion) and of hardenable medium- to high-carbon steel.<sup>42</sup> Nails are packaged for shipment in bulk, that is, loose in a carton or other container, or collated, that is, joined with wire, paper strips, plastic strips, or glue into coils or straight strips for use in pneumatic nailing tools. Although most nails are produced from a single piece of steel, some nails are produced from two or more pieces. Examples include a nail with a decorative head, such as an upholstery nail; a masonry anchor that comprises a zinc anchor and a steel wire nail; a nail with a large thin attached head (for nailing roofing felt, for example); and a nail with a rubber or neoprene washer assembled over its shaft (to seal the nail-hole in metal or fiberglass roofing or siding). The subject product in these investigations comprises all steel nails, including all styles of heads, shanks, and points; with or without coatings of any type; of any grade of steel; whether collated or in bulk; and whether of a single piece or of two or more pieces, with the following exceptions: (1) nails suitable for use in powder (i.e., gunpowder)-actuated hand tools; (2) roofing nails;<sup>43</sup> and (3) nails over 12 inches in length. This section presents information on both imported and domestically produced steel nails.

## Manufacturing Processes

Most steel nails are produced from steel wire, and a small proportion of steel nails are produced from steel plate and referred to as “cut nails.” Some producers of wire nails use purchased steel wire as a starting raw material and are known as nonintegrated producers, whereas some producers utilize their own facilities to produce wire for nails, using steel wire rod as their starting material; these producers are called “integrated producers.” Some integrated producers are further integrated through the steelmaking process, and produce steel wire rod from raw materials such as scrap, pig iron, and ferroalloys. Figure I-1 shows the general process for producing steel nails.

Wire nails are produced by one of two general methods: single wire and multiple wire. Using the more common single-wire method,<sup>44</sup> a large coil of wire is fed into a nail machine that automatically straightens the wire, forms the head of the nail and cuts the nail from the wire, simultaneously forming the point and ejecting the finished nail. Nail machines are of two general types: one, known as a “cold-heading machine,” holds the wire near its end in gripper dies and forms the head by striking the leading end of the wire, forcing the end of the wire to fill a die cavity of the desired shape. The wire is fed through the grippers and shape cutters form the point and cut the nail free from the wire coming off of the coil. The process is repeated for each individual nail produced by the cold-heading process.<sup>45</sup> In the second type of nail machine, known as a “rotary heading machine,” the wire is fed continuously and cutting rollers cut individual nail blanks, simultaneously forming the point. The nail blanks are then inserted into a die ring and the heads are formed by compression of the end of the nail between the

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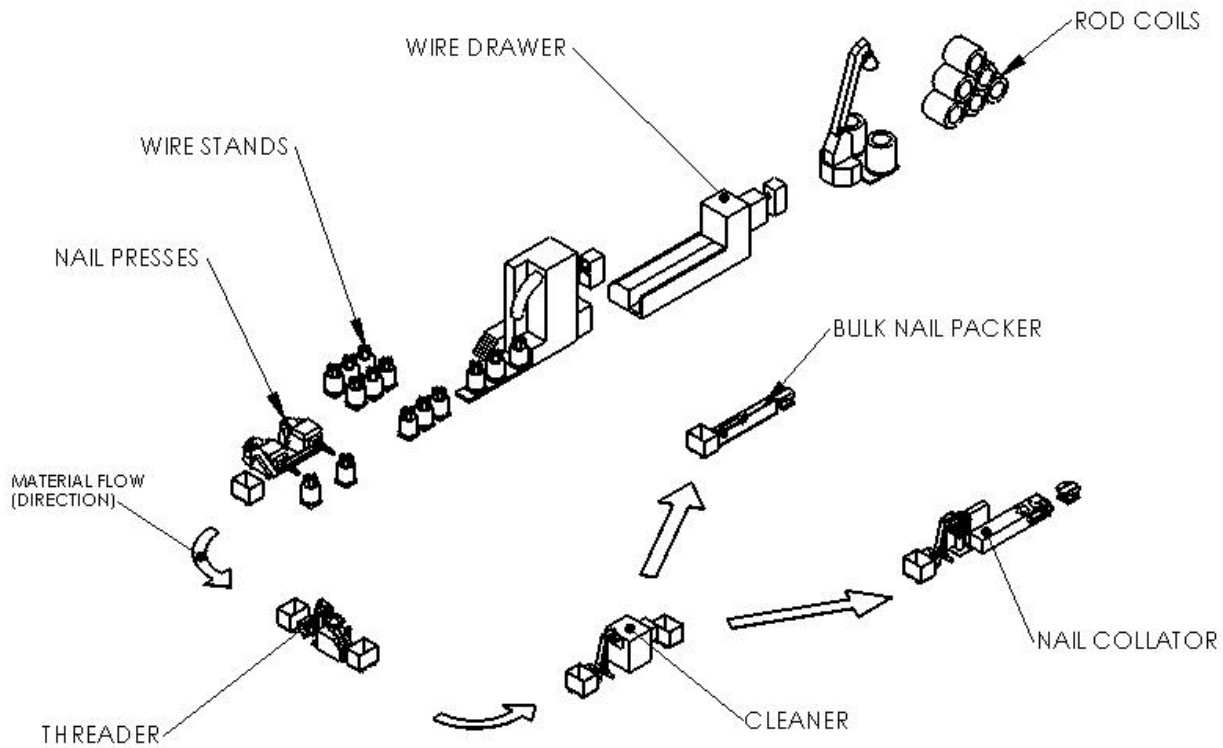
<sup>42</sup> According to petitioners, all steel nails share the same basic physical characteristics, consisting of a head, shaft, and point; are produced to the same industry-wide standards; and although woodworking nails may have smaller heads and may differ in length and diameter, the differences are minor and do not delineate separate like products. Petitioners’ postconference brief, p. 4.

<sup>43</sup> Roofing nails are generally from  $\frac{3}{4}$  to  $1\frac{3}{4}$  inch in length; the diameters of the shafts and heads of roofing nails are somewhat larger than those of common nails of the same length. Roofing nails are packaged both in bulk and collated for use in pneumatic tools.

<sup>44</sup> This method was referred to as “stamp-and-cut.” Conference transcript, p. 173 (Tabor).

<sup>45</sup> Petitioners’ posthearing brief, exh. 2.

**Figure I-1**  
**Steel nails: General process of producing nails**



NOTE:  
 ALL COLLATED NAILS ARE VINYL COATED IN-LINE ON THE COLLATING MACHINE.  
 ALL BULK NAILS ARE COATED IN-LINE AT THE CLEANING STATION IF REQUIRED

Source: Kelley Drye Collier Shannon.

rotating ring and a heading roller. The completed nail is then ejected from the machine.<sup>46</sup> Both types of nail machines are used to produce all styles of nails, and some manufacturers have both types in their facilities. These automatic machines are capable of producing a range of nail sizes and head and point styles by changing tooling and adjustment.

Nails that have helical twist, serrations, and other configurations on the shanks require an additional forming process. These nails are fed into other machines that roll, twist, stamp, or cut to required forms. These operations may also require heating of the nails before forming.<sup>47</sup>

<sup>46</sup> Petitioners' posthearing brief, exh. 2.

<sup>47</sup> Conference transcript, p. 27 (Kerkvliet).



After forming, nails are tumbled on themselves in rotating drums to remove particles of head flash and the whiskers, which often remain on the cut and pointed ends. The same drum may contain a medium (such as sawdust) which effects cleaning and polishing of the nails during tumbling, otherwise the tumbled nails can be transferred to units that clean the nails with solvents or vapor degreasers. After tumbling and cleaning, the nails may be given subsequent processing, such as painting, resin coating, or galvanizing. Finally, nails for use in pneumatic nailing tools are processed through automatic equipment to collate the nails using paper strips, plastic strips, fine steel wire, or adhesive; nails for hand-driving are packaged in bulk (loose) in cartons or other containers.

The multiple-wire method is limited to the production of small-diameter nails with no head or a countersinkable head, for use in a nailing tool for finish-carpentry work. Such nails are often called “brads” or “finish nails.”<sup>48</sup> As many as 120 individual spools of wire are loaded onto a machine, and wires from the spools are fed side-by-side. The machine flattens the wires slightly and glue or tape is applied, holding the wires close together in a band of a single layer. The band is then fed into a machine which strikes the leading ends of the band, simultaneously forming the heads on all the wires across the band, and the band is cut, simultaneously forming the points.<sup>49</sup>

Cut nails are produced from plate rather than from wire and are rectangular rather than round. Cut nails are used primarily for joining to masonry or concrete. Although cut nails may be made for any carpentry use, the main use other than masonry is for flooring in applications where an antique appearance is required. Cut nails are made from high-carbon steel plate that is sheared into strips. The strips are fed into specially-designed nail machines, which shape the nails and form the heads. The cut nails are then case-hardened in a furnace and packed in 50-pound cartons on pallets.<sup>50</sup>

Respondents have claimed that many of the nails imported from China and the UAE are types of steel nails that are not made by domestic producers.<sup>51</sup> However, according to domestic producers, the domestic industry is collectively capable of producing the full range of nail products.<sup>52</sup>

### **Interchangeability and Customer and Producer Perceptions**

U.S. producers of steel nails as well as importers of steel nails from China and the UAE generally report that the U.S.-produced and imported product are always or frequently interchangeable.<sup>53</sup> More detailed information on interchangeability can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

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<sup>48</sup> In its request that nails of this type be considered as a separate domestic like product, Black & Decker refers to such nails as woodworking-based nails, also commonly known as finish nails, and all other steel nails as construction nails, also commonly known as framing nails. Conference transcript, p. 156 (Suro).

<sup>49</sup> Conference transcript, pp. 169-170 (Boutelle) and staff discussion with \*\*\*, June 19, 2007.

<sup>50</sup> Conference transcript, p. 39 (McMorrow).

<sup>51</sup> Postconference brief, Chinese producers, p. 21.

<sup>52</sup> Conference transcript, p. 80 (Stirnaman, Libla, Cronin, and Kerkvliet) and p. 59 (McMorrow).

<sup>53</sup> Black & Decker contends that construction nails and woodworking nails are not interchangeable because a construction nailer will not fire a woodworking nail and a woodworking nailer will not fire a construction nail (conference exhibit by Black & Decker (Suro)). According to Black & Decker, construction nails are typically purchased by contractors, based on price and local code requirements, and are typically purchased in multiple-box lots, whereas woodworking nails are typically purchased by the consumer for his or her own use and in smaller quantities than typical construction nail purchases. Moreover, such factors as compatibility, quality, and convenience, as well as a strong brand name, are more important factors with respect to woodworking nails. Conference transcript, pp. 160-161 (Suro) and conference exhibit by Black & Decker.

## Channels of Distribution

Both U.S. producers and U.S. importers reported selling most of their product to distributors of steel nails (in 2006, 84.5 percent by producers and 86.5 percent by importers). In 2006, U.S. producers reported selling 15.9 percent of their product to end users while importers reported selling 13.5 percent of their product to end users. These trends held throughout the period for which data were collected in the investigations (January 2004-March 2007). Table I-2 presents both producers' and importers' reported methods of distribution. Petitioners indicated that the market for steel nails is highly price-sensitive, with competition occurring between imports and domestic producers for sales on the basis of price.<sup>54</sup> Additional information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.<sup>55</sup>

**Table I-2**  
**Steel nails: U.S. producers' and importers' channels of distribution, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Producers:</b>					
Distributors ( <i>short tons</i> )	305,536	254,334	189,646	58,871	30,420
End users ( <i>short tons</i> )	48,059	47,798	35,744	10,099	8,545
<b>Importers:</b>					
Distributors ( <i>short tons</i> )	457,108	445,261	463,437	114,785	90,896
End users ( <i>short tons</i> )	54,688	60,867	72,533	17,250	17,288
<b>Total:</b>					
Distributors ( <i>short tons</i> )	762,644	699,595	653,083	173,656	121,316
End users ( <i>short tons</i> )	102,747	108,665	108,277	27,349	25,833

Source: Compiled from data submitted in response to Commission questionnaires.

<sup>54</sup> Petition, p. 13.

<sup>55</sup> According to Black & Decker, the channels of distribution for construction nails are different from those for woodworking nails, because, according to their analysis, woodworking nails are distributed primarily (58 percent) through big retailers such as Home Depot and Lowe's, whereas construction nails are distributed primarily (82 percent) through specialty shops and only 18 percent through big retailers. Conference transcript, p. 159 (Suro) and conference exhibit by Black & Decker. Petitioners assert that there is still a significant overlap in the channels of distribution for both product types (petitioners' postconference brief, p. 6).

## Price

Table I-3 and figure I-2 present average unit values for U.S. shipments of steel nails in the United States from various sources. Petitioners assert that differences in prices between construction nails and woodworking nails also exist for other types of nails in the product continuum, are associated with slight variances in physical characteristics, and are within a reasonable range of a single domestic like product.<sup>56</sup> Analysis by Black & Decker finds that the average retail price of woodworking nails was \$2.74 per pound, whereas the average retail price of construction nails was \$0.81 per pound, indicating a difference between the two proposed domestic like products based on this factor; however, it is not clear whether there are similar differences across the continuum of other types of nails.<sup>57</sup> Pricing practices and prices reported for specific types of steel nails in response to the Commission's questionnaires are presented in Part V of this report, *Pricing and Related Information*.

**Table I-3**  
**Steel nails: Average unit values of U.S. shipments, by source, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Unit value (per short ton)</b>					
U.S. producers' U.S. shipments	\$1,411	\$1,515	\$1,538	\$1,537	\$1,797
U.S. imports from--					
China	1,104	1,114	1,086	1,065	1,143
United Arab Emirates	***	***	***	***	***
Average, subject sources	***	***	***	***	***
All other sources	1,413	1,519	1,516	1,623	1,623
Average, all sources	1,246	1,250	1,194	1,205	1,243
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.					

**Figure I-2**  
**Steel nails: Average unit values of U.S. shipments, by source, 2004-06, January-March 2006, and January-March 2007**

\* \* \* \* \*

<sup>56</sup> Petitioners' postconference brief, p. 6.

<sup>57</sup> Conference transcript, p. 161 (Suro).



## **PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET**

### **U.S. MARKET CONDITIONS AND CHARACTERISTICS**

U.S. producers' U.S. commercial shipments of steel nails as well as U.S. shipments of imported product from China and the UAE are made primarily to distributors. These distributors then sell the nails to end users which are largely in the construction and industrial sectors. In the construction sector, nails are used in the building of houses and other structures, while in the industrial sector, nails are used to make crates and pallets, mostly used for shipping. Since construction is the single largest end use for steel nails, demand for steel nails is largely determined by the size of the construction market. Responding firms indicated that demand was high in 2004 and 2005 due to a boom in new house construction and then fell off in the second half of 2006 due to a notable slowdown in construction.

Both collated and bulk nails are included in these investigations. According to testimony given at the staff conference, sales of collated nails have increased at the expense of bulk nails over the past several years.<sup>1</sup> According to this witness, the increase is due in large part to the increased availability and affordability of nail guns.<sup>2</sup>

Markets do not appear to be limited geographically, with nine of 16 responding U.S. producers<sup>3</sup> reporting nationwide sales and another five reporting sales to at least three regions. Nineteen of 37 responding importers also reported nationwide sales, with another seven reporting sales to at least three regions. Seven importers reported shipping to only one region. These importers are located throughout the United States with two making shipments only to the West Coast, two making shipments only to the Northeast, two making shipments only to the Southeast, and one making shipments only to the Midwest.

### **CHANNELS OF DISTRIBUTION**

Over the period January 2004 through March 2007, a large majority (84.8 percent) of U.S. producers' U.S. shipments of steel nails was shipped to distributors. U.S. shipments of subject imported steel nails also went primarily to distributors. Over the period January 2004 through March 2007, 90.0 percent of U.S. shipments of steel nails imported from China and \*\*\* percent of U.S. shipments of steel nails from the UAE were to distributors. Eleven of 16 responding U.S. producers, 18 of 32 responding importers of steel nails from China, and three of five responding importers of steel nails from the UAE reported sales only to distributors, whereas four responding U.S. producers, five responding importers of steel nails from China, and one responding importer of steel nails from the UAE reported sales to both distributors and end users of steel nails. One U.S. producer, nine importers of steel nails from China, and one importer of steel nails from the UAE reported sales only to end users. The firms that supply only end users, however, are generally quite small. Table II-1 presents information on channels of distribution for U.S. producers as well as for U.S. imports of subject product from China and the UAE.

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<sup>1</sup> Conference transcript, p. 115 (Zinman).

<sup>2</sup> Conference transcript, pp. 115-116 (Zinman).

<sup>3</sup> Throughout this section, the three divisions of ITW are treated as separate U.S. producers despite sharing common ownership. Each division filled out its own questionnaire and \*\*\*.

Table II-1

**Steel nails: U.S. producers' and U.S. importers' U.S. shipments by channels of distribution, 2004-06, January-March 2006, and January-March 2007**

Shipments	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>U.S. producers' U.S. shipments (in short tons)</b>					
To distributors	305,536	254,334	189,646	58,871	30,420
To end users	48,059	47,798	35,744	10,099	8,545
<b>U.S. importers' U.S. shipments of imports from China (in short tons)</b>					
To distributors	191,677	232,588	295,195	66,550	61,511
To end users	9,729	26,068	40,080	9,473	10,671
<b>U.S. importers' U.S. shipments of imports from the UAE (in short tons)</b>					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
<b>Share of U.S. producers' U.S. shipments (in percent)</b>					
To distributors	86.4	84.2	84.1	85.4	78.1
To end users	13.6	15.8	15.9	14.6	21.9
<b>Share of U.S. importers' U.S. shipments of imports from China (in percent)</b>					
To distributors	95.2	89.9	88.0	87.5	85.2
To end users	4.8	10.1	12.0	12.5	14.8
<b>Share of U.S. importers' U.S. shipments of imports from the UAE (in percent)</b>					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Customers routinely buy from a variety of foreign and domestic sources. Lists of U.S. producers' and importers' top 10 customers provided in questionnaire responses show that the same customers are supplied by U.S. producers and unaffiliated importers of nails. One customer will often appear in the top 10 list for two or more U.S. producers as well as two or more unaffiliated importers of steel nails from China or the UAE. The same purchaser can buy nails imported from both China and the UAE. In addition, U.S. producers that also sell imported steel nails (from either China or the UAE) will ship the nails that are in stock—regardless of where they were made. As a result, the purchaser in such a situation may not know where the nails were produced.

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. Supply

#### Domestic Production

Based on available information, staff believes that U.S. producers of steel nails are likely to respond to changes in demand with large changes in shipments of U.S.-produced steel nails to the U.S. market. A large amount of unused capacity suggests a high degree of responsiveness, while the relative absence of alternative markets and lack of production alternatives suggest a lower degree of responsiveness.

### ***Industry capacity***

Total U.S. capacity fell slightly from 775,253 short tons in 2004 to 722,079 short tons in 2006. Capacity in January-March 2007 was 176,510 short tons, down slightly from 179,037 short tons in January-March 2006. U.S. producers' reported capacity utilization for steel nails fell from 46.6 percent in 2004 to 31.5 percent in 2006. Capacity utilization in January-March 2007 was 22.9 percent, down from 39.3 percent in January-March 2006. Overall, the level of capacity utilization indicates that U.S. producers of steel nails have large amounts of currently available capacity with which they could increase production of steel nails in the event of a price change.

### ***Alternative markets***

Overall, U.S. producers of steel nails export a very small share of total production. Exports as a share of total production hovered near \*\*\* percent in 2004 and 2005 and rose \*\*\* to \*\*\* percent in 2006 and \*\*\* percent in January-March 2007. The low level of exports during the period indicates that domestic producers have limited ability to shift shipments between the United States and other markets in response to changes in the relative prices in those markets.

### ***Inventory levels***

U.S. producers' inventories as a percentage of their total shipments rose from \*\*\* percent in 2004 to \*\*\* percent in 2006. Inventories in January-March 2007 were \*\*\* percent of total shipments, as compared to \*\*\* percent in January-March 2006. These low-to-moderate inventories indicate that U.S. producers have some ability to respond to changes in demand simply by increasing shipments from inventory.

### ***Production alternatives***

Only one of the 17 responding U.S. producers reported producing other products on the same equipment or machinery or using the same labor as is used to produce steel nails. This producer reported that it manufactures PAT (Powder Actuated Tool) nails using the same equipment, machinery, and labor as is used to make certain steel nails, and that production is divided equally between the two products. The fact that producers cannot, by and large, switch machinery and resources to other products limits the flexibility to react to relative changes in the price of steel nails.

### ***Subject Imports from China***

According to official data from the Department of Commerce, imported steel nails from China as a share of total U.S. imports of steel nails rose from 38.3 percent in 2004 to 66.3 percent in 2006, and accounted for 70.3 percent of total U.S. imports of steel nails in January-March 2007. On an absolute basis, U.S. subject imports from China rose from 339,002 short tons in 2004 to 615,548 short tons in 2006. Imports from China in January-March 2007 were 112,488 short tons, down from 137,913 short tons in January-March 2006.

Based on available information, producers of steel nails from China are likely to respond to changes in demand with moderate changes in the quantity shipped to the U.S. market. While the existence of alternative markets may suggest a large response, the response is limited by the modest size of these alternative markets along with small inventories, a high capacity utilization rate, and an inability to produce other products using the same equipment with which steel nails are produced.

### ***Industry capacity***

Reported Chinese capacity grew from 345,910 short tons in 2004 to 580,282 short tons in 2006. At 140,125 short tons, capacity in January-March 2007 was 7.9 percent higher than in January-March 2006. Production more than kept pace with the growth in capacity as capacity utilization rose from 85.6 percent in 2004 to 90.4 percent in 2006. Capacity utilization stood at 83.9 percent in January-March 2007. These data indicate that Chinese suppliers of steel nails have modest excess capacity with which they could increase production of steel nails in the event of a change in price or demand in the United States.

### ***Alternative markets***

According to questionnaire responses from Chinese producers of steel nails, exports to the United States accounted for 84.5 percent of all exports of steel nails from China in 2006, similar to the 85.1 percent in 2004. Exports to the United States accounted for 74.7 percent of total shipments by these firms during the period January 2004-March 2007, while only 11.2 percent of total shipments were consumed by the home market and 14.0 percent were exported to other markets. Chinese producers, therefore, have only limited ability to divert product from other markets in response to relative changes in the price of steel nails between the United States and other markets.

### ***Inventory levels***

Chinese producers' inventories, as a share of their total shipments, fell from 4.4 percent in 2004 to 3.5 percent in 2006 and stood at 4.0 percent in January-March 2007. These data indicate that these producers have very limited ability to use inventories as a means of increasing shipments of steel nails to the U.S. market.

### ***Production alternatives***

Only four of 47 responding Chinese producers indicated that they produced other products using the same equipment used to produce steel nails. All four reported that they produced roofing nails on the same equipment used to produce steel nails. For two of these producers, steel nails accounted for 93 percent and 35 percent of total production using common machinery.

### **Subject Imports from the UAE**

According to official data from the Department of Commerce, imported steel nails from the UAE as a share of total U.S. imports of steel nails rose from 8.3 percent in 2004 to 9.0 percent in 2006, and accounted for 7.1 percent of total imports in January-March 2007. On an absolute basis, U.S. subject imports from the UAE rose modestly from 73,724 short tons in 2004 to 83,115 short tons in 2006. Imports from the UAE in January-March 2007 were 11,346 short tons, down from 22,641 short tons in January-March 2006.

Based on available information provided in its questionnaire response, the sole producer of steel nails from the UAE that exports to the United States (Dubai Wire) is likely to respond to changes in demand with \*\*\* changes in the quantity shipped to the U.S. market. The response is limited by \*\*\*.

### ***Industry capacity***

Reported UAE capacity \*\*\*. Production rose from 2004 to 2005 but fell \*\*\* in 2006, and fell \*\*\* between January-March 2006 and January-March 2007. As a result, capacity utilization rose from



\*\*\* percent in 2004 to \*\*\* percent in 2005, and fell \*\*\* to \*\*\* percent in 2006. Capacity utilization stood at \*\*\* percent in January-March 2007, down \*\*\* from \*\*\* percent in January-March 2006. Aside from January-March 2007, these data indicate that Dubai Wire has \*\*\* with which it could increase production of steel nails in the event of a change in price or demand in the United States.

### *Alternative markets*

According to the questionnaire response of Dubai Wire, exports to the United States accounted for \*\*\* percent of all exports of steel nails from the UAE throughout the period January 2004-March 2007. With \*\*\* to the home market, exports to the United States accounted for \*\*\* percent of total shipments by Dubai Wire during the period January 2004-March 2007. Dubai Wire, therefore, has \*\*\* to divert product from other markets in response to relative changes in the price of steel nails between the United States and other markets.

### *Inventory levels*

Dubai Wire's inventories, as a share of total shipments, fell from \*\*\* percent in 2004 to \*\*\* percent in 2006 and stood at \*\*\* percent in January-March 2007. These data indicate that this producer has \*\*\* to use inventories as a means of increasing shipments of steel nails to the U.S. market.

### *Production alternatives*

In its questionnaire response, Dubai Wire indicated that \*\*\*.

## **U.S. Demand**

Based on available information, U.S. consumers of steel nails are likely to respond to changes in the price of steel nails with small changes in their purchases of steel nails. The main contributing factors to the low responsiveness of demand are the low cost share accounted for by steel nails in most end uses and the lack of products that can be substituted for steel nails in many end uses.

### **Demand Characteristics**

Available data indicate that apparent U.S. consumption of steel nails fell from 1,238,523 short tons in 2004 to 1,154,857 short tons in 2006. The slowdown in construction that took place in the latter half of 2006 and into 2007 is evident in the apparent consumption data, as apparent consumption in January-March 2007 was 199,261 short tons compared to 300,597 short tons in January-March 2006.

When asked if demand for steel nails had changed since January 1, 2004, eight of 16 responding U.S. producers and 13 of 34 responding importers reported that demand had increased, whereas four U.S. producers and nine importers responded that demand had decreased, and three U.S. producers and eight importers responded that demand remained unchanged. One U.S. producer and importer<sup>4</sup> reported that demand from the construction industry and the big box retail market decreased while industrial demand increased. One importer<sup>5</sup> reported that demand increased for collated nails but fell for bulk nails. While their answers may have differed, the trend that many of the responding firms describe is the same: demand rose in 2004 thanks to the housing boom and a strong hurricane season, remained high or rose

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<sup>4</sup> \*\*\*.

<sup>5</sup> \*\*\*.

through 2005, and fell in late 2006 as the housing boom slowed. Two importers reported that demand increased in the first quarter of 2007.

### **Substitute Products**

Eight of 13 responding U.S. producers and 17 of 30 responding importers reported that there are no direct substitutes for steel nails. Five responding U.S. producers and 13 responding importers reported that substitutes for steel nails do exist. The most commonly mentioned substitutes are screws (listed by two U.S. producers and seven importers), staples (listed by three U.S. producers and six importers), and powder activated tool nails or fasteners (listed by two U.S. producers and one importer). Other potential substitutes listed include fluted concrete made from wire, glue or epoxy, light duty anchors, and roofing nails. Each of these potential substitutes, however, is only usable in certain specific end uses.

### **Cost Share**

Nails make up a very small share of the cost of construction and industrial end uses. According to five importers and three U.S. producers, nails account for less than one percent of the cost of building houses or other structures. One U.S. producer/importer reported that steel nails account for less than one percent of the cost of cabinet production, hardwood floor installation, and decorative wood trim installation. One producer reported that nails account for less than two percent of the total cost of framing houses, while one importer reported that nails accounted for less than 10 percent of the cost of drywall installation.

## **SUBSTITUTABILITY ISSUES**

### **Factors Affecting Purchasing Decisions**

It is generally agreed that as long as steel nails meet the specifications required for the specific end use in question, then price is the largest single factor affecting purchase decisions. There may, however, be some differences in quality between domestically produced product and product imported from China. During the staff conference, a representative for the respondent interested parties reported that there had been some quality issues with nails imported from China.<sup>6</sup> Respondent interested parties testified that steel nails from the UAE, in contrast, are of very high quality.<sup>7</sup>

In addition, respondents allege that purchases of imported nails are often driven by the lack of availability of suitable domestic nail varieties. They claim that while U.S. producers produce only a limited product range, a much broader range can be bought from Chinese or UAE producers.<sup>8</sup> In addition, Chinese and UAE producers reportedly offer a wider variety of packaging options or superior packaging quality.<sup>9</sup> While the single producer in the UAE offers a wide variety of collated nails, bulk nails are available only from Chinese or U.S. producers.

According to testimony provided at the staff conference, aside from projects initiated by the U.S. Government, nails are rarely subject to any formal or informal "Buy American" requirements.<sup>10</sup>

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<sup>6</sup> Conference transcript, p. 208 (Tabor).

<sup>7</sup> Conference transcript, p. 151 (Hurwitz), p. 153 (Lock), p. 155 (Veth), pp. 149-150 (Frosio), and p. 208 (Tabor).

<sup>8</sup> Conference transcript, pp. 117 and 119 (Zinman), p. 145 (Davis) .

<sup>9</sup> Conference transcript, pp. 146-147 (Davis), p. 151 (Hurwitz), and p. 155 (Veth).

<sup>10</sup> Conference transcript, p. 90 (Libla, Cronin, Kerkvliet, Dees) and p. 198 (Zinman).

Furthermore, witnesses testified that accounts subject to such requirements account for a minimal percentage of their sales.<sup>11</sup>

### Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Producers and importers were asked to report how frequently steel nails from different countries are interchangeable (table II-2).

**Table II-2**  
**Steel nails: U.S. producers' and importers' perceived degree of interchangeability of products produced in the United States and other countries<sup>1</sup>**

Country comparison	U.S. producers					U.S. importers				
	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	10	3	3	0	0	19	12	3	0	1
U.S. vs. UAE	10	2	1	0	3	10	5	2	0	13
U.S. vs. Nonsubject	9	2	3	0	1	15	8	2	0	6
China vs. UAE	9	2	1	0	4	8	5	3	0	14
China vs. Nonsubject	9	2	2	0	2	10	8	2	0	10
U.A.E. vs. Nonsubject	9	1	1	0	4	7	3	3	0	15

<sup>1</sup> Producers and importers were asked if certain steel nails produced in the United States and in other countries are used interchangeably.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

Thirteen of 16 responding U.S. producers and 31 of 34 responding importers who reported having knowledge of both Chinese and U.S.-produced steel nails reported that Chinese and U.S.-produced steel nails are either always or frequently interchangeable. Twelve of 13 responding U.S. producers and 15 of 17 responding importers who reported having knowledge of both UAE and U.S.-produced steel nails reported that nails produced in the UAE are either always or frequently interchangeable with U.S.-produced steel nails. Steel nails from China and the UAE are also reported to be fairly interchangeable with each other and with nonsubject steel nails. One U.S. producer/importer<sup>12</sup> reported that collated nails from different countries may not be interchangeable due to differences in the media used to collate the nails as well as the angle at which the nails are collated. This producer/importer also noted that patented nails are not interchangeable with other nails. Several other importers noted that interchangeability may be limited by the fact that a wider product range of steel nails is available from China.

Producers and importers were also asked to assess how often differences other than price were significant in sales of steel nails from the United States, China, the UAE, and nonsubject countries (table II-3).

<sup>11</sup> One witness testified that government projects account for "less than one-tenth of one percent" of its sales. Conference transcript, p. 199 (Tabor).

<sup>12</sup> \*\*\*.

**Table II-3****Certain steel nails: U.S. producers' and importers' perceptions concerning the importance of non-price differences in purchases of steel nails from the United States and other countries<sup>1</sup>**

Country comparison	U.S. producers					U.S. importers				
	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	1	1	5	9	0	10	4	12	6	2
U.S. vs. UAE	1	0	4	8	3	5	1	5	4	14
U.S. vs. Nonsubject	1	1	5	8	1	4	2	9	6	6
China vs. UAE	1	0	3	8	3	3	1	6	3	14
China vs. Nonsubject	1	1	4	8	1	2	2	9	4	10
UAE vs. Nonsubject	1	0	3	8	3	2	0	6	3	15

<sup>1</sup> Producers and importers were asked if differences other than price between steel nails produced in the United States and in other countries are a significant factor in their firm's sales of the product.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

Nine of 16 responding U.S. producers reported that non-price differences between U.S.-produced and Chinese-produced steel nails are never a factor in their sales of steel nails. Similarly, eight of 13 responding U.S. producers reported that non-price differences between U.S.-produced and UAE-produced steel nails are never a factor in their sales of steel nails. In contrast, only six of 32 responding importers agree with that assessment with respect to Chinese-produced nails, and only four of 15 responding importers agree with that assessment with respect to UAE-produced nails. Fourteen of 32 responding importers reported that non-price factors are always or frequently a factor in sales of steel nails from China, while six of 15 responding importers reported that non-price factors are always or frequently a factor in sales of steel nails from the UAE. Quality is the most commonly listed non-price factor. Several responding importers reported that Chinese nails may be of lower quality. Importers also listed availability as an important factor in sales. Several responding importers alleged that some products are not available in the United States and must be imported.

## **PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT**

### **U.S. PRODUCERS**

The petition identified 15 U.S. producers of steel nails.<sup>1</sup> The Commission received completed questionnaire responses from all 5 petitioners, from 8 of the other 10 firms identified in the petition, and from 2 other firms that were identified after receiving the petition.<sup>2</sup> Table III-1 presents U.S. producers' positions on the petition, ownership, plant locations, and shares of total reported U.S. production in 2006. Eleven producers support the position, three oppose it, and three take no position. Producers accounting for \*\*\* percent of U.S. production in 2006 support the petition, producers accounting for \*\*\* percent oppose the petition, and producers accounting for \*\*\* percent take no position. \*\*\* was the largest producer in 2006, followed by \*\*\*, all of which collectively accounted for almost 75 percent of domestic production in 2006. Table III-2 presents important industry events during 2004-07.

### **U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION**

Table III-3 presents data on U.S. producers' capacity, production, and capacity utilization between 2004 and 2006, and interim data for 2006 and 2007. Figure III-1 graphically presents data on U.S. producers' capacity, production, and capacity utilization during the period for which data were collected in the investigations.

U.S. production of steel nails decreased from 361,136 short tons in 2004 to 227,611 short tons in 2006. Further, production is down in interim 2007 compared to interim 2006. Capacity also fell over the period, and the average capacity utilization for U.S. producers fell from 46.6 percent in 2004 to 31.5 percent in 2006, and was 22.9 percent in interim 2007. U.S. producers' capacity was below apparent U.S. consumption in each year and interim period for which data were collected.

Generally, U.S. producers of steel nails reported mill closures and production consolidation and curtailment from 2004 to 2006, which follows the trends of decreasing rates of capacity and capacity utilization presented in table III-3. \*\*\*.<sup>3</sup> Finally, \*\*\*.<sup>4</sup>

Reported constraints in the manufacturing process for U.S. producers of steel nails include the machinery used to produce the nails, as well as labor availability, maintenance of the machines, and consistent orders.

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<sup>1</sup> Petition, pp. 2-5.

<sup>2</sup> Also, ITW provided separate data for its producers Paslode, Ramset, and Industrial Fastening.

<sup>3</sup> Petitioners' postconference brief, p. 7.

<sup>4</sup> Conference transcript, p. 37 (Stirnaman).

**Table III-1**

**Steel nails: U.S. producers, positions on the petition, ownership, plant locations, and shares of total reported U.S. production, 2006**

Firm	Position on petition	Firm ownership	U.S. plant location(s)	2006 U.S. production	
				Quantity (short tons)	Share (percent)
Air Nail/ISM Fastening Systems	Take no position	ISM Acquisition Corp., Butler, PA (parent company)	Butler, PA	***	***
Davis Wire Corp.	Support	Heico Acquisitions, Chicago, IL	Irwindale, CA	***	***
Fox Valley Steel & Wire <sup>1 2</sup>	Support	N/A	Hortonville, WI	4,392	***
Gerdau Ameristeel Corp.	Support	Gerdau SA (Brazil)	Harahan, LA	***	***
ITW/Industrial Fastening	Oppose	ITW	Elgin, IL	***	***
Keystone Steel & Wire Co.	Support	Contran Corp., Dallas, TX	Peoria, IL	***	***
Maze Nails	Support	None	Peru, IL	***	***
Mid Continent Nail Corp. <sup>2</sup>	Support	Libla Industries, Poplar Bluff, MO	Poplar Bluff, MO; Radford, VA; Springdale, AR; and Hillsboro, TX	***	***
Parker Metal Corp. <sup>2 3</sup>	Take no position	Parker Holdings, MA	Worcester, MA	***	***
ITW/Paslode <sup>2</sup>	Oppose	ITW	Vernon Hills, IL	***	***
Pneu-Fast Co. <sup>1</sup>	Support	N/A	Evanston, IL	4,000	***
ITW/Ramset	Oppose	ITW	Glendale Heights, IL	***	***
Senco Products, Inc. <sup>2</sup>	***	Sencorp., Newport, KY	Cincinnati, OH	***	***
Simplex Nails <sup>2</sup>	Support	None	Americus, GA	***	***
Specialty Fasteners Systems, Inc. <sup>2</sup>	***	Falcon Enterprises Canada	Prairie Grove, AR	***	***
Stanley Fastening Systems, L.P. ("Bostitch") <sup>2</sup>	***	Stanley-Bostitch Holding Corp. and The Stanley Works, New Britain, CT	Clinton, CT; North Kingstown, RI; East Greenwich, CT	***	***
Treasure Coast	Support	None	Fort Pierce, FL	***	***
Tree Island Wire USA, Inc. <sup>2</sup>	***	Tree Island Industries, Ltd. Richmond, BC	Ontario, CA	***	***
Wheeling-LaBelle Nail Co.	Support	None	Wheeling, WV	***	***
Total				236,003	100.0
<sup>1</sup> Public response to Commerce's polling questionnaire. ***. <sup>2</sup> ***. <sup>3</sup> Parker did not produce in 2006.					
Note.—Total U.S. production in this table includes Fox Valley Steel and Pneu-Fast which are not included anywhere else in this report.					
Source: Compiled from data submitted in response to Commission questionnaires and from public sources.					

**Table III-2**  
**Steel nails: Important industry events, 2004-07**

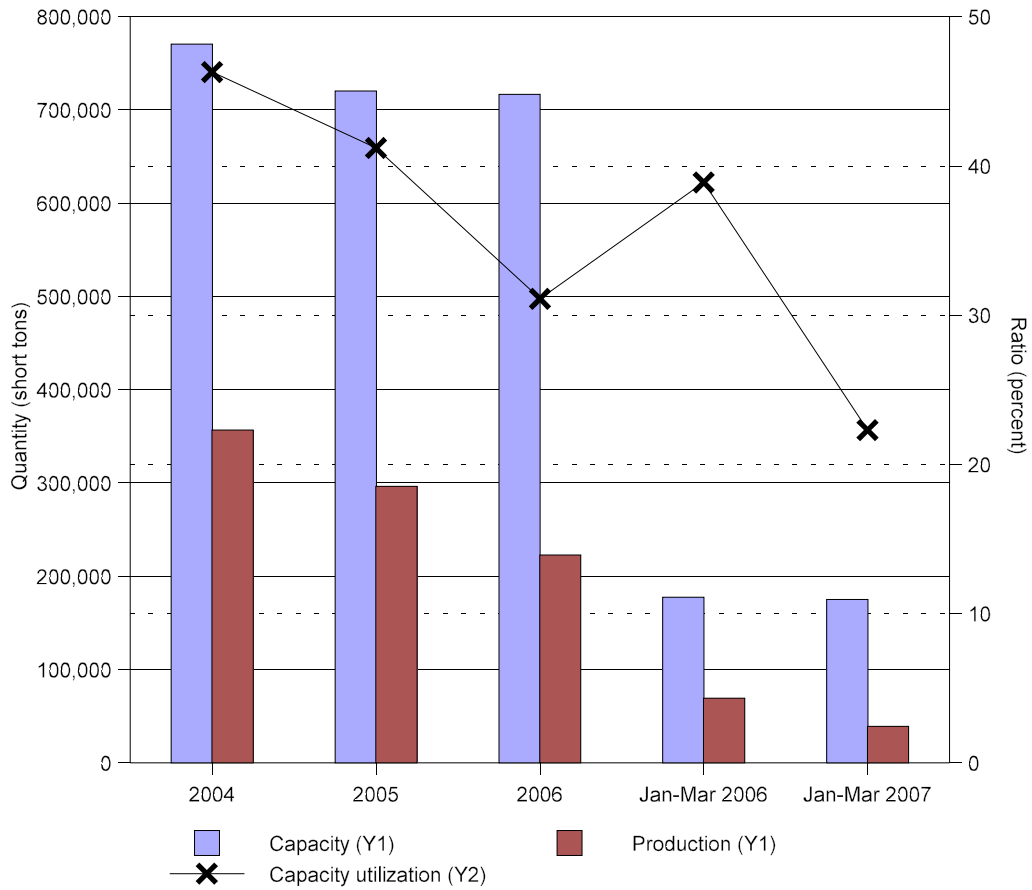
\* \* \* \* \*

**Table III-3**  
**Steel nails: U.S. capacity, production, and capacity utilization, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
Capacity ( <i>short tons</i> )	775,253	725,027	722,079	179,037	176,510
Production ( <i>short tons</i> )	361,136	300,745	227,611	70,414	40,434
Capacity utilization ( <i>percent</i> )	46.6	41.5	31.5	39.3	22.9

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure III-1**  
**Steel nails: U.S. capacity, production, and capacity utilization, 2004-06, January-March 2006, and January-March 2007**



Source: Table III-3.

## U.S. PRODUCERS' SHIPMENTS

Table III-4 presents information on U.S. producers' shipments of steel nails between 2004 and 2006. Six U.S. producers reported exporting nails, which made up a minimal share of the quantity of U.S. producers' shipments of steel nails.<sup>5</sup>

**Table III-4**  
**Steel nails: U.S. producers' shipments, by types, and shares, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Quantity (short tons)</b>					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	354,075	302,694	226,666	69,246	39,190
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
<b>Value (1,000 dollars)</b>					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	499,569	458,473	348,505	106,437	70,427
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
<b>Unit value (per short ton)</b>					
Commercial shipments	\$***	\$***	\$***	\$***	\$***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	1,411	1,515	1,538	1,537	1,797
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***

Table continued on next page.

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<sup>5</sup> U.S. producers of steel nails reported exporting to Australia, Canada, "Europe," Japan, Korea, Kuwait, Mexico, New Zealand, and the Netherlands.



**Table III-4--Continued**

**Steel nails: U.S. producers' shipments, by types, and shares, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Share of quantity (percent)</b>					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	100.0	100.0	100.0	100.0	100.0
<b>Share of value (percent)</b>					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	100.0	100.0	100.0	100.0	100.0
<sup>1</sup> Not applicable. Note.—Because of rounding, figures may not add to the totals shown. Source: Compiled from data submitted in response to Commission questionnaires.					

\*\*\*, and transfers of steel nails to related firms were less than \*\*\* percent by quantity in any year. U.S. producers' commercial shipments of steel nails decreased by \*\*\* percent by quantity from 2004 to 2005, and such shipments decreased by a further \*\*\* percent between 2005 and 2006. \*\*\*'s reported commercial shipments in 2006 were \*\*\* the quantity of its 2004 commercial shipments. \*\*\* also all reported decreases in commercial shipments from 2004 to 2006.

Table III-5 presents information on U.S. producers' U.S. commercial shipments of steel nails by type/finish in 2006.<sup>6</sup> Almost 80 percent of U.S. shipments of steel nails in 2006 were collated nails (nearly 80 percent of which were collated-bright nails), and collated nails were 85 percent of the sales value of steel nails. The average unit value of collated nails was higher than that of uncollated nails, and for both collated and uncollated nails, the average unit value of galvanized nails was higher than the average unit value of bright nails.

<sup>6</sup> Only \*\*\* reported producing roofing nails: \*\*\*.

**Table III-5**  
**Steel nails: U.S. producers' U.S. shipments by type of nail and finish, 2006**

Type of nail/finish	Quantity ( <i>short tons</i> )	Value (\$1,000)	Unit value ( <i>dollars per ton</i> )
<b>Collated:</b>			
Bright (no finish)	137,414	177,326	1,290
Galvanized	37,432	107,233	2,865
Other	812	12,854	15,830
Total	175,658	297,413	1,693
<b>Uncollated:</b>			
Bright (no finish)	34,000	32,026	942
Galvanized	9,731	11,871	1,220
Other	7,277	7,194	989
Total	51,008	51,091	1,002

Source: Compiled from data submitted in response to Commission questionnaires.

### U.S. PRODUCERS' IMPORTS AND PURCHASES

During the period of investigation, eight U.S. producers imported steel nails from China, and two imported steel nails from the UAE.<sup>7</sup> Two of these firms, \*\*\*, imported subject steel nails from both subject countries (as well as nonsubject countries), \*\*\* imported from China and Canada, and \*\*\* imported subject steel nails from only China.<sup>8</sup> Four U.S. producers imported steel nails from nonsubject countries.<sup>9</sup> For the importing U.S. producers, the general trend was for the ratio of imports to production to increase, specifically for \*\*\* which both had ratios of imports to production exceeding \*\*\* percent by 2006. Additionally, \*\*\* had a ratio of imports to production exceeding \*\*\* percent over the period, and was importing \*\*\* percent more steel nails than it was producing in 2006. Seven companies (\*\*\*) also made purchases of steel nails over the period.

Table III-6 presents data, by company, on domestic producers' direct imports, purchases of imported product, and purchases from other domestic producers.

**Table III-6**  
**Steel nails: U.S. producers' imports, purchases, and ratios to production, 2004-06, January-March 2006, and January-March 2007**

\* \* \* \* \*

<sup>7</sup> \*\*\*.

<sup>8</sup> \*\*\* imported nonsubject nails as well.

<sup>9</sup> U.S. producers imported nonsubject steel nails from Austria, Canada, Colombia, Denmark, "Europe," Italy, Korea, Malaysia, Spain, and Taiwan.

Table III-7 presents combined data of 11 domestic producers' direct imports, purchases of imported product, and purchases from other domestic producers. U.S. producers of steel nails made purchases of steel nails from other domestic producers, China (both direct imports and purchases from importers), the UAE (direct imports), and other countries (both direct imports and purchases). U.S. producers' imports from China and the UAE more than doubled from 2004 to 2006, while their imports from nonsubject sources decreased by 34 percent. The reasons cited for making these imports and purchases were generally to be able to offer products at lower prices, to complement a firm's product line with something it does not produce, to fill out inventory, to supplement capacity, and instead of producing low-volume products.

**Table III-7**  
**Steel nails: U.S. producers' imports, purchases, and ratios to production, 2004-06, January-March 2006, and January-March 2007<sup>1</sup>**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Quantity (short tons)</b>					
U.S. production <sup>1</sup>	314,079	274,511	204,484	62,695	38,441
Purchases from China	***	***	***	***	***
Purchases to production ( <i>in percent</i> )	***	***	***	***	***
Purchases from nonsubject sources	***	***	***	***	***
Purchases to production ( <i>in percent</i> )	***	***	***	***	***
Purchases from domestic producers	***	***	***	***	***
Purchases to production ( <i>in percent</i> )	***	***	***	***	***
Purchases from other sources	***	***	***	***	***
Purchases to production ( <i>in percent</i> )	***	***	***	***	***
Total purchases	520	8,218	17,641	3,102	1,352
Purchases to production ( <i>in percent</i> )	0.2	3.0	8.6	4.9	3.5
Imports from China	23,044	35,728	77,317	12,390	24,590
Imports to production ( <i>in percent</i> )	7.3	13.0	37.8	19.8	64.0
Imports from the UAE	***	***	***	***	***
Imports to production ( <i>in percent</i> )	***	***	***	***	***
Imports from nonsubject sources	91,882	73,297	60,313	19,808	7,940
Imports to production ( <i>in percent</i> )	29.25	26.70	29.5	31.6	20.7
Total imports	***	***	***	***	***
Imports to production ( <i>in percent</i> )	***	***	***	***	***
<sup>1</sup> Data are for 11 U.S. producers with imports and/or purchases of steel nails.					
Source: Compiled from data submitted in response to Commission questionnaires.					

## U.S. PRODUCERS' INVENTORIES

Table III-8, which presents end-of-period inventories for steel nails from 2004 to 2006, shows that inventories were relatively low as a ratio to production and shipments over the period. Inventories as a ratio to production were higher in the interim period January-March 2007 than in January-March 2006, but this is due to a decrease in production in the second interim period rather than any increase in inventories.

**Table III-8**

**Steel nails: U.S. producers' end-of-period inventories, 2004-06, January-March 2006, and January-March 2007**

\* \* \* \* \*

## U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-9 presents data on U.S. producers' employment-related indicia. Employment of production-related workers ("PRWs") in the U.S. steel nail industry declined by 24.3 percent between 2004 and 2006, and hours worked similarly decreased. Wages paid to PRWs also declined from 2004 to 2006, as did productivity, and unit labor costs increased by 23.1 percent.

**Table III-9**

**Steel nails: U.S. producers' employment-related data, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
Production and related workers (PRWs)	1,480	1,370	1,120	1,160	820
Hours worked by PRWs ( <i>1,000 hours</i> )	3,212	2,912	2,319	629	409
Hours worked per PRW	2,177	2,133	2,078	545	500
Wages paid to PRWs ( <i>1,000 dollars</i> )	44,110	36,093	34,212	9,198	5,884
Hourly wages	\$13.73	\$12.39	\$14.76	\$14.62	\$14.39
Productivity ( <i>pounds produced per 1,000 hours</i> )	112.4	103.3	98.2	111.9	98.9
Unit labor costs ( <i>per short ton</i> )	\$122.14	\$120.01	\$150.31	\$130.63	\$145.51
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

## PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

### U.S. IMPORTERS

Table IV-1 presents information on U.S. importers. Thirty-three of the importers that submitted data in response to the Commission's U.S. importers' questionnaire indicated that they imported steel nails from China.<sup>1</sup> These 33 firms' imports of steel nails from China account for more than half (\*\*\*) percent) of total U.S. imports from China by quantity in the period 2004 to 2006, as measured in official Commerce statistics.

**Table IV-1**  
**Steel nails: U.S. importers and imports, by source, 2006**

\* \* \* \* \*

\*\*\* of the importers that submitted data in response to the Commission's U.S. importers' questionnaire indicated that they imported steel nails from the UAE: \*\*\*. These \*\*\* firms' imports of steel nails from the UAE account for all (\*\*\*) percent) of total U.S. imports from the UAE by quantity in the period 2004 to 2006 as measured in official Commerce statistics.

### U.S. IMPORTS

Table IV-2 and figure IV-1 present and depict U.S. imports of steel nails during 2004 to 2006 and January-March 2006 and 2007. U.S. import data are based on official Commerce statistics excluding roofing nails.<sup>2</sup> U.S. imports of steel nails from China nearly doubled, rising from 339,002 short tons in 2004 to 615,548 short tons in 2006. Such imports fell from 137,913 short tons in January-March 2006 to 112,488 short tons in the same period of 2007. Imports from the UAE rose by more than 12 percent from 73,724 short tons in 2004 to 83,115 short tons in 2006; the increase was accounted for by \*\*\*. Additionally, such imports dropped in half from 22,641 short tons in the interim period of 2006 to 11,346 short tons in the same period of 2007.

Korea (accounting for 7.9 percent of total U.S. imports of steel nails during 2006), Canada (4.1 percent), Taiwan (4.3 percent), Mexico (3.6 percent), Poland (1.0 percent), Malaysia (1.0 percent), and 27 other countries (ranging between less than 0.05 percent and 0.6 percent of 2006 imports) also exported steel nails to the United States during the period for which data were collected. These nonsubject imports fell by 51.3 percent from 471,722 short tons in 2004 to 229,529 short tons in 2006, and fell by a further 48.8 percent between the interim periods. The increase in subject imports between 2004 and 2006 is larger than the decrease in nonsubject imports, and between the interim periods both sets of imports decreased.

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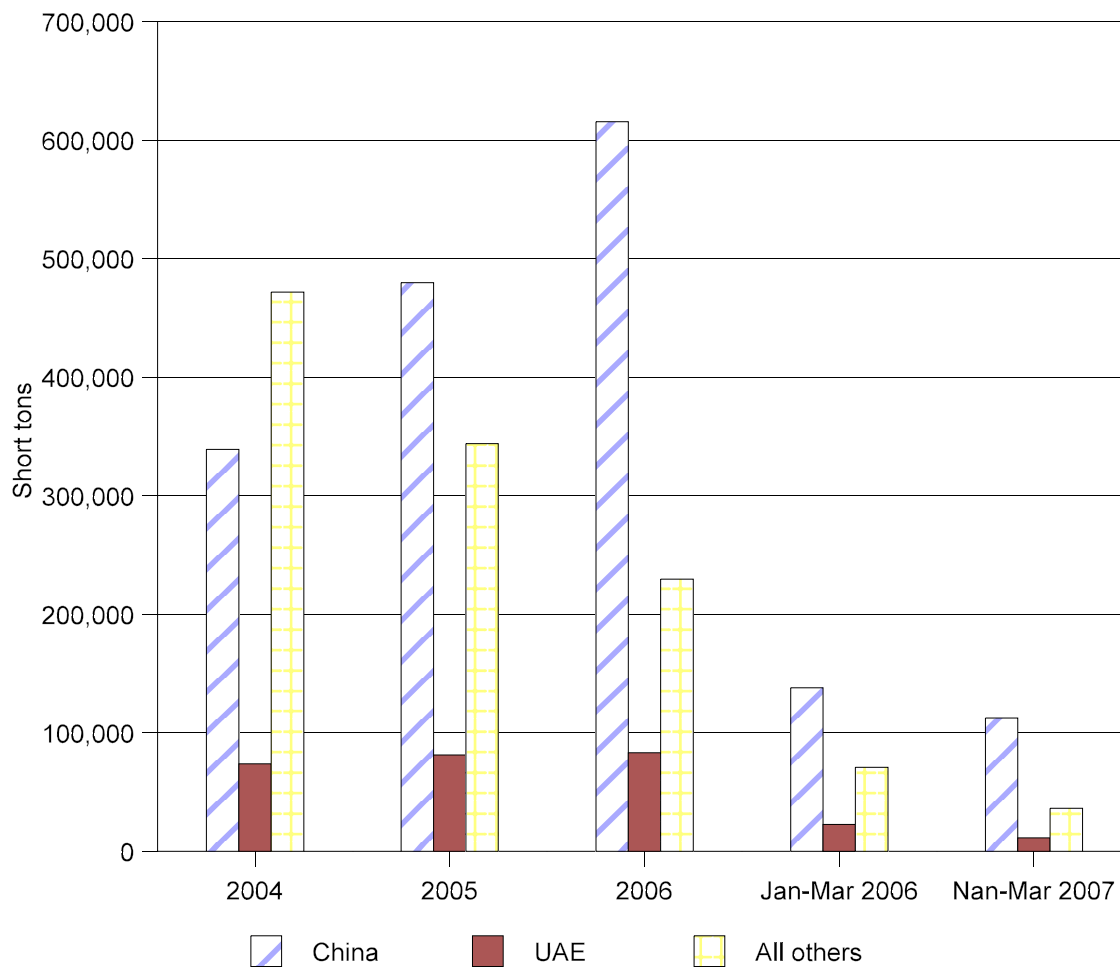
<sup>1</sup> Of these importers, \*\*\* imported from both the UAE and China.

<sup>2</sup> HTS subheadings 7317.00.55, excluding statistical reporting number 7317.00.5501 (roofing nails); 7317.00.65; and 7317.00.75.

**Table IV-2**  
**Steel nails: U.S. imports, by sources, 2004-06, January-March 2006, and January-March 2007**

Source	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Quantity (short tons)</b>					
China	339,002	479,751	615,548	137,913	112,488
United Arab Emirates	73,724	81,287	83,115	22,641	11,346
Subtotal	412,726	561,038	698,662	160,553	123,833
Other sources	471,722	343,963	229,529	70,797	36,238
Total	884,448	905,001	928,191	231,351	160,071
<b>Value (1,000 dollars)<sup>1</sup></b>					
China	274,183	391,159	485,994	105,632	90,820
United Arab Emirates	75,446	78,305	77,913	20,550	10,935
Subtotal	349,629	469,464	563,907	126,182	101,754
Other sources	488,453	413,416	297,291	86,462	50,381
Total	838,082	882,879	861,198	212,644	152,135
<b>Unit value (per short ton)<sup>1</sup></b>					
China	\$809	\$815	\$790	\$766	\$807
United Arab Emirates	1,023	963	937	908	964
Subtotal	847	837	807	786	822
Other sources	1,035	1,202	1,295	1,221	1,390
Total	948	976	928	919	950
<b>Share of quantity (percent)</b>					
China	38.3	53.0	66.3	59.6	70.3
United Arab Emirates	8.3	9.0	9.0	9.8	7.1
Subtotal	46.7	62.0	75.3	69.4	77.4
Other sources	53.3	38.0	24.7	30.6	22.6
Total	100.0	100.0	100.0	100.0	100.0
<b>Share of value (percent)</b>					
China	32.7	44.3	56.4	49.7	59.7
United Arab Emirates	9.0	8.9	9.0	9.7	7.2
Subtotal	41.7	53.2	65.5	59.3	66.9
Other sources	58.3	46.8	34.5	40.7	33.1
Total	100.0	100.0	100.0	100.0	100.0
<sup>1</sup> Landed, duty-paid.					
Source: Compiled from official Commerce statistics.					

**Figure IV-1**  
**Steel nails: Quantity of subject and nonsubject U.S. imports, 2004-06, January-March 2006, and**  
**January-March 2007**



Source: Table IV-2.

The quantity of subject imports increased by 35.9 percent between 2004 and 2005 and by 24.5 percent between 2005 and 2006, increasing the share of total imports accounted for by subject imports from 46.7 percent in 2004 to 75.3 percent in 2006. Subject imports from China account for most of the increase in subject imports over the period of investigation (imports from China increased from 38.3 percent of imports in 2004 to 66.3 percent of imports in 2006, while the share of imports from the UAE increased very slightly, from 8.3 percent of imports to 9.0 percent). Total imports increased during 2004-06 by 4.9 percent.

According to the import data presented in table IV-2, subject imports from China had the lowest average unit value for every year, and their average unit value decreased from 2004 to 2006. In 2004 the UAE imports' average unit value was closer to that of the nonsubject imports than to that of China, but by 2006 it had fallen from \$1,023 to \$937, while the average unit value for all nonsubject imports had increased to \$1,295. The average unit value for China and the UAE combined was 62.3 percent of the average unit value for all other imports in 2006.

## U.S. IMPORTS BY TYPE

Table IV-3 presents data on U.S. imports of collated steel nails. Table IV-4 presents data on U.S. imports of uncollated steel nails. In 2006, 48.2 percent of U.S. imports of steel nails from the subject countries was collated nails, and 51.8 percent was uncollated nails. From 2004 to 2006, collated nails accounted for an increasing share of imports of steel nails from China and nonsubject sources, while they apparently accounted for a decreasing share of imports from the UAE; total U.S. imports of steel nails were predominantly uncollated, though U.S. importers increased their imports of collated steel nails and decreased their imports of uncollated steel nails.<sup>3</sup>

**Table IV-3**

**Collated steel nails:<sup>1</sup> U.S. imports, by sources, 2004-06, January-March 2006, and January-March 2007**

Source	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Quantity (short tons)</b>					
China	67,131	156,657	270,021	49,270	58,663
United Arab Emirates	54,805	51,747	49,904	15,468	7,302
Subtotal	121,936	208,404	319,926	64,739	65,966
Other sources	163,406	158,267	90,783	28,756	12,415
Total	285,342	366,671	410,708	93,494	78,381
<b>Value (1,000 dollars)<sup>2</sup></b>					
China	61,793	141,122	231,600	42,838	50,642
United Arab Emirates	58,307	52,208	47,608	14,354	7,344
Subtotal	120,100	193,329	279,208	57,192	57,987
Other sources	185,596	189,276	116,073	34,605	17,571
Total	305,697	382,605	395,281	91,797	75,558
<b>Unit value (per short ton)<sup>2</sup></b>					
China	\$920	\$901	\$858	\$869	\$863
United Arab Emirates	1,064	1,009	954	928	1,006
Subtotal	985	928	873	883	879
Other sources	1,136	1,196	1,279	1,203	1,415
Total	1,071	1,043	962	982	964
<sup>1</sup> Excludes HTS subheadings 7317.00.65 and 7317.00.75. <sup>2</sup> Landed, duty-paid.					
Source: Compiled from official Commerce statistics.					

<sup>3</sup> However, imports of collated steel nails from the UAE are possibly misclassified as uncollated steel nails. The president of the sole known UAE exporter of steel nails to the United States stated that “in the last three years we’ve been producing 100-percent collated nails” (conference transcript, p. 174 (Ved)). U.S. producers’ and importers’ U.S. shipments of collated and uncollated steel nails, based on questionnaire responses, are presented in appendix C, table C-4.



The unit values of both collated and uncollated steel nails imported from subject countries generally decreased during 2004-06, while the unit values for both types of nails imported from nonsubject countries increased over the period. Unit values for imported collated nails were higher than the unit values for imported nails classified as uncollated nails for China, the UAE, and nonsubject countries in each of the years and periods for which data were collected.

**Table IV-4**  
**Uncollated steel nails:<sup>1</sup> U.S. imports, by sources, 2004-06, January-March 2006, and January-March 2007**

Source	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Quantity (short tons)</b>					
China	246,797	286,537	312,126	80,650	47,975
United Arab Emirates	18,171	28,722	32,059	7,154	4,043
Subtotal	264,968	315,259	344,184	87,804	52,018
Other sources	294,210	177,504	132,304	40,455	21,994
Total	559,178	492,763	476,488	128,259	74,012
<b>Value (1,000 dollars)<sup>2</sup></b>					
China	184,983	208,339	217,109	53,889	33,281
United Arab Emirates	16,289	25,316	29,259	6,153	3,590
Subtotal	201,272	233,654	246,368	60,042	36,872
Other sources	267,011	197,976	156,403	45,863	27,313
Total	468,283	431,630	402,771	105,904	64,185
<b>Unit value (per short ton)<sup>1</sup></b>					
China	\$750	\$727	\$696	\$668	\$694
United Arab Emirates	896	881	913	860	888
Subtotal	760	741	716	684	709
Other sources	908	1,115	1,182	1,134	1,242
Total	948	976	928	919	950
<sup>1</sup> Excludes HTS subheadings 7317.00.65 and 7317.00.75. <sup>2</sup> Landed, duty-paid.					
Source: Compiled from official Commerce statistics.					

### NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.<sup>4</sup> Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic

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<sup>4</sup> Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.<sup>5 6</sup> Subject imports accounted for 77.8 percent of total imports of steel nails by quantity between May 2006 and April 2007; 69.8 percent were imports from China and 8.0 percent were imports from the United Arab Emirates.<sup>7</sup>

## CUMULATION

In assessing whether subject imports compete with each other for purposes of the statutory assessment of cumulation of the subject imports, the Commission has generally considered four factors:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.

The degree of fungibility between the subject imports<sup>8</sup> and between imports and the domestic like product is discussed in Part II of this report, as is the existence of common or similar channels of distribution. The presence of sales in the same geographic markets is discussed below (and briefly in Part II), as is whether the subject imports are simultaneously present in the market.

## Geographic Markets

Table IV-5 presents the Customs districts of entry for subject imports of steel nails from 2004 to 2006. Los Angeles, CA, was the largest district of entry for imports from both countries, accounting for 23 percent of total imports from the two countries during 2004 to 2006 and more than three times the quantity of imports landed at any other district in 2006. Imports of steel nails from China and the UAE also overlapped in several other districts of entry.

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<sup>5</sup> Section 771(24) of the Act (19 U.S.C. § 1677(24)).

<sup>6</sup> In determining the aggregate volume of the merchandise described above, the Commission is to disregard imports from any country subject to any of the four cumulation exceptions noted in the section entitled “*Cumulation*.”

<sup>7</sup> Calculated from official Commerce statistics.

<sup>8</sup> The statistical reporting numbers under which the largest amounts of imports of steel nails from China entered in 2006 (7317.00.5507 and 7317.00.5530) were also the numbers under which the largest amounts of imports of steel nails from the UAE entered.

**Table IV-5**  
**Steel nails: U.S. imports from subject countries, by country of origin and Customs district,**  
**2004-06**

Customs district	Calendar year		
	2004	2005	2006
<b>Quantity (short tons)</b>			
<b>China:</b>			
Los Angeles, CA	68,676	93,989	156,720
New York, NY	38,841	54,185	57,462
Savannah, GA	32,357	35,957	46,913
San Francisco, CA	23,462	25,432	38,572
Chicago, IL	17,955	26,332	37,563
Miami, FL	16,978	25,863	36,214
Cleveland, OH	21,228	26,348	30,818
Seattle, WA	12,134	22,415	24,562
New Orleans, LA	10,178	16,586	23,153
Dallas-Fort Worth, TX	11,299	20,574	22,649
Houston-Galveston, TX	15,216	19,612	21,534
Norfolk, VA	12,643	17,407	19,322
All other	58,036	95,052	100,066
Total	339,002	479,751	615,548
<b>UAE:</b>			
Los Angeles, CA	23,082	23,701	16,674
Charleston, SC	10,895	12,507	15,030
Dallas-Fort Worth, TX	61	2,350	11,203
New York, NY	2,808	4,234	9,003
Houston-Galveston, TX	3,064	7,512	6,959
Tampa, FL	4,195	6,750	6,470
Norfolk, VA	3,194	3,426	5,209
San Francisco, CA	3,104	5,440	3,968
Chicago, IL	2,563	3,599	3,310
Boston, MA	3,540	2,341	339
Baltimore, MD	3,317	2,828	86
Savannah, GA	8,898	1,296	61
All other	5,001	5,303	4,802
Total	73,724	81,287	83,115
Grand total	412,726	561,038	698,662

Source: Compiled from official Commerce statistics.

### Presence in the Market

Table IV-6 presents information on the monthly presence of subject imports. As is shown, steel nails enter at all times during the year, and imports from China and the UAE overlapped in all of the 39 months shown.

**Table IV-6**  
**Steel nails: U.S. imports, monthly entries into the United States, by source, 2004-06 and January-March 2007**

Source	Month												Total number of months
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>2004</b>													
China													12
UAE													12
<b>2005</b>													
China													12
UAE													12
<b>2006</b>													
China													12
UAE													12
<b>2007</b>													
China													3
UAE													3
Note.--Shaded squares indicate that imports of steel nails entered into the United States in the specified month.													
Source: Compiled from official Commerce statistics.													

### APPARENT U.S. CONSUMPTION, U.S. MARKET SHARES, AND RATIOS OF IMPORTS TO U.S. PRODUCTION

Table IV-7 presents data on the apparent U.S. consumption of steel nails. Table IV-8 presents data on U.S. market shares. Figure IV-2 graphically presents data on apparent U.S. consumption and U.S. market shares.

Over the period of investigation, total apparent U.S. consumption decreased. Decreases in U.S. producers' U.S. shipments bore the brunt of the decrease in apparent U.S. consumption between 2004 and 2006. Imports increased over the period while U.S. producers' U.S. shipments decreased. From 2004 to 2006, imports of steel nails increased from subject sources, while decreasing from nonsubject sources; however, imports from both sources decreased between the interim periods.

**Table IV-7**  
**Steel nails: Apparent U.S. consumption, by sources, 2004-06, January-March 2006, and January-March 2007**

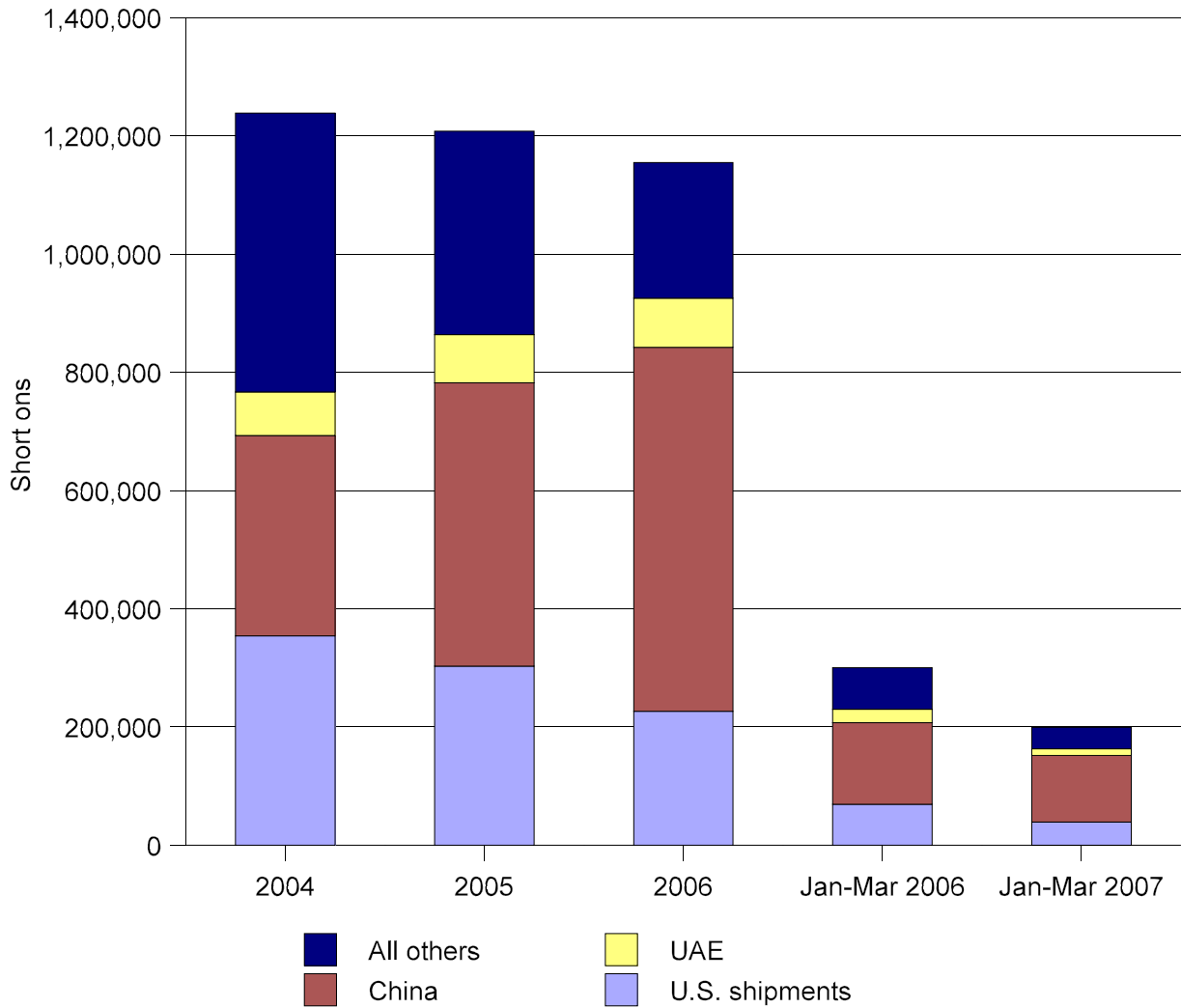
Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Quantity (<i>short tons</i>)</b>					
U.S. producers' shipments	354,075	302,694	226,666	69,246	39,190
U.S. imports from-- China	339,002	479,751	615,548	137,913	112,488
UAE	73,724	81,287	83,115	22,641	11,346
Subtotal	412,726	561,038	698,662	160,553	123,833
All other sources	471,722	343,963	229,529	70,797	36,238
Total imports	884,448	905,001	928,191	231,351	160,071
Apparent U.S. consumption	1,238,523	1,207,695	1,154,857	300,597	199,261
<b>Value (<i>1,000 dollars</i>)</b>					
U.S. producers' shipments	499,569	458,473	348,505	106,437	70,427
U.S. imports from-- China	274,183	391,159	485,994	105,632	90,820
UAE	75,446	78,305	77,913	20,550	10,935
Subtotal	349,629	469,464	563,907	126,182	101,754
All other sources	488,453	413,416	297,291	86,462	50,381
Total imports	838,082	882,879	861,198	212,644	152,135
Apparent U.S. consumption	1,337,651	1,341,352	1,209,702	319,081	222,562
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.					

**Table IV-8**  
**Steel nails: Market shares, by sources, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Share of quantity (percent)</b>					
U.S. producers' U.S. shipments	28.6	25.1	19.6	23.0	19.7
U.S. imports from-- China	27.4	39.7	53.3	45.9	56.5
United Arab Emirates	6.0	6.7	7.2	7.5	5.7
All subject countries	33.3	46.5	60.5	53.4	62.1
Nonsubject countries	38.1	28.5	19.9	23.6	18.2
All countries	71.4	74.9	80.4	77.0	80.3
<b>Share of value (percent)</b>					
U.S. producers' U.S. shipments	37.3	34.2	28.8	33.4	31.6
U.S. imports from-- China	20.5	29.2	40.2	33.1	40.8
United Arab Emirates	5.6	5.8	6.4	6.4	4.9
All subject countries	26.1	35.0	46.6	39.5	45.7
Nonsubject countries	36.5	30.8	24.6	27.1	22.6
All countries	62.7	65.8	71.2	66.6	68.4
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.					

U.S. producers' U.S. shipments' share of the quantity and value of consumption of steel nails decreased from 2004 to 2006, while imports from China increased in both share of quantity and share of value. Subject imports, both from China and the UAE, accounted for a higher percentage of the U.S. market with respect to quantity than with respect to value in each year. In 2004, the same was true for nonsubject imports. However, in 2005 and 2006, nonsubject imports began to represent a higher share of the market by value than by quantity (in 2006, nonsubject imports accounted for 19.9 percent of the U.S. market by quantity, but 24.6 percent of the U.S. market by value).

**Figure IV-2**  
**Steel nails: Apparent U.S. consumption, by sources, 2004-06, January-March 2006, and January-March 2007**



Source: Table IV-7.

Table IV-9 presents information on the ratio of subject and nonsubject imports to U.S. production of steel nails. Over the period of investigation, subject imports increased from approximately 114.3 percent of U.S. production in 2004 to 307.0 percent of U.S. production in 2006. As a ratio to U.S. production, nonsubject imports decreased over the period of investigation.

**Table IV-9**  
**Steel nails: Ratios of U.S. imports to U.S. production, by sources, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
U.S. production (in <i>short tons</i> )	361,136	300,745	227,611	70,414	40,434
<b>Ratio to U.S. production (<i>percent</i>)</b>					
U.S. imports from--					
China	93.9	159.5	270.4	195.9	278.2
United Arab Emirates	20.4	27.0	36.5	32.2	28.1
All subject countries	114.3	186.5	307.0	228.0	306.3
Nonsubject countries	130.6	114.4	100.8	100.5	89.6
All countries	244.9	300.9	407.8	328.6	395.9
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.					



## PART V: PRICING AND RELATED INFORMATION

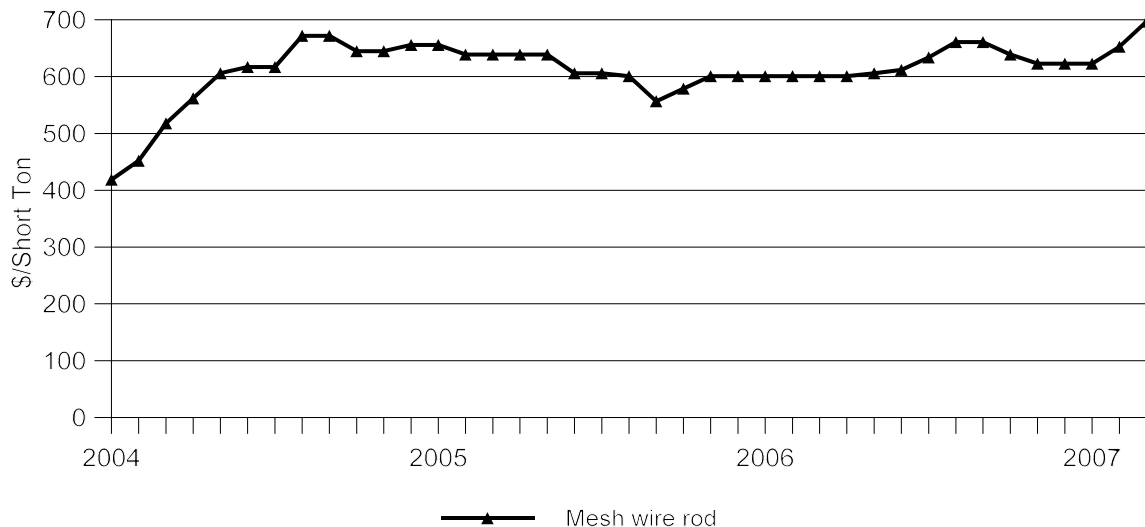
### FACTORS AFFECTING PRICES

#### Raw Material Costs

The primary raw material used in the production of steel nails in the United States is carbon steel wire. Producers can either form the wire from wire rod (in an “integrated” production operation) or purchase pre-made wire (in a “non-integrated” operation). U.S. producers reported that raw material costs as a percentage of cost of goods sold fell slightly from 62.7 percent in 2004 to 60.5 percent in 2006. This decrease in raw materials costs occurred despite a rise in the cost of wire rod. Figure V-1 shows monthly prices of wire rod from 2004 through March 2007. Overall, prices rose by 66.3 percent from January 2004 to March 2007, with most of that increase occurring during 2004. Energy inputs electricity and natural gas are also used in the production process for steel nails. The costs of both natural gas and electricity also increased since 2004 with natural gas prices rising by 20.8 percent from 2004 to 2006 and electricity prices rising by 16.0 percent from 2004 to 2006 (on an annual basis).<sup>1</sup>

**Figure V-1**

**Mesh wire rod: U.S. domestic prices, f.o.b. Midwest, monthly, January 2004-March 2007**



Source: \*\*\*.

<sup>1</sup> Source: U.S. Energy Information Administration, *Monthly Energy Review*, found at <http://www.eia.doe.gov/emeu/mer/contents.html>, retrieved June 13, 2007.

## **Transportation Costs to the U.S. Market**

Transportation costs for certain steel nails to the United States (excluding U.S. inland costs) in 2006 are estimated to be equivalent to approximately 18.3 percent of the customs value for product from China, and approximately 10.8 percent of the customs value for product from the UAE. These estimates are up slightly from 17.6 percent for product from China and 9.4 percent for product from the UAE in 2004. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.<sup>2</sup>

### **U.S. Inland Transportation Costs**

U.S. inland transportation costs as a percent of total delivered cost for certain steel nails were reported by 13 U.S. producers<sup>3</sup> and ranged from 3 percent to 12 percent, with nine of the 13 responding U.S. producers reporting transportation costs of six percent or less. Reported U.S. inland transportation costs ranged from 2 to 25 percent of the total delivered cost for the 30 responding importers of steel nails from China or the UAE, with 27 of those importers reporting U.S. inland transportation costs of 10 percent or less.

Producers and importers were also asked to estimate the percentage of their sales that occurred within certain distance ranges. Four of 16 responding U.S. producers reported shipping at least 50 percent of their sales under 100 miles, while only one U.S. producer reported shipping more than half of its sales more than 1,000 miles. The remaining 11 responding U.S. producers reported shipping at least 50 percent of their sales between 100 and 1,000 miles. Twelve of 27 responding importers reported shipping at least 50 percent of their sales less than 100 miles; 14 reported shipping at least 50 percent of their sales between 100 and 1,000 miles; and three reported shipping at least 50 percent of their sales more than 1,000 miles.

### **Exchange Rates**

From 2000 to June of 2005, the Chinese currency was pegged at 8.28 yuan per U.S. dollar. There was a small revaluation in the third quarter of 2005, raising the value of the Chinese currency to 8.14 yuan per dollar, after which the yuan was moved to a crawling peg against the dollar. Since that time, the yuan has appreciated slowly but steadily and averaged 7.76 yuan per dollar during January-March 2007.<sup>4</sup>

Throughout the period for which data were collected, the UAE currency was pegged to the U.S. dollar at a fixed rate of 3.67 dirham per U.S. dollar.

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<sup>2</sup> These estimates are based on HTS subheadings 7317.00.55 (excluding statistical reporting number 7317.00.5501 (roofing nails)), 7317.00.65, and 7317.00.75.

<sup>3</sup> Throughout this section, the three divisions of ITW are treated as separate U.S. producers despite sharing common ownership. Each division filled out its own questionnaire and \*\*\*.

<sup>4</sup> Source: IMF International Financial Statistics. Downloaded from <http://imfstatistics.org/imf/ifsBrowser.aspx>, June 5, 2007.

## PRICING PRACTICES

### Pricing Methods

Steel nails are sold almost exclusively on a spot basis. Fourteen of 16 responding U.S. producers reported that 100 percent of their sales were made on a spot basis, with one more reporting that 85 percent of its sales were made on a spot basis. One responding U.S. producer reported that 100 percent of its sales were made on a short-term contract basis with contracts lasting one year. Twenty-six of 35 responding importers also reported that 100 percent of their sales were made on a spot basis, while three reported that at least 85 percent of their sales were made on a spot basis. Four importers reported that 100 percent of their sales were on a short-term contract basis and one reported that 90 percent of its sales were on a short-term contract basis. One importer reported that 99.9 percent of its sales were made on a long-term contract basis. Short-term contracts normally last from one to four months while long-term contracts last one to three years.

Eleven of 15 responding U.S. producers reported making at least 75 percent of their sales from inventory, whereas three reported making at least 80 percent of their sales on a produced-to-order basis. One U.S. producer reported that 60 percent of its sales were on a produced-to-order basis. Lead times for sales from inventory range from immediate to two weeks while lead times on produced-to-order sales range from one week to 90 days. Responding importers also sell both from inventory and on a produced-to-order basis. Seven of 33 responding importers reported making 100 percent of their sales from inventory, with another 10 importers reporting that at least 70 percent of their sales were from inventory. Nine responding importers reported that 100 percent of their sales were produced to order and another two reported that at least 75 percent of their sales were on a produced-to-order basis. The remaining five responding importers reported dividing their sales up fairly evenly between inventory and produced-to-order. Reported lead times on sales from inventory made by importers range from one day to two weeks while lead times on produced-to-order sales range from six days to four months, with 28 of 29 responding importers that sold on a produced-to-order basis reporting lead times of at least 45 days.

While 10 of 16 responding U.S. producers reported having price lists, five of these 10 producers also reported determining prices through transaction-by-transaction negotiations, and one reported differences in price lists based on geographic location. One responding U.S. producer reported using only transaction-by-transaction negotiations to determine price, two reported using a “cost-plus” method to determine prices, and four stated that prices are largely determined by the price of competing imports. One U.S. producer<sup>5</sup> reported that the pricing technique \*\*\*. Twelve of 16 responding U.S. producers reported having some sort of discount policy. Seven U.S. producers reported giving discounts based on annual volumes, six reported giving discounts based on shipment quantity, and two reported giving discounts based on early payment.

Sixteen of 36 responding importers reported determining price through transaction-by-transaction negotiations. Ten responding importers reported using price lists, though some of these also relied on negotiations or regional pricing. Four responding importers reported using a “cost-plus” method to determine price, and five reported that their prices were determined by market conditions. Twenty-one of 34 responding importers reported giving some sort of discounts. Most discounts are based on individual order quantity (discounts for full truck loads) or annual volume. Two importers also reported giving discounts for early payment while several reported that discounts are given on a case-by-case basis as a result of negotiation. Thirteen importers reported that they have no discount policy.

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<sup>5</sup> \*\*\*.

## PRICE DATA

The Commission requested U.S. producers and importers of steel nails to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of certain steel nails that were shipped to unrelated customers in the U.S. market. Data were requested for the period January 2004 to March 2007. The products for which pricing data were requested are defined as follows:

**Product 1.**—3" by 0.131" bright smooth, plastic-strip collated nails

**Product 2.**—3" by 0.120" bright smooth, plastic-strip collated nails

**Product 3.**—2<sup>3</sup>/<sub>8</sub>" by 0.113" bright screw and ring shank nails, plastic-strip collated

**Product 4.**—3<sup>1</sup>/<sub>4</sub>" by 0.148" 16D smooth vinyl-coated sinkers, bulk

**Product 5.**—2" by 0.113" bright drive screw, machine quality pallet nails, bulk

**Product 6.**—2" by 0.099" bright, drive screw, wire-welded collated in coils

Eleven U.S. producers,<sup>6</sup> 26 importers of steel nails from China,<sup>7</sup> and four importers of steel nails from the UAE<sup>8</sup> provided usable pricing data for sales of the requested products, although not all firms reported pricing for all quarters.<sup>9</sup> Tables V-1 through V-6 and figures V-2 through V-7 present f.o.b. (U.S. point of shipment) selling prices to unrelated customers for the six products defined above produced and sold in the United States as well as for products produced in China or the UAE and sold in the United States. By quantity, pricing data reported by responding firms accounted for 16.5 percent of U.S. commercial shipments of U.S.-produced steel nails, 17.3 percent of U.S. commercial shipments of Chinese-produced steel nails, and 34.8 percent of U.S. commercial shipments of UAE-produced steel nails during the period of January 2004-March 2007.

The data received by the Commission may be limited in their accuracy due to issues with unit conversion. Specifically, for the collated products 1, 2, 3, and 6, staff requested quantity in short tons while these products are normally sold in thousand count of nails. Moreover, the methods used to convert these quantities to short tons do not appear to be consistent across responding firms. For example, for product 2, while \*\*\* weighed and counted individual \*\*\* cartons sold to estimate the total weight, \*\*\*<sup>10</sup> estimated the weight of a shipping crate to be \*\*\* and multiplied that weight by the number of shipping crates sent. Still other parties may have used other conversion techniques. However, when asked about conversion methods, \*\*\*<sup>11</sup> reported a method identical to that used by the petitioners.

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<sup>6</sup> \*\*\*.

<sup>7</sup> \*\*\*.

<sup>8</sup> \*\*\*.

<sup>9</sup> No price data were received for nonsubject imported steel nails.

<sup>10</sup> \*\*\*.

<sup>11</sup> Petitioners' postconference brief, p. 25.

**Table V-1**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 1<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2004-March 2007**

Period	United States		China			United Arab Emirates		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
<b>2004:</b>								
Jan.-Mar.	\$756.74	5,796	\$903.10	1,156	(19.3)	\$***	***	***
Apr.-June	934.11	5,772	878.87	1,841	5.9	***	***	***
July-Sept.	993.97	5,911	934.30	2,058	6.0	***	***	***
Oct.-Dec.	928.32	4,796	961.39	2,592	(3.6)	***	***	***
<b>2005:</b>								
Jan.-Mar.	937.28	4,081	947.95	2,675	(1.1)	***	***	***
Apr.-June	905.60	5,332	801.01	3,658	11.5	***	***	***
July-Sept.	846.29	3,005	915.17	5,860	(8.1)	***	***	***
Oct.-Dec.	816.07	3,286	920.13	6,057	(12.8)	***	***	***
<b>2006:</b>								
Jan.-Mar.	799.88	3,518	895.05	7,164	(11.9)	***	***	***
Apr.-June	***	***	867.45	8,678	***	***	***	(4.1)
July-Sept.	***	***	858.28	8,423	***	***	***	(6.6)
Oct.-Dec.	***	***	844.19	5,394	***	***	***	(6.6)
<b>2007:</b>								
Jan.-Mar.	756.75	1,652	857.02	5,391	(13.2)	***	***	***

<sup>1</sup> 3" by 0.131" bright smooth, plastic-strip collated nails.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure V-2**

**Certain steel nails: Weighted-average prices of domestic and imported product 1, by quarters, January 2004-March 2007**

\* \* \* \* \*

**Table V-2**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 2<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2004-March 2007**

Period	United States		China			United Arab Emirates		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
<b>2004:</b> Jan.-Mar.	***	***	\$953.23	379	***	\$***	***	3.7
Apr.-June	\$943.76	3,776	1,138.71	607	(20.7)	***	***	***
July-Sept.	***	***	1,046.17	800	***	***	***	(12.4)
Oct.-Dec.	978.25	2,234	1,079.78	857	(10.4)	***	***	***
<b>2005:</b> Jan.-Mar.	927.40	2,503	981.76	2,084	(5.9)	***	***	***
Apr.-June	917.91	3,779	986.89	2,606	(7.5)	***	***	***
July-Sept.	***	***	978.59	2,252	***	***	***	(5.3)
Oct.-Dec.	***	***	991.73	1,953	***	***	***	(3.2)
<b>2006:</b> Jan.-Mar.	***	***	931.59	3,432	***	***	***	(5.3)
Apr.-June	***	***	902.19	5,541	***	***	***	(5.0)
July-Sept.	***	***	901.16	3,501	***	***	***	(5.2)
Oct.-Dec.	***	***	924.96	2,667	***	***	***	(6.3)
<b>2007:</b> Jan.-Mar.	***	***	815.37	3,216	***	***	***	(6.8)

<sup>1</sup> 3" by 0.120" bright smooth, plastic-strip collated nails.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure V-3**

**Certain steel nails: Weighted-average prices of domestic and imported product 2, by quarters, January 2004-March 2007**

\* \* \* \* \*

**Table V-3**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 3<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2004-March 2007**

Period	United States		China			United Arab Emirates		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
<b>2004:</b> Jan.-Mar.	\$967.83	689	\$1,244.68	281	(28.6)	\$***	***	***
Apr.-June	1,182.61	746	1,386.69	375	(17.3)	***	***	***
July-Sept.	1,384.76	648	1,398.51	457	(1.0)	***	***	***
Oct.-Dec.	1,230.74	474	1,427.04	387	(15.9)	***	***	***
<b>2005:</b> Jan.-Mar.	1,152.95	467	1,266.15	604	(9.8)	***	***	***
Apr.-June	1,155.66	554	1,261.26	833	(9.1)	***	***	***
July-Sept.	1,116.31	591	1,284.20	766	(15.0)	***	***	***
Oct.-Dec.	1,145.51	498	1,270.54	705	(10.9)	***	***	***
<b>2006:</b> Jan.-Mar.	1,084.05	480	1,181.11	957	(9.0)	***	***	***
Apr.-June	1,085.45	514	1,155.10	1,063	(6.4)	***	***	***
July-Sept.	1,109.92	388	1,190.10	891	(7.2)	***	***	***
Oct.-Dec.	***	***	1,155.88	746	***	***	***	(3.9)
<b>2007:</b> Jan.-Mar.	1,065.79	302	1,099.43	841	(3.2)	***	***	***

<sup>1</sup> 2<sup>3</sup>/<sub>8</sub>" by 0.113" bright screw and ring shank nails, plastic-strip collated nails.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure V-4**

**Certain steel nails: Weighted-average prices of domestic and imported product 3, by quarters, January 2004-March 2007**

\* \* \* \* \*

**Table V-4**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 4<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2004-March 2007**

Period	United States		China			United Arab Emirates		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
<b>2004:</b> Jan.-Mar.	\$***	***	***	***	(8.1)	\$***	***	(4.2)
Apr.-June	***	***	***	***	25.7	-	0	-
July-Sept.	***	***	***	***	(21.4)	-	0	-
Oct.-Dec.	***	***	***	***	25.7	-	0	-
<b>2005:</b> Jan.-Mar.	***	***	***	***	25.8	-	0	-
Apr.-June	***	***	***	***	22.5	-	0	-
July-Sept.	***	***	\$749.54	874	***	-	0	-
Oct.-Dec.	***	***	694.06	1,802	***	-	0	-
<b>2006:</b> Jan.-Mar.	***	***	645.69	2,802	***	-	0	-
Apr.-June	***	***	668.90	3,322	***	-	0	-
July-Sept.	***	***	670.13	3,904	***	-	0	-
Oct.-Dec.	***	***	737.48	1,115	***	-	0	-
<b>2007:</b> Jan.-Mar.	***	***	629.95	1,552	***	-	0	-

<sup>1</sup> 3¼" by 0.148" 16D smooth vinyl-coated sinkers, bulk.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure V-5**

**Certain steel nails: Weighted-average prices of domestic and imported product 4, by quarters, January 2004-March 2007**

\* \* \* \* \*



**Table V-5**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 5<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2004-March 2007**

Period	United States		China			United Arab Emirates		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
<b>2004:</b> Jan.-Mar.	\$***	***	***	***	(10.8)	-	0	-
Apr.-June	***	***	***	***	(4.3)	-	0	-
July-Sept.	***	***	***	***	(2.4)	-	0	-
Oct.-Dec.	***	***	***	***	4.0	-	0	-
<b>2005:</b> Jan.-Mar.	***	***	\$990.44	52	***	-	0	-
Apr.-June	***	***	1,034.90	72	***	-	0	-
July-Sept.	***	***	899.07	244	***	-	0	-
Oct.-Dec.	***	***	871.96	366	***	-	0	-
<b>2006:</b> Jan.-Mar.	***	***	868.51	388	***	-	0	-
Apr.-June	***	***	810.03	608	***	-	0	-
July-Sept.	***	***	766.96	878	***	-	0	-
Oct.-Dec.	***	***	749.30	971	***	-	0	-
<b>2007:</b> Jan.-Mar.	***	***	736.29	753	***	-	0	-

<sup>1</sup> 2" by 0.113" bright, drive screw, machine quality pallet nails, bulk.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure V-6**

**Certain steel nails: Weighted-average prices of domestic and imported product 5, by quarters, January 2004-March 2007**

\* \* \* \* \*

**Table V-6**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 6<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2004-March 2007**

Period	United States		China			United Arab Emirates		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
<b>2004:</b> Jan.-Mar.	\$***	***	***	***	5.4	***	***	19.4
Apr.-June	***	***	***	1,312	***	***	***	18.1
July-Sept.	***	***	\$1,042.12	***	4.0	***	***	(31.4)
Oct.-Dec.	***	***	***	***	15.3	***	***	(8.5)
<b>2005:</b> Jan.-Mar.	***	***	1,251.09	1,832	***	***	***	(6.7)
Apr.-June	***	***	1,229.29	1,603	***	***	***	(10.1)
July-Sept.	***	***	1,247.44	1,775	***	***	***	(1.3)
Oct.-Dec.	***	***	1,251.70	1,915	***	***	***	2.4
<b>2006:</b> Jan.-Mar.	***	***	1,248.02	2,126	***	***	***	2.8
Apr.-June	***	***	1,102.00	2,488	***	***	***	1.9
July-Sept.	***	***	1,058.83	1,931	***	***	***	(5.9)
Oct.-Dec.	***	***	1,117.05	2,042	***	***	***	10.5
<b>2007:</b> Jan.-Mar.	***	***	1,121.15	2,360	***	***	***	6.5

<sup>1</sup> 2" by 0.99" bright, drive screw, wire-welded collated in coils.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure V-7**

**Certain steel nails: Weighted-average prices of domestic and imported product 6, by quarters, January 2004-March 2007**

\* \* \* \* \*

**Price Trends**

U.S. producers' average prices for products 1, 2, and 3 rose \*\*\* in 2004, peaked in \*\*\*, and fell \*\*\* through the end of the period. U.S. prices for product 6 showed a similar pattern but peaked in \*\*\* before falling through the end of the period. Prices for product 5 peaked in \*\*\*, fell \*\*\* through the first quarter of 2006 but rose \*\*\* thereafter. Prices for product 4 move erratically throughout the period. However, \*\*\* during the period for which data were collected. As a result of the increase and subsequent decline seen in these prices, overall, from January-March 2004 through January-March 2007, prices for most products show only modest change, rising by less than 0.002 percent, \*\*\* percent, 10.1 percent, and \*\*\* percent for products 1, 2, 3, and 6, respectively. Prices for product 5 showed a slightly different pattern, increasing by \*\*\* percent from January-March 2004 to January-March 2007. While prices for

product 4 show a substantial increase of \*\*\* percent overall, the small quantity produced lessens the importance of this result.

Prices of U.S. shipments of all products imported from China show a pattern similar to that seen in prices of U.S.-produced products. For the most part, prices rose through 2004 and sometimes into early 2005 before falling during the remainder of the period. Over the course of the entire period, prices for U.S. shipments of products 1, 2, 3, and 4 imported from China fell by 5.1 percent, 14.5 percent, 11.7 percent, and \*\*\* percent, respectively, whereas prices of U.S. shipments of products 5 and 6 imported from China rose by \*\*\* percent and \*\*\* percent, respectively.

Prices of U.S. shipments of products 1, 2, 3, and 6 imported from the United Arab Emirates \*\*\*, with prices for each of these products peaking in \*\*\*. Over the course of the entire period, however, prices for U.S. shipments of products 1, 2, 3, and 6 imported from the United Arab Emirates rose \*\*\*. Overall, prices of U.S. shipments of products 1, 2, 3, and 6 imported from the United Arab Emirates rose by \*\*\* percent, \*\*\* percent, \*\*\* percent, and \*\*\* percent, respectively.

### Price Comparisons

Overall, there is no clear-cut pattern of underselling among the six products from either China or the UAE. In fact, aside from product 4 from China (which undersold its U.S.-produced counterpart in 10 of 13 quarters), products from China undersold their counterpart U.S.-produced products in only 13 of 65 possible quarters. Furthermore, eight of the 13 quarters in which Chinese products 1, 2, 3, 5, and 6 undersold their U.S. counterparts took place before July-September 2005. Petitioners claim that, “\*\*\*\*.”<sup>12</sup> Staff found this not to be the case. Due to the \*\*\*, staff found that the exclusion of its data \*\*\*. Furthermore staff found no compelling reason to exclude \*\*\*\*’s data. Products imported from the UAE undersold their U.S. counterparts in 22 of 53 possible quarters (with 15 of these 22 quarters before July-September 2005). Products 1 and 2 from the UAE—\*\*\*—were priced higher than their U.S. counterparts in all quarters after April-June 2005. On average over the entire period for which data were collected, only products \*\*\* from the UAE and product 4 from China undersold their U.S. counterparts. For the remaining eight of the 11 possible product/country combinations, U.S.-produced product undersold the imported counterpart product. Average margins of underselling for products 1 and 3 from the UAE were small at \*\*\* percent and \*\*\* percent, respectively, while the average margin of underselling for product 4 from China was 11.6 percent. Again, the minimal quantity of product 4 produced in the United States renders this result not meaningful.

### LOST SALES AND LOST REVENUES

The petitioners provided a list of 255 alleged lost sales to Chinese or UAE competitors totaling more than \$17,079,416<sup>13</sup> between January 2004 and March 2007. Staff attempted to contact 10 purchasers associated with \$14,694,669, or approximately 86.0 percent, of those lost sales. In addition, petitioners alleged another \$914,458 of lost revenue attributable to lower prices on retained contracts caused by competition from Chinese or UAE producers. Staff attempted to contact eight customers involved in \$727,282, or 79.5 percent of those alleged lost revenues. As of this writing, staff was able to confirm \$\*\*\* in total lost sales and \$\*\*\* in lost revenues.<sup>14</sup> Customers rejected the

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<sup>12</sup> Petitioners’ postconference brief, p. 25.

<sup>13</sup> Total value of the lost sale was not provided for all alleged lost sales. Staff estimated these “missing-value” alleged lost sales to total to approximately \$1.7 million.

<sup>14</sup> Confirmed lost sales or lost revenues allegations are instances in which purchasers responded “Agree” to the allegations. Purchasers were instructed to respond “Agree” in instances where a sale was given to a Chinese or UAE  
(continued...)

allegations for \$\*\*\* in lost sales and \$\*\*\* in lost revenues. \$\*\*\* of the rejected lost sales allegations and \*\*\* of the rejected lost revenue allegations were rejected by one customer (\*\*\*). This customer denied the allegations for a variety of reasons. In some cases, no purchases were made in the month of the allegation, whereas in other cases product was ordered from a U.S. producer during the month of the allegation. For allegations concerning \*\*\*, this customer reported purchasing from a supplier that sells both domestic and imported product, and whether the product purchased was domestic or imported was not clear. This customer also reported that it switched away from one domestic producer due to issues with quality rather than price, and that product availability and packaging options also played a role in the purchase of imported product. The remainder, \*\*\*, of the rejected lost sales were rejected by one other customer, \*\*\*. These lost sales were rejected for a variety of reasons as well. Some products listed in the allegations were not carried by this customer in the period mentioned, while others were purchased in quantities much smaller than alleged. One rejected allegation involved \*\*\* nails, which this customer claimed are not made in the United States at all. Instead, the customer noted, the U.S. producers offer \*\*\* as a substitute. \*\*\*. The large difference in price is seen in the lost sale allegation where the rejected U.S. price in the allegation involving \*\*\* nails was \$\*\*\* per 1,000 nails (same as that listed for the allegation involving the same size \*\*\* nails), whereas the accepted import price for the \*\*\* nails was \$\*\*\* per 1,000 nails. Information on alleged lost revenues and lost sales can be seen in tables V-7 and V-8. Since each customer contacted was involved with a large number of lost sales or lost revenue allegations, the table presents the lost sale or lost revenue allegations aggregated by customer.

**Table V-7**  
**Steel nails: U.S. producers' lost revenue allegations**

\* \* \* \* \*

**Table V-8**  
**Steel nails: U.S. producers' lost sales allegations**

\* \* \* \* \*

In addition to the lost sales and revenues alleged by the petitioners, three non-petitioning U.S. producers<sup>15</sup> provided examples of lost sales or revenues. Of these, only one U.S. producer<sup>16</sup> gave details and total dollar values lost. While this producer reported lost revenues totaling \$\*\*\* due to competition from imported nails, it did not report in which countries these imports were produced. Staff did not attempt to verify these allegations.

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<sup>14</sup> (...continued)  
 supplier over U.S. competitors due to differences in price or when the price paid was lowered due to competition from Chinese or UAE suppliers.

<sup>15</sup> \*\*\*.

<sup>16</sup> \*\*\*.

## **PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS**

### **BACKGROUND**

Fifteen producers<sup>1</sup> provided usable financial data on their operations producing steel nails. These reported data are believed to represent over 90 percent of U.S. steel nails production in the period for which data were collected.

### **OPERATIONS ON STEEL NAILS**

Income-and-loss data for U.S. producers' steel nails operations are presented in table VI-1, and are briefly summarized here. Both the quantity and value of total sales fell sharply between 2004 and 2006 and again between January-March 2006 and the same period in 2007, leading to lower but still positive values for operating profit, net income before taxes, and cash flow. The average unit value of sales increased between 2004 and 2006 as well as between January-March 2006 and the same period in 2007, offsetting somewhat the fall in volume. The average unit value of cost of goods sold ("COGS") increased irregularly between 2004 and 2006 and increased sharply between January-March 2006 and the same period in 2007. The average unit value of operating income increased slightly between 2004 and 2006 and rose between January-March 2006 and the same period in 2007. Operating income, expressed as a ratio to sales, declined slightly between 2004 and 2006 as well as between January-March 2006 and the same period in 2007.

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<sup>1</sup> The firms, including three separate responses filed by operating units of ITW, are: Air Nail/ISM; Davis Wire; Gerdau; ITW-Industrial Fastening; ITW-Paslode; ITW-Ramset; Keystone; Maze Nails; Mid Continent; Senco; Specialty Fasteners; Stanley Bostitch; Treasure Coast; Tree Island; and Wheeling-LaBelle. With the exception of \*\*\*, U.S. producers reported having a fiscal year that ends in December. Differences between data reported in the trade and financial sections of the Commission's producers' questionnaire are mainly attributable to timing differences and to the reporting by \*\*\*. \*\*\* responded only to the trade section of the Commission's questionnaire and provided data for 2004 and 2005; \*\*\* provided limited data for the trade section of its questionnaire response but its incomplete data in the financial section of the Commission's questionnaire were not used (\*\*\*). As noted in Part III of this report, \*\*\*.

**Table VI-1**  
**Steel nails: Results of operations of U.S. producers, fiscal years 2004-06, January-March 2006, and January-March 2007**

Item	Fiscal year			January-March	
	2004	2005	2006	2006	2007
<b>Quantity (short tons)</b>					
Total net sales <sup>1</sup>	337,642	292,808	227,243	69,875	39,692
<b>Value (\$1,000)</b>					
Total net sales <sup>1</sup>	486,762	458,041	357,551	107,493	71,484
<b>COGS:</b>					
Raw materials	235,796	220,092	163,789	50,795	31,830
Direct labor	46,100	43,026	32,584	9,056	6,751
Other factory costs	94,207	90,019	74,436	22,847	14,197
Total COGS	376,103	353,137	270,809	82,699	52,777
Gross profit	110,659	104,903	86,742	24,794	18,707
SG&A expenses	43,675	43,258	38,575	10,304	9,453
Operating income	66,984	61,645	48,167	14,489	9,253
Interest expense	723	741	1,367	213	370
Other expense	538	486	668	97	352
Other income	884	452	812	357	350
Net income	66,607	60,870	46,944	14,537	8,881
Depreciation	12,136	11,864	11,332	2,694	2,541
Cash flow	78,743	72,734	58,276	17,231	11,422
<b>Ratio to total net sales (percent)</b>					
<b>COGS:</b>					
Raw materials	48.4	48.1	45.8	47.3	44.5
Direct labor	9.5	9.4	9.1	8.4	9.4
Other factory costs	19.4	19.7	20.8	21.3	19.9
Total COGS	77.3	77.1	75.7	76.9	73.8
Gross profit	22.7	22.9	24.3	23.1	26.2
SG&A expenses	9.0	9.4	10.8	9.6	13.2
Operating income	13.8	13.5	13.5	13.5	12.9
Net income	13.7	13.3	13.1	13.5	12.4

Table continued on following page.

**Table VI-1--Continued****Steel nails: Results of operations of U.S. producers, fiscal years 2004-06, January-March 2006, and January-March 2007**

Item	Fiscal year			January-March	
	2004	2005	2006	2006	2007
<b>Unit value of net sales (dollars per short ton)</b>					
Total net sales	1,442	1,564	1,573	1,538	1,801
COGS:					
Raw materials	698	752	721	727	802
Direct labor	137	147	143	130	170
Other factory costs	279	307	328	327	358
Total COGS	1,114	1,206	1,192	1,184	1,330
Gross profit	328	358	382	355	471
SG&A expenses	129	148	170	147	238
Operating income	198	211	212	207	233
Net income	197	208	207	208	224
<b>Number of firms reporting<sup>2</sup></b>					
Operating losses	2	6	6	5	7
Data	15	15	15	15	15
<sup>1</sup> ***. <sup>2</sup> Includes the ***.  Note.--Because of rounding, figures may not add to the totals shown.  Source: Compiled from data submitted in response to Commission questionnaires.					

Table VI-2 presents data on total net sales, COGS, selling, general, and administrative (“SG&A”) expenses, and operating income on a firm-by-firm basis.

**Table VI-2****Steel nails: Results of operations of U.S. producers, by firms, fiscal years 2004-06, January-March 2006, and January-March 2007**

\* \* \* \* \*

The decline in operating margins (operating income or loss as a percentage of net sales), while minimal at the industry-wide level, did cut across most of the firms. From 2004 to 2006, 12 of the 15 producers reported lower operating margins, and 11 reported lower margins in the first three months of 2007 as compared to the first three months of 2006. Also, the number of firms reporting operating losses increased from two to six between 2004 and 2005, remained at six in 2006, and increased to seven in the first quarter of 2007.

There are considerable differences among the reporting firms. First, size is important as regards profitability. Four firms, \*\*\*, each reported sales in excess of \*\*\* short tons and \$\*\*\* in 2006. Together

they accounted for \*\*\* percent and \*\*\* percent of total producers' sales by quantity and value, respectively, and \*\*\* percent of the producers' operating income in 2006.<sup>2</sup> Aggregated COGS plus SG&A expenses of the four firms accounted for \*\*\* percent of the producers' total in those categories. This group also accounted for \*\*\* percent of capital expenditures and \*\*\* percent of research and development expenses of all U.S. producers in 2006. A second group of five firms, \*\*\*, reported sales exceeding either \*\*\* short tons or \$\*\*\*.<sup>3</sup> In 2006, these five firms together accounted for \*\*\* percent of total sales quantity of U.S. producers, \*\*\* percent of producers' sales value, \*\*\* percent of aggregated COGS plus SG&A expenses, and \*\*\* percent of the producers' operating income.<sup>4</sup> \*\*\*. The remaining firms accounted for the balance of the industry data and \*\*\* in 2006.

Second, product mix in terms of shipments of collated nails, higher value coatings, or specialized fasteners, is loosely correlated with profitability. Within the first group above, three of the four firms, \*\*\*, reported U.S. shipments only of collated nails; \*\*\*. Each reported shipments of bright and galvanized nails; the average unit value of galvanized nails is higher, sometimes several times higher, compared to that of bright nails. With regard to the second group of five firms, \*\*\*. Again, the average unit value of coated nails, primarily galvanized, was higher than that of the bright nails. Shipments of the remaining firms in the U.S. industry were mixed: \*\*\*.

All U.S. producers, except Wheeling-LaBelle,<sup>5</sup> use steel wire as the immediate input to the nail-making process, as described earlier in this report. No producer purchases nails and collates them. Two reporting U.S. producers are fully integrated in that they melt and cast steel that they use to produce wire rod which they draw into wire (\*\*\*). Eight additional firms reported purchasing wire rod which they draw into wire of the desired diameter prior to making nails (\*\*\*), although \*\*\* reported purchasing galvanized wire to make nails with a zinc coating. Last, \*\*\* reported purchasing wire which is drawn to the desired gauge or used as-is in the nail-making process. Hence, raw material costs are those of steel wire, including coatings as applicable. These costs would include the accumulated costs of making or purchasing wire rod and drawing it into wire or purchasing wire. Table VI-3 presents data on the unit values of the reporting U.S. producers' raw material costs, and their ratios of raw material cost to total net sales and to COGS.

**Table VI-3**  
**Steel nails: Raw material costs of U.S. producers, by firms, fiscal years 2004-06, January-March 2006, and January-March 2007**

\*   \*   \*   \*   \*   \*   \*

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<sup>2</sup> This group of firms would account for only \*\*\* of U.S. producers' operating income in 2006 of \$\*\*\* if \*\*\*, and only \*\*\* of U.S. producers' operating income in 2006 of \$\*\*\* if \*\*\*.

<sup>3</sup> \*\*\*. Staff interviews with \*\*\* and \*\*\*.

<sup>4</sup> This group of firms would account for only \*\*\* of U.S. producers' operating income in 2006 of \$\*\*\* if \*\*\*, and \*\*\* of U.S. producers' operating income in 2006 of \$\*\*\* if \*\*\*.

<sup>5</sup> Wheeling-LaBelle uses a process that cuts nails from high-carbon steel plate that is sheared into strips. Conference transcript, p. 39 (McMorrow). Making nails sheared from steel plate replaced the previous process of hand-forging or making cut nails by machine from wrought iron, but has been largely supplanted by making nails from drawn steel wire. For articles on the history of nails, see <http://wheeling.weirton.lib.wv.us/history/bus/nails.htm>, <http://www.appaltnet.net/aba/nails.htm>, and <http://www.glasgowsteel.com/nailmaking.htm>.



A variance analysis for the 15 U.S. producers is presented in table VI-4. The information for this variance analysis is derived from table VI-1. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. Between 2004 and 2006, the unfavorable operating income variance of \$18.8 million was attributable primarily to a favorable variance on price (higher unit prices) that was more than offset by unfavorable variances on net cost/expense and volume (higher unit costs and lower volume). The decrease in operating income between January-March 2006 and the same period in 2007 of \$5.2 million was attributable to the same factors.

**Table VI-4**  
**Steel nails: Variance analysis on results of operations of domestic producers, fiscal years 2004-06, January-March 2006, and January-March 2007**

Item	Fiscal years			January-March
	2004-06	2004-05	2005-06	2006-07
Total net sales:				
Price variance	29,946	35,914	2,074	10,423
Volume variance	(159,157)	(64,635)	(102,564)	(46,432)
Total net sales variance	(129,211)	(28,721)	(100,490)	(36,009)
Cost of goods sold:				
Cost variance	(17,681)	(26,976)	3,255	(5,801)
Volume variance	122,975	49,941	79,074	35,722
Total cost of goods variance	105,294	22,965	82,329	29,922
Gross profit variance	(23,917)	(5,756)	(18,161)	(6,087)
SG&A expenses:				
Expense variance	(9,181)	(5,383)	(5,003)	(3,600)
Volume variance	14,280	5,799	9,686	4,451
Total SG&A variance	5,100	416	4,683	851
Operating income variance	(18,817)	(5,339)	(13,478)	(5,236)
Summarized as:				
Price variance	29,946	35,914	2,074	10,423
Net cost/expense variance	(26,861)	(32,359)	(1,748)	(9,400)
Net volume variance	(21,902)	(8,895)	(13,803)	(6,259)
Note.--Unfavorable variances are shown in parenthesis; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.				
Source: Compiled from data submitted in response to Commission questionnaires.				



## ASSETS AND RETURN ON INVESTMENT

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of steel nails to compute return on investment ("ROI") for 2004 to 2006. The data for total net sales and operating income are from table VI-1. Operating income was divided by total assets, resulting in ROI, shown in table VI-6.

**Table VI-6**  
**Steel nails: Value of assets used in the production, warehousing, and sale, and return on investment, 2004-06**

Item	Fiscal year		
	2004	2005	2006
<b>Value (1,000 dollars)</b>			
Current assets:			
Cash and equivalent	23,147	27,238	34,113
Accounts receivable, net	43,674	49,642	40,041
Inventories	42,138	39,529	42,817
All other current assets	11,884	16,612	10,806
Subtotal current assets	120,843	133,020	127,777
Noncurrent assets:			
Original cost of property, plant, and equipment	215,998	200,679	175,217
Accumulated depreciation	155,400	140,756	124,155
Book value of property, plant, and equipment	60,598	59,924	51,063
Other noncurrent assets	23,702	31,169	27,153
Subtotal noncurrent assets	84,300	91,093	78,216
Total assets	205,143	224,113	205,993
Total net sales	486,762	458,041	357,551
Operating income or (loss)	66,984	61,645	48,167
<b>Ratio (percent)</b>			
Return on investment	32.7	27.5	23.4
Source: Compiled from data submitted in response to Commission questionnaires.			

## CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of steel nails from China and the UAE on the firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix D.



## PART VII: THREAT CONSIDERATIONS

Section 771(7)(F)(I) of the Act (19 U.S.C. § 1677(7)(F)(I)) provides that—

*In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors<sup>1</sup>--*

*(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*

*(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*

*(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*

*(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*

*(V) inventories of the subject merchandise,*

*(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,*

*(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw*

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<sup>1</sup> Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider \*\*\* . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

*agricultural product or the processed agricultural product (but not both),*

*(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and*

*(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).<sup>2</sup>*

Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

## **THE INDUSTRY IN CHINA**

The petition identified 75 alleged producers of steel nails in China. Table VII-1 lists information on 43 responding Chinese firms in 2006. These firms accounted for about 71 percent of U.S. imports of steel nails from China during 2006.<sup>3</sup> Table VII-2 presents data for these 43 firms during 2004-06, January-March 2006, January-March 2007, and forecasts for 2007 and 2008. \*\*\* were the four largest reporting Chinese producers of steel nails, together accounting for almost 38 percent of Chinese steel nail imports. Reported Chinese capacity and production of steel nails increased considerably from 2004 to 2006, and capacity utilization increased somewhat. Reported Chinese exports of steel nails to the United States nearly doubled from 2004 to 2006, but are projected to decrease in 2007 before increasing again in 2008, but not to 2006 levels. Several Chinese producers cited the expected downturn in the housing market as the reason for the projected decrease in exports of steel nails to the United States. Exports to all other markets have also doubled over the period, but are much smaller, in volume, than exports from China to the United States.

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<sup>2</sup> Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

<sup>3</sup> In July 2007, China reduced its export tax rebate from 13 percent to 5 percent for steel nails. Petitioners' postconference brief, p. 44, and exh. 8, Chinese respondents' postconference brief, p. 46 and exh. E, and [http://online.wsj.com/article/SB118227762668940779.html?mod=googlenews\\_wsj](http://online.wsj.com/article/SB118227762668940779.html?mod=googlenews_wsj), retrieved July 2, 2007.

**Table VII-1**  
**Steel nails: Chinese firms, their 2006 production, exports to the United States, and share of reported Chinese exports to the United States**

\* \* \* \* \*

**Table VII-2**  
**Steel nails: Chinese producers' operations, 2004-06, January-March 2006, January-March 2007, and projected 2007-08**

Item	Actual experience					Projections	
	2004	2005	2006	January-March		2007	2008
				2006	2007		
<b>Quantity (short tons)</b>							
Capacity	345,910	456,164	580,282	129,920	140,125	542,769	567,526
Production	297,030	386,180	525,419	112,700	117,539	490,361	514,323
End of period inventories	13,823	20,018	20,349	17,553	22,065	19,586	23,874
Shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	229,990	324,213	436,588	100,886	100,568	376,219	390,444
All other markets	40,416	57,323	80,352	15,916	25,863	100,940	111,305
Total exports	270,406	381,535	516,940	116,802	126,431	477,159	501,750
Total shipments	310,950	434,930	576,224	130,719	139,113	543,729	570,187
<b>Ratios and shares (percent)</b>							
Capacity utilization	85.6	84.4	90.4	86.7	83.9	90.3	90.6
Inventories to production	4.7	5.2	3.9	3.9	4.7	4.0	4.6
Inventories to total shipments	4.4	4.6	3.5	3.4	4.0	3.6	4.2
Share of total shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	74.0	74.5	75.8	77.2	72.3	69.2	68.5
All other markets	13.0	13.2	13.9	12.2	18.6	18.6	19.5
Total exports	87.0	87.7	89.7	89.4	90.9	87.8	88.0
Source: Compiled from data submitted in response to Commission questionnaires.							

## THE INDUSTRY IN THE UNITED ARAB EMIRATES

The petition identified three alleged producers of steel nails in the UAE: Dubai Wire FZE (“Dubai Wire”), Dubai, UAE; Samrat Wire Industry, LLC (“Samrat Wire”), Dubai, UAE; and Steel Racks Factory (“Steel Racks”), Ajman, UAE.<sup>4</sup> Dubai Wire is the \*\*\* UAE steel nail producer during the period of investigation,<sup>5</sup> and its information is presented in table VII-3. Dubai Wire’s capacity remained constant during the period of investigation. Production peaked in 2005, but generally increased from 2004 to 2006. \*\*\*, it is projected to \*\*\* in 2007 and 2008. Shipments to the United States followed the same trend. According to Dubai Wire, the decrease in production during the interim periods of 2006 and 2007 and the projected 2007-08 \*\*\*. Additionally, in 2006 exports to all other markets made up just over \*\*\* percent of UAE’s shipments \*\*\* projected to \*\*\* percent of shipments in 2007 and 2008. Finally, UAE exports of steel nails to the United States in 2006 were just over \*\*\* percent of the quantity of Chinese exports of steel nails to the United States in 2006.

Dubai Wire indicated in its questionnaire response that \*\*\*. It also indicated that \*\*\*.

### Table VII-3

**Steel nails: Dubai Wire FZE’s operations, 2004-06, January-March 2006, January-March 2007, and projected 2007-08**

\* \* \* \* \*

## U.S. IMPORTERS’ INVENTORIES

Inventories of U.S. imports as reported are presented in table VII-4. Inventories of Chinese nails increased from 2004 to 2006, as did the ratios of inventories to imports and to U.S. shipments of imports. Inventories from the UAE followed the same trend. Inventories from all other sources dropped over the period, but the ratios of inventories to imports and inventories to U.S. shipments of imports increased over the period for all other sources.

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<sup>4</sup> Dubai Wire is the sole exporter of steel nails to the United States (postconference brief of Dubai Wire, p. 1). Faxes and e-mails were sent to Samrat Wire and Steel Racks, \*\*\*. Samrat Wire was established in 1999 as the successor to Wire & Wire Products Industries; the parent company is M/s Samarat Group of Companies. Samarat Wire has planned to produce 12,000 metric tons of wire and wire products per year. The range of wire products to be manufactured includes the following: wire nails (sinker nails, common box, finish, casting, panel pin, roofing nails, tile nails, blued nails, wire collated nails, E.G. nails, spike & hot dip galvanized nails); cable armored wire; black annealed wire; galvanized binding wire; A.C.S.R. wire; fish cage wire; and spring wire. <http://www.mesteel.com/swil/>, retrieved July 2, 2007.

Steel Racks responded \*\*\* indicates on its web site that it produces all sizes of “mild steel” wire nails (common nails, roofing nails, and twisted nails), screws and bolts, and accessories for shop display fittings. <http://www.showracksdubai.com/Steelracks/html/contactus.htm>, retrieved July 2, 2007.

<sup>5</sup> Postconference brief of Dubai Wire, p. 1.



**Table VII-4**  
**Steel nails: U.S. importers' end-of-period inventories of imports, by source, 2004-06, January-March 2006, and January-March 2007**

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>China:</b>					
Inventories ( <i>short tons</i> )	***	***	***	***	***
Ratio of inventories to imports ( <i>percent</i> )	***	***	***	***	***
Ratio to U.S. shipments of imports ( <i>percent</i> )	***	***	***	***	***
<b>UAE:</b>					
Inventories ( <i>short tons</i> )	***	***	***	***	***
Ratio of inventories to imports ( <i>percent</i> )	***	***	***	***	***
Ratio to U.S. shipments of imports ( <i>percent</i> )	***	***	***	***	***
<b>Subtotal (subject):</b>					
Inventories ( <i>short tons</i> )	19,560	29,817	38,151	27,202	34,049
Ratio of inventories to imports ( <i>percent</i> )	6.5	7.6	8.1	6.0	8.7
Ratio to U.S. shipments of imports ( <i>percent</i> )	6.6	7.8	8.2	5.9	8.5
<b>All other sources:</b>					
Inventories ( <i>short tons</i> )	27,396	25,209	19,410	28,242	13,524
Ratio of inventories to imports ( <i>percent</i> )	9.9	12.6	13.1	16.9	14.2
Ratio to U.S. shipments of imports ( <i>percent</i> )	10.4	12.7	13.0	18.8	12.2
<b>All sources:</b>					
Inventories ( <i>short tons</i> )	46,956	55,026	57,562	55,444	47,573
Ratio of inventories to imports ( <i>percent</i> )	8.1	9.3	9.3	8.9	9.8
Ratio to U.S. shipments of imports ( <i>percent</i> )	8.4	9.5	9.4	9.1	9.3
Note.—Ratios were calculated using data from firms providing information on both inventories and imports or U.S. shipments of imports. Partial-year ratios are based on annualized import/shipment data.					
Source: Compiled from data submitted in response to the Commission's questionnaire.					

## U.S. IMPORTERS' CURRENT ORDERS

Thirty-nine U.S. importers reported that they had placed orders for steel nails from China and/or the UAE (77,194 short tons) scheduled for entry into the United States in 2007. Table VII-5 presents U.S. importers' 2007 orders for steel nails from China and the UAE; 13 importers either did not report volumes or reported in quantities other than tonnage (e.g., containers, boxes).

**Table VII-5**  
**Steel nails: U.S. importers' current orders, by sources, 2007**

\* \* \* \* \*

## ANTIDUMPING AND COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

No producer, importer, or foreign producer reported any countervailing or antidumping duty orders on steel nails from China or the UAE in third-country markets. However, petitioners report that in 2004, Mexico imposed an antidumping order on concrete steel nails from China that is still in effect.<sup>6</sup>

## INFORMATION ON NONSUBJECT SOURCES

### “Bratsk” Considerations

As a result of the Court of Appeals for the Federal Circuit (“CAFC”) decision in *Bratsk Aluminum Smelter v. United States* (“Bratsk”), the Commission is directed to:<sup>7</sup>

*undertake an “additional causation inquiry” whenever certain triggering factors are met: “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.” The additional inquiry required by the Court, which we refer to as the Bratsk replacement/benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.*

### Nonsubject Source Information

With respect to foreign industry data, the Commission sought publicly available information regarding worldwide trade of steel nails. The Commission obtained official Commerce data for imports from other than subject countries. The leading nonsubject countries are Korea (accounting for 7.9 percent of total U.S. imports of steel nails during 2006), Canada (4.1 percent), Taiwan (4.3 percent), Mexico (3.6 percent), Poland (1.0 percent), and Malaysia (1.0 percent), with 27 other countries ranging between less than 0.05 percent and 0.6 percent of 2006 imports (table VII-6).

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<sup>6</sup> Petitioners' postconference brief, pp. 44-45.

<sup>7</sup> *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

**Table VII-6**

**Steel nails: U.S. imports, by sources, 2004-06, January-March 2006, and January-March 2007**

Source	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Quantity (short tons)</b>					
China	339,002	479,751	615,548	137,913	112,488
United Arab Emirates	73,724	81,287	83,115	22,641	11,346
Subtotal	412,726	561,038	698,662	160,553	123,833
Korea	144,723	108,401	73,284	22,990	10,254
Canada	65,300	48,449	37,949	11,103	8,268
Taiwan	103,840	85,878	39,983	12,230	5,275
Mexico	53,919	49,748	33,649	11,980	5,190
Poland	11,019	9,234	9,002	3,418	2,066
Malaysia	9,749	8,264	9,598	1,847	1,566
Other sources	83,172	33,989	26,064	7,229	3,618
Total	884,448	905,001	928,191	231,351	160,071
<b>Value (1,000 dollars)<sup>1</sup></b>					
China	274,183	391,159	485,994	105,632	90,820
United Arab Emirates	75,446	78,305	77,913	20,550	10,935
Subtotal	349,629	469,464	563,907	126,182	101,754
Korea	138,563	123,719	83,857	25,866	12,399
Canada	77,085	62,772	51,868	14,802	11,556
Taiwan	103,163	90,775	47,230	13,032	6,797
Mexico	44,638	50,228	35,722	12,848	5,386
Poland	11,127	10,661	11,007	4,174	2,688
Malaysia	9,301	8,145	8,480	1,702	1,216
Other sources	104,576	67,117	59,126	14,038	10,339
Total	838,082	882,879	861,198	212,644	152,135

Table continued on next page.

**Table VII-6--Continued**  
**Steel nails: U.S. imports, by sources, 2004-06, January-March 2006, and January-March 2007**

Source	Calendar year			January-March	
	2004	2005	2006	2006	2007
<b>Unit value (per short ton)<sup>1</sup></b>					
China	\$809	\$815	\$790	\$766	\$807
United Arab Emirates	1,023	963	937	908	964
Subtotal	847	837	807	786	822
Korea	957	1,141	1,144	1,125	1,209
Canada	1,180	1,296	1,367	1,333	1,398
Taiwan	993	1,057	1,181	1,066	1,289
Mexico	828	1,010	1,062	1,072	1,038
Poland	1,010	1,155	1,223	1,221	1,301
Malaysia	954	986	883	921	776
Other sources	1,257	1,975	2,269	1,942	2,857
Total	948	976	928	919	950
<sup>1</sup> Landed, duty-paid. Source: Compiled from official Commerce statistics.					

Table VII-7 presents data for the world for HTS heading 7317, which includes all nails and staples, including nonsubject roofing nails and other nonsubject product. Except for roofing nails, nonsubject product in the data is considered to be negligible. In the case of UAE, for which export data are not available from the same source, partner country import data (called “mirror exports”) are provided. In addition to China and the UAE, the top ten 2006 exporting countries are also listed. In 2006 China and the UAE accounted for 50.8 percent of world exports of nails and staples. The next ten largest exporting countries totaled 37.5 percent of world exports in 2006.

**Table VII-7**  
**Nails and staples: Reporting countries' export statistics 2002-06**

Source	Calendar year				
	2002	2003	2004	2005	2006
<b>Quantity (short tons)</b>					
China	358,394	466,456	690,703	916,303	1,150,413
United Arab Emirates	46,919	81,287	83,115	22,641	11,346
Subtotal	405,313	547,743	773,818	938,944	1,161,759
Malaysia	221,432	417,806	591,869	362,718	428,561
Korea	183,364	159,632	164,159	121,532	85,198
Poland	55,205	58,396	60,323	60,542	66,030
Taiwan	112,929	116,936	135,918	107,200	54,756
Russia	51,700	65,055	52,423	46,938	49,665
United States	28,096	26,626	32,249	32,820	41,539
Mexico	47,587	45,358	59,368	55,926	37,123
Ukraine	15,795	26,678	37,712	37,108	33,088
Germany	29,925	28,782	33,104	30,528	31,657
Belgium	8,191	17,197	28,224	26,358	29,756
Subtotal	754,224	962,466	1,195,349	881,670	857,373
Other sources	233,137	198,006	237,153	268,568	266,156
Total	1,392,674	1,708,215	2,206,320	2,089,182	2,285,288
Source: Compiled from <i>Global Trade Atlas</i> .					



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**





phase antidumping investigation Nos. 731-TA-1114 and 1115 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and the United Arab Emirates of certain steel nails, provided for in subheadings 7317.00.55, 7317.00.65, and 7317.00.75 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in antidumping investigations in 45 days, or in this case by July 13, 2007. The Commission's views are due at Commerce within five business days thereafter, or by July 20, 2007.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**DATES:** *Effective Date:* May 29, 2007.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202-205-3187/[fred.ruggles@usitc.gov](mailto:fred.ruggles@usitc.gov)), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** *Background.* These investigations are being instituted in response to a petition filed on May 29, 2007, by Davis Wire Corporation (Irwindale, CA), Gerdau Ameristeel Corporation (Tampa, FL), Maze Nails (Peru, IL), Mid-Continent Nail Corporation (Poplar Bluff, MO), and Treasure Coast Fasteners, Incorporated (Fort Pierce, FL).

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**INTERNATIONAL TRADE  
COMMISSION**

**[Investigation Nos. 731-TA-1114 and 1115  
(Preliminary)]**

**Certain Steel Nails From China and the  
United Arab Emirates**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Institution of antidumping  
investigations and scheduling of  
preliminary phase investigations.

**SUMMARY:** The Commission hereby gives  
notice of the institution of investigations  
and commencement of preliminary

*Participation in the investigations and public service list.* Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.* Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in these investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.* The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 19, 2007, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202-205-3187/fred.ruggles@usitc.gov) not later than June 15, 2007, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.* As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 22, 2007, a written brief containing information and arguments pertinent to

the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: May 29, 2007.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7-10684 Filed 6-1-07; 8:45 am]

**BILLING CODE 7020-02-P**

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312 or (202) 482-4136, respectively.

**SUPPLEMENTARY INFORMATION:**

**Initiation of Investigations**

**The Petitions**

On May 29, 2007, the Department of Commerce (Department) received antidumping duty petitions (petitions) filed by Mid Continent Nail Corporation, Davis Wire Corporation, Gerdau Ameristeel Corporation (Atlas Steel & Wire Division), Maze Nails (Division of W.H. Maze Company), and Treasure Coast Fasteners, Inc. (collectively, the petitioners) on behalf of the domestic industry producing certain steel nails.

**Determination of Industry Support for the Petition**

Section 732(b)(1) of the Tariff Act of 1930, as amended (the Act), requires that a petition be filed by or on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) if there is a large number of producers, determine industry support using a statistically valid sampling method to poll the industry.

**Extension of Time**

Section 732(c)(1)(A)(ii) of the Act provides that within 20 days of the filing of an antidumping duty petition, the Department will determine, inter alia, whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Section 732(c)(1)(B) of the Act provides that the deadline for the initiation

determination, in exceptional circumstances, may be extended by 20 days in any case in which the Department must "poll or otherwise determine support for the petition by the industry." Because it is not clear from the petition whether the industry support criteria have been met, the Department has determined to extend the time for initiating an investigation in order to poll the domestic industry. On June 1, 2007, the Department began issuing polling questionnaires to all known domestic producers of certain steel nails identified in the petition. The questionnaires are on file in the Central Records Unit in room B-099 of the main Department of Commerce building. The Department requested that each company complete the polling questionnaire and fax their responses to the Department.

The Department will need additional time to analyze the domestic producers' responses to this request for information. Therefore, it is necessary to extend the deadline determining the adequacy of the petition for a period not to exceed 40 days from the filing of the petition. As a result, the initiation determination will now be due no later than July 9, 2007.

**International Trade Commission Notification**

The Department will contact the International Trade Commission (ITC) and will make this extension notice available to the ITC.

Dated: June 11, 2007.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E7-11591 Filed 6-14-07; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

A-570-909, A-520-802

**Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty Petitions: Certain Steel Nails from the People's Republic of China and the United Arab Emirates**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** June 15, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Matthew Renkey (People's Republic of China) or David Goldberger (United Arab Emirates), AD/CVD Operations, Offices 2 and 9, Import Administration, International Trade Administration,



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**INTERNATIONAL TRADE  
COMMISSION**

[Investigation Nos. 731-TA-1114 and 1115  
(Preliminary)]

**Certain Steel Nails From China and the  
United Arab Emirates**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Revised schedule for the subject  
investigations.

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**SUMMARY:** On May 29, 2007, the  
Commission established a schedule for  
the conduct of the subject investigations  
(72 FR 30831, June 4, 2007).  
Subsequently, the Department of  
Commerce extended the date for its  
initiation of the investigations from June  
18 to July 9, 2007. The Commission,  
therefore, is revising its schedule to  
conform with Commerce's new  
schedule.

The Commission's new schedule for  
the investigations is as follows: The  
deadline for filing written briefs is June  
26, 2007, and the administrative  
deadline for transmitting determinations  
and views to Commerce is July 30, 2007.

For further information concerning  
the conduct of these investigations and  
rules of general application, consult the  
Commission's Rules of Practice and  
Procedure, part 201, subparts A through  
E (19 CFR part 201), and part 207,  
subparts A and B (19 CFR part 207).

**DATES:** *Effective Date:* June 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202-205-3187/[fred.ruggles@usitc.gov](mailto:fred.ruggles@usitc.gov)), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: June 18, 2007.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7-12007 Filed 6-20-07; 8:45 am]

**BILLING CODE 7020-02-P**

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**DEPARTMENT OF COMMERCE****International Trade Administration****[A-570-909, A-520-802]****Certain Steel Nails from the People's Republic of China and the United Arab Emirates: Initiation of Antidumping Duty Investigations****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.**EFFECTIVE DATE:** July 16, 2007.**FOR FURTHER INFORMATION CONTACT:** Nicole Bankhead (People's Republic of China) or David Goldberger (United Arab Emirates), AD/CVD Operations, Offices 9 and 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202)

482-9068 or (202) 482-4136, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Petitions

On May 29, 2007, the Department of Commerce (the Department) received petitions concerning imports of certain steel nails from the People's Republic of China (PRC) (PRC petition) and the United Arab Emirates (UAE) (UAE petition) filed in proper form by Mid Continent Nail Corporation, Davis Wire Corporation, Gerdau Ameristeel Corporation (Atlas Steel & Wire Division), Maze Nails (Division of W.H. Maze Company), Treasure Coast Fasteners, Inc., and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, petitioners). See the Petitions on Certain Steel Nails from the People's Republic of China and the United Arab Emirates filed on May 29, 2007, and the petitioners' submission dated June 22, 2007. On June 1 and June 18, 2007, the Department issued requests for additional information and clarification of certain areas of the petitions. Based on the Department's requests, the petitioners filed additional information on June 1, June 7 (three distinct submissions on General, PRC-only, and UAE-only material), and June 20, 2007. The period of investigation (POI) for the UAE is April 1, 2006, through March 31, 2007. The POI for the PRC is October 1, 2006, through March 31, 2007. See 19 CFR 351.204(b).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of certain steel nails from the PRC and the UAE are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed these petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) and (D) of the Act, and have demonstrated sufficient industry support with respect to the antidumping duty investigations that the petitioners are requesting that the Department initiate (see "Determination of Industry Support for the Petitions" section below).

##### Scope of Investigations

The merchandise covered by each of these investigations includes certain

steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to these proceedings are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.

Certain steel nails subject to these proceedings are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65 and 7317.00.75.

Excluded from the scope of these proceedings are roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope of these proceedings are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of these proceedings are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of these proceedings are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

##### Comments on Scope of Investigations

During our review of the petitions, we discussed the scope with the petitioners to ensure that it is an accurate reflection

of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of signature of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

##### Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of certain steel nails to be reported in response to the Department's antidumping questionnaires. For example, we are considering whether physical characteristics such as steel grade, shaft length, finish type, head style, shank style, and point style are relevant. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use 1) as general product characteristics and 2) as the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe certain steel nails, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in model matching.



Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by July 30, 2007. Additionally, rebuttal comments must be received by August 9, 2007.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. In order to determine whether a petition has been filed by or on behalf of the domestic industry, the Department, pursuant to section 732(c)(4)(A) of the Act, determines whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using any statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of

time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *see also High Information Content Flat Panel Displays and Display Glass Therefor From Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to the domestic like product, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted in the petitions, we have determined there is a single domestic like product, certain steel nails, which is defined further in the "Scope of the Investigations" section above, and we have analyzed industry support in terms of that domestic like product. *See PRC Initiation Checklist* at Attachment II and *UAE Initiation Checklist* at Attachment II.

Based on information provided in the petitions, the share of total estimated U.S. production of the domestic like product in calendar year 2006 represented by the petitioners did not account for more than 50 percent of the total production of the domestic like product. Therefore, in accordance with section 732(c)(4)(D) of the Act, we polled the industry.

On June 1, 2007, we issued polling questionnaires to all known domestic producers of certain steel nails identified in the petitions and by the Department's research. On June 6, 2007, we issued a polling questionnaire to an additional producer whose identity we learned from the ITC. The questionnaires are on file in the CRU in room B-099 of the main Department of Commerce building. We requested that each company complete the polling questionnaire and certify its response by faxing its response to the Department by the due date. For a detailed discussion of the responses received, *see PRC Initiation Checklist* at Attachment II and

*UAE Initiation Checklist* at Attachment II.

Section 732(c)(4)(B) of the Act states that (i) the Department "shall disregard the position of domestic producers who oppose the petition if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order" and (ii) the Department "may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise." In addition, 19 CFR 351.203(e)(4) states that the position of a domestic producer that opposes the petition (i) will be disregarded if such producer is related to a foreign producer or to a foreign exporter under section 771(4)(B)(ii) of the Act, unless such domestic producer demonstrates to the Secretary's satisfaction that its interests as a domestic producer would be adversely affected by the imposition of an antidumping order, and (ii) may be disregarded if the producer is an importer of the subject merchandise or is related to such an importer under section 771(4)(B)(ii) of the Act.

Certain producers of the domestic like product that opposed the petition against the PRC are related to foreign producers and/or imported subject merchandise from the PRC. We have analyzed the information provided by these producers in their polling questionnaire responses and information provided in other submissions to the Department (*see the petitioners' June 18, 2007, submission and Illinois Tool Works Inc.'s June 25, 2007, submission*). Based on our analysis, we have determined that it would be appropriate to disregard the position of any of the opposing producers under section 732(c)(4)(B) of the Act. When the position of any of these producers is disregarded, the petitioners satisfy the statutory industry support requirements of section 732(c)(4)(A) of the Act. *See PRC Initiation Checklist* at Attachment II and *UAE Initiation Checklist* at Attachment II.

With regard to the PRC petition, the data collected demonstrate that the domestic producers of certain steel nails who support the PRC petition account for at least 25 percent of the total production of the domestic like product and, once the opposition of certain producers is disregarded, more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the PRC

petition. See *PRC Initiation Checklist* at Attachment II.

Our analysis of the data collected with regard to the UAE petition indicates that the domestic producers of certain steel nails who support the UAE petition account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the UAE petition. See *UAE Initiation Checklist* at Attachment II. We note that certain U.S. producers oppose the petition against the UAE; however, despite such opposition, the petitioners still account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the UAE petition. As a result, we need not examine whether the U.S. producers that opposed the petition against the UAE are related to, or import from, producers of the subject merchandise in the UAE.

Therefore, the Department determines that the petitioners filed these petitions on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigations that they are requesting the Department initiate. See *PRC Initiation Checklist* at Attachment II and *UAE Initiation Checklist* at Attachment II.

#### **Allegations and Evidence of Material Injury and Causation**

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). The petitioners contend that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity and capacity utilization rate, reduced shipments, underselling and price depression or suppression, lost revenue, reduced employment, decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See *PRC Initiation Checklist* at Attachment III (Injury) and *UAE Initiation Checklist* at Attachment III (Injury).

#### **Allegations of Sales at Less Than Fair Value**

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of certain steel nails from the PRC and the UAE. The sources of data for the deductions and adjustments relating to the U.S. price, constructed value (CV) (for the UAE), and the factors of production (for the PRC) are also discussed in the country-specific initiation checklists. See *PRC Initiation Checklist* and *UAE Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

#### **UAE**

##### **Export Price (EP)**

The petitioners calculated two EPs using price offers for UAE-produced steel nails obtained from customer contacts. The petitioners made adjustments for the importer's markup, U.S. inland freight, ocean freight, marine insurance, U.S. port fees, and foreign inland freight. The petitioners derived the importer profit margin from published financial statement data of a trading company that imports nails into the United States. The petitioners estimated U.S. inland freight based on their knowledge and experience in shipping steel nails within the United States. They calculated ocean freight and marine insurance based on the difference between the average per-unit customs value and the average per-unit CIF value reported in U.S. import statistics for the HTSUS category corresponding to the price data at the likely U.S. port of entry. U.S. port fees were based on standard U.S. government percentages, as applied to the petitioners' estimate of entered value. Finally, the petitioners calculated foreign inland freight based on a UAE freight quote obtained through market research. See *UAE Initiation Checklist*.

##### **NV Based on CV**

With respect to NV, the petitioners provided information that the UAE home market is not viable. According to the petitioners, the UAE steel nail industry is geared almost exclusively to exports. See, e.g., Volume III of the UAE petition at 9 and Exhibit UAE 5. Through market research, the petitioners learned that the type of wood-frame construction used predominantly in North America makes

the United States a desirable market for exports, while other types of specialty fasteners are more prevalent in the UAE home market. See Supplement to the UAE petition, dated June 1, 2007.

Further, the petitioners provided information that no third-country market for the UAE's principal exporter of the merchandise, Dubai Wire, is viable. Based on available export data from the UAE, the petitioners state that Germany is the next largest country to which subject merchandise was exported, and that the volume of merchandise exported to Germany was 1.01 percent of the volume exported to the United States. See Volume III of the UAE petition at 9 and Exhibit UAE 5, and Supplement to the UAE petition, dated June 1, 2007. As this is less than the 5-percent threshold provided for in section 773(a)(1)(B)(ii)(II) of the Act, Germany is not a viable third-country market. Accordingly, the petitioners based NV on CV.

Pursuant to section 773(e) of the Act, CV consists of the cost of manufacture (COM); selling, general and administrative (SG&A) expenses; financial expenses; packing expenses; and profit. In calculating COM and packing, the petitioners based the quantity of each of the inputs used to manufacture and pack steel nails on the production experience of two U.S. steel nail producers during the prospective POI, and multiplied it by the value of inputs used to manufacture steel nails in the UAE using either publicly available data or data obtained from a market research study. See Volume III of the UAE petition at 10-14, the June 7, 2007, supplement to the UAE petition at Exhibit UAE Supp-12 and the June 20, 2007, supplement to the UAE petition at 3-5 and Exhibits UAE Supp2-12A, Supp2-12B and Supp2-20.

Raw material (*i.e.*, steel wire rod) is the most significant input used in the production of steel nails. The petitioners determined the usage of steel wire rod based on the quantities used by two U.S. manufacturers to produce a metric ton of steel nails. The value of steel wire rod was based on price data obtained through market research. The price data from the market research study were contemporaneous with the POI. The values for other inputs and packing (*i.e.*, scrap, stearic acid, polypropylene, and vinyl resins) were based on statistics from the World Trade Atlas for the period of July 2005 to August 2006. See Volume III of the UAE petition at 10-11 and Exhibits UAE 13-14, the June 1, 2007, supplement to the UAE petition at Exhibit 1, and the June 7, 2007, supplement to the UAE petition at Exhibit UAE Supp-12.

The petitioners determined labor costs using the labor inputs derived from the experience of two U.S. steel nail producers and valued these inputs using UAE labor costs obtained from a market research study. Based on the study, the petitioners calculated an hourly rate using an average of four industrial sources in the UAE. For the value of indirect labor, the petitioners calculated an hourly rate using an average of two industrial sources in the UAE for accountants, engineers, managers, supervisors, and general managers. See Volume III of the UAE petition at 11 and Exhibit UAE 8, the June 1, 2007, supplement to the UAE petition at Exhibit 1, and the June 7, 2007, supplement to the UAE petition at Exhibit UAE Supp-12.

To calculate energy, factory overhead, and SG&A expenses, the petitioners relied on the financial statements of a steel fabricating company in the UAE, Arab Heavy Industries (AHI), for the fiscal year ending December 31, 2006, the period most contemporaneous with the POI. The petitioners stated that the surrogate financial statements did not separately itemize other operating expenses (*i.e.*, energy, SG&A); therefore, to avoid double-counting energy expenses in the calculation of CV it was necessary to use a combined ratio for energy, factory overhead, and SG&A expenses. Specifically, the petitioners calculated the total of depreciation, other operating expenses, and other income from AHI's financial statements as a percentage of materials and labor from AHI's financial statements. This ratio was then applied to the materials (excluding packing) and labor costs calculated as discussed above. The petitioners believe this is a conservative calculation of the energy, factory overhead, and SG&A expenses as they have included all other income from AHI's financial statements. Additionally, based on AHI's financial statements, they believe packing expenses were included in the denominator of the energy, factory overhead, and SG&A ratio calculation, but not in the materials and labor figure to which they applied it (packing expenses were added after this calculation), thus potentially understating CV. See the June 20, 2007, supplement to the UAE petition at 3-5 and Exhibits UAE Supp2-12A, Supp2-12B and Supp2-20.

To calculate the average financial expense and profit rates, the petitioners relied on the financial statements of the same UAE steel fabricator, AHI. The petitioners note that based on the surrogate financial statements, the financial expense ratio was zero. See the

June 20, 2007, supplement to the UAE petition at 3-5 and Exhibits UAE Supp2-12A, Supp2-12B and Supp2-20.

#### PRC

##### EP

The petitioners relied on three U.S. prices for certain steel nails manufactured in the PRC and offered for sale in the United States. The prices quoted were for three different types of steel nails falling within the scope of the PRC petition, for delivery to the U.S. customer within the POI. The petitioners deducted from the prices the costs associated with exporting and delivering the product, including U.S. inland freight, ocean freight and insurance charges, U.S. duty, port and wharfage fees, foreign inland freight costs, and foreign brokerage and handling. See *PRC Initiation Checklist*. The petitioners based the importer profit margin and U.S. inland freight on their knowledge and experience. The petitioners used the Department's standard all-distance freight rate for foreign inland freight. They calculated ocean freight and marine insurance based on the difference between the average per-unit customs value and the average per-unit CIF value reported in U.S. import statistics for the HTSUS category corresponding to the price data at the likely U.S. port of entry. U.S. port fees were based on standard percentages of U.S. government fees. The petitioners estimated foreign brokerage and handling based on Indian surrogate value data applied in another Department proceeding. See Volume II of the PRC petition at 1-15, and Exhibits PRC 1A, 1B, 2A, 2B, 3A, 3B, 6A - 10F, and the June 7, 2007, PRC-only submission at 15-18, and Exhibit 10.

##### PRC NV

The petitioners stated that the PRC remains a non-market economy (NME) country and no determination to the contrary has yet been made by the Department. Recently, the Department examined the PRC's market status and determined that NME status should continue for the PRC. See *Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, Regarding The People's Republic of China Status as a Non-Market Economy*, dated May 15, 2006 (This document is available online at <http://ia.ita.doc.gov/download/prc-nme-status/prc-nme-status-memo.pdf>.) In addition, in two recent investigations, the Department also determined that the PRC is an NME country. See *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon*

*from the People's Republic of China*, 72 FR 9508 (March 2, 2007) and *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The petitioners selected India as the surrogate country arguing that, pursuant to section 773(c)(4) of the Act, India is an appropriate surrogate because it is a market economy country that is at a level of economic development comparable to that of the PRC and is a significant producer and exporter of certain steel nails. See Volume II of the PRC petition at 16-20. Based on the information provided by the petitioners, we believe that the use of India as a surrogate country is appropriate for purposes of initiation. After the initiation of the investigation, we will solicit comments regarding surrogate country selection.

The petitioners provided dumping margin calculations using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. However, because information regarding the factors of production consumed by Chinese producers is not available to the petitioners, the petitioners calculated NVs for each U.S. price discussed above based on consumption rates for producing certain steel nails as experienced by U.S. producers. See Volume II of the PRC petition at 19-20. The petitioners used U.S. producer consumption figures for 2006, stating that such information provides as contemporaneous a time period as possible with the POI and is reasonably available to the petitioners. See *id.* With the exception of labor, the petitioners state that U.S. input consumption quantities reflect efficient production methods and they provide a conservative estimate of the factors of production used by the Chinese. See *id.*

For labor, the petitioners adjusted the number of labor hours per unit of output to account for a known difference between the U.S. and Chinese production processes. Specifically, the petitioners stated that the production of subject merchandise is more labor intensive in the PRC than in the United States, requiring significantly more labor to produce the same amount of finished product. The petitioners provide affidavits to support this labor adjustment. See Volume II of the PRC petition at 20, Exhibits PRC 11A - 11C, and the June 7, 2007, PRC-only supplement to the PRC petition at 4 and Exhibit PRC 11. Accordingly, we found the petitioners use of the production data to be reasonable.

For the NV calculations, the petitioners were unable to obtain surrogate value figures contemporaneous with the POI for all material inputs, and accordingly relied upon the most recent information available. The sources of these data include the published national market prices for carbon steel commodities by Joint Plant Committee of India and the World Trade Atlas compilation of Indian import statistics, which provided data through September 2006 at the time the petition was filed. See Volume II of the PRC petition at Exhibits PRC 14A and PRC 15. Where an input price reflected a period preceding the POI, the petitioners adjusted it for inflation using the wholesale price index for India reported by the Reserve Bank of India. See Volume II of the PRC petition at Exhibit PRC 13. For fuel-, energy-, and lubricant-related inputs, the petitioners used the energy-specific inflators published by the International Monetary Fund. See *id.* The petitioners excluded those values from countries previously determined by the Department to be NME countries and imports into India from Indonesia, the Republic of Korea and Thailand, because the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies, as well as imports from unspecified countries. See *Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review*, 72 FR 27287 (May 15, 2007), and accompanying Issues and Decision Memorandum at Comment 23. The surrogate values used by the petitioners for the material and packing inputs consist of information reasonably available to the petitioners and are, therefore, acceptable for purposes of initiation.

With respect to the surrogate financial expenses, the petitioners relied on the factory overhead, SG&A expenses and profitability of an Indian steel fastener producer, Lakshmi Precision Screws Ltd. ("LPS"), taken from the company's most recently available annual report that is closest to the POI. See Volume II of the PRC petition at Exhibit PRC 20. The petitioners claim that LPS is a modern producer using state of the art equipment and is India's only publicly traded producer of steel fasteners. The petitioners stated that they were unable to find public financial statements from other Indian nail producers; therefore, the petitioners argue, LPS provides the best information reasonably available as a surrogate for the production of certain steel nails in the PRC. We find that the petitioners' use of LPS as the source for the surrogate financial expenses is appropriate for purposes of initiation. The Department made minor modifications to the surrogate financial ratios calculated by the petitioners. As a result, the calculations for the three NVs and the resulting margin calculations changed slightly. See PRC *Initiation Checklist* at Attachment V.

#### Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of certain steel nails from the PRC and the UAE are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to CV, calculated in accordance with section 773(a)(4) of the Act, the estimated dumping margins for certain steel nails from the UAE are 70.77 and 71.50 percent. Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the estimated dumping margins for certain steel nails from the PRC are 55.19, 97.15 and 118.04 percent.

#### Initiation of Antidumping Investigations

Based upon the examination of the petitions on certain steel nails from the PRC and the UAE, the Department finds that the petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of certain steel nails from the PRC and the UAE are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

#### Separate Rates and Quantity and Value Questionnaire

The Department recently modified the process by which exporters and producers may obtain separate-rate status in NME investigations. See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) (*Separate Rates and Combination Rates Bulletin*), available on the Department's website at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. The process requires the submission of a separate-rate status application. Based on our experience in processing the separate-rate applications in the following antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. See *Initiation of Antidumping Duty Investigations: Certain Lined Paper Products From India, Indonesia, and the People's Republic of China*, 70 FR 58374, 58379 (October 6, 2005), *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005), and *Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea*, 70 FR 35625, 35629 (June 21, 2005). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application is due no later than September 7, 2007.

#### NME Respondent Selection and Quantity and Value Questionnaire

For NME investigations, it is the Department's practice to request quantity and value information from all known exporters identified in the PRC petition. Although many NME exporters respond to the quantity and value information request, at times some exporters may not have received the quantity and value questionnaire or may not have received it in time to respond by the specified deadline. Therefore, the Department typically requests the assistance of the NME government in transmitting the Department's quantity and value questionnaire to all companies that manufacture and export subject merchandise to the United

States, as well as to manufacturers that produce the subject merchandise for companies that were engaged in exporting subject merchandise to the United States during the POI. The quantity and value data received from NME exporters is used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters no later than July 30, 2007. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the IA website at <http://ia.ita.doc.gov/ia-highlights-and-news.html>. The Department will send the quantity and value questionnaire to those companies identified in Exhibit I-5 of Volume I of the PRC petition and those identified by the NME government.

**Use of Combination Rates in an NME Investigation**

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in the PRC investigation. The *Separate Rates and Combination Rates Bulletin*, states:

[w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that

one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See *Separate Rates and Combination Rates Bulletin*, at 6.

**Distribution of Copies of the Petitions**

In accordance with section 732(b)(3)(A) of the Act, copies of the public versions of the petitions have been provided to the representatives of the Governments of the PRC and the UAE. We will attempt to provide a copy of the public version of the petitions to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

**International Trade Commission Notification**

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

**Preliminary Determinations by the International Trade Commission**

The ITC will preliminarily determine, no later than July 30, 2007, whether there is a reasonable indication that imports of certain steel nails from the PRC and the UAE are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination with respect to either of the investigations will result in that investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 9, 2007.

**David M. Spooner,**  
*Assistant Secretary for Import Administration.*

**Appendix – I**

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate 1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or 2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see scope section of this notice), produced in the PRC, and exported/shipped to the United States during the period October 1, 2006, through March 31, 2007.

Market	Total Quantity	Terms of Sale	Total Value
United States .....	.....	.....	.....
1. Export Price Sales .....	.....	.....	.....
2. ....	.....	.....	.....
a. Exporter name .....	.....	.....	.....
b. Address .....	.....	.....	.....
c. Contact .....	.....	.....	.....
d. Phone No. ....	.....	.....	.....
e. Fax No. ....	.....	.....	.....
3. Constructed Export Price Sales .....	.....	.....	.....
4. Further Manufactured .....	.....	.....	.....
TOTAL SALES .....	.....	.....	.....

**Total Quantity:**

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

**Terms of Sales:**

- Please report all sales on the same

terms (e.g., free on board).

**Total Value:**

- All sales values should be reported in U.S. dollars. Please indicate any exchange rates used and their respective dates and sources.

**Export Price Sales:**

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before importation into the United States.
- Please include any sales exported by your company directly to the

United States;

- Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please *do not* include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
- Please include any sales exported by your company directly to the United States;
- Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please *do not* include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured:

- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E7-13721 Filed 7-13-07; 8:45 am]

BILLING CODE 3510-DS-S

**APPENDIX B**  
**CONFERENCE WITNESSES**





**CALENDAR OF PUBLIC HEARING**

Those listed below appeared as witnesses at the United States International Trade Commission’s conference:

**Subject:** Certain Steel Nails from China and the United Arab Emirates  
**Inv. Nos.:** 731-TA-1114 and 1115 (Preliminary)  
**Date and Time:** June 19, 2007 - 9:30 a.m.

The conference was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC.

**In Support of the Imposition of  
Antidumping Duty Orders:**

Kelley Drye Collier Shannon  
Washington, DC  
on behalf of

Davis Wire Corp.  
Gerdau Ameristeel Corp.  
Maze Nails  
Mid-Continent Nail Corp.  
Treasure Coast Fasteners, Inc.

**David Libla**, President, Mid Continent Nail Corp.  
**Jim Kerkvliet**, Vice President and General Manager, Downstream Group,  
Gerdau Ameristeel Corp.  
**Peter Cronin**, Corporate Vice President, Sales and Marketing,  
Hyco Wire Group, USA (Davis Wire Corp.)  
**M. John Dees**, President, Treasure Coast Fasteners, Inc.  
**Denis McMorrow**, President, Wheeling La-Belle Nail Co.  
**Vic Stirnaman**, Executive Vice President, Keystone Steel Corp.  
**Chris Pratt**, Director of Internal Audit and Reporting Systems,  
Mid Continent Nail Corp.  
**Gina Beck**, Economist, Georgetown Economic Services

**Paul Rosenthal** )  
**Kathleen W. Cannon** )-OF COUNSEL  
**Grace W. Kim** )

**In Opposition to the Imposition of  
Antidumping Duty Orders:**

Vinson & Elkins LLP  
Washington, DC  
on behalf of

On behalf of Suzhou Xingya Nail Industry Co., Ltd.; Shanxi Yuci Broad Wire Products Co., Ltd.; Huanghua Jinhai Hardware Products Co., Ltd.; Shanxi Pioneer Hardware Industrial Co., Ltd.; Shandong Oriental Cherry Hardware Group Co., Ltd.; Shandong Xinmaite Metal Mining Co., Ltd.; Shanxi Tianli Industries Co., Ltd.; Ma'anshan Yulong Metal Products Co., Ltd.; Shouguang Meiqing Nail Industry Co., Ltd.; Dezhou Hualu Metal Products Co., Ltd.; Shanghai Tengjia Metal Products Co., Ltd.; Shanghai Tengyu Hardware Tools Co., Ltd.; Xi'an Dayang Metal & Mineral Products Import-Export Co., Ltd.; Ming Guang Ruifeng Metal Products Co., Ltd.; Qingdao D&L Group Co., Ltd.; Beijing Pude Metal Group Co., Ltd.; Beijing Hongsheng Machinery Industry Co., Ltd.; Xuzhou Risheng Machinery Industry Co., Ltd.; Beijing Daruixing Nail Products Co., Ltd.; Shanghai Yueda Fasteners Co., Ltd.; Jiangsu Soho International Group Corp. Commerce Trade Co., Ltd.; Smart (Tianjin) Technology Development Co., Ltd.; Nanjing Yitian Metal Products Co., Ltd.; and Shanghai Yusuo Metal Facilities Co., Ltd.

**Jacob Davis**, President, S.T.O. Industries Inc./FANACO Fasteners

**Daniel L. Porter** ) – OF COUNSEL

McDermott Will & Emery LLP  
Washington, DC  
on behalf of

On behalf of Illinois Tool Works Inc. (“ITW”)

**Guenther Kram**, Business Unit Manager, Paslode Construction Division, ITW

**Mark Boutelle**, General Manager of Paslode Construction Division, ITW

**David J. Levine** )– OF COUNSEL

McDermott Will & Emery LLP  
Washington, DC  
on behalf of

On behalf of Hitachi Koki USA, Ltd.

**Steve Karaga**, Vice President, Hitachi Koki USA Ltd.

**Raymond Paretzky** )- OF COUNSEL

**In Opposition to the Imposition of  
Antidumping Duty Orders:**

Garvey Schubert Barer  
Washington, DC  
on behalf of

On behalf of Coast to Coast Building Products Inc.; Unitech Fastening Mfg. Inc.; Shandex Industrial, Inc.; Building Material Distributors, Inc. (“BMD”); United Sources Inc., Carrillos Nails Company; Accent Wire Products; and 3-G’s Supply Co.

**Garry Tabor**, President and CEO, BMD

**Bill Sims**, President, Accent Wire Products

**Lizbeth R. Levinson** )– OF COUNSEL

Miller & Chevalier  
Washington, DC  
on behalf of

On behalf of Dubai Wire FZE

**John Hurwitz**, Vice President of Operations, Northeast Wholesale Nail and Fastener Supply Co.

**Rupak Ved**, President, Dubai Wire

**Hal Lock**, Senior VP of Marketing and Business Development, Orco Construction Supply

**James Veth**, Vice President, Auxiliary Service & Hardware

**Bob Frosio**, President, Fastening Systems, Inc.

**Peter Koenig** ) – OF COUNSEL

Pepper Hamilton LLP  
Washington, DC  
on behalf of

On behalf of Continental Materials, Inc.

**Peter Fischer**, President, Continental Materials, Inc.

**Gregory C. Dorris** )– OF COUNSEL

**In Opposition to the Imposition of  
Antidumping Duty Orders:**

Sidley Austin LLP  
Washington, DC  
on behalf of

On behalf of XM International, Inc. and Shanghai Shengxiang Hardware Co.; Tianjin Jetcom Manufacturing Co., Ltd.; Wuxi Baolin Nail Enterprises, Zhejiang Jinhua Nail Factory; Tianjin Everwin Metal Products Co., Ltd.; XL Metal Works Co., Ltd.; and Hebei Development Metals Co., Ltd.

**Neil R. Ellis**  
**Lawrence R. Walders** ) – OF COUNSEL

Alston & Bird LLP  
Washington, DC  
on behalf of

On behalf of ITOCHU Building Products Co., Inc.

**Mona Zinman**, President, ITOCHU Building Products, Inc. and co-CEO,  
Prime Source Building Products, Inc..

**George Ikeda**, Corporate Counsel, ITOCHU International, Inc.

**Kenneth G. Weigel** ) – OF COUNSEL

Adduci Mastriani & Schaumberg LLP  
Washington, DC  
on behalf of

On behalf of Black & Decker (U.S.) Inc.

**Eric Suro**, Product Manager, Black and Decker

**Will E. Leonard** ) – OF COUNSEL

**APPENDIX C**  
**SUMMARY DATA**



**Table C-1**

**Steel nails: Summary data concerning the U.S. market, 2004-06, January-March 2006, and January-March 2007**

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2004	2005	2006	January-March		2004-06	2004-05	2005-06	Jan.-Mar. 2006-07
				2006	2007				
<b>U.S. consumption quantity:</b>									
Amount . . . . .	1,238,523	1,207,695	1,154,857	300,597	199,261	-6.8	-2.5	-4.4	-33.7
Producers' share (1) . . . . .	28.6	25.1	19.6	23.0	19.7	-9.0	-3.5	-5.4	-3.4
Importers' share (1):									
China . . . . .	27.4	39.7	53.3	45.9	56.5	25.9	12.4	13.6	10.6
UAE . . . . .	6.0	6.7	7.2	7.5	5.7	1.2	0.8	0.5	-1.8
Subtotal . . . . .	33.3	46.5	60.5	53.4	62.1	27.2	13.1	14.0	8.7
Other sources . . . . .	38.1	28.5	19.9	23.6	18.2	-18.2	-9.6	-8.6	-5.4
Total imports . . . . .	71.4	74.9	80.4	77.0	80.3	9.0	3.5	5.4	3.4
<b>U.S. consumption value:</b>									
Amount . . . . .	1,337,651	1,341,352	1,209,702	319,081	222,562	-9.6	0.3	-9.8	-30.2
Producers' share (1) . . . . .	37.3	34.2	28.8	33.4	31.6	-8.5	-3.2	-5.4	-1.7
Importers' share (1):									
China . . . . .	20.5	29.2	40.2	33.1	40.8	19.7	8.7	11.0	7.7
UAE . . . . .	5.6	5.8	6.4	6.4	4.9	0.8	0.2	0.6	-1.5
Subtotal . . . . .	26.1	35.0	46.6	39.5	45.7	20.5	8.9	11.6	6.2
Other sources . . . . .	36.5	30.8	24.6	27.1	22.6	-11.9	-5.7	-6.2	-4.5
Total imports . . . . .	62.7	65.8	71.2	66.6	68.4	8.5	3.2	5.4	1.7
<b>U.S. imports from:</b>									
<b>China:</b>									
Quantity . . . . .	339,002	479,751	615,548	137,913	112,488	81.6	41.5	28.3	-18.4
Value . . . . .	274,183	391,159	485,994	105,632	90,820	77.3	42.7	24.2	-14.0
Unit value . . . . .	\$809	\$815	\$790	\$766	\$807	-2.4	0.8	-3.2	5.4
Ending inventory quantity . . . . .	***	***	***	***	***	***	***	***	***
<b>UAE:</b>									
Quantity . . . . .	73,724	81,287	83,115	22,641	11,346	12.7	10.3	2.2	-49.9
Value . . . . .	75,446	78,305	77,913	20,550	10,935	3.3	3.8	-0.5	-46.8
Unit value . . . . .	\$1,023	\$963	\$937	\$908	\$964	-8.4	-5.9	-2.7	6.2
Ending inventory quantity . . . . .	***	***	***	***	***	***	***	***	***
<b>Subtotal:</b>									
Quantity . . . . .	412,726	561,038	698,662	160,553	123,833	69.3	35.9	24.5	-22.9
Value . . . . .	349,629	469,464	563,907	126,182	101,754	61.3	34.3	20.1	-19.4
Unit value . . . . .	\$847	\$837	\$807	\$786	\$822	-4.7	-1.2	-3.5	4.6
Ending inventory quantity . . . . .	19,560	29,817	38,151	27,202	34,049	95.0	52.4	28.0	25.2
<b>All other sources:</b>									
Quantity . . . . .	471,722	343,963	229,529	70,797	36,238	-51.3	-27.1	-33.3	-48.8
Value . . . . .	488,453	413,416	297,291	86,462	50,381	-39.1	-15.4	-28.1	-41.7
Unit value . . . . .	\$1,035	\$1,202	\$1,295	\$1,221	\$1,390	25.1	16.1	7.8	13.8
Ending inventory quantity . . . . .	27,396	25,209	19,411	28,242	13,524	-29.1	-8.0	-23.0	-52.1
<b>All sources:</b>									
Quantity . . . . .	884,448	905,001	928,191	231,351	160,071	4.9	2.3	2.6	-30.8
Value . . . . .	838,082	882,879	861,198	212,644	152,135	2.8	5.3	-2.5	-28.5
Unit value . . . . .	\$948	\$976	\$928	\$919	\$950	-2.1	3.0	-4.9	3.4
Ending inventory quantity . . . . .	46,956	55,026	57,562	55,444	47,573	22.6	17.2	4.6	-14.2

Table continued on next page.

**Table C-1--Continued**

**Steel nails: Summary data concerning the U.S. market, 2004-06, January-March 2006, and January-March 2007**

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2004	2005	2006	January-March		2004-06	2004-05	2005-06	Jan.-Mar. 2006-07
				2006	2007				
U.S. producers:									
Average capacity quantity . . . . .	775,253	725,027	722,079	179,037	176,510	-6.9	-6.5	-0.4	-1.4
Production quantity . . . . .	361,136	300,745	227,611	70,414	40,434	-37.0	-16.7	-24.3	-42.6
Capacity utilization (1) . . . . .	46.6	41.5	31.5	39.3	22.9	-15.1	-5.1	-10.0	-16.4
U.S. shipments:									
Quantity . . . . .	354,075	302,694	226,666	69,246	39,190	-36.0	-14.5	-25.1	-43.4
Value . . . . .	499,569	458,473	348,505	106,437	70,427	-30.2	-8.2	-24.0	-33.8
Unit value . . . . .	\$1,411	\$1,515	\$1,538	\$1,537	\$1,797	9.0	7.4	1.5	16.9
Export shipments:									
Quantity . . . . .	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***
Unit value . . . . .	\$***	\$***	\$***	\$***	\$***	\$***	\$***	\$***	\$***
Ending inventory quantity . . . . .	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1) . . . . .	***	***	***	***	***	***	***	***	***
Production workers . . . . .	1,481	1,370	1,120	1,160	821	-24.4	-7.5	-18.3	-29.2
Hours worked (1,000s) . . . . .	3,212	2,912	2,319	629	409	-27.8	-9.3	-20.4	-35.0
Wages paid (\$1,000s) . . . . .	44,110	36,093	34,212	9,198	5,884	-22.4	-18.2	-5.2	-36.0
Hourly wages . . . . .	\$13.73	\$12.39	\$14.76	\$14.62	\$14.39	7.5	-9.7	19.1	-1.6
Productivity (tons/1,000 hours) . . . . .	112.4	103.3	98.2	111.9	98.9	-12.7	-8.1	-4.9	-11.7
Unit labor costs . . . . .	\$122.14	\$120.01	\$150.31	\$130.63	\$145.51	23.1	-1.7	25.2	11.4
Net sales:									
Quantity . . . . .	337,642	292,808	227,243	69,875	39,692	-32.7	-13.3	-22.4	-43.2
Value . . . . .	486,762	458,041	357,551	107,493	71,484	-26.5	-5.9	-21.9	-33.5
Unit value . . . . .	\$1,442	\$1,564	\$1,573	\$1,538	\$1,801	9.1	8.5	0.6	17.1
Cost of goods sold (COGS) . . . . .	376,102	353,138	270,809	82,699	52,777	-28.0	-6.1	-23.3	-36.2
Gross profit or (loss) . . . . .	110,659	104,903	86,742	24,793	18,707	-21.6	-5.2	-17.3	-24.5
SG&A expenses . . . . .	43,675	43,258	38,575	10,304	9,453	-11.7	-1.0	-10.8	-8.3
Operating income or (loss) . . . . .	66,984	61,645	48,167	14,489	9,253	-28.1	-8.0	-21.9	-36.1
Capital expenditures . . . . .	15,155	8,309	7,102	2,677	737	-53.1	-45.2	-14.5	-72.5
Unit COGS . . . . .	\$1,114	\$1,206	\$1,192	\$1,184	\$1,330	7.0	8.3	-1.2	12.3
Unit SG&A expenses . . . . .	\$129	\$148	\$170	\$147	\$238	31.2	14.2	14.9	61.5
Unit operating income or (loss) . . . . .	\$198	\$211	\$212	\$207	\$233	6.8	6.1	0.7	12.4
COGS/sales (1) . . . . .	77.3	77.1	75.7	76.9	73.8	-1.5	-0.2	-1.4	-3.1
Operating income or (loss)/ sales (1) . . . . .	13.8	13.5	13.5	13.5	12.9	-0.3	-0.3	0.0	-0.5

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.



**Table C-2**

**Steel nails: Summary data concerning the U.S. market, excluding ITW, Senco, and Stanley-Bostitch, 2004-06, January-March 2006, and January-March 2007**

\* \* \* \* \*

**Table C-3**

**Steel nails: Summary data concerning the U.S. market, excluding ITW, Senco, Stanley-Bostitch, and Specialty Fasteners, 2004-06, January-March 2006, and January-March 2007**

\* \* \* \* \*

**Table C-4**  
**Steel nails: U.S. producers' and importers' U.S. shipments, by type, 2006**

Item	Quantity (short tons)	Value (\$1,000)	Unit value (\$/short ton)	Quantity share (percent)	Value share (percent)
<u>U.S. producers' U.S. shipments:</u>					
Collated:					
Bright . . . . .	137,414	177,326	1,290	60.6	50.9
Galvanized . . . . .	37,432	107,233	2,865	16.5	30.8
Other . . . . .	812	12,854	15,830	0.4	3.7
Total collated . . . . .	175,658	297,413	1,693	77.5	85.3
Uncollated:					
Bright . . . . .	34,000	32,026	942	15.0	9.2
Galvanized . . . . .	9,731	11,871	1,220	4.3	3.4
Other . . . . .	7,277	7,194	989	3.2	2.1
Total uncollated . . . . .	51,008	51,091	1,002	22.5	14.7
Total U.S. shipments . . . . .	226,666	348,504	1,538	100.0	100.0
<u>U.S. shipments of imports from China:</u>					
Collated:					
Bright . . . . .	161,179	179,655	1,115	42.0	43.1
Galvanized . . . . .	37,503	51,749	1,380	9.8	12.4
Other . . . . .	3,743	9,234	2,467	1.0	2.2
Total collated . . . . .	202,424	240,638	1,189	52.7	57.7
Uncollated:					
Bright . . . . .	81,387	62,733	771	21.2	15.1
Galvanized . . . . .	44,142	57,270	1,297	11.5	13.7
Other . . . . .	55,813	56,082	1,005	14.5	13.5
Total uncollated . . . . .	181,342	176,084	971	47.3	42.3
Total U.S. shipments . . . . .	383,766	416,722	1,086	100.0	100.0
<u>U.S. shipments of imports from the UAE:</u>					
Collated:					
Bright . . . . .	***	***	***	***	***
Galvanized . . . . .	***	***	***	***	***
Other . . . . .	***	***	***	***	***
Total collated . . . . .	***	***	***	***	***
Uncollated:					
Bright . . . . .	0	0	(1)	0.0	0.0
Galvanized . . . . .	0	0	(1)	0.0	0.0
Other . . . . .	0	0	(1)	0.0	0.0
Total uncollated . . . . .	0	0	(1)	0.0	0.0
Total U.S. shipments . . . . .	***	***	***	***	***
<u>U.S. shipments of other imports:</u>					
Collated:					
Bright . . . . .	67,079	85,126	1,269	44.9	37.7
Galvanized . . . . .	24,287	72,927	3,003	16.3	32.3
Other . . . . .	6,775	11,746	1,734	4.5	5.2
Total collated . . . . .	98,142	169,799	1,730	65.7	75.2
Uncollated:					
Bright . . . . .	24,467	22,087	903	16.4	9.8
Galvanized . . . . .	10,770	16,795	1,559	7.2	7.4
Other . . . . .	15,993	16,999	1,063	10.7	7.5
Total uncollated . . . . .	51,230	55,880	1,091	34.3	24.8
Total U.S. shipments . . . . .	149,371	225,679	1,511	100.0	100.0

(1) Not applicable.

Note.--Not all U.S. producers and importers provided data on steel nails broken out by type.

Source: Compiled from data submitted in response to Commission questionnaires.

**APPENDIX D**

**ALLEGED EFFECTS OF SUBJECT IMPORTS ON  
PRODUCERS' EXISTING DEVELOPMENT AND  
PRODUCTION EFFORTS, GROWTH, INVESTMENT,  
AND ABILITY TO RAISE CAPITAL**



**Responses of U.S. producers to the following question: Since January 1, 2004 has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of steel nails from China or the United Arab Emirates?**

\* \* \* \* \*

**Company responses to the following question: Does your firm anticipate any negative impact of imports of steel nails from China or the United Arab Emirates?**

\* \* \* \* \*

