

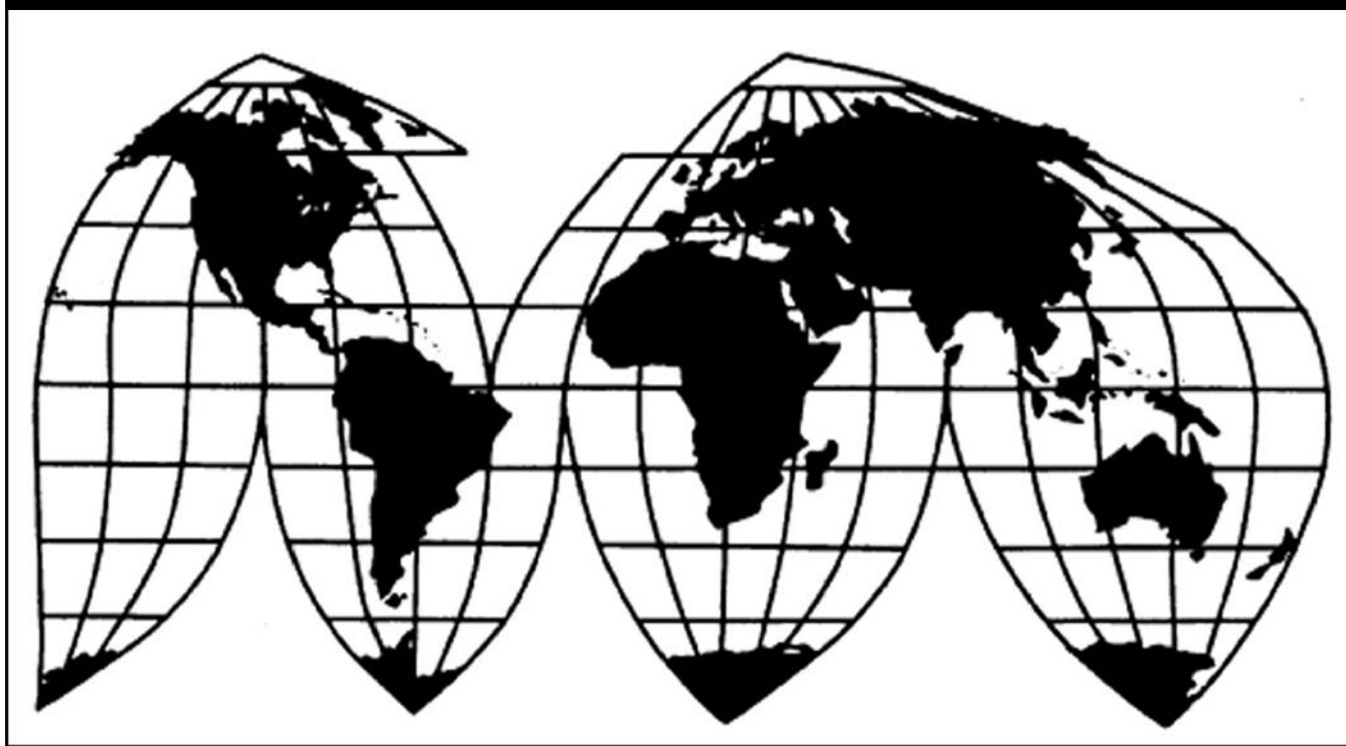
# **Certain Steel Nails from China**

Investigation No. 731-TA-1114 (Final)

**Publication 4022**

**July 2008**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

## COMMISSIONERS

**Shara L. Aranoff, Chairman**  
**Daniel R. Pearson, Vice Chairman**  
**Deanna Tanner Okun**  
**Charlotte R. Lane**  
**Irving A. Williamson**  
**Dean A. Pinkert**

---

Robert A. Rogowsky  
*Director of Operations*

---

### *Staff assigned*

Fred Ruggles, Investigator  
Gerald Houck, Industry Analyst  
Kelly Clark, Economist  
Charles Yost, Accountant  
Robin Turner, Attorney  
Natalie Huls, Law Clerk  
Lita David-Harris, Statistician  
Steven Hudgens, Statistician

George Deyman, Supervisory Investigator

Address all communications to  
Secretary to the Commission  
United States International Trade Commission  
Washington, DC 20436

# U.S. International Trade Commission

Washington, DC 20436  
*www.usitc.gov*

## Certain Steel Nails from China

Investigation No. 731-TA-1114 (Final)

**Publication 4022**



**July 2008**



## CONTENTS

	<i>Page</i>
<b>Determination</b> .....	1
<b>Views of the Commission</b> .....	3
<b>Part I: Introduction</b> .....	I-1
Statutory criteria and organization of the report .....	I-1
Statutory criteria .....	I-1
Organization of the report .....	I-2
U.S. market summary .....	I-3
Summary data and data sources .....	I-3
Previous and related investigations .....	I-3
Nature and extent of sales at LTFV .....	I-6
The subject merchandise .....	I-6
Commerce's scope .....	I-7
U.S. tariff treatment .....	I-8
The product .....	I-9
Description and applications .....	I-9
Manufacturing processes .....	I-9
Ability or inability to produce all types of nails .....	I-11
Domestic like product .....	I-11
<b>Part II: Conditions of competition in the U.S. market</b> .....	II-1
U.S. market segments .....	II-1
Channels of distribution .....	II-1
Geographic markets .....	II-2
Supply and demand considerations .....	II-3
U.S. supply .....	II-3
Foreign supply .....	II-5
U.S. demand .....	II-5
Demand outside the United States .....	II-7
Substitutability issues .....	II-8
Factors affecting purchasing decisions .....	II-8
Comparisons of domestic products, subject imports, and nonsubject imports .....	II-13
Elasticity estimates .....	II-15
U.S. supply elasticity .....	II-15
U.S. demand elasticity .....	II-15
Substitution elasticity .....	II-15

## CONTENTS

	<i>Page</i>
<b>Part III: U.S. producers' production, shipments, and employment</b> .....	III-1
U.S. producers .....	III-1
U.S. capacity, production, and capacity utilization .....	III-3
U.S. producers' shipments .....	III-4
U.S. producers' imports and purchases .....	III-8
U.S. producers' inventories .....	III-8
U.S. producers' employment, wages, and productivity .....	III-9
<b>Part IV: U.S. imports, apparent U.S. consumption, and market shares</b> .....	IV-1
U.S. importers .....	IV-1
U.S. imports .....	IV-1
U.S. imports by type .....	IV-3
Critical circumstances .....	IV-6
Negligibility .....	IV-7
Apparent U.S. consumption, U.S. market shares, and ratios of imports to U.S. production .....	IV-8
<b>Part V: Pricing and related information</b> .....	V-1
Factors affecting prices .....	V-1
Raw materials .....	V-1
Transportation costs to the U.S. market .....	V-2
U.S. inland transportation costs .....	V-2
Exchange rates .....	V-2
Pricing practices .....	V-3
Pricing methods .....	V-3
Sales terms and discounts .....	V-4
Price data .....	V-4
Price trends .....	V-13
Price comparisons .....	V-13
Lost sales and lost revenues .....	V-15
<b>Part VI: Financial experience of U.S. producers</b> .....	VI-1
Background .....	VI-1
Operations on steel nails .....	VI-1
Capital expenditures, research and development expenses, and investment in productive facilities .....	VI-5
Assets and return on investment .....	VI-6
Capital and investment .....	VI-6

## CONTENTS

	<i>Page</i>
<b>Part VII: Threat considerations and <i>Bratsk</i> information</b> .....	VII-1
The subject industry in China .....	VII-1
Types of subject nails exported from China .....	VII-2
U.S. importers' inventories .....	VII-2
U.S. importers' current orders .....	VII-2
Antidumping and countervailing duty orders in third-country markets .....	VII-3
Information on nonsubject sources .....	VII-3
<i>Bratsk</i> considerations .....	VII-3
Nonsubject source information .....	VII-3
 <b>Appendixes</b>	
A. <i>Federal Register</i> notices .....	A-1
B. Hearing witnesses .....	B-1
C. Summary data .....	C-1
D. U.S. producers', importers', purchasers', and foreign producers'/exporters' responses to the Commission's questions concerning production increases/decreases and effects of the imposition of preliminary antidumping duties on steel nails .....	D-1
E. Additional purchasing factor comparisons .....	E-1
F. Price data, excluding domestically produced nails of U.S. producers Senco, Specialty Fastening, and Stanley Fastening .....	F-1
G. Prices of imports of steel nails from nonsubject countries .....	G-1
H. Operating results of U.S. producers excluding certain related parties and results of U.S. producers on their consolidated operations .....	H-1
I. Alleged effects of subject imports on producers' existing development and production efforts, growth, investment, and ability to raise capital .....	I-1

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 No. 731-TA-1114 (Final)

CERTAIN STEEL NAILS FROM CHINA

## DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China 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 have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).<sup>2</sup>

## BACKGROUND

The Commission instituted this investigation effective May 29, 2007, following receipt of a petition 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).<sup>3</sup> The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain steel nails from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing 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 February 8, 2008 (73 FR 7590). The hearing was held in Washington, DC, on June 11, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

---

<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)).

<sup>2</sup> The Commission further determines that critical circumstances do not exist with respect to those imports of the subject merchandise from China that were subject to the affirmative critical circumstances determination by the Department of Commerce.

<sup>3</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.



## VIEWS OF THE COMMISSION

Based on the record in the final phase of this investigation, we find that an industry in the United States is materially injured by reason of imports of certain steel nails (“nails” or “steel nails”) from China that are sold in the United States at less than fair value (“LTFV”).

### I. BACKGROUND

The petition in this investigation was filed on May 29, 2007.<sup>1</sup> 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 nails.<sup>2</sup> Petitioners participated at the June 11, 2008 hearing conducted in this investigation and filed briefs. One respondent party, Stanley Fastening Systems, LP (“Stanley”), a domestic producer and an importer of subject nails from China (most of which are imported from its affiliated Chinese producer), participated in the Commission’s hearing and filed briefs in the final phase of this investigation. Three other parties filed briefs or written submissions in the final phase of this investigation: (1) Illinois Tool Works Inc. (“ITW”), a domestic producer that is also an importer from China and has a subsidiary that is a Chinese producer of nonsubject merchandise;<sup>3</sup> (2) Unitech Fastening Mfg. Inc. (“Unitech”), an importer of subject merchandise from China; and (3) Mar-Mac Wire, Inc. (“Mar-Mac”), an importer of subject merchandise.<sup>4</sup>

---

<sup>1</sup> The petition also alleged that an industry in the United States was materially injured or threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of certain steel nails from the United Arab Emirates (“UAE”). On June 16, 2008, Commerce found that certain steel nails from the UAE are not being, or are not likely to be, sold in the United States at LTFV, and thus certain steel nails from the UAE are no longer considered to be subject merchandise. 73 Fed. Reg. 33985 (June 16, 2008). Accordingly, the Commission has terminated its final phase of the investigation regarding the UAE. 73 Fed. Reg. 39041 (July 8, 2008).

<sup>2</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 2007. CR/PR at I-4. The Commission also received questionnaire responses from \*\*\*, of which \*\*\* reported imports from China, accounting for (\*\*\*) of subject U.S. imports from China in the period of 2005 to 2007. *Id.* at IV-1 and Table IV-1. Finally, the Commission received questionnaire responses from only eight subject Chinese producers of steel nails, accounting for only about \*\*\* of U.S. imports from China in 2007; in the preliminary phase of the investigation, 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. *Id.* at VII-1.

<sup>3</sup> Although Commerce found that certain steel nails from China are being, or are likely to be, sold in the United States at LTFV, it assigned exporter ITW/Paslode Fasteners (Shanghai) a dumping margin of zero. Thus, certain steel nails from this exporter are no longer considered to be subject merchandise. 73 Fed. Reg. 33977, 33981 (June 16, 2008).

<sup>4</sup> Two other parties filed prehearing submissions regarding issues that were rendered moot by Commerce’s final determinations: (1) Dubai Wire FZE (“Dubai Wire”), the sole United Arab Emirates (“UAE”) exporter and a UAE producer of subject nails; and (2) Hilti, Inc., an importer and Chinese producer of fasteners suitable for use in gas-actuated hand tools.

## II. DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY

### A. In General

In determining whether 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>5</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>6</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>7</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>8</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>9</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>10</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>11</sup> the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>12</sup>

---

<sup>5</sup> 19 U.S.C. § 1677(4)(A).

<sup>6</sup> 19 U.S.C. § 1677(4)(A).

<sup>7</sup> 19 U.S.C. § 1677(10).

<sup>8</sup> See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); 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>9</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>10</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>11</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).

<sup>12</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); Cleo, Inc. v. United States, 501 F.3d 1291, 1298, n.1 (Fed. Cir. 2007) (“Commerce’s [scope] finding does not control the Commission’s [like product] determination.”); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

## **B. Product Description**

In its final determination, Commerce defined the imported merchandise subject to this investigation 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10.00. Also excluded from the scope of this proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this proceeding are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hands tools.<sup>13</sup>

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, as well as corrugated nails, fasteners for use in powder-actuated hand tools, and thumbtacks. In its final determination, Commerce also specifically excluded certain collated brads and finish nails and certain fasteners suitable for use in gas-actuated hand tools.

---

<sup>13</sup> Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 Fed. Reg. 33977, 33978-9 (June 16, 2008).

### **C. Domestic Like Product**

In the preliminary phase of this investigation, the Commission agreed, as did all respondents except Black & Decker, with Petitioners' position<sup>14</sup> that the evidence supported defining a single domestic like product consisting of certain steel nails, coextensive with the scope of investigation.<sup>15</sup> Specifically, 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. While there are limitations in interchangeability among types of steel nails, this is not unexpected when a product is part of a continuum with no clear dividing lines between different types of nails.<sup>16</sup>

In the final phase of this investigation, no party advocates defining the domestic like product differently.<sup>17</sup> No new information has been developed since the preliminary determination to suggest that an alternative definition would be warranted. Accordingly, for the reasons stated in the preliminary determination, 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>18</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. Based on our finding that the domestic like product is certain steel nails, 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

---

<sup>14</sup> See, e.g., Petitioners' Postconference Brief at 2-6.

<sup>15</sup> Certain Steel Nails from China and the United Arab Emirates, Inv. Nos. 731-TA-1114-1115 (Preliminary), USITC Pub. 3939 at 6-8 (August 2007).

<sup>16</sup> See, e.g., 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) (Commission found two like products based on operating element -- cutting tool and sanding/grinding tool -- refusing to further subdivide more narrowly into 28 families of tools); Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea ("PET Film"), USITC Pub. 2383 at 8 and 10 (May 1991) ("a continuum product without clear dividing lines between the multiple like products . . . [a]lthough there are many distinct end uses for different types of PET film . . . essential characteristics common to all PET Film").

<sup>17</sup> Accord Petitioners' Prehearing Brief at 3; Hearing Transcript ("Tr.") at 188 (Stanley's counsel).

<sup>18</sup> 19 U.S.C. § 1677(4)(A).

related to an exporter or importer of subject merchandise or which are themselves importers.<sup>19</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>20</sup>

In the preliminary phase, a number of domestic producers of steel nails met the definition of a related party on the basis of direct importation of subject merchandise. The Commission found that appropriate circumstances existed to exclude certain of these related parties, ITW, Senco, Specialty Fastening, and Stanley, from the domestic industry.<sup>21</sup> In the final phase of this investigation, Commerce has determined that exports from ITW's Chinese subsidiary, Paslode, are fairly traded merchandise. Therefore, ITW's imports of steel nails from China are no longer subject merchandise and ITW does not meet the definition of a related party. A number of other domestic producers, however, are related parties on the basis of direct importation. We find that appropriate circumstances again exist to exclude three of these related parties, Senco, Specialty Fastening, and Stanley, from the domestic industry.<sup>22</sup>

### a. Parties' Arguments

*Petitioners.* Petitioners acknowledge that "ITW is no longer a related party by virtue of the Commerce Department's finding that it is not dumping nails,"<sup>23</sup> but contend that appropriate

---

<sup>19</sup> 19 U.S.C. § 1677(4)(B).

<sup>20</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>21</sup> USITC Pub. 3939 at 10. In the preliminary determination, Commissioner Lane determined that appropriate circumstances existed to exclude three U.S. producers (ITW, Senco, and Stanley). USITC Pub. 3939 at n. 47 (August 2007).

<sup>22</sup> As discussed below, Commissioners Lane and Pinkert find that appropriate circumstances do not exist to exclude Specialty Fastening from the domestic industry.

<sup>23</sup> Petitioners' Posthearing Brief at 3, Response to Questions at 2 and 4. ITW indicates that it "does not 'benefit' from 'dumped imports' or substitute U.S. production for 'unfairly traded' imports. ITW is a committed and significant member of the U.S. nail industry with an overriding interest in U.S. production. ITW's imports of fairly traded, non-subject imports made by its affiliate Paslode Shanghai, do not contradict this fact." ITW's Posthearing Comments at 2.

circumstances exist to exclude \*\*\* – from the U.S. industry as related parties.<sup>24</sup> According to Petitioners, “[e]ach of these companies remains a significant importer of dumped nails, each \*\*\*.”<sup>25</sup>

*Respondent.* Stanley urges the Commission not to exclude it or any other U.S. producer as a related party.<sup>26</sup> Stanley contends that its primary interest lies in increasing U.S. production and that excluding the related party U.S. producers would skew the pertinent industry data and “inaccurately portray the U.S. industry’s condition by focusing the Commission’s analysis on producers accounting for the \*\*\* of the U.S. industry.”<sup>27</sup>

## **b. Analysis**

Six U.S. producers, \*\*\* reported that they imported the subject merchandise during the period of investigation.<sup>28</sup> Thus, they qualify as “related parties” under 19 U.S.C. § 1677(4)(B) and, therefore, the Commission 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>29</sup>

We determine that appropriate circumstances exist to exclude three U.S. producers (Senco, Specialty Fastening, and Stanley) from the domestic industry. As discussed below, each of these three 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

---

<sup>24</sup> Petitioners’ Posthearing Brief at 2-3; Petitioners’ Prehearing Brief at 3-20. Petitioners also maintain that \*\*\* other U.S. producers that are related parties on the basis that they imported subject merchandise (\*\*\*) should not be excluded. Petitioners’ Prehearing Brief at 18-19. Regarding the two companies that reported purchases of subject product (\*\*\*), Petitioners contend that neither should be found to be a related party. *Id.* at 19-20.

<sup>25</sup> Petitioners’ Prehearing Brief at 6-7. Petitioners contend that inclusion of “related party U.S. producers that are benefiting from purchases of dumped imports and insulating themselves from the effects of the dumping practices would mask the injury to the remaining industry members who are attempting to maintain U.S. production and to continue to employ U.S. workers.” *Id.* at 4, 7-17.

<sup>26</sup> *See* Stanley’s Posthearing Brief, Response to Commission Questions at 1-10, and 14-19; Stanley’s Prehearing Brief at 12-30.

<sup>27</sup> Stanley’s Prehearing Brief at 29.

<sup>28</sup> CR/PR at Table III-7. Although another U.S. producer, \*\*\*, also reported importing from China in 2006 and 2007, \*\*\* in the final phase of this investigation. *Id.* at III-11, n.8 and Table III-1, n.3.

<sup>29</sup> In addition, two other U.S. producers, \*\*\* reported purchases of subject merchandise that if deemed to be sufficient to constitute control of an importer and the importer accounted for a large volume of subject imports would also qualify them as being related parties. CR/PR at Table III-7. \*\*\* steel nails from China in 2005, 2006 and 2007. *Id.* at III-11, n.5 and Table III-7. \*\*\* of steel nails from China in 2006 and 2007. *Id.* at Table III-7. While the share of the importers’ shipments accounted for by each of these domestic producers is not known, we find that their purchases of subject merchandise are not sufficient to constitute such large volumes of subject imports as to qualify either of them as being a related party. *Id.* at Table III-7.



of those excluded, that their domestic operations may have benefitted from the importation of subject merchandise.<sup>30 31 32</sup>

*Senco*. Senco's imports of subject merchandise from China increased from \*\*\*<sup>33</sup> as its domestic production steadily decreased.<sup>34</sup> Senco accounted for \*\*\* of reported U.S. steel nail production in 2007.<sup>35</sup> Its ratio of imports from \*\*\*.<sup>36</sup> According to Senco, it imports steel nails because of a "\*\*\*\*".<sup>37</sup> Its steady declines in domestic production and \*\*\* increases in subject imports, both in absolute terms and as a share of its U.S. production, indicate that its primary interests are \*\*\*. Moreover, Senco's U.S.

---

<sup>30</sup> In the final phase of this investigation, seven U.S. producers provided financial data on their operations that included both their U.S. production and their direct imports and/or purchases of imported subject nails from China ("consolidated" data). We found the consolidated data useful in considering the extent to which any related parties are benefitting from conducting their operations, through a combination of subject imports and domestic production, so as to be shielded from any injurious effects of the subject imports. The data show that while the firms' consolidated sales and profits declined from 2005 to 2007, the rate of decline was less than those on their U.S.-only production operations. CR at VI-10 and Table H-2.

<sup>31</sup> Consistent with her practice in past investigations and reviews, Chairman Aranoff does not rely on individual-company operating income margins, which reflect a domestic producer's financial operations related to production of the like product, 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 production and whether its primary interests lie in domestic production or importation.

As in the preliminary investigations, she has determined that the primary interests of the three excluded producers lie principally in importation rather than domestic production based on \*\*\*. In addition, she finds that domestic producers' reported financial information regarding their consolidated operations (combining their domestic production operations with their operations related to importation of the subject product) demonstrates the \*\*\* performance of these three related parties as a result of their imports of the subject product and provides further evidence supporting her determinations to exclude these related parties from the domestic industry.

<sup>32</sup> In the preliminary phase of this investigation and in other investigations, Commissioner Pinkert has not relied upon related parties' financial performance on their U.S. manufacturing operations as a factor in determining whether there are appropriate circumstances to exclude them from the domestic industry and has instead relied on other information relevant to the issue. See Preliminary Determination, USITC Pub. 3939 at 11 n.49. Typically, the record available in an investigation is not sufficient to link a related party's profitability on U.S. operations to any specific benefit it derives from importing. In the final phase of this investigation, however, the Commission's staff collected financial information from related parties on both (1) their operations related to the domestic production of nails and (2) their consolidated operations related both to domestic production and the importing of subject merchandise. Commissioner Pinkert finds the financial information on consolidated domestic and import operations to be helpful in evaluating the benefit received by a related party from importing subject goods and believes that -- where relevant -- it should be part of the Commission's analysis in future cases. In this case, he has relied on this information, together with all other relevant information, in determining whether there are appropriate circumstances to exclude related parties from the domestic industry.

<sup>33</sup> \*\*\*. CR at III-11 n.6. Senco imported \*\*\*. CR/PR at Table III-7.

<sup>34</sup> Senco's domestic production of steel nails declined from \*\*\* in 2007. CR/PR at Table III-7.

<sup>35</sup> CR/PR at Table III-1.

<sup>36</sup> CR/PR at Table III-7.

<sup>37</sup> CR/PR at Table III-7, n.3.

operations may be \*\*\*.<sup>38</sup> Furthermore, Senco \*\*\* the petition in this investigation.<sup>39</sup> We find that appropriate circumstances exist to exclude Senco from the domestic industry.

*Specialty Fastening.* Specialty Fastening imported subject merchandise from China from \*\*\*.<sup>40</sup> Specialty Fastening accounted for \*\*\* of domestic production in 2007.<sup>41</sup> As its domestic production has \*\*\* over the period of investigation, its importation has increased.<sup>42</sup> According to Specialty Fastening, “\*\*\*.”<sup>43</sup> It is not clear whether the domestic operations of Specialty Fastening have \*\*\*.<sup>44</sup> Moreover, while Specialty Fastening \*\*\* the petition,<sup>45</sup> its primary interests seem to be \*\*\*. We find that appropriate circumstances exist to exclude Specialty Fastening from the domestic industry.<sup>46</sup>

*Stanley.* Stanley imported subject merchandise from China in increasing volumes during the period of investigation, as its domestic production declined.<sup>47</sup> Stanley accounted for \*\*\* of reported U.S. steel nail production in 2007.<sup>48</sup> Its combined subject imports and subject purchases as a ratio to U.S. production \*\*\*.<sup>49</sup> While Stanley indicates that it imports to “\*\*\*”, it adds that “imports from China enable

---

<sup>38</sup> CR/PR at Table VI-2. Senco’s operating income as a ratio of net sales \*\*\* in 2007. *Id.*

<sup>39</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. United States, Slip Op. 04-139 (Ct. Int’l Trade Nov. 12, 2004) at 9-10 & n. 5.

<sup>40</sup> CR/PR at Table III-7. Specialty Fastening imported \*\*\* in 2007. *Id.*

<sup>41</sup> CR/PR at Table III-1.

<sup>42</sup> CR/PR at Table III-7. Its ratio of imports from \*\*\* in 2007. *Id.*

<sup>43</sup> CR/PR at Table III-7, n.6.

<sup>44</sup> CR/PR at Table VI-2. It has consistently experienced \*\*\* in 2007. *Id.*

<sup>45</sup> CR/PR at Table III-1.

<sup>46</sup> Commissioners Lane and Pinkert find that appropriate circumstances do not exist to exclude Specialty Fastening from the domestic industry as a related party. Although its \*\*\*, the record does not demonstrate that Specialty Fastening has changed its market orientation from that of a domestic producer to that of an importer. Significantly, its ratio of subject imports to domestic production, after \*\*\*. CR/PR at Table III-7. In addition, both Specialty Fastening’s operating income margin for domestic manufacturing operations and its operating income margin for consolidated domestic and import operations \*\*\* over the period of investigation and showed \*\*\* by 2007. CR/PR at Table H-3 (its operating income margin on domestically produced nails \*\*\* in 2007, and its operating income margin on consolidated operations \*\*\* in 2007. These results are \*\*\* during the period of investigation. Although Specialty Fastening \*\*\* on its consolidated operations than on its purely domestic operations, it shared the declining performance of the rest of the industry over the period of investigation and appears not to have been shielded from the adverse impact of the subject imports.

Commissioners Lane and Pinkert note that, although they have included Specialty Fastening in the domestic industry, that company accounted for \*\*\* of domestic production in 2007. CR/PR at Table III-1. Consequently, their analysis of material injury to the domestic industry by reason of the subject imports from China would not materially change even if they excluded Specialty Fastening, and they otherwise join in the Commission’s views.

<sup>47</sup> \*\*\*. CR at III-11 n.5. Stanley imported \*\*\*. CR/PR at Table III-7. \*\*\*. CR/PR at Table III-7. Stanley’s domestic production of steel nails declined from \*\*\* in 2007. CR/PR at Table III-7.

<sup>48</sup> CR/PR at Table III-1.

<sup>49</sup> Calculated from CR/PR at Table III-7. Stanley contends that “[a]lthough the import to production ratio is \*\*\*.” Stanley’s Posthearing Brief, Response to Questions at 1. According to Stanley, however, its ratio of subject imports to production measured on a value basis steadily increased from \*\*\*. *Id.* at 8. Stanley also contends that:

(continued...)

us to compete more effectively against imports from third country suppliers, located principally in Asia, who would certainly be competing in the U.S. market absent imports from China.”<sup>50</sup> Stanley’s increasing importation and its affiliation with Chinese producers as its domestic production declined \*\*\* indicates that its primary interests are increasingly shifting to importation rather than domestic production. The record indicates that Stanley’s financial performance, as reflected in its \*\*\*,<sup>51</sup> but its reasons for importing – as an element of a coordinated marketing strategy whereby the products it makes in China tend to compete at a lower price point in the U.S. market<sup>52</sup> – suggests that its U.S. operations are deriving some benefit from importing subject merchandise. Furthermore, Stanley \*\*\* the petition.<sup>53</sup> We find that appropriate circumstances exist to exclude Stanley from the domestic industry.

\*\*\* imported \*\*\* volumes of subject merchandise from China during the period of investigation \*\*\*.<sup>54</sup> Its subject imports as a ratio to production \*\*\* in 2007.<sup>55</sup> \*\*\* of domestic production in 2007,<sup>56</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 this investigation.<sup>57</sup> Moreover, its financial performance \*\*\*<sup>58</sup> which suggests that the domestic operations of \*\*\* did not \*\*\*. We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry.

\*\*\* imported subject merchandise from China in 2006 and 2007 \*\*\*.<sup>59</sup> \*\*\* of domestic production in 2007,<sup>60</sup> and even though its domestic production has \*\*\*, its interests appear to be primarily

---

<sup>49</sup> (...continued)

. . . the 2007 ratio resulted from several unique events. First, Stanley closed its Mexican facility and moved the production capacity previously located there to the United States and China. Stanley previously had imported certain lower value products, primarily \*\*\*, from Mexico. Therefore, the increase in Chinese production and imports was in substitution of Mexican merchandise. The growth in China reflected a reshuffling of foreign production locations, rather a substitution of Chinese production for domestic production.

In anticipation of this move, Stanley increased its production in both China and the United States in 2007.

Id. at 9 and 16-19. Stanley’s domestic production, however, declined \*\*\* from 2005 to 2006 and did not increase in 2007. CR/PR at Table III-7. In addition, Stanley already had \*\*\* of its U.S. production in \*\*\*, respectively, although the increase in its subject imports from \*\*\* occurred as its nonsubject imports declined. Id.

<sup>50</sup> CR/PR at Table III-7, n.5.

<sup>51</sup> CR/PR at Table VI-2. Stanley’s operating income margin \*\*\* in 2007. Id.

<sup>52</sup> Stanley’s Posthearing Brief, Response to Questions at 3-4 and 14-15. According to Stanley, this approach has enabled the company to continue domestic production while remaining competitive in the domestic market.” Stanley’s Posthearing Brief, Response to Questions at 5; Stanley’s Prehearing Brief at 26.

<sup>53</sup> CR/PR at Table III-1.

<sup>54</sup> CR/PR at Table III-7. According to \*\*\*, “\*\*\*\*.” Id. at n. 4.

<sup>55</sup> CR/PR at Table III-7.

<sup>56</sup> CR/PR at Tables III-1.

<sup>57</sup> CR/PR at Table III-1.

<sup>58</sup> CR/PR at Table VI-2. For example, \*\*\* consistently experienced operating losses over the period of investigation; its operating losses as a ratio of net sales declined irregularly from \*\*\* in 2007. Id.

<sup>59</sup> CR/PR at Table III-7.

<sup>60</sup> CR/PR at Table III-1.

those of a domestic producer.<sup>61</sup> According to \*\*\*,<sup>62</sup> While the record indicates that \*\*\*,<sup>63</sup> \*\*\* the petition in this investigation.<sup>64</sup> We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry.<sup>65</sup>

### III. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS<sup>66</sup>

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.<sup>67</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>68</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>69</sup> In assessing whether 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>70</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>71</sup>

As noted above, the Commission has relatively complete coverage for the domestic industry.<sup>72</sup> While U.S. importer coverage was sufficient,<sup>73</sup> foreign producer coverage in the final phase of this investigation was far from complete. The Commission received questionnaire responses from only eight Chinese producers of subject steel nails, accounting for only about \*\*\* of subject U.S. imports from China in 2007; in the preliminary phase of the investigation, the Commission received questionnaire responses from 43 Chinese producers of steel nails, accounting for about 71 percent of U.S. imports from

---

<sup>61</sup> CR/PR at Table III-7. Its ratio of imports from \*\*\* in 2007. *Id.*

<sup>62</sup> CR/PR at Table III-7, n.7.

<sup>63</sup> CR/PR at Table VI-2. For example, \*\*\* operating income margin as a ratio of net sales \*\*\* in 2007. *Id.*

<sup>64</sup> CR/PR at Table III-1.

<sup>65</sup> \*\*\* imported \*\*\* quantity of subject merchandise from China \*\*\*. CR/PR at Table III-7. According to \*\*\*, it has imported in an effort to investigate quality. *Id.* at Table III-7, n. 2. These imports were equal to only \*\*\* U.S. production of \*\*\* in 2005. *Id.* at Table III-7. We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry.

<sup>66</sup> Negligibility is not an issue in this investigation under 19 U.S.C. § 1677(24). The petition was filed on May 29, 2007. Imports from China (of which \*\*\*) accounted for 69.8 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-14; PR at IV-7. Less than \*\*\* of imports from China were nonsubject in 2007.

<sup>67</sup> 19 U.S.C. §§ 1671d(a) and 1673d(a).

<sup>68</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>69</sup> 19 U.S.C. § 1677(7)(A).

<sup>70</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>71</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>72</sup> The Commission received questionnaire responses from 15 U.S. producers that accounted for nearly all U.S. production of certain steel nails in 2007. CR/PR at I-4.

<sup>73</sup> The Commission received questionnaire responses from \*\*\*, of which \*\*\* reported imports from China, accounting for (\*\*\*) of subject U.S. imports from China for the period of 2005 to 2007. CR/PR at IV-1 and Table IV-1.

China in 2006.<sup>74</sup> Therefore, we have relied on the facts otherwise available when appropriate in this investigation, which consist primarily of information submitted in the preliminary and final phases of this investigation, and information available from published sources collected in these reviews.<sup>75 76</sup>

Petitioners urge the Commission to expand the period of investigation to include 2004, on the basis that the 2004-07 period reflects a larger increase in imports than the 2005-07 period due to a notable decline in subject imports in 2007 resulting from the filing of the petition in this investigation.<sup>77</sup> Stanley contends that Petitioners have not established a credible reason for the Commission to change its period of investigation.<sup>78</sup> The Commission's normal practice is to consider data for the three most recent calendar years, plus interim periods where applicable.<sup>79</sup> Nonetheless, we will expand the period of investigation if it is appropriate to do so in light of an industry's cyclical nature or if there is a well-defined need to obtain a broader perspective of the market.<sup>80</sup> In this case, we do not find it appropriate to expand the period of investigation and have not considered 2004 data in our analysis.

---

<sup>74</sup> CR/PR at VII-1.

<sup>75</sup> 19 U.S.C. § 1677e(a) authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to 19 U.S.C. § 1677m(i). The verification requirements in 19 U.S.C. § 1677m(i) are applicable only to Commerce. See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int'l Trade 2002) (“the ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of Commission investigations.”).

<sup>76</sup> Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties' suggested interpretations of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” SAA at 869.

<sup>77</sup> Petitioners' Posthearing Brief at 4; Petitioners' Prehearing Brief at 33.

<sup>78</sup> Stanley maintains that Petitioners' “proposal to have 2004 as the first year in the POI must, therefore, be seen as it is: a desperate attempt to gerrymander the data rather than a serious, reasoned alternative.” Stanley's Posthearing Brief at 7-8.

<sup>79</sup> See Silicon Metal from Russia, Inv. No. 731-TA-991 (Final), USITC Pub. 3584 (March 2003) at 11, n. 68, citing, *inter alia*, Kenda Rubber Industrial Co. v. United States, 630 F. Supp. 354, 359 (Ct. Int'l Trade 1986), aff'd on this point, Bratsk Aluminum Smelter v. United States, Slip Op. 04-75 (Ct. Int'l Trade June 22, 2004) at 14-15 (“The statute . . . does not direct the ITC to use a specific period of time for its analysis . . . [but] ‘in making a present material injury determination, the Commission must address record evidence of significant circumstances and events that occur between the petition date and vote date’ . . . [recognizing] that ‘older information on the record provides a historical backdrop against which to analyze fresher data.’” quoting Usinor v. United States, 26 CIT--- (2002)).

<sup>80</sup> See, e.g., Certain Orange Juice from Brazil, Inv. No. 731-TA-1089 (Final), USITC Pub. 3838 (March 2006) at 18, n. 133; Purified Carboxymethylcellulose from Finland, Mexico, Netherlands, and Sweden, Inv. Nos. 731-TA-1084-1087 (Final), USITC Pub. 3787 (June 2005) at 14 (stating a three-year period is the normal period of investigation, but “we will expand the period of investigation if it is appropriate to do so in light of an industry's cyclical nature or if there is a well-defined need to obtain a broader perspective of the market. . . .”) (but declining to do so in that investigation). See also Nucor Corp. v. United States, 414 F.3d 1331, 1336 (Fed. Cir. 2005).

For the reasons stated below, we determine that the domestic industry producing steel nails is materially injured by reason of subject imports from China.

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

The following conditions of competition inform our analysis of whether there is 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>81</sup> They are produced in many different lengths, with a wide variety of heads, shanks, points, and finishes,<sup>82</sup> depending on the intended use. Steel nails are used primarily in the construction and industrial sectors.<sup>83</sup> In the construction sector, nails are used mainly in the building of houses and other structures, while in the industrial sector, nails are used primarily to make shipping crates and pallets.<sup>84</sup> 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>85</sup> There has been a shift from sales of bulk nails to collated nails due in large part to the increased availability and affordability of nail guns.<sup>86</sup>

Apparent U.S. consumption of steel nails declined steadily during the period examined from 1.18 million short tons in 2005 to 912,175 short tons in 2007, for an overall decrease of 22.7 percent.<sup>87</sup> Demand for steel nails is largely determined by the size of the construction market, both residential and commercial, which is the single largest end user of steel nails.<sup>88</sup> According to the vast majority of questionnaire responses, demand for steel nails has decreased since 2005 due to the general economic downturn, the slump in the housing market, and the lack of recent hurricane damage.<sup>89</sup> These slowdowns

---

<sup>81</sup> CR at I-9; PR at I-6.

<sup>82</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-9; PR at I-6.

<sup>83</sup> CR/PR at II-1.

<sup>84</sup> The parties disagree on whether the sales process differs between the construction sector and the industrial sector. Petitioners indicate that there is not a distinction; nails are sold and used as fasteners in each of these sectors. Tr. at 75-77. Stanley maintains that these are “two very distinct sectors” with a different sales process in each sector. Tr. at 168-170 and Stanley’s Prehearing Brief at 31-32. According to Stanley, in the industrial/manufacturing sector the “product sold to end users in this sector is not nails alone. It is a package of ‘fastening solutions’ that includes CSN, the lending of free tools (such as pneumatic nailers), free servicing of tools, free technical advice, and non-nail fasteners. . . . Such ‘fastening solutions’ are priced and sold as a package. All of the costs for each element of the ‘fastening solution’ are considered in setting the price for that package.” Stanley’s Prehearing Brief at 31-32; Stanley’s Posthearing Brief 4-5, and Response to Questions at 29-32.

<sup>85</sup> CR/PR at II-1.

<sup>86</sup> CR/PR at II-1 and Tables III-5, IV-3, and IV-4. About 78 percent by quantity and 82 percent by value of U.S. producers’ reported U.S. shipments of steel nails in 2007 were collated nails. CR/PR at Table III-5. About \*\*\* by quantity and \*\*\* by value of U.S. imports of steel nails from China in 2007 were collated nails. Calculated from CR/PR at Tables IV-3 and IV-4.

<sup>87</sup> CR/PR at Table C-2.

<sup>88</sup> Housing starts were relatively stable in 2005 and the first quarter of 2006, but then fell in 2007 and the first quarter of 2008. CR at II-8 and Figure II-1.

<sup>89</sup> CR at II-9; PR at II-6.

are evident in apparent U.S. consumption for 2007 (912,175 short tons), which is 18.9 percent lower than in 2006 (1.1 million short tons).<sup>90</sup>

## 2. Supply Conditions

During the period of investigation, there were 17 domestic producers accounting for \*\*\* U.S. production of steel nails.<sup>91</sup> The domestic industry's capacity to produce steel nails has not only declined substantially during the period of investigation, but its production dropped to a greater extent; thus, the industry has substantial and increasing excess capacity.<sup>92</sup> A number of U.S. producers of steel nails reported both mill closures and the consolidation and curtailment of production from 2005 to 2007.<sup>93</sup>

The domestic industry historically has supplied only a portion of the U.S. market for steel nails, with the remainder being supplied by imports.<sup>94</sup> Domestic producers' share of the U.S. market by quantity declined steadily from \*\*\*.<sup>95</sup> Subject imports' share of the U.S. market by quantity increased from \*\*\* in 2007.<sup>96</sup> Finally, the U.S. market share by quantity held by nonsubject imports decreased steadily from \*\*\* in 2007.<sup>97</sup>

## 3. Substitutability and Other Conditions

Steel nails are produced to certain industry specifications, including ICC and ASTM.<sup>98</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 nonsubject 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, importers, and purchasers reported that the U.S. product, the subject imports, and nonsubject imports are frequently or always

---

<sup>90</sup> CR/PR at C-2.

<sup>91</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 three U.S. producers from the domestic industry as related parties.

<sup>92</sup> CR/PR at Table C-2. The domestic industry's capacity declined by \*\*\* from 2005 to 2007. Id. Moreover, capacity utilization decreased from \*\*\* in 2006, and \*\*\* in 2007. Id.

<sup>93</sup> CR at III-5 and III-6 and Tables III-2 and C-2; PR at III-3 and Tables III-2 and C-2. 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; \*\*\*; ITW/Paslode closed its Portage, Wisconsin facility and consolidated its nail production into its Texas and Arkansas plants in 2007; Keystone Steel and Wire Co. shut down its nail production operations in December 2006, reported selling off its inventory and equipment, and exited 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"; and Gerdau Ameristeel closed its steel nail operations in Louisiana on January 31, 2008 and sold its equipment to \*\*\*. Id. and Conference Tr. at 20 and 37.

<sup>94</sup> See, e.g., Stanley's Prehearing Brief at 38.

<sup>95</sup> CR/PR at Table C-2. The U.S. market share held by domestic producers excluded from the domestic industry as related parties also declined steadily from \*\*\* in 2007. Id.

<sup>96</sup> CR/PR at Tables IV-10 and C-2.

<sup>97</sup> CR/PR at Tables IV-10 and C-2. The volume of nonsubject imports also decreased by \*\*\* from 2005 to 2007. Id. at Tables IV-2, IV-9, and C-2. Nonsubject imports were sourced from the United Arab Emirates, \*\*\*, Korea, Canada, Taiwan, Mexico, Malaysia, Poland, and 38 other countries. CR at IV-5 and VII-9; PR at IV-3 and VII-3.

<sup>98</sup> Conference Tr. at 46.

interchangeable.<sup>99</sup> In the final investigation, the parties agree that there is a high degree of substitutability between U.S. nails and subject imports.<sup>100</sup>

The majority of responding U.S. producers, importers, and purchasers reported that there were no direct substitutes for steel nails.<sup>101</sup> The most frequently offered substitutes are screws, staples, adhesives, and powder-actuated tool nails or fasteners.<sup>102</sup> Each of the potential substitutes, however, is usable only in certain specific applications.

Price generally is the largest single factor affecting purchase decisions, as long as nails meet the specifications required for the specific end use; other factors, including quality, availability, and product consistency, also play a role in purchasing decisions.<sup>103</sup> Steel nails are sold almost exclusively on a spot basis, and U.S. inland transportation costs can range from 1 to 25 percent of the total delivered cost.<sup>104</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>105</sup>

The volume of subject imports is significant and increased substantially from 2005 to 2007, both in absolute terms and relative to consumption and production in the United States. The volume of subject imports measured by quantity increased from \*\*\* in 2006, and then decreased to \*\*\* in 2007, for an overall increase of \*\*\* from 2005 to 2007.<sup>106</sup> This decline in the volume of subject imports from 2006 to 2007, however, has some relationship to the pendency of the investigation.<sup>107</sup> The market share held by

---

<sup>99</sup> CR/PR at Table II-6.

<sup>100</sup> Petitioners’ Prehearing Brief at 28-29. Petitioners explain that the U.S. industry shipped virtually every form and type of nail, with the exception of two forms of nails that comprised only a small percentage of subject imports, and rebut arguments raised by respondents in the preliminary investigation that the U.S. industry does not provide private label sales and does not produce nails to fit respondents’ nail guns. *Id.* at 29-30. Respondent Stanley agrees that there is a high level of substitutability between U.S. nails and subject imports, but stresses that “imports from non-subject countries are also highly substitutable for domestically produced nails and subject imports.” Stanley’s Prehearing Brief at 39 (emphasis in original).

<sup>101</sup> CR at II-11; PR at II-7.

<sup>102</sup> CR at II-11; PR at II-7.

<sup>103</sup> CR at II-12, II-13, and Tables II-3 and II-4; PR at II-8, II-9, and Tables II-3 and II-4.

<sup>104</sup> CR at V-2 and V-5; PR at V-2 and V-4.

<sup>105</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>106</sup> CR/PR at Tables IV-2 and C-2. *Id.* Subject imports measured by value increased from \*\*\* in 2006, and then decreased \*\*\* in 2007. *Id.* Imports of subject merchandise by domestic producers excluded from the domestic industry as related parties accounted for \*\*\* of total subject imports in 2007. Calculated from *Id.* at Tables III-7 and IV-2.

<sup>107</sup> The statutory provision governing the Commission’s treatment of post-petition information, 19 U.S.C. § 1677(7)(I), states that:

[T]he Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation ... is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury, threat of material injury, or material retardation of the establishment of an industry in the United States.

(continued...)



subject imports steadily increased from \*\*\* in 2006 and \*\*\* in 2007.<sup>108</sup> The ratio of subject imports to U.S. production also rose steadily from \*\*\* in 2005 to \*\*\* in 2006 and \*\*\* in 2007.<sup>109</sup>

Subject imports made significant gains in market share over the period examined during a time of declining consumption.<sup>110</sup> The increase in the subject import share of the U.S. market from 2005 to 2007 was accompanied by a steady decline in domestic producers' market share, from \*\*\*.<sup>111 112</sup> Nonsubject imports, both in absolute terms and relative to U.S. consumption, also declined steadily from 2005 to 2007.<sup>113</sup> Thus, subject imports gained market share at the direct expense of the domestic industry. As the volume of subject imports increased and apparent U.S. consumption declined, U.S. importers' inventories of subject merchandise remained at high levels.<sup>114</sup>

For the foregoing reasons, we find that the volume of subject imports and the increases in that volume 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>115</sup>

As noted above, the majority of responding domestic producers, importers, and purchasers found that subject imports from China were always or frequently interchangeable with domestically produced steel nails.<sup>116</sup> Moreover, price generally is the largest single factor affecting purchasing decisions,

---

<sup>107</sup> (...continued)

See also Statement of Administrative Action to the Uruguay Round Agreements Act, H. Rep. 103-316, Vol. 1 (“SAA”) at 854 (1994).

<sup>108</sup> CR/PR at Tables IV-10 and C-2.

<sup>109</sup> CR/PR at Table IV-11.

<sup>110</sup> CR/PR at Tables IV-10 and C-2. Apparent U.S. consumption declined by 22.7 percent from 2005 to 2007. Id.

<sup>111</sup> CR/PR at Table C-2. The U.S. market share held by domestic producers excluded from the domestic industry as related parties also declined steadily from \*\*\* in 2007. Id.

<sup>112</sup> Commissioner Lane and Commissioner Pinkert note that domestic producers' market share, including Specialty Fastening, declined from \*\*\* in 2007. Staff Table C-X.

<sup>113</sup> CR/PR at Tables IV-2, IV-9, IV-10 and C-2. Nonsubject imports were \*\*\* in 2007. Id. The U.S. market share held by nonsubject imports was \*\*\* in 2007. Id. at Tables IV-10 and C-2.

<sup>114</sup> U.S. importers' inventories of subject merchandise fluctuated between years and declined overall from \*\*\* in 2007. CR/PR at Table C-2. U.S. importers' inventories of subject imports as a share of subject imports decreased from \*\*\* in 2007. Id. at Table VII-5.

<sup>115</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>116</sup> CR/PR at Table II-6.

although other factors, including quality, availability, and product consistency, play a role as well.<sup>117</sup> The record reflects some divergence in views by market participants regarding the importance of non-price factors in purchasing decisions. 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>118</sup>

In this investigation, U.S. producers and importers provided quarterly pricing data requested by the Commission for eight types of steel nails.<sup>119 120</sup> The pricing data show mixed underselling by subject imports. Subject imports undersold the domestic like product in 41 of the 84 quarterly comparisons, with margins of underselling ranging from 0.1 to 32.1 percent.<sup>121</sup> While there is a mixed price comparison pattern,<sup>122</sup> the amount of underselling is significant for a highly substitutable product such as this for which price plays a very important role in purchasing decisions. Moreover, notwithstanding the mixed price comparisons, the majority of responding purchasers (approximately 82 percent) indicated that the subject Chinese imports are priced lower than the domestic product.<sup>123</sup> Thus, on balance, we find that this

---

<sup>117</sup> CR at II-12, II-13, and Tables II-3 and II-4; PR at II-8, II-9, and Tables II-3 and II-4.

<sup>118</sup> CR/PR at Table II-7. Eight of 14 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. *Id.* In contrast, only eight of 46 responding U.S. importers reported that non-price differences were never a factor between U.S.-produced and Chinese-produced steel nails. *Id.*

<sup>119</sup> The eight types of steel nails for which pricing data were requested are: Product 1 – 10d 3" by 0.128"-0.131" (10.25 gauge) bright smooth, 20-22 degree plastic-strip collated nails; Product 2 – 10d 3" by 0.118"-0.121" (11 gauge) bright smooth, 20-22 degree plastic-strip collated nails; Product 3 – 8d 2 3/8" by 0.110"-0.113" (11.5 gauge) bright screw and ring shank nails, 20-22 degree plastic-strip collated; Product 4 – 16d 3.25" by 0.148" (9 gauge) smooth vinyl- or cement-coated sinkers, bulk; Product 5 – 6d 2" by 0.113"-0.115" (11.5 gauge) bright drive screw (threaded), bulk; Product 6 – 6d 2" by 0.096"-0.099" (12.5 gauge) bright screw (threaded), 15 degree wire coil collated; Product 7 – 16d 3.25" by 0.128"-0.131" (10.25 gauge) bright smooth, 20-22 degree plastic-strip collated; and Product 8 – 5d 1.75" by 0.082"-0.086" (13.5 gauge) bright screw (threaded) 15 degree wire coil collated. CR at V-6 and V-7; PR at V-5.

<sup>120</sup> On a value basis, pricing data for the eight products reported by responding firms accounted for 14.0 percent of U.S. producers' shipments of U.S.-produced steel nails and \*\*\* of subject U.S. imports from China in 2007. CR at V-8, n. 16; PR at V-6, n.16.

<sup>121</sup> CR/PR at Tables F-1- F-8. The \*\*\* reported for U.S.-produced product 4 render price comparisons or trends for that product \*\*\* and thus we have not included product 4 in our analysis. If product 4 is included, subject imports undersold the domestic like product in 50 of 96 quarterly comparisons. CR at V-20, n.17 and Table F-4; PR at V-13, n.17 and Table F-4.

<sup>122</sup> Subject imports undersold the U.S.-produced products 2 and 8 in 23 of 24 quarters, but were priced higher than U.S.-produced products 1 and 3 in 23 of 24 quarters; for products 5, 6 and 7, there was mixed underselling of the domestic like product by subject imports. CR/PR at Tables F-1 - F-8.

<sup>123</sup> CR/PR at Table II-5. Both Petitioners and Respondent Stanley suggest that the Commission consider average unit value ("AUV") data. *See, e.g.,* Petitioners' Posthearing Brief at 5; Stanley's Posthearing Brief at 1-7. The Commission's normal methodology for examining price effects of subject imports is to examine quarterly prices of certain specified products sold by both the domestic industry and importers of the subject merchandise. *See, e.g., Certain Ceramic Station Post Insulators from Japan*, Inv. No. 731-TA-1023 (Final), USITC Pub. 3655 at 15, n. 104 (Dec. 2003); *Celanese Chemicals Ltd. v. United States*, Slip Op. 07-16 (Ct. Int'l Trade Jan. 29, 2007). While the Commission may also look to AUVs of both the domestic product and subject imports, examination of AUVs is less probative where product-mix issues are involved, as is the case here, given the wide variety of types of steel nails. *See Allegheny Ludlum Corp. v. United States*, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002) (Federal Circuit criticized

(continued...)

evidence demonstrates that there has been significant price underselling of the domestic like product by subject imports.

We have also considered movements in steel nail prices over the period of investigation. While there were price increases in the second half of 2007,<sup>124</sup> we find that this has some relationship to the filing of the petition. The evidence overall demonstrates that subject imports depressed domestic prices over the period of investigation to a significant degree. Declines in prices as subject import levels increased are particularly significant for a highly substitutable, price-competitive product such as nails. The Commission's domestic and subject import pricing data for five products – Products 1, 2, 3, 6, and 7 – generally moved in tandem, with similar declining (sometimes irregular) trends until the third quarter of 2007.<sup>125</sup> Prices for all five of these products – both domestic products and subject imports – increased in the third and fourth quarters of 2007.<sup>126</sup> Domestic and subject import pricing data for Products 5 and 8 fluctuated throughout the period of investigation, with less similarity in trends between the prices.<sup>127 128</sup>

---

<sup>123</sup> (...continued)

the use of AUVs as a basis for establishing price trends when there are serious issues of product mix and the values may thus reflect different merchandise rather than differences in prices); Nevinnomysskiy Azot v. United States, Slip Op. 08-64 at 19-20 and 24 (Ct. Int'l Trade June 9, 2008).

<sup>124</sup> The price of carbon steel wire rod, the primary raw material used in the production of steel nails, increased substantially in late 2007 and reached a period high in May 2008. CR/PR at Figure V-1. Petitioners maintained that Chinese import prices rose due to the filing of the petition and provided evidence of benefitting from increased sales at the expense of subject Chinese producers. Petitioners' Posthearing Brief at 8, Ex. 1 (Response to Questions at 20) and Ex. 3; see also CR at II-10; PR at II-7.

<sup>125</sup> CR/PR at Tables F-1, F-2, F-3, F-6, and F-7. Specifically, regarding product 1, the Commission's data show that the price for the U.S.-produced product 1 decreased by \*\*\* from the first quarter of 2005 through the second quarter of 2007, while the prices for the corresponding subject imports decreased by 17.8 percent for the same period; prices for both the domestic product and subject imports increased in the third and fourth quarters of 2007. CR/PR at Table F-1. The pricing data reported for the U.S.-produced product 2 decreased by \*\*\* from the first quarter of 2005 through the first quarter of 2007 while the prices for the corresponding subject imports decreased by 7.8 percent for the same period; prices for the domestic product decreased further in the second quarter of 2007, before increasing in both the third and fourth quarters of 2007, while prices for subject imports increased in each of the second, third and fourth quarters of 2007. CR/PR at Table F-2. The prices reported for the U.S.-produced product 3 decreased by \*\*\* from the first quarter of 2005 through the second quarter of 2007, while the prices for the corresponding Chinese imports decreased by 17.6 percent; prices for both the domestic product and subject imports increased in the third and fourth quarters of 2007. CR/PR at Table F-3. The prices reported for U.S.-produced product 6 decreased by \*\*\* from the first quarter of 2005 through the second quarter of 2007, while prices for the corresponding Chinese imports decreased overall by 11.6 percent; prices for both the domestic product and subject imports increased in the third and fourth quarters of 2007. CR/PR at Table F-6. Finally, the prices reported for U.S.-produced product 7 decreased by \*\*\* from the first quarter of 2005 through the second quarter of 2007, while prices for the corresponding Chinese imports decreased overall by \*\*\* percent; prices for both the domestic product and subject imports increased in the third and fourth quarters of 2007. CR/PR at Table F-7.

<sup>126</sup> CR/PR at Tables F-1, F-2, F-3, F-6, and F-7.

<sup>127</sup> CR/PR at Tables F-5 and F-8.

<sup>128</sup> Respondent Stanley primarily based its pricing arguments on whether *Stanley's* import prices, rather than the prices of *all* subject imports, are injurious. Stanley's Posthearing Brief at 2. We generally compare the weighted average import price with the weighted average price of the domestic like product, however, and do not disaggregate pricing data by company as Stanley has proposed. DRAMs and DRAM Modules from Korea, Inv. No. 701-TA-431 (Final), USITC Pub. 3616 at 24 (August 2003) ("Subject import prices that are below weighted average domestic prices can impact the market even when they are not the lowest single price in the market at a given point in time."); accord Celanese Chemicals Ltd. v. United States, Slip Op. 07-16 at 27-28 and 32-33 (Ct. Int'l Trade Jan. 29, 2007) (comports with the statutory obligation to consider the existence of material injury to the industry "as a whole,"

(continued...)

Finally, the evidence of confirmed lost sales and revenues supports our finding that subject imports have depressed prices to a significant degree.<sup>129 130 131</sup>

For the foregoing reasons, we find that there has been significant underselling by subject imports and that such imports have depressed domestic prices to a significant degree.<sup>132</sup> 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>133</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>134</sup> These factors include output, sales, inventories, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive,

---

<sup>128</sup> (...continued)

instead of focusing on only a portion of the industry).

<sup>129</sup> The Commission confirmed \*\*\* of the total \*\*\* in alleged lost sales during the period of investigation that were investigated. CR at V-22 - V-29, and Table V-10; PR at V-15 - V-16, and Table V-10. The Commission also confirmed \*\*\* of the total \*\*\* in lost revenues that were investigated. CR at V-22 - V-29, and Table V-11; PR at V-15 -V-16, and Table V-11.

<sup>130</sup> Chairman Aranoff, Vice Chairman Pearson, and Commissioner Okun note that the domestic industry’s cost of goods sold (“COGS”) as a share of net sales increased over the period examined. CR/PR at Table C-2. Although net unit sales values increased from \*\*\* in 2005 to \*\*\* in 2006, these increases were not sufficient to offset the increases in unit COGS, which rose from \*\*\* in 2005 to \*\*\* in 2006. *Id.* These data indicate that, as the domestic industry’s costs increased and significant volumes of lower-priced subject imports entered the U.S. market from 2005 to 2006, the domestic producers were unable to raise their prices sufficiently to cover increasing costs. As subject imports declined from 2006 to 2007, however, net unit sales values increased and were sufficient to cover – albeit barely – domestic producers’ increases in unit COGS.

<sup>131</sup> Commissioners Lane, Williamson, and Pinkert also find evidence that subject imports to a limited extent 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. CR/PR at Table C-2. Although net unit sales values increased by \*\*\* in 2005 to \*\*\* in 2007, these increases were not sufficient to offset the increases in unit COGS, which rose by \*\*\* in 2005 to \*\*\* in 2007. *Id.* The industry’s ratio of COGS to net sales increased from \*\*\* in 2005 to \*\*\* in 2007. *Id.* 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. Thus, the evidence indicates some price suppression in the form of a cost-price squeeze due in part to the increases in subject imports.

<sup>132</sup> As noted above, Commissioners Lane, Williamson, and Pinkert also find that subject imports to a limited extent prevented increases in domestic prices that otherwise would have occurred.

<sup>133</sup> The statute instructs the Commission to consider the “magnitude of the dumping margin” in antidumping proceedings as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination, Commerce calculated final dumping margins for imports of subject steel nails from China as follows: 0.0 percent for Paslode Fasteners (Shanghai); 21.24 percent for Xingya Group and for all separate rate (voluntarily responding) firms; and 118.04 percent for the PRC-wide entity. 73 Fed. Reg. at 33981-33984 (June 16, 2008).

<sup>134</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.

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>135</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 from 2005 to 2007. Domestic producers’ U.S. production and U.S. shipments of steel nails declined each year for an overall decline of \*\*\* respectively, from 2005 to 2007.<sup>136 137</sup> Conversely, domestic producers’ inventories as a share of U.S. shipments steadily increased from \*\*\* in 2007.<sup>138</sup> Although industry capacity declined by \*\*\* from 2005 to 2007, capacity utilization followed production and shipment trends and declined each year from 2005 to 2007. Capacity utilization decreased from \*\*\* in 2006 and \*\*\* in 2007.<sup>139</sup>

As apparent U.S. consumption declined from 2005 to 2007, increasing volumes of subject imports gained U.S. market share at the expense of the market share held by domestic producers.<sup>140</sup> Domestic producers’ share of the U.S. market declined from \*\*\* in 2007, while the subject import share increased from \*\*\*.<sup>141</sup> Although domestic producers’ inventories declined over the period of investigation, such inventories increased as both a share of production and U.S. shipments.<sup>142</sup>

The average number of production and related workers, hours worked, and wages paid for producing steel nails declined from 2005 to 2007.<sup>143</sup> The average number of production workers declined steadily from \*\*\* in 2005 to \*\*\* in 2007. The hours worked also decreased from \*\*\* in 2005 to \*\*\* in 2007. The wages paid fluctuated between years and decreased overall from \*\*\* in 2005 to \*\*\* in 2007.<sup>144</sup> Productivity fluctuated between years and rose overall from 2005 to 2007.<sup>145</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, with the largest decline reported from 2005 to 2006 when subject imports increased by \*\*\*.<sup>146</sup> While the rate of decline in operating income decreased to some extent from 2006 to 2007 as the volume of subject imports declined, decreases in apparent U.S. consumption, together with the significant volume of subject imports, played a role in the continued

---

<sup>135</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 at 25 n.148 (Feb. 1999).

<sup>136</sup> U.S. production declined from \*\*\* in 2005 to \*\*\* in 2006 and \*\*\* in 2007. CR/PR at Table C-2. U.S. shipments declined from \*\*\* in 2005 to \*\*\* in 2006 and \*\*\* in 2007. *Id.*

<sup>137</sup> Commissioner Lane and Commissioner Pinkert note that the declines in domestic producers’ U.S. production and U.S. shipments, including Specialty Fastening, were \*\*\* respectively, for 2005 to 2007. Staff Table C-X.

<sup>138</sup> CR/PR at Table C-2.

<sup>139</sup> CR/PR at Table C-2.

<sup>140</sup> CR/PR at Tables IV-10 and C-2.

<sup>141</sup> CR/PR at Table C-2. The U.S. market share held by domestic producers excluded from the domestic industry as related parties also declined steadily from \*\*\* in 2007. *Id.*

<sup>142</sup> CR/PR at Table III-9.

<sup>143</sup> CR/PR at Table C-2.

<sup>144</sup> The domestic industry’s average unit labor costs were: \*\*\* in 2005, \*\*\* in 2006, and \*\*\* in 2007. CR/PR at Table C-2.

<sup>145</sup> Productivity decreased from \*\*\* in 2005 to \*\*\* in 2006, and then increased to \*\*\* in 2007. CR/PR at Table C-2.

<sup>146</sup> CR/PR at Table C-2. Operating income decreased from \*\*\* in 2005 to \*\*\* in 2007. *Id.* Subject imports increased from \*\*\* in 2007. *Id.*

downward trend in the industry's financial performance. The industry's ratio of operating income to net sales followed a similar trend, declining from \*\*\* in 2007.<sup>147 148</sup>

Net sales measured both by quantity and value decreased each year, for an overall decline of \*\*\* respectively, from 2005 to 2007.<sup>149</sup> As discussed previously, COGS as a ratio to sales increased overall from 2005 to 2007. COGS was \*\*\* of sales in 2005, \*\*\* in 2006 and \*\*\* in 2007.<sup>150</sup> Even though the net unit sales values increased from 2005 to 2007, this increase only partially offset even \*\*\*, particularly from 2005 to 2006.<sup>151</sup> As the result of this cost/price squeeze, the industry reported steady declines at the operating and net income levels in each year of the period examined.<sup>152 153</sup>

Petitioners urge the Commission to “get behind the aggregate numbers” and “examine the domestic industry both as a whole and on a disaggregated basis, focusing on the performance of the varying producers and the reasons for the varying financial results of each producer given its circumstances in the market.”<sup>154</sup> As directed by statute, the Commission focuses on the domestic industry “as a whole,” not on individual firms in the industry,<sup>155</sup> and, in doing so, takes the domestic industry, including any differences in competitive position between different producers, as it finds it.<sup>156</sup> Nonetheless, as suggested by Petitioners, we also have evaluated the performance data for ITW relative to the rest of the domestic industry “to give context and meaning” to our assessment of the performance of

---

<sup>147</sup> CR/PR at Table C-2.

<sup>148</sup> Commissioner Lane and Commissioner Pinkert note that with Specialty Fastening included, the absolute levels and trends in financial results were \*\*\*. The domestic industry's operating income was \*\*\* in 2007. The ratio of operating income to net sales was \*\*\* in 2007. Staff Table C-X.

<sup>149</sup> CR/PR at Table C-2. Net sales measured by quantity declined from \*\*\* in 2005 to \*\*\* in 2006 and \*\*\* in 2007. Net sales measured by value decreased from \*\*\* in 2005 to \*\*\* in 2006 and \*\*\* in 2007. *Id.*

<sup>150</sup> CR/PR at Table C-2.

<sup>151</sup> Calculated from CR/PR at Tables VI-1 and C-2, and \*\*\*. Net unit sales values increased from \*\*\* in 2005 to \*\*\* in 2006 and \*\*\* in 2007. *Id.* at Table C-2. Unit COGS values increased from \*\*\* in 2005 to \*\*\* in 2006 and \*\*\* in 2007. *Id.* Unit SG&A expenses increased from \*\*\* in 2005 to \*\*\* in 2006 and \*\*\* in 2007. *Id.* The price of carbon steel wire rod, the primary raw material used in the production of steel nails, fluctuated during the period examined, but it increased dramatically in late 2007 and reached a period high in May 2008. CR/PR at Figure V-1. The costs of both natural gas and electricity increased from 2005 to 2007. CR/PR at V-1.

<sup>152</sup> Eight domestic producers reported capital expenditures totaling \*\*\* in 2007. CR/PR at Tables VI-4 and C-2. \*\*\* reported research and development expenses during the period examined. *Id.* at Table VI-4.

<sup>153</sup> Stanley alleged that “\*\*\*.” Stanley's Posthearing Brief at 11-12 (emphasis in original). The evidence does not support Stanley's allegations. \*\*\* in 2005 and 2006. *Id.*

<sup>154</sup> Petitioners' Posthearing Brief at 3 and Response to Questions at 1-5. In particular, they contend that “ITW is in a different competitive position as a result of its Chinese operations and imports” and that its unique circumstances have shielded it from the effects of unfairly traded imports. Petitioners' Posthearing Brief at 3 and Response to Questions at 4.

<sup>155</sup> Committee for Fair Coke Trade v. United States, — F. Supp. 2d, —, Slip Op. 04-68 at 42-43 (Ct. Int'l Trade June 10, 2004). See also Celanese Chemicals Ltd. v. United States, — F. Supp. 2d—, Slip Op. 07-16 (Ct. Int'l Trade January 29, 2007) at 27-28, 32-33 (also noting that this comports with the statutory obligation to consider the existence of material injury to the industry “as a whole,” instead of focusing on only a portion of the industry); Calabrian Corp. v. United States, 794 F. Supp. 377, 385-86 (Ct. Int'l Trade 1992) (“This Court has repeatedly affirmed . . . that ‘Congress intended the ITC determine whether or not the domestic industry (as a whole) has experienced material injury due to the imports. This language defies the suggestion that the ITC must make a disaggregated analysis of material injury.’” quoting Copperweld Corp. v. United States, 682 F. Supp. 552, 569 (Ct. Int'l Trade 1988)).

<sup>156</sup> Iwatsu Elec. Co., Ltd. v. United States, 758 F. Supp. 1506, 1518 (Ct. Int'l Trade 1991) (“importers take the domestic industry as they find it”).

the domestic industry as a whole.<sup>157</sup> In spite of ITW’s circumstances in the U.S. market (*i.e.*, its ownership of a Chinese producer and being an importer of fairly traded Chinese steel nails), the evidence in this investigation shows similar performance trends regardless of whether the domestic industry data include ITW.<sup>158</sup>

Finally, we recognize that \*\*\* opposes the petition and several others take no position on the petition.<sup>159</sup> These producers, together, account for a sizeable percentage of the domestic industry. We find, however, that the level of industry support for the petition is one factor among many and that here it does not outweigh the other record evidence indicating that subject imports have had significant adverse volume and price effects on the industry, resulting in deterioration in the industry’s condition throughout the period examined.<sup>160</sup>

Based on the record in the final phase of this investigation, we conclude that subject imports had an adverse impact on the condition of the domestic industry during the period of investigation. In particular, we find that subject imports have increased significantly, both absolutely and relative to domestic production and consumption, have gained market share at the expense of the domestic industry, have undersold the domestic product, have depressed domestic prices to a significant degree, and have adversely affected the financial performance of the domestic industry and adversely affected the numbers and wages of domestic workers. The depressed domestic prices, combined with the sales volumes lost to subject imports, have caused significant declines in the domestic industry’s financial performance over the period of investigation.

#### **IV. APPLICATION OF THE *BRATSK ALUMINUM SMELTER v. UNITED STATES* REPLACEMENT/BENEFIT TEST**

Having reached an affirmative determination by application of the statutorily mandated factors, the Federal Circuit’s decision in Bratsk Aluminum Smelter v. United States requires that we turn to an additional analysis which can, in some circumstances, negate an affirmative determination.<sup>161</sup> The Federal Circuit directed the Commission to 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.”<sup>162</sup> The additional inquiry required by Bratsk, which we refer to as the Bratsk replacement/benefit test, is “whether non-

---

<sup>157</sup> Accord Altx Inc. v. United States, Slip Op. 02-65 at 17 (Ct. Int’l Trade July 12, 2002), *aff’d* 370 F.3d 1008, 1120 (Fed. Cir. 2004) (“Evaluating the domestic industry “as a whole,” however, is not a license to ignore information that would give context and meaning to the data it is analyzing in assessing the domestic industry’s performance. Indeed, the statutory directive to analyze the industry “as a whole” compels an evaluation of all material factors raised by the parties that would render a more accurate reading of the health of the industry.”).

<sup>158</sup> CR at Tables VI-2, C-2, and H-3.

<sup>159</sup> Ten domestic producers accounting for \*\*\* of U.S. production in 2007 support the petition, \*\*\* the petition, and \*\*\* take no position on the petition. Calculated from CR/PR at Tables III-1, III-3, and III-7.

<sup>160</sup> See Certain Orange Juice from Brazil, Inv. No. 731-TA-1089 (Final)(Remand), USITC Pub. 3930 at 14-15 (June 2007) (“We do not know – and will not speculate on – the motives of certain domestic processors for opposing the petition. A domestic producer’s decision whether to support the petition is frequently based on a subjective judgment regarding legal strategy. Producer opposition to the petition, in and of itself, is not evidence of lack of injury to a particular producer, let alone lack of injury to the domestic industry as a whole, or evidence of a lack of causation.”).

<sup>161</sup> 444 F.3d at 1369 (Fed. Cir. 2006).

<sup>162</sup> Bratsk, 444 F.3d at 1375.

subject imports would have replaced the subject imports without any beneficial effect on domestic producers.”<sup>163</sup>

As noted in other investigations, we respectfully disagree with Bratsk that the statute requires any analysis beyond that already included in our discussion of volume, price, and impact above, and do not reiterate the Commission’s interpretation of the statutory scheme here.<sup>164</sup> The Commission has a well established approach to addressing causation.<sup>165</sup> However, we apply the Bratsk replacement/benefit test to our analysis because the Federal Circuit has directed us to do so, notwithstanding that, in our considered view, this test is not required by, or consistent with, the statute.

The Bratsk analysis “is triggered whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.”<sup>166</sup> If both Bratsk triggering factors are satisfied, we apply the “replacement/benefit” test required under Bratsk.

Petitioners contend that the triggering factors that would lead to a further inquiry – the existence of a commodity product and the significant presence of price-competitive, nonsubject imports – are not met in this case.<sup>167</sup> Even if the triggering factors were met, they contend that “there is no indication that non-subject imports, . . . including ITW and UAE, could or would replace subject imports” or that “any such replacement would deprive the U.S. industry of the benefits of the order.”<sup>168</sup> Petitioners indicate that “the U.S. industry is already benefiting from higher prices due to this case and, again, the vast majority of those increases relate to subject Chinese producers not ITW or the UAE.”<sup>169</sup>

---

<sup>163</sup> Bratsk, 444 F.3d at 1375.

<sup>164</sup> For a full discussion of our views on the applicability of Bratsk, see our Views in the Remand Determination for Silicon Metal from Russia, Inv. No. 731-TA-991 (Final) (Second Remand), USITC Pub. 3910 (March 2007) and Views of the Commission in Certain Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Final), USITC Pub. 3922 at 24-26 (June 2007). For a full discussion of Chairman Aranoff’s views on the applicability of Bratsk, see the Views of the Commission in Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago, Inv. No. 731-TA-961 (Final) (Remand), USITC Pub. 3903 (January 2007). For a full discussion of Vice Chairman Pearson’s views on the applicability of Bratsk, see his Separate and Additional Views in Silicon Metal from Russia. For a full discussion of Commissioner Okun’s views of the applicability of Bratsk, see her Separate and Dissenting Views in Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443, 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006).

<sup>165</sup> See Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand), USITC Pub. 3910 (Mar. 2007), at 3-8 (articulating in detail the Commission’s long-standing interpretation of the “by reason of” causation standard).

<sup>166</sup> Bratsk, 444 F.3d at 1375.

<sup>167</sup> Petitioners’ Prehearing Brief at 55-58; Petitioners’ Posthearing Brief, Response to Questions at 23-24.

<sup>168</sup> Petitioners’ Prehearing Brief at 58; Petitioners’ Posthearing Brief, Response to Questions at 24-26. Petitioners argue that “even were replacement to occur, the prices of the non-subject imports including the UAE and ITW would be higher than those from China and, therefore, the domestic industry would benefit from the order.” Petitioners’ Posthearing Brief, Response to Questions at 26.

<sup>169</sup> Petitioners’ Posthearing Brief, Response to Questions at 21-23 and 26.



Respondent Stanley maintains that the two trigger factors are met and thus that the Commission must conduct a full *Bratsk* analysis.<sup>170 171</sup> According to Stanley, “non-subject imports will replace subject imports following the imposition of antidumping duties, eliminating any potential benefit to the domestic industry.”<sup>172</sup> Stanley also disputes any post-petition benefits, claiming that “recent increases in the prices of subject CSN are not attributable to the filing of the Petition, but rather to the rise in the cost of steel wire rod in China.”<sup>173</sup>

As discussed below, we conclude that the Bratsk triggering factors are satisfied. We also find that the evidence is mixed regarding whether nonsubject imports would have replaced subject imports during the period of investigation but find that imposition of the order on subject imports would have benefitted the domestic industry regardless of the extent of such replacement.

### A. Triggering Factors

We find that steel nails qualify as a commodity product based upon Bratsk’s definition of “commodity product” as “meaning that it is generally interchangeable regardless of its source.”<sup>174</sup> Steel

---

<sup>170</sup> Stanley’s Prehearing Brief 57-62. In doing so, Stanley erroneously asserts that the “Commission’s burden under *Bratsk* creates a presumption of replacement by non-subject imports that can be rebutted” by evidence “establishing the inability of non-subject imports to replace subject imports without any beneficial effect on the domestic industry.” Stanley’s Prehearing Brief at 57-58 and Stanley’s Posthearing Brief, Response to Questions at 35.

<sup>171</sup> Chairman Aranoff notes that, in Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago, she opined that the Bratsk decision required her to “render a negative determination, if the triggering factors are satisfied, unless the record contains substantial evidence that either non-subject imports would not replace the subject imports or that such replacement would nonetheless benefit the domestic industry. This, in effect, requires proving the negative. Put otherwise, it creates a rebuttable presumption that replacement will occur.” Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago, USITC Pub. 3903, at 16.

In defending this determination in an appeal currently pending before the Federal Circuit, the Commission argued that “the statute should not be construed in a manner that creates rebuttable presumptions against any interested party that lacks access to information that could rebut the presumption.” Brief of Def.-Appellee United States, Mittal Steel Point Lisas, Ltd. v. United States, No. 2007-1152 (Fed. Cir. Jan 17, 2008) at 18-19 (“ITC Brief”). The Commission further argued that the presumption it applied in the Steel Wire Rod remand “is the inevitable result of language in Bratsk on which the Commission relied directing it to undertake a ‘replacement/benefit’ analysis.... The Commission also maintains ... that neither Bratsk nor Caribbean Ispat [Ltd. v. United States, 430 F.3d 1336 (Fed. Cir. 2006)] granted it sufficiently wide discretion to construe the ‘replacement/benefit’ analysis in a manner that would avoid such a result.” ITC Brief at 33-34. In any event, Chairman Aranoff finds that any such presumption is rebutted on the record in this investigation, for the reasons discussed below.

<sup>172</sup> Stanley’s Posthearing Brief, Response to Questions at 36-37. Stanley alleges that “Paslode (Shanghai) alone is in a position to replace a substantial portion of subject imports through the acquisition of manufacturing facilities currently operated by subject exporters unable to compete with non-subject producers because of the dumping margin applied to their goods.” Id. Stanley claims that because nonsubject import AUVs are consistently lower than domestic AUVs, “the domestic industry would not realize any increase in prices in the event of replacement.” Id. at 38-40.

<sup>173</sup> Stanley’s Posthearing Brief, Response to Questions at 37-38. According to Stanley, “[a]ny new customers that the Petitioners may have gained since the filing of the petition are attributable to the ‘churn’ of business currently being experienced by the industry.” Id.

<sup>174</sup> We note that it is improper to assume that simply because goods are generally interchangeable for purposes of the “reasonable overlap of competition” analysis for cumulation, or are interchangeable for purposes of defining the domestic like product, that they are necessarily “commodities” for purposes of assessing causation, which is the function of the Bratsk “test.” See Silicon Metal from Russia, USITC Pub. 3910 at 10-11 (footnotes omitted), citing

(continued...)

nails of the same type are broadly interchangeable for the same uses regardless of where they are produced. Most U.S. producers, U.S. importers, and U.S. purchasers reported that the U.S. product, the subject imports, and nonsubject imports are frequently or always used interchangeably.<sup>175</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 nonsubject import.

With respect to the second trigger factor (whether price competitive nonsubject imports are a significant factor in the U.S. market), nonsubject imports declined steadily from \*\*\* of total imports (on a quantity basis) in 2005 to \*\*\* in 2007.<sup>176</sup> By comparison, subject imports accounted for \*\*\* of total imports (on a quantity basis) in 2005, \*\*\* in 2007.<sup>177</sup> The U.S. market share of nonsubject imports also declined steadily from \*\*\* in 2007,<sup>178</sup> while that of subject imports ranged from \*\*\* in 2007.<sup>179</sup> Although nonsubject imports declined over the period of investigation as subject imports increased, we find that nonsubject imports as a whole were a significant factor in the market on either a volume or market share basis.<sup>180</sup>

With respect to the second component of the second trigger factor – whether nonsubject imports were price-competitive – the information in the record presents a mixed picture. Imports from the largest nonsubject suppliers, UAE, \*\*\*, Korea, Taiwan, and Canada, have had increasing average unit values that are \*\*\* higher than those for subject imports from China.<sup>181</sup> The average unit values of all nonsubject imports, with the exception of the small quantity of imports from Malaysia in 2007, were higher than those of subject imports throughout the period of investigation.<sup>182</sup> The quarterly pricing data that was collected for nonsubject imports shows mainly overselling, but also numerous instances of underselling, of both domestic products and the subject imports by the large number of nonsubject import sources, considered either on a country-by-country basis or an aggregate basis.<sup>183</sup> There were wide variations in the pricing data of nonsubject imports, and the prices of imports from UAE (which is the

---

<sup>174</sup> (...continued)

BIC Corp. v. United States, 964 F. Supp. 391, 397, 399 (Ct. Int'l Trade 1997) ([L]ike product, cumulation and causation are functionally different inquiries because they serve different statutory purposes . . . . As a result, each inquiry requires a different level of fungibility. Hence the record may contain substantial evidence that two products are fungible enough to support a finding in one context (e.g., one like product), but not in another (e.g., cumulation or causation.”)).

<sup>175</sup> CR/PR at Table II-6.

<sup>176</sup> Nonsubject imports as a share of total imports by value also declined steadily from \*\*\* in 2007. CR/PR at Table IV-2.

<sup>177</sup> CR/PR at Table IV-2. Subject imports as a share of total imports by value also increased steadily from \*\*\* in 2007. Id.

<sup>178</sup> Nonsubject imports as a share of apparent U.S. consumption by value also declined steadily from \*\*\* in 2007. CR/PR at Table IV-10.

<sup>179</sup> CR/PR at Table IV-10.

<sup>180</sup> See CR/PR at Tables VII-7. The largest supplier of nonsubject imports is the UAE, which accounted for 6.5 percent of total U.S. imports in 2007, \*\*\*, Korea (5.3 percent), Canada (4.3 percent), Taiwan (4.3 percent), Mexico (2.0 percent), Malaysia (1.4 percent), Poland (0.9 percent), and 38 other countries ranging between less than 0.05 percent and 0.6 percent of total 2007 U.S. imports of steel nails. CR at IV-5 and VII-9. The U.S. market share held by imports of steel nails from the UAE was 5.5 percent of apparent U.S. consumption in 2007, \*\*\*. Calculated from CR/PR at Tables IV-9 and VII-7.

<sup>181</sup> In determining whether nonsubject imports are price competitive in this investigation, Commissioner Pinkert has primarily analyzed whether nonsubject imports are price competitive with the domestic like product.

<sup>182</sup> CR/PR at Tables IV-2 and VII-7. Steel nail imports from Malaysia were 10,980 short tons in 2007. Id.

<sup>183</sup> CR/PR at Tables G-1- G-8. The quarterly price comparisons involve 10 countries.

largest nonsubject supplier) were generally higher than those of subject imports.<sup>184</sup> Therefore, nonsubject import prices were arguably not price-competitive with domestic and subject steel nails in the U.S. market.<sup>185</sup> Nevertheless, we proceed to the replacement/benefit analysis assuming arguendo that the triggering factors are met.

## **B. Replacement/Benefit Factors**

We next consider whether nonsubject imports would have replaced subject imports over the period of investigation, without any benefit to the domestic industry. We find that nonsubject imports at most would have partially replaced subject imports and that, even if there were full replacement, the domestic industry still would have benefitted from an antidumping duty order on the subject imports.

Our information for this analysis, however, is limited. The Commission has no data for nonsubject producers, with the exception of the UAE's sole producer (Dubai Wire) and the nonsubject Chinese producer (ITW/Paslode). Thus, the production capacities and excess capacities for producers in the nonsubject countries, except the UAE, are not known.<sup>186</sup> Both responding nonsubject producers, Dubai Wire and ITW/Paslode, reported \*\*\* capacity utilization levels and \*\*\* volumes of excess capacity.<sup>187</sup> Moreover, since a large share of their production already is exported to the U.S. market, they are able to shift only limited quantities from other markets.

In addition, the Commission has only public source data regarding export volumes from nonsubject countries. Moreover, we recognize that the Global Trade Atlas export statistics are for the entire HTS 7317 category, which is a large basket category for all nails and staples, and thus includes many types of nonsubject fasteners, such as roofing nails. While there are a large number of steel nail manufacturing and exporting countries in the world, the industry in China – both subject and nonsubject – accounts for almost 40 percent more global exports than the combined exports of the next 11 largest exporting countries.<sup>188</sup> Given the large number of exporting countries, there may be some capacity to fill at least part of any void left by subject imports. However, replacement of subject imports by nonsubject imports, which historically have had higher AUVs than those of subject imports (even though below domestic producers' AUVs), would be less likely to have deprived the domestic industry of any benefit of the order.<sup>189</sup> The quarterly pricing data that was collected for nonsubject imports provides further support

---

<sup>184</sup> CR/PR at Tables G-1- G-8.

<sup>185</sup> Vice Chairman Pearson and Commissioner Okun find that nonsubject import prices were generally within a competitive range with the prices of domestic and subject steel nails in the U.S. market. Thus, the evidence suggests that the triggering factors are met and we proceed to the replacement/benefit analysis.

<sup>186</sup> If the nonsubject producers lack the capacity to fully replace the subject imports in the U.S. market, “[s]uch a finding would certainly be relevant . . . .” Bratsk at 1376. Accord Tropicana Products, Inc. v. United States, Slip Op. 08-17 at 8-11 (Ct. Int’l Trade, February 5, 2008) (CIT affirmed Commission’s finding that nonsubject imports would not likely replace the subject imports’ share of the U.S. market if subject imports were eliminated, on the basis that “any additional non-subject imports . . . diverted from other export markets to the U.S. market could have replaced only 31.5 percent of Brazilian subject imports.”)

<sup>187</sup> \*\*\*.

<sup>188</sup> CR/PR at Table VII-8. Based on Global Trade Atlas data for the HTS 7317 basket category, Malaysia is the second largest exporter of nails and staples worldwide. Id. Based on official import statistics, however, U.S. imports of certain steel nail imports from Malaysia accounted for only 1.4 percent of total U.S. imports in 2007, and there is no evidence to suggest that its current export patterns would change. CR at VII-9; PR at VII-3.

<sup>189</sup> With respect to the benefit to the domestic industry, the Court in Bratsk appears to have focused primarily on price factors, noting that: “it may well be that . . . the price of the nonsubject imports is sufficiently above the subject imports such that elimination of the subject imports would have benefitted the domestic industry.” Bratsk, 444 F.3d (continued...)

that the domestic industry would likely benefit from the order on subject imports. Total nonsubject imports oversold subject imports in 59 of 84 quarterly price comparisons, with margins of overselling ranging from 0.2 percent to 25.9 percent, and oversold the domestic like product in 65 of 84 quarterly price comparisons, with margins of overselling ranging from 0.4 percent to 30.3 percent.<sup>190</sup>

Finally, developments since the filing of the petition in this investigation on May 29, 2007 lend support to our finding that there would have been beneficial effects to the domestic industry if an antidumping duty order had been in place on subject imports. Prices of both the domestic product and subject imports have increased since the filing of the petition.<sup>191</sup> Moreover, Petitioners have provided evidence of benefitting from increased sales and new and returning customers gained at the expense of subject Chinese producers since the filing of the petition.<sup>192</sup>

This evidence shows that, while nonsubject imports might have been able to replace subject imports, replacement of subject imports by nonsubject imports would have occurred to a lesser extent than the replacement of subject imports by the domestic product. Accordingly, we conclude that the domestic industry would likely have benefitted from an antidumping duty order on subject imports over the period of investigation, both from higher prices and higher market share, even if nonsubject imports would have partially replaced subject imports. Our affirmative material injury determination therefore is consistent with the Court's holding in Bratsk.

## V. CRITICAL CIRCUMSTANCES

Commerce made an affirmative critical circumstances determination with respect to subject imports from the PRC-wide entity.<sup>193</sup> Because we have determined that the domestic industry is materially injured by reason of subject imports from China, we must further determine “whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping order to be issued.”<sup>194</sup> The URAA Statement of Administrative Action indicates that the Commission is to determine “whether, by massively

---

<sup>189</sup> (...continued)  
at 1375.

<sup>190</sup> CR/PR at Tables G-1 - G-8.

<sup>191</sup> CR/PR at Tables F-1 - F-8. Petitioners assert that, “before the filing of the petition, domestic producer prices were depressed by aggressively priced Chinese imports” while “[a]fter the filing of the petition, Chinese import prices rose, allowing an improvement in domestic producer prices.” Petitioners’ Posthearing Brief at 8.

<sup>192</sup> Petitioners’ Posthearing Brief, Response to Questions at 20 and at Ex. 3. Petitioners also prepared a calculation of the likely impact on the U.S. nail industry of the imposition of an order attached as Exhibit 19 to their Posthearing Brief.

<sup>193</sup> Final Determination of Sales at Less Than Fair Value and Partial Affirmative Critical Circumstances: Certain Steel Nails from the People’s Republic of China, 73 FR 33977, 33981 (June 16, 2008). Commerce made negative determinations with respect to steel nails imports involving ITW/Paslode, Xingya Group, and the Separate Rate firms. Id.

<sup>194</sup> 19 U.S.C. § 1673d(b)(4)(A)(i). The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant –

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.

19 U.S.C. § 1673d(b)(4)(A)(ii).

increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order.”<sup>195</sup>

Based on the record, we determine that the imports subject to Commerce’s affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the order to be issued on steel nails from China.

The statute does not specify any time frames to be considered or compared by the Commission in assessing whether the subject imports are likely to undermine seriously the remedial effect of the order. The Commission generally compares data for the six months prior to the filing of the petition with data for the six months following the filing of the petition, but it also may consider shorter or longer periods, either in conjunction with, or instead of, those six-month periods.

The petition in this investigation was filed on May 29, 2007. The Commission compiled subject PRC-wide entity monthly import data for the six months preceding the filing of the petition (December 2006 to May 2007) and for the six months after the filing of the petition (June 2007 to November 2007).<sup>196</sup> Subject PRC-wide entity imports were 98,271 short tons in the six months following the filing of the petition, only 23 percent greater than the 80,056 short tons of such imports in the six months prior to the filing of the petition.<sup>197</sup> We also note that U.S. importers’ end-of-period inventories for all subject Chinese merchandise were lower in 2007 than in 2006.<sup>198</sup>

Based on the foregoing data, we determine that imports subject to Commerce’s affirmative critical circumstances determinations did not increase sufficiently to undermine seriously the remedial effect of the antidumping duty order to be issued on steel nails from China.

### CONCLUSION

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

---

<sup>195</sup> SAA at 877.

<sup>196</sup> Only two subject PRC-wide entity producers, accounting for \*\*\* percent of reported subject steel nails produced in China, responded to the Commission’s foreign producer questionnaire. CR at IV-13; PR at IV-7; see also \*\*\*. Using proprietary Customs data, the Commission subtracted the Chinese imports of the Separate Rate Chinese firms, ITW/Paslode, and the Xingya Group from the monthly net importer files data; the remaining Chinese imports were deemed to constitute the imports subject to Commerce’s PRC-wide entity finding of affirmative critical circumstances. CR at IV-14; PR at IV-7. Thus, there is no need for the Commission to resort to adverse inferences and make an affirmative critical circumstances finding, as urged by Petitioners and respondent Stanley. Petitioners’ Posthearing Brief at 44; Stanley’s Posthearing Brief at 33-34.

Respondents Mar-Mac and Unitech, however, argue that the Commission should consider the eight months of data prior to and following the filing of the petition and make a negative critical circumstances determination. Unitech’s Posthearing Brief at 3-4; Mar-Mac Wire’s Posthearing Brief at 1 and 4. On an eight-month basis, subject PRC-wide entity imports were 115,088 short tons in the eight months following the filing of the petition, 9.9 percent greater than the 104,756 short tons of subject imports in the eight months prior to the filing of the petition. CR at IV-14 (revised); PR at IV-7.

<sup>197</sup> CR at IV-14 (revised); PR at IV-7.

<sup>198</sup> CR/PR at Table VII-5. The volume of U.S. importers’ end-of-period inventories for all subject Chinese imports declined from \*\*\*. Id.



## PART I: INTRODUCTION

This investigation results 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”).<sup>3</sup> Information relating to the background of the investigation is provided below.<sup>4</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 21, 2007	Commission’s revised schedule (72 FR 34276)
July 16, 2007	Commerce’s notice of initiation (72 FR 38816, July 16, 2007)
July 31, 2007	Commission’s preliminary determinations (72 FR 43664, August 6, 2007)
January 23, 2008	Commerce’s preliminary determinations for China (73 FR 3928) and the United Arab Emirates (73 FR 3945); Commerce’s amended preliminary determination for China (73 FR 7254, February 7, 2008); scheduling of the final phase of Commission investigations (73 FR 7590, February 8, 2008)
June 16, 2008	Commerce’s final determinations for China (73 FR 33977) and the United Arab Emirates (73 FR 33985)
June 11, 2008	Commission’s hearing <sup>1</sup>
July 2, 2008	Commission’s termination of antidumping investigation for the UAE (73 FR 39041)
July 9, 2008	Date of the Commission’s vote
July 21, 2008	Commission’s determination transmitted to Commerce

<sup>1</sup> App. B presents a list of witnesses appearing at the hearing.

### STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

#### Statutory Criteria

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*

---

<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 this investigation (“steel nails”) is presented later in Part I of this report under the section headers “The Subject Merchandise,” “Commerce’s Scope.”

<sup>3</sup> In its final determination Commerce found the UAE to not be selling steel nails at LTFV.

<sup>4</sup> *Federal Register* notices beginning on February 8, 2008 cited in the tabulation are presented in app. A.

*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.*

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.*

### **Organization of the Report**

*Part I* of this report presents information on the subject merchandise, preliminary 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 and the judicial requirements and information obtained for use in the Commission's consideration of *Bratsk* issues.



## U.S. MARKET SUMMARY

Steel nails generally are used in residential and commercial construction to join objects together. The leading U.S. producers of steel nails are \*\*\*, while major responding producers of subject steel nails include the Chinese producers \*\*\*.<sup>5</sup> The leading U.S. importers of subject steel nails from China are \*\*\*. Leading importers of steel nails from nonsubject sources (primarily Korea, Mexico, Poland, Taiwan, the UAE, and nonsubject steel nails from China) include \*\*\*.

Apparent U.S. consumption of steel nails totaled 912,175 short tons (\$984 million) in the U.S. market in 2007. Currently, 15 firms are known to produce steel nails in the United States. U.S. producers' U.S. shipments of steel nails totaled 143,868 short tons (\$220 million) in 2007, and accounted for 15.8 percent of apparent U.S. consumption by quantity and 22.4 percent by value. U.S. imports of subject products from China totaled \*\*\* short tons (\$\*\*\* million) in 2007 and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value. U.S. imports from nonsubject sources totaled \*\*\* short tons (\$\*\*\* million) in 2007 and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value.

## SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of 15 firms that accounted for nearly all of U.S. production of certain steel nails during 2007. U.S. imports are based on official statistics from the Department of Commerce ("Commerce") except where noted. In the preliminary phase of this investigation, the Commission found that appropriate circumstances existed to exclude four related-party producers (ITW, Senco, Specialty Fastening, and Stanley Fastening) from the domestic industry for purposes of the preliminary phase, but stated that it planned to reconsider those exclusions in any final phase investigations.<sup>6</sup> Since that time, ITW lost its status as a related-party producer because Commerce found that its related producer in China was selling its product at a zero dumping margin. Accordingly, also presented in appendix C is table C-2 in which the domestic industry data exclude only the data of U.S. producers Senco, Specialty Fastening, and Stanley Fastening. Appendix D presents verbatim responses of U.S. producers, importers, purchasers, and subject foreign producers/exporters to questions on production increases/decreases and the effects of the preliminary antidumping duties on steel nails.

## PREVIOUS AND RELATED INVESTIGATIONS<sup>7</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>8</sup> In November 1978, the Department of the 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

---

<sup>5</sup> Based on responses to the Commission's questionnaire in the preliminary phase of the investigation. Of these firms, only \*\*\* provided a questionnaire response in the final phase of the investigation.

<sup>6</sup> *Certain Steel Nails From China and the United Arab Emirates, Investigation Nos. 731-TA-1114 and 1115 (Preliminary)*, USITC Publication 3939, August 2007, pp. 10-13.

<sup>7</sup> This section is derived from Exhibit General 4 of the petition in this investigation.

<sup>8</sup> 42 FR 64942, December 29, 1977.

United States at LTFV.<sup>9</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>10</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>11</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>12</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>13</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 nails may be having an injurious effect on the domestic industry.<sup>14</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>15</sup> After a final affirmative material injury determination by the Commission, an antidumping duty order was issued against steel wire nails from Korea.<sup>16</sup> The order against Korea was revoked effective October 1, 1984 following a Voluntary Restraint Agreement<sup>17</sup> concerning imports of nails from Korea.<sup>18</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>19</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>20</sup>

---

<sup>9</sup> 43 FR 51743, November 6, 1978.

<sup>10</sup> *Steel Wire Nails From Canada, Investigation No. AA1921-189*, USITC Publication 937, February 1979.

<sup>11</sup> 45 FR 34941, May 23, 1980.

<sup>12</sup> *Certain Steel Wire Nails From The Republic of Korea, Investigation No. 731-TA-26 (Final)*, USITC Publication 1088, August 1980.

<sup>13</sup> 46 FR 34613-34615, July 2, 1981.

<sup>14</sup> 46 FR 34615, July 2, 1981.

<sup>15</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 Publication 1175, August 1981.

<sup>16</sup> 47 FR 35266, August 13, 1982.

<sup>17</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>18</sup> 50 FR 40045, October 1, 1985.

<sup>19</sup> 47 FR 6458, February 8, 1982.

<sup>20</sup> 47 FR 39549, September 8, 1982.

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>21</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>22</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>23</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>24</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>25</sup>

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>26</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>27</sup> On August 9, 1995, the orders were revoked by Commerce as no domestic interested party requested a review.<sup>28</sup>

On March 22, 1989, a petition was filed alleging that certain steel wire nails from Malaysia were receiving bounties or grants.<sup>29</sup> Commerce, however, determined that no benefits which constitute bounties or grants were being provided to Malaysian producers or exporters.<sup>30</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>31</sup> These investigations led to a finding that the domestic collated roofing nails industry was threatened with material injury by reason of LTFV imports

---

<sup>21</sup> *Carbon and Alloy Steel Products, Investigation No. TA-201-51*, USITC Publication 1553, July 1984, p. 7.

<sup>22</sup> *Ibid.*

<sup>23</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>24</sup> 51 FR 4205, February 3, 1986, and 50 FR 35281, August 30, 1985.

<sup>25</sup> *Certain Steel Wire Nails From The People's Republic of China, Investigation No. 731-TA-266 (Final)*, USITC Publication 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' affirmative statement of no interest in continuation of the antidumping duty order"), the order was revoked on September 3, 1987 and effective January 1, 1986 (52 FR 33463).

<sup>26</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>27</sup> 52 FR 36987, October 2, 1987, and 52 FR 37196, October 5, 1987.

<sup>28</sup> 60 FR 40568, August 9, 1995.

<sup>29</sup> The petition was filed by members of the Nail Committee of the American Wire Producers Association. 54 FR 15534, April 18, 1989.

<sup>30</sup> 54 FR 36841, September 5, 1989.

<sup>31</sup> The petition was filed by Paslode Division of Illinois Tool Works Inc. 61 FR 67306, December 20, 1996.

of collated roofing nails from China and Taiwan.<sup>32</sup> The investigation with respect to collated roofing nails from Korea was terminated by the Commission following a negative determination by Commerce.<sup>33</sup> On November 19, 1997, Commerce issued antidumping duty orders against collated roofing nails from China and Taiwan.<sup>34</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>35</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>36</sup>

### **NATURE AND EXTENT OF SALES AT LTFV**

On June 16, 2008, Commerce published in the *Federal Register* its final determinations concerning the antidumping duty investigations of steel nails from China and the United Arab Emirates. The final dumping margins for subject producers in China range from 0.00 percent *ad valorem* for Paslode Fasteners (Shanghai) Co., Ltd. to 118.04 percent *ad valorem* (the "China-wide" rate), with all of the investigated (Xingya Group) and voluntarily responding firms in China receiving a rate of 21.24 percent *ad valorem*.<sup>37</sup> For producers in the United Arab Emirates, the final dumping margin is 0.00 percent *ad valorem*.<sup>38</sup>

### **THE SUBJECT MERCHANDISE**

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>39</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).

---

<sup>32</sup> *Collated Roofing Nails From China and Taiwan, Investigation Nos. 731-TA-757 and 759 (Final)*, USITC Publication 3070, November 1997.

<sup>33</sup> 62 FR 51420, October 1, 1997, and 62 FR 53799, October 16, 1997.

<sup>34</sup> 62 FR 61729, November 19, 1997, and 62 FR 61730, November 19, 1997.

<sup>35</sup> 67 FR 70578, November 25, 2002.

<sup>36</sup> *Steel, Investigation No. TA-201-73*, USITC Publication 3479, December 2001.

<sup>37</sup> 73 FR 33977 (China).

<sup>38</sup> 73 FR 33985 (UAE).

<sup>39</sup> *Dictionary.com*. Unabridged (v 1.1). Random House, Inc. <http://dictionary.reference.com/browse/Nail> (accessed June 01, 2007).

## Commerce's Scope

Commerce has defined the imported product subject to these investigations as:<sup>40</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 hotdipping 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10.00. Also excluded from the scope of this proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this proceeding are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.*

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

---

<sup>40</sup> 73 FR 3945, January 23, 2008 and 73 FR 7254, February 7, 2008.

## 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 imported under HTS statistical reporting number 7317.00.5501. Official Commerce statistics for the above-named subheadings (minus those for HTS 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.

**Table I-1**  
**Steel nails: HTS rates, 2008**

HTS provision	Article description	General	Special	Column 2
		Rates (percent <i>ad valorem</i> )		
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 than thumb tacks and other than suitable for use in powder-actuated handtools:			
	Of one piece construction:			
	Made of round wire . . . . .	Free		3.5
	Collated nails:			
01	Collated roofing nails ( <b>excluded from scope</b> )			
	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:			
19	With a length of less than 25.4 mm and with a diameter of less than 1.65 mm . . . . .			
	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
30	Cut . . . . .			
60	Other . . . . .			
7317.00.75	00 Of two or more pieces . . . . .	Free		8

Source: HTS (2008).

## THE PRODUCT

### Description and Applications

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>41</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).

### 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 wire nails.

To produce nails, wire is fed from a large coil 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>42</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 rotating ring and a heading roller. The completed nail is then ejected from the machine.<sup>43</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.

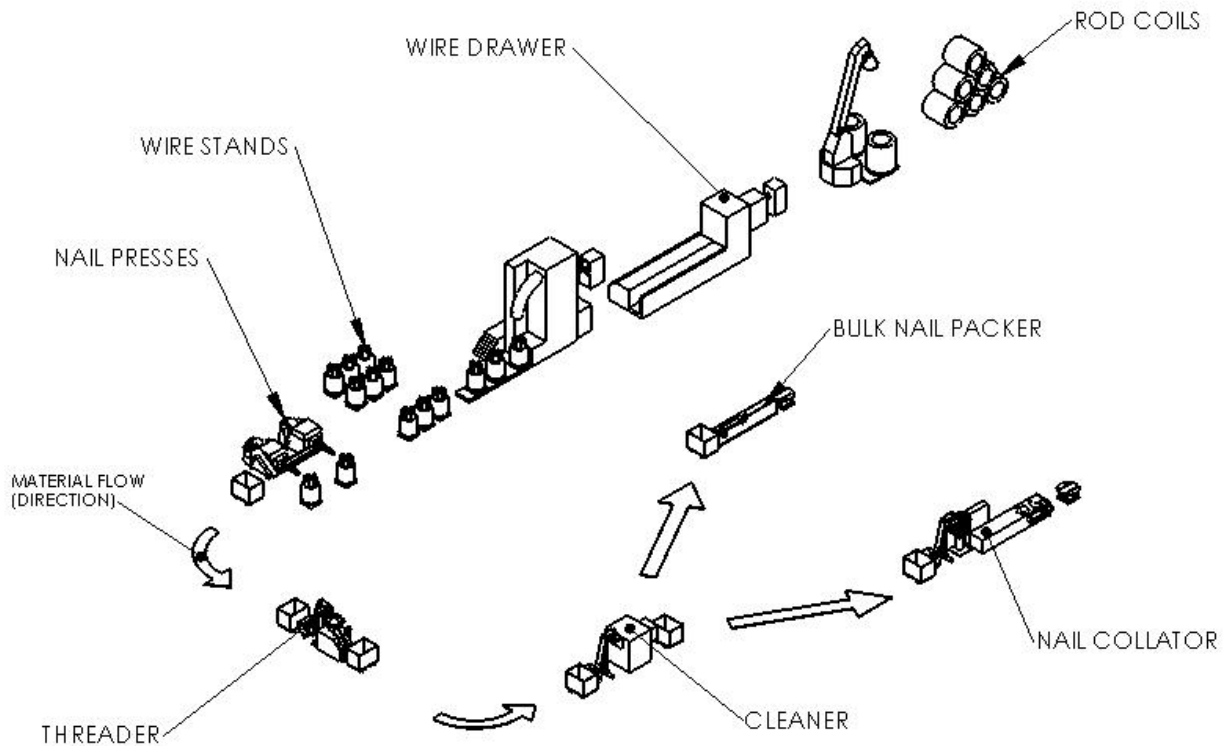
---

<sup>41</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 domestic like products. Petitioners’ postconference brief, p. 4.

<sup>42</sup> Petitioners’ posthearing brief, exh. 2.

<sup>43</sup> Ibid.

**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 & Warren.

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>44</sup>

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.

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

<sup>44</sup> Conference transcript, p. 27 (Kerkvliet).



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>45</sup>

### **Ability or Inability to Produce All Types of Nails**

Respondents have claimed that many of the nails imported from China are types of steel nails that are not made by domestic producers.<sup>46</sup> However, according to domestic producers, the domestic industry is collectively capable of producing the full range of nail products.<sup>47</sup> Domestic producers were asked whether they produced and sold 10 specific types of steel nails that allegedly are not produced in the United States. With the exception of “lead head nails,” they collectively produce and sell the other nine.

### **DOMESTIC LIKE PRODUCT**

In the preliminary phase of this investigation the Commission found that certain steel nails are all part of a continuum with no clear dividing line between different types of nails, and thus defined a single domestic like product consisting of certain steel nails, coextensive with the scope of the investigation.<sup>48</sup> Petitioners contended that there is a single domestic like product that is coextensive with the scope of the case, and further argued that the minor variations in nail features do not justify segmenting various types of nails into separate domestic like products.<sup>49</sup> The respondents, with the exception of Black and Decker, did not contest petitioners’ proposed domestic like product.<sup>50 51</sup> For the final phase of this investigation, respondent Hilti, Inc. argued that fasteners suitable for use in gas-actuated hand tools should be considered a separate domestic like product.<sup>52</sup> This request was rendered moot as in its final determination on China, Commerce revised the scope of the investigation to exclude such nails.<sup>53</sup>

Petitioners argue that the Commission should continue to define the domestic like product as certain steel nails, coextensive with the scope of the investigation.<sup>54</sup> Respondent Stanley Fastening Systems, LP, agrees that there is only one domestic like product, congruent with the scope of Commerce’s final determination.<sup>55</sup>

---

<sup>45</sup> Conference transcript, p. 39 (McMorrow).

<sup>46</sup> Postconference brief, Chinese producers, p. 21; postconference brief, eight U.S. importers, pp. 1-3; postconference brief, Hitachi Koki USA, Ltd., pp. 2-6; and postconference brief, Dubai Wire FZE, p. 9.

<sup>47</sup> Conference transcript, p. 80 (Stirnaman, Libla, Cronin, and Kerkvliet) and p. 59 (McMorrow).

<sup>48</sup> *Certain Steel Nails From China and the United Arab Emirates, Investigation Nos. 731-TA-1114 and 1115 (Preliminary)*, USITC Publication 3939, August 2007, pp. 6-8.

<sup>49</sup> Conference transcript, p. 41 (Cannon).

<sup>50</sup> Conference transcript, p. 14 (Levine), p. 156 (Suro).

<sup>51</sup> In the preliminary phase of the investigation, respondent Black and Decker requested that the Commission determine that there are two separate domestic like products: collated framing or finish nails (“woodworking nails”) and all other steel nails (“construction nails”). After examining this issue, the Commission found that steel nails are all part of a continuum with no clear dividing line between different types of nails.

<sup>52</sup> Prehearing brief of Hilti, Inc. p. 3.

<sup>53</sup> 73 FR 33977, June 16, 2008.

<sup>54</sup> Prehearing brief of petitioners, p. 3.

<sup>55</sup> Hearing transcript, p. 188 (Bogard).



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

### U.S. MARKET SEGMENTS

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 furniture, cabinets, and crates and pallets, mostly used for shipping.<sup>1</sup> Since construction is the single largest end use for steel nails, demand for steel nails is largely determined by activity in the construction market, both residential and commercial. In addition, general economic conditions affect trends in the industrial sector.<sup>2</sup>

Steel nails may be collated and joined together using materials such as plastic, wire, or paper, or they may be in bulk (loose packaged). Sales of collated nails have increased at the expense of bulk nails over the past several years, and the increase is due in large part to the increased availability and affordability of nail guns.<sup>3</sup>

### CHANNELS OF DISTRIBUTION

The vast majority (83.7 percent) of U.S. producers' U.S. shipments of steel nails was shipped to distributors during 2005 to 2007, although the percentage did decline over the period. U.S. shipments of subject imported steel nails also went primarily to distributors, with \*\*\* percent of subject steel nails imported from China going to distributors during the period. 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.

**Table II-1**  
**Steel nails: U.S. producers' and U.S. importers' U.S. shipments by channels of distribution, 2005-07**

Shipments	Calendar year		
	2005	2006	2007
<b>Share of U.S. producers' U.S. shipments (percent)</b>			
To distributors	86.8	82.1	79.8
To end users	13.2	17.9	20.2
<b>Share of U.S. importers' U.S. shipments of subject imports from China (percent)</b>			
To distributors	***	***	***
To end users	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

---

<sup>1</sup> Petitioners reported that they do not view these two industry segments as separate; each end use requires nails to be used as fasteners. Hearing transcript, pp. 75-77 (Cronin, Libla, and Dees). Stanley Fastening reported that it generally sells steel nails separately to the construction sector and steel nails packaged together with tools and service to end users in the industrial sector. Hearing transcript, pp. 168-170 (Dutra) and Stanley Fastening's prehearing brief, p. 32. In addition, Stanley Fastening reported that it estimates the construction sector to be 60 percent of the steel nails market and the industrial sector to be 40 percent. Hearing transcript, p. 211 (Dutra). In its producer questionnaire response, Stanley Fastening reported shipping \*\*\* percent of its steel nails to distributors and \*\*\* percent to end users during the period 2005 to 2007.

<sup>2</sup> Hearing transcript, p. 182 (Dutra).

<sup>3</sup> Conference transcript, pp. 115-116 (Zinman).

Customers routinely buy from a variety of foreign and domestic sources.<sup>4</sup> 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 steel nails. Customers sometimes 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. Some purchasers also buy nails imported from both China and nonsubject countries. In addition, U.S. producers that also sell imported steel nails 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.

## GEOGRAPHIC MARKETS

Markets do not appear to be limited geographically, with 8 of 14 responding U.S. producers reporting nationwide sales (table II-2). Twenty-one of 43 responding importers also reported nationwide sales,<sup>5</sup> with another 8 reporting sales to at least three regions.<sup>6</sup> Eleven importers reported shipping to only one region.<sup>7</sup> These importers are located throughout the United States, with four making shipments only to the Midwest, three making shipments only to the Mid-Atlantic, two making shipments only to the Southeast, one making shipments only to the Southwest, one making shipments only to the Northeast, and one making shipments only to the West Coast.

**Table II-2**  
**Steel nails: Geographic market areas in the United States served by domestic producers and importers of subject product**

Region	Producers	Importers
National	8	21
Northeast	1	8
Mid-Atlantic	2	10
Midwest	4	12
Southeast	2	9
Southwest	3	9
Rocky Mountains	4	2
West Coast	2	4
Northwest	1	3
<p>Note.—Fourteen producers and 43 importers responded to this question. Firms were not limited to the number of market areas that they could report.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>		

<sup>4</sup> Petitioners reported that purchasers tend to buy steel nails from more than one source. Hearing transcript, p. 150 (Libla).

<sup>5</sup> Twenty of these 21 importers that reported nationwide sales reported importing steel nails from China, and one reported importing steel nails from nonsubject countries.

<sup>6</sup> Seven of these importers that reported sales to at least three regions reported importing steel nails from China.

<sup>7</sup> Ten of these importers that reported sales to only one region reported importing steel nails from China.

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. Supply

#### Domestic Production

U.S. producers of steel nails have experienced numerous changes in the last three years.<sup>8</sup> For example, in 2005, Mid Continent closed its Arkansas facility, in January 2007 it closed its Virginia plant, and in March 2007 it closed its Texas facility.<sup>9</sup> In addition, Keystone ceased operations in December 2006,<sup>10</sup> and Gerdaу closed its nail production facility in January 2008.<sup>11</sup>

When asked if they refused, declined, or were unable to supply steel nails since January 2005, one producer responded affirmatively. \*\*\* reported that it has been unable to meet demand due to \*\*\*. Eight importers reported that there were issues with supply. \*\*\* reported that it refused to supply \*\*\* in 2005 because it had a contract with another customer; \*\*\* reported that there were shortages of “099” wire coil nails in 2005 and 2006; \*\*\* reported that there have been times when it placed customers on allocation; and \*\*\* reported that since winter 2007, it has become increasingly difficult to meet requests and that it has rejected orders and new products. In addition, \*\*\* reported that there was uncertainty about the supply of nails from China during the preliminary phase of the investigation; \*\*\* reported that it has been forced to renegotiate pricing with its customers due to a shortage of wire rod for nail manufacturers; \*\*\* reported that timely shipments have been disrupted due to concerns about the antidumping investigation; and \*\*\* reported that it has had late shipments and delivered less than what was ordered.

Purchasers were asked if they had experienced short supplies, unavailability of specific products, or were placed on allocation; 9 of 48 responding purchasers reported that they had experienced one or more of these situations. \*\*\* reported that with Keystone and Davis Wire going out of business, it was forced to buy imported nails; \*\*\* reported that in late 2005 and most of 2006, \*\*\*<sup>12</sup> placed customers on allocation due to the worldwide steel shortage; \*\*\* reported that \*\*\* placed customers on allocation for 3" framers, ring shanks, and joist hanger nails; and \*\*\* reported that U.S. suppliers never had inventories and that their lead times were too long. In addition, \*\*\* reported that in 2005 it had some difficulty in getting some bulk nails from both domestic and foreign suppliers; \*\*\* reported that in 2007, there were shortages because its suppliers were hoarding nails until the antidumping duty rates were announced; \*\*\* reported that U.S. suppliers have cut back or discontinued producing certain nails because of their difficulty competing with imports; \*\*\* reported that as world supplies of wire rod have gotten tighter, it has been more difficult to get nails on a timely basis; and \*\*\* reported that lead times have increased for certain products.

Purchasers also were asked if there have been any changes in factors affecting supply that affected the availability of U.S.-produced steel nails since January 2005, and 22 reported that there have been changes such as price increases for steel, energy, transportation, and labor. Other purchasers

---

<sup>8</sup> Petitioners reported that Paslode shut down its plant in Arkansas and one in Wisconsin during the period of investigation, and that Parker Metal closed its Massachusetts facility in the first quarter of 2006. Petition, p. 19. In addition, petitioners reported numerous changes within the U.S. industry during the period of investigation. Petitioners' prehearing brief, pp. 51-52.

<sup>9</sup> Conference transcript, p. 20 (Libla).

<sup>10</sup> Hearing transcript, p. 40 (Stimaman).

<sup>11</sup> Hearing transcript, pp. 29-30 (Kerkvliet).

<sup>12</sup> As noted in the preceding paragraph, only one responding U.S. producer, \*\*\* reported problems with its supply during the period.

reported that some U.S. producers have ceased production of steel nails. \*\*\* reported that the weak U.S. dollar has affected the supply of steel nails.

Producers and importers were asked if there have been any significant changes in the product range or marketing of steel nails, and the majority of responding producers and importers reported that there have been no changes. Three producers and eight importers reported that there have been changes, which included expanded product ranges and geographic areas covered, as well as price increases. \*\*\* reported that some purchasers started buying imports and selling them under their own brand; \*\*\* reported that its product range changed due to the lack of demand; and \*\*\* reported that it added paper strip and hot-dip galvanized nails.

Based on available information, staff believes that U.S. producers of steel nails have the ability to respond to changes in demand with moderate-to-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***

U.S. producers' reported capacity utilization decreased from 39.8 percent in 2005 to 22.7 percent in 2007 (*see* table III-3). 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***

U.S. producers of steel nails export a very small share of total production. Exports, as a ratio to total shipments, increased from \*\*\* percent in 2005 to \*\*\* percent in 2006 and then decreased to \*\*\* percent in 2007 (*see* table III-4). The relatively low level of exports during the period indicates that domestic producers have a 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 ratio to their total shipments, increased from \*\*\* percent in 2005 to \*\*\* percent in 2007 (*see* table III-9). 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***

Two of the 14 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. \*\*\* reported that it manufactures \*\*\* nails using the same equipment, machinery, and labor as is used to make certain steel nails, and \*\*\* reported that it produces \*\*\* nails using the same labor as is used to make certain steel nails. 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.

## Foreign Supply

### Subject imports

According to official Commerce data, imports of subject steel nails from China, as a share of total U.S. imports of steel nails, increased from \*\*\* percent in 2005 to \*\*\* percent in 2007. Based on available information, producers of steel nails from China have the ability 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 larger response, the response is limited by the modest size of these alternative markets along with few inventories, a high capacity utilization rate, and an inability to produce other products using the same equipment with which steel nails are produced.

Responding Chinese producers' capacity utilization decreased from \*\*\* percent in 2005 to \*\*\* percent in 2007 (*see* table VII-2).<sup>13</sup> These data indicate that responding Chinese suppliers of steel nails may have relatively limited excess capacity with which they could increase production of steel nails in the event of a change in price in the United States.

Responding Chinese producers of steel nails increased exports from \*\*\* percent of their total shipments in 2005 to \*\*\* percent in 2007. Exports to the United States accounted for \*\*\* percent of all reported exports of steel nails from China in 2007, while \*\*\* percent were exported to other markets. Responding Chinese producers, therefore, are somewhat constrained in their 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.

Responding Chinese producers' inventories, as a ratio to their total shipments, increased from \*\*\* percent in 2005 to \*\*\* percent in 2007. These data indicate that these producers have limited ability to use inventories as a means of increasing shipments of steel nails to the U.S. market.

Only one responding Chinese producer indicated that it produced other products using the same equipment used to produce steel nails. This producer reported that it produced roofing nails on the same equipment used to produce steel nails.

### Nonsubject Imports

According to official data, imports of steel nails from all other sources, as a share of the quantity of total U.S. imports of steel nails, decreased from \*\*\* percent in 2005 to \*\*\* percent in 2007. There are producers of steel nails in many other countries, and a number of these countries have exported steel nails to the U.S. market since 2005, including Korea, Canada, Taiwan, Mexico, Poland, the UAE, and several others.

## U.S. Demand

### Demand Characteristics

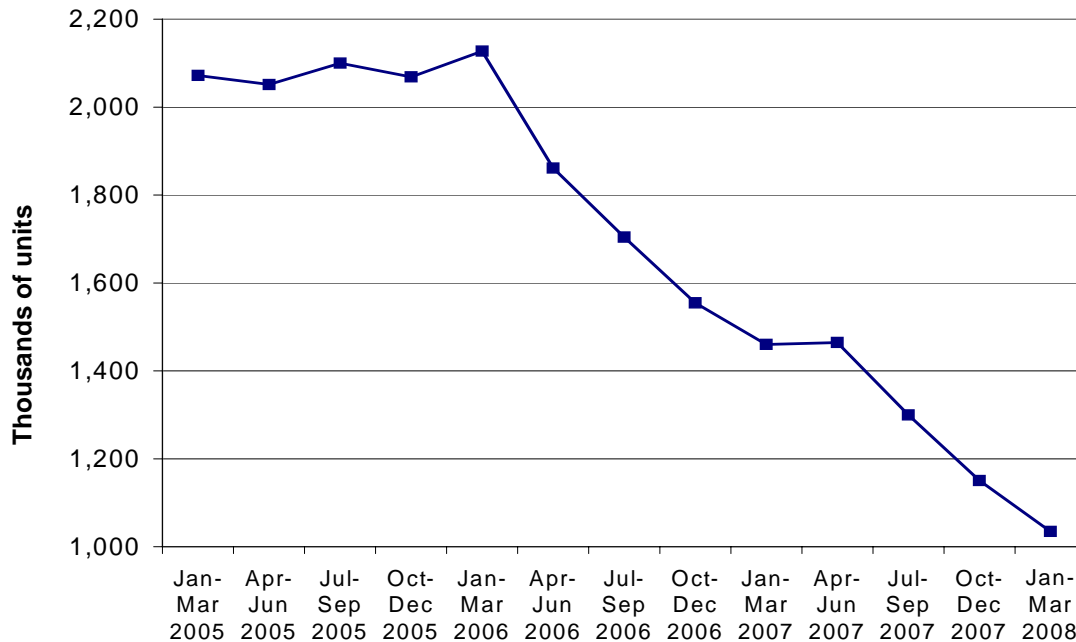
Apparent U.S. consumption of steel nails decreased from 1.2 million short tons in 2005 to 912,175 short tons in 2007. The overall demand for steel nails depends upon the demand for a variety of end-use applications. Steel nails are used in building houses and other structures, while in the industrial sector, nails are used to make furniture, cabinets, and crates and pallets for shipping. As a result, demand is generally related to the amount of housing-related activity in the economy, and demand for all end uses

---

<sup>13</sup> Fewer Chinese producers submitted a foreign producer questionnaire for the final phase of this investigation than during the preliminary phase.

generally tracks overall economic activity.<sup>14</sup> Housing starts were relatively stable in 2005 and the first quarter of 2006 but then generally fell throughout 2007 and into the first quarter of 2008 (figure II-1).

**Figure II-1**  
**Steel nails: Quarterly averages of seasonally adjusted annual rates of housing starts, January 2005-March 2008**



Source: U.S. Census Bureau data at [www.census.gov/const/starts\\_cust.xls](http://www.census.gov/const/starts_cust.xls).

When asked if demand for steel nails in the United States had changed since January 1, 2005, 10 producers, 25 importers, and 27 purchasers reported that demand had decreased, citing factors such as the general economic downturn, the slump in the housing market, and the lack of recent hurricane damage. Three producers, nine importers, and eight purchasers reported that demand had increased, citing factors such as new construction and remodeling activities, increased competition, and lower prices. Four importers and four purchasers reported that demand had increased and then decreased during the period, and \*\*\* reported that the demand for bulk nails had decreased but that the demand for collated nails had increased. Four importers and two purchasers reported that demand was unchanged during the period, and one producer, three importers, and four purchasers reported that they did not know how demand had changed during the period.

Producers, importers, and purchasers were asked if the steel nails market is subject to business cycles or conditions of competition distinctive to that market. Eight producers, 34 importers, and 28 purchasers reported affirmatively, with most reporting that weather patterns affect the use of steel nails, especially in the construction industry, which is seasonal in much of the country. In addition, firms reported that the trends in the housing market and overall economy affect the steel nails market. Other firms reported that raw material prices, particularly steel prices, affect the steel nails market.

<sup>14</sup> Stanley Fastening reported that the demand for nails in the industrial segment of the market did not decline as soon as or as severely as the demand for nails in the construction sector. Stanley Fastening's posthearing brief, responses to questions from the Commission, pp. 10 and 22.



When asked if the business cycle or conditions of competition distinctive to the steel nails market have changed since 2005, 7 producers, 29 importers, and 26 purchasers reported that there had been changes, with the vast majority reporting that the slowdown in the housing market that began in 2006 has greatly affected the steel nails market. \*\*\* reported that the worldwide wire rod shortage has affected the steel nails market.

Thirteen of the 48 responding purchasers reported that they have made significant changes in their purchasing patterns in the last three years. Five purchasers reported that they shifted purchases of steel nails to imports; four purchasers reported that cyclical changes in the steel nails market have forced them to alter their purchasing patterns; one purchaser reported that it shifted from buying nails from brokers to buying nails from mills; and one purchaser reported that it switched its purchases from imports from Korea to imports from China.

Purchasers were asked specifically whether their purchasing patterns for steel nails from domestic, subject, and nonsubject sources had changed in the past three years. Thirteen purchasers reported that their purchases of U.S.-produced steel nails have decreased, citing price, availability, and quality as reasons for the decrease. Five purchasers reported that they have increased purchases from U.S. producers, citing availability and the current investigations as reasons for the increase. Seventeen purchasers reported increasing purchases of imports from China due to lower prices, availability, quality, and a wider product range. Eight purchasers reported decreased purchases of imports from China, with most citing the current investigations as a reason for the decrease. Nine purchasers reported increased purchases of nonsubject imports, and eight purchasers reported decreased purchases of nonsubject imports.

### **Substitute Products**

The vast majority of producers, importers, and purchasers reported that there are no direct substitutes for steel nails. Among the responses by those firms that reported substitutes for nails, the most commonly mentioned substitutes were screws, staples, adhesives, and powder-actuated tool nails or fasteners. 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. Producers, importers, and purchasers reported that nails generally account for less than 1 percent of the cost of building houses or other structures. Producers and importers reported that steel nails account for less than 1 percent to 3 percent of the cost of wood fencing, siding, and decking; less than 2 percent of the cost of furniture; 3 to 8 percent of pallets and crates; and 20 percent of tent spikes.

### **Demand Outside the United States**

Producers, importers, and purchasers were asked how the demand for steel nails outside the United States has changed since 2005. The vast majority of all respondents reported that they did not know how demand for steel nails had changed in the rest of the world. One producer, six importers, and three purchasers reported that demand for steel nails has increased in the rest of the world, with most citing general economic growth, specifically in China. One producer reported that demand has decreased in the rest of the world, and five producers, five importers, and six purchasers reported that demand for steel nails has been unchanged outside of the United States.

## **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported products depends upon such factors as relative prices, quality, and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that overall, there is likely to be a high degree of substitution between steel nails produced in the United States and steel nails produced in China and in nonsubject countries.

This section is based primarily on the responses of 48 purchasers that responded to Commission questionnaires.<sup>15</sup> Forty-one purchasers described themselves as distributors, two as end users, and five as other types of users.<sup>16</sup> The firms who distribute or resell steel nails reported selling primarily to building, drywall, and roofing contractors; do-it-yourselfers; lumber yards; other distributors; carpenters; crate and pallet manufacturers; and retail stores. Purchasers tended to purchase nails from U.S. producers as well as imports from China and nonsubject sources.<sup>17</sup> The largest purchasers, \*\*\*, tend to buy nails from more than one country.

### **Factors Affecting Purchasing Decisions**

Price is generally the determining factor in the purchase of steel nails, as long as the product meets the specifications required for the specific end use in question, but other factors, including quality, packaging, branding, and availability, also play a role in purchasing decisions.

Respondents allege that purchases of imported nails are often driven by the lack of availability of suitable domestic nail varieties. They contend that U.S. producers produce only a limited product range, and that a much broader range can be bought from Chinese producers.<sup>18</sup>

Petitioners reported that they are producing or have the capability to produce any nail currently in the marketplace and that the reason why they are not producing nails that are in demand is price.<sup>19</sup> Six of the 14 responding U.S. producers reported that there are some types of steel nails that their firms cannot produce. \*\*\* reported that their firms cannot produce \*\*\*. \*\*\* reported that it cannot produce nails \*\*\*. \*\*\* reported that it only produces \*\*\*. \*\*\* reported that it cannot produce \*\*\*. \*\*\* reported that it cannot produce \*\*\*.

In addition, respondents reported that Chinese producers offer a wider variety of packaging options or superior packaging quality.<sup>20</sup> Importers and purchasers also reported that the willingness of

---

<sup>15</sup> The purchaser questionnaire requested that firms report annual data for their purchases of steel nails. Some purchasers reported quantity in thousand count of nails, others reported in pounds (or some other measure that was converted to pounds), and others reported in boxes. Since it is not possible to accurately convert thousand count of nails into pounds, the responding purchasers' share of apparent consumption cannot be calculated. According to the data of only those purchasers that reported annual quantities purchased in pounds, short tons, or 50-pound boxes (24 of the 48 purchasers), the questionnaire coverage amounts to 30.6 percent of apparent consumption in 2007.

<sup>16</sup> Three purchasers described themselves as retailers, \*\*\* described itself as a purchaser of subassembly parts, and \*\*\* described itself as a \*\*\*.

<sup>17</sup> Nonsubject countries include Austria, Bulgaria, Canada, the Czech Republic, Denmark, the Dominican Republic, Germany, Indonesia, Korea, Lithuania, Malaysia, Mexico, Poland, Spain, Taiwan, Turkey, Venezuela, and Vietnam.

<sup>18</sup> Conference transcript, pp. 117 and 119 (Zinman), p. 145 (Davis) .

<sup>19</sup> Hearing transcript, p. 117 (Libla).

<sup>20</sup> Conference transcript, pp. 146-147 (Davis), p. 151 (Hurwitz), and p. 155 (Veth). Petitioners reported that bulk nails are sold in different boxes or tubs by weight and that collated nails are sold by piece count; there are industry standards and purchasers also specify custom orders. Hearing transcript, pp. 100-102 (Libla and Cronin).

producers to manufacture private label nails is an important purchasing factor.<sup>21</sup> In addition, Stanley Fastening reported that brands generally sell at a premium price.<sup>22</sup>

Purchasers were asked to identify the three major factors considered by their firm in selecting suppliers of steel nails (table II-3). Price was the most commonly cited factor overall and 20 of the 47 responding purchasers reported that price was the most important factor. The next most commonly cited factor was quality, with 18 purchasers reporting that quality was the most important factor. Other factors reported by more than one firm were availability, product range, reliability, credit terms, and delivery/service.

**Table II-3**  
**Steel nails: Most important factors in selecting a supplier, as reported by purchasers**

Factor	First	Second	Third
Price	20	11	11
Quality	18	11	5
Availability	5	9	11
Product range	1	4	1
Reliability	0	5	5
Credit terms	0	3	1
Delivery/service	0	2	4
Other	3	2	6

Note.--Other category includes pre-arranged contract, U.S. supplier, lead times, packaging, minimum quantity requirements, and relationship with supplier. When asked for other factors, two purchasers reported that branding was an important factor and one reported that the integrity and cooperative nature of the supplier was an important factor.

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

Purchasers were asked to identify the characteristics that determined the quality of steel nails. Factors cited include appearance, tensile strength, coatings, carbon content, whether the nails work in the tools, chemistry, packaging, consistency, customer satisfaction, and return rates. Several purchasers cited the necessity of meeting the firm’s specifications or industry standards and the importance of testing the steel nails.

Purchasers were asked if they always, usually, sometimes, or never purchased the lowest-priced steel nails. Twenty-three purchasers reported sometimes purchasing the lowest-priced product and 17 usually purchased the lowest-priced steel nails. Five purchasers reported always purchasing the lowest-priced product, and three purchasers reported never purchasing the lowest-priced product. Purchasers also were asked if they purchased steel nails from one source although a comparable product was available from another source at a lower price. Thirty-three purchasers responded, reporting reasons why they purchased from a source that might be more expensive. Reasons provided included availability, lead times, quality, minimum order sizes, customer preferences, “Buy American” preferences, brand recognition, reliability of supply, and existing relationships with suppliers.

<sup>21</sup> Petitioners reported that brands are not as important to the consumer as to the distributor and that they have had experiences with private labels where the customer substitutes imports from China for the original U.S.-produced nails and sells them for the same price. Hearing transcript, pp. 102-105 and 107-108 (Libla, Cronin, and Dees).

<sup>22</sup> Hearing transcript, pp. 230, 232-233 (Dutra and Nemchev). Stanley Fastening compared \*\*\*. Stanley Fastening’s posthearing brief, responses to questions from the Commission, pp. 15-16 and exhibit D.

In rating the importance of 15 factors in their purchasing decisions (table II-4), 46 of the 48 responding purchasers rated price as very important; 43 reported that product consistency is very important; 42 reported that availability is very important; 38 reported that reliability of supply is very important; and 37 reported that quality meets industry standards is very important.

**Table II-4**  
**Steel nails: Importance of purchase factors, as reported by purchasers**

Factor	Very important	Somewhat important	Not important
	<i>Number of firms responding</i>		
Availability	42	6	0
Delivery terms	23	22	3
Delivery time	32	16	0
Discounts offered	12	25	11
Extension of credit	13	27	8
Minimum quantity requirements	6	30	12
Packaging	26	20	2
Price	46	2	0
Product consistency	43	5	0
Product range	15	24	9
Quality meets industry standards	37	10	1
Quality exceeds industry standards	10	25	13
Reliability of supply	38	10	0
Technical support/service	7	34	7
U.S. transportation costs	20	20	7
Note.--Not all purchasers responded for each factor. One purchaser reported that custom packaging is very important, and one purchaser reported that supplier reliability is somewhat important.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Purchasers were asked for a country-by-country comparison using the same 15 factors. Thirty-three purchasers completed this comparison for the United States and China (table II-5).<sup>23</sup> More than half of the responding purchasers reported that the U.S. and Chinese products were comparable in most categories. The majority of purchasers reported that the U.S. product was superior for delivery time and technical support/service, and the vast majority reported that the Chinese product was superior for a lower price.

<sup>23</sup> Purchasers also completed the comparison for the United States and various nonsubject countries, and these comparisons can be found in app. E.

**Table II-5**

**Steel nails: Comparisons of the U.S. and Chinese products, as reported by purchasers**

Factor	U.S. vs. China		
	S	C	I
	<i>Number of firms responding</i>		
Availability	14	13	6
Delivery terms	12	20	1
Delivery time	23	9	1
Discounts offered	7	21	3
Extension of credit	6	25	2
Lower price <sup>1</sup>	1	5	27
Lower U.S. transportation costs <sup>1</sup>	7	20	6
Minimum quantity requirements	14	13	6
Packaging	8	20	5
Product consistency	8	25	0
Product range	7	19	7
Quality meets industry standards	4	29	0
Quality exceeds industry standards	6	25	1
Reliability of supply	10	21	2
Technical support/service	18	13	1
<p><sup>1</sup> A rating of "superior" on lower price or lower U.S. transportation costs indicates that the first-named country generally has lower prices or U.S. transportation costs than the second-named country.</p> <p>Note.--Not all purchasers responded for every factor. S=first-listed country's product is superior; C=both countries' products are comparable; I=first-listed country's product is inferior.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

Twenty-six of the 48 responding purchasers reported specifically ordering steel nails from one country in particular over other possible sources of supply. Reasons cited for buying from a particular country included lead times, availability, quality, packaging, reliability, and price. Fifteen purchasers reported that U.S.-produced nails are preferred, either for "Buy American" requirements or because their customers prefer domestic nails.<sup>24</sup> \*\*\* reported that some customers on the East Coast will not buy imported nails from China; \*\*\* reported that some customers only want the "Wheeling" brand cut nails from the United States; and other purchasers reported that certain types of nails are purchased from a particular source country for quality reasons.

Purchasers also were asked if certain grades, types, or sizes of steel nails were available from only a single source, and seven purchasers responded in the affirmative. Three purchasers reported that

---

<sup>24</sup> Aside from projects initiated by the U.S. Government, nails are reportedly rarely subject to any formal or informal "Buy American" requirements, and accounts subject to such requirements account for a minimal percentage of sales. Conference transcript, p. 90 (Libla, Cronin, Kerkvliet, Dees) and pp. 198-199 (Zinman and Tabor).

certain types are only available from imports, and two purchasers reported that certain types are only available from a U.S. producer.<sup>25</sup> \*\*\* reported that branded products must be purchased from the brand owner, and \*\*\* reported that some manufacturers collate certain sizes or types of nails.

The 10 purchasers that buy steel nails from only one country were asked to explain the reasons for doing so. Six purchasers reported that they buy steel nails only from Chinese sources because of quality, price, the product range offered, customized packaging options, and availability. Four purchasers reported that they buy steel nails only from U.S. producers due to quality reasons and because of customer preferences.

Purchasers were asked if they required certification or prequalification for suppliers of steel nails. Twenty purchasers required it for all of their purchases; one reported that it is required for 90 percent of its purchases; one reported that it is required for 80 percent of its purchases; and two reported that it is required for 10 percent of their purchases. Purchasers reported that the certification or prequalification process may involve samples of the product, product testing, or customer trials.

Forty-five purchasers reported factors considered in qualifying a new supplier, including price, quality, reliability, packaging, lead times, site visits, and branding. The time required to qualify a new supplier was reported by 26 purchasers and ranged from a few days to six months.

Purchasers were asked if any suppliers had failed to qualify their product or lost their approved status. Six of the 48 responding firms reported that suppliers had failed to qualify. Two purchasers cited U.S. producer \*\*\* as having failed to qualify; two purchasers cited Chinese producers; one cited \*\*\*; and one cited both Chinese and nonsubject producers. The most commonly cited reasons for failure included quality and the refusal to allow a private brand.

Purchasers were asked how often they are aware of the country of origin of the steel nails they purchase, how often they know the manufacturer, and how often their buyers are interested in the country of origin of the goods they supply. Their responses are summarized in the following tabulation:

Factor	Always	Usually	Sometimes	Never
Aware of product's country of origin?	28	11	7	2
Know manufacturer of the product?	13	15	17	3
Buyers aware of/interested in product's country of origin?	4	10	28	6

Purchasers also were asked how often domestically produced, subject imports, and nonsubject imports of steel nails meet minimum quality specifications. Their responses are summarized in the following tabulation:

Source	Always	Usually	Sometimes	Never
U.S.-produced	23	17	2	2
Subject imports - China	12	28	4	0
Nonsubject imports - Korea	2	8	0	0
Nonsubject imports - Canada	3	6	0	0
Nonsubject imports - Taiwan	2	6	0	0
Nonsubject imports - Mexico	2	1	0	0
Nonsubject imports - Austria	1	3	0	0

<sup>25</sup> \*\*\* is reportedly the only U.S. producer of \*\*\* galvanized steel nails.

Of the four purchasers that reported that U.S.-produced nails sometimes or never meet minimum quality specifications, \*\*\* added that it cannot find U.S.-produced nails, and \*\*\* added that U.S.-produced nails are generally of poor quality. Of the four purchasers that reported that subject imports sometimes meet minimum quality specifications, \*\*\* added that there is an occasional box or container that is rusty; \*\*\* added that 2-3 percent of its purchases of subject imports are defective; and \*\*\* added that the imports from China are generally of poor quality.

Most purchasers reported contacting anywhere from two to five suppliers before making a purchase. Seven purchasers reported contacting only one supplier, and three purchasers reported contacting as many as eight suppliers. Twenty-five of the 48 responding purchasers reported changing suppliers in the last three years. Three reported that they dropped Keystone because it went out of business; four reported adding Chinese suppliers; and four reported adding nonsubject producers. One purchaser reported switching from certain Chinese producers to other Chinese producers.

Thirteen purchasers reported that they were aware of new suppliers that entered the market in the last three years, and these suppliers included Omnifast, Millennium Steel & Wire, Huttig, White Cap, and unnamed Chinese and nonsubject suppliers.

### Lead Times

Eight of the 14 responding producers reported that 85 percent or more of their steel nails were sold out of inventory and generally available in 1 day to 2 weeks. Four producers reported that at least 70 percent of their steel nails were produced to order and available in 2 to 6 weeks. Among importers, 25 reported that 85 percent or more of their steel nails were sold out of inventory and available in 1 day to 2 weeks, and 11 importers reported that at least 95 percent of their steel nails were produced to order and available in 2 to 4 months.

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

Producers, importers, and purchasers were asked to assess how interchangeable steel nails from the United States are with steel nails from both China and nonsubject countries. Their answers are summarized in table II-6.

**Table II-6**  
**Steel nails: U.S. producers', importers', and purchasers' perceived degree of interchangeability of products produced in the United States and in other countries<sup>1</sup>**

Country comparison	U.S. producers					U.S. importers					U.S. purchasers				
	A	F	S	N	0	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	10	2	2	0	0	23	12	4	1	6	25	13	2	0	8
U.S. vs. nonsubject	8	2	3	0	1	17	10	4	1	14	18	11	2	0	17
China vs. nonsubject	9	1	1	0	3	16	9	3	1	17	19	8	1	0	20

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

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

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

Generally, producers, importers, and purchasers reported that steel nails produced in the United States and those produced in both subject and nonsubject countries are always or frequently

interchangeable. Three producers and 13 importers reported reasons that may limit or preclude interchangeable use, with four importers reporting that U.S. producers are not able to produce a full product range of nails. \*\*\* reported that collated nails are not interchangeable if they use different collation media (wire vs. plastic vs. paper) or if they have been collated at different angles of collation,<sup>26</sup> \*\*\* reported that building code approval through recognized evaluation reports may preclude interchangeable use; and \*\*\* reported that China offers a broader product range, offering some nails that cannot be readily available for purchase from U.S. producers. \*\*\* reported that quality differences limit interchangeable use; \*\*\* reported that there are only two bulk nail producers in the United States; \*\*\* reported that there are no nails that match its specification for nails suitable for use with \*\*\*; and \*\*\* reported that there are very few mills that can make machine-quality nails.

Only one purchaser reported reasons that may limit or preclude interchangeable use; \*\*\* reported that certain nails are not available from some countries/suppliers and that some of the nails it purchases are not made in the United States. This purchaser also reported that custom packaging is important but generally not available from U.S. producers.

Producers and importers also were asked to assess how often differences other than price were significant in sales of steel nails from the United States, China, and nonsubject countries (table II-7). The majority of producers and importers reported that differences other than price are sometimes or never a significant factor in sales of steel nails.<sup>27</sup> Among producers, \*\*\* reported that distribution, technical support, and patent protection are significant non-price factors in the sale of steel nails, and \*\*\* reported that quality is a significant non-price factor.

**Table II-7**  
**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	0	5	8	0	11	5	15	8	7
U.S. vs. nonsubject	1	0	5	6	2	4	3	13	5	17
China vs. nonsubject	1	0	4	7	2	2	3	14	5	22

<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 and to what degree.

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

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

In explaining the significance of non-price factors, 10 of the 17 responding importers reported that product range, quality, and availability are factors. \*\*\* reported that many of the U.S. producers do not offer customer service at comparable levels and that fill rates are very low and freight very expensive. \*\*\* reported that \*\*\* and that \*\*\* is the only U.S. supplier of that type of nail but that its quality is marginal and inconsistent. \*\*\* reported that nails from the United States and nonsubject countries are generally higher quality with better technical support and a broader product range than nails from China and that U.S. producers offer shorter lead times. \*\*\* reported that countries other than the United States

<sup>26</sup> \*\*\* also reported that nails are not interchangeable due to the use of patents.

<sup>27</sup> It appears as though four of the importers that reported non-price factors are "always" significant did not understand the question; none explained their answers as requested.



offer greater flexibility in packaging options. \*\*\* reported that quality is generally poor from producers in China, but that once producers are qualified to meet specifications, the quality generally improves.

## **ELASTICITY ESTIMATES**

### **U.S. Supply Elasticity**

The domestic supply elasticity for steel nails measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of steel nails. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production to other products, the existence of inventories, and the availability of alternate markets for U.S.-produced steel nails. Earlier analysis of these factors indicates that the U.S. industry is likely to be able to moderately increase or decrease shipments to the U.S. market; an estimate in the range of 3 to 5 is suggested.<sup>28</sup>

### **U.S. Demand Elasticity**

The U.S. demand elasticity for steel nails measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of steel nails. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products. Based on the available information, the aggregate demand elasticity for steel nails is likely to be in a range of -0.25 to -0.5.

### **Substitution Elasticity**

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.<sup>29</sup> Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between domestic and subject steel nails is likely to be in the range of 3 to 5 for products from China.

---

<sup>28</sup> Petitioners reported that they think the supply elasticity estimates should be higher but did not give a specific number or range. Hearing transcript, p. 115 (Beck).

<sup>29</sup> The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.



## **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. Table III-1 presents U.S. producers' positions on the petition, ownership, plant locations, and shares of total reported U.S. production in 2007. Eleven producers support the petition, three oppose it, and three take no position. Producers accounting for \*\*\* percent of U.S. production in 2007 support the petition, producers accounting for \*\*\* percent oppose the petition, and producers accounting for \*\*\* percent take no position. \*\*\* was the largest producer in 2007, followed by \*\*\*, all of which collectively accounted for almost 75 percent of domestic production in 2007. Table III-2 presents important industry events during 2004-07.

---

<sup>1</sup> Petition, pp. 2-5. An additional firm, Tremont Nail, is a very small producer of cut nails that caters to the antique-appearing flooring trade. It accounts for \*\*\* percent of U.S. production. Maze sold it to Acorn Manufacturing Co. (Mansfield, MA) in 2006.

**Table III-1**

**Steel nails: U.S. producers, positions on the petition, ownership, plant locations, and shares of total reported U.S. production, 2007**

Firm	Position on petition	Firm ownership	U.S. plant location(s)	2007 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</sup>	Support	N/A	Hortonville, WI	4,392	***
Gerdau Ameristeel Corp.	Support	Gerdau SA (Brazil)	Hanrahan, LA	***	***
ITW <sup>2</sup>	Oppose	ITW Glenview, IL (***)	Terrell, TX; Covington, TN; Pocahontas, AR; and Paris, KY	***	***
Keystone Steel & Wire Co.	Support	Contran Corp., Dallas, TX (***)	Peoria, IL	***	***
Maze Nails	Support	None	Peru, IL	***	***
Mid Continent Nail Corp.	Support	Libla Industries, Poplar Bluff, MO (***)	Poplar Bluff, MO; Radford, VA; Springdale, AR; and Hillsboro, TX	***	***
Parker Metal Corp. <sup>3</sup>	Take no position	Parker Holdings, MA (***)	Worcester, MA	***	***
Pneu-Fast Co. <sup>1</sup>	Support	N/A	Evanston, IL	4,000	***
Senco Products, Inc. <sup>2</sup>	***	Sencorp Newport, KY (***)	Cincinnati, OH	***	***
Simplex Nails	Support	None	Americus, GA	***	***
Specialty Fastening Systems, Inc. <sup>2</sup>	***	Falcon Enterprises Canada (***)	Prairie Grove, AR	***	***
Stanley Fastening Systems, L.P. <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.	***	Tree Island Industries, Ltd. Richmond, BC (***)	Ontario, CA	***	***
Wheeling-LaBelle Nail Co.	Support	None	Wheeling, WV	***	***
Total				154,651	100.0

<sup>1</sup> Public response to Commerce's polling questionnaire; 2006 data. \*\*\*.

<sup>2</sup> Excluded from the domestic industry by the Commission for purposes of the preliminary phase of these investigations.

<sup>3</sup> Parker did not produce in 2006 and 2007.

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, 2004-08**

\* \* \* \* \*

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

Table III-3 presents data on U.S. producers' capacity, production, and capacity utilization between 2005 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 investigation.

**Table III-3**  
**Steel nails: U.S. capacity, production, and capacity utilization, 2005-07**

Item	Calendar year		
	2005	2006	2007
Capacity ( <i>short tons</i> )	694,236	704,958	645,227
Production ( <i>short tons</i> )	276,358	196,488	146,259
Capacity utilization ( <i>percent</i> )	39.8	27.9	22.7

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

U.S. capacity of steel nails decreased from 694,236 short tons in 2005 to 645,227 short tons in 2007. Production also fell over the period, and the average capacity utilization for U.S. producers fell from 39.8 percent in 2005 to 22.7 percent in 2007. U.S. producers' capacity was well below apparent U.S. consumption in each year for which data were collected.

Generally, U.S. producers of steel nails reported mill closures and production consolidation and curtailment from 2005 to 2007, which follows the trends of decreasing rates of capacity and capacity utilization presented in table III-3. \*\*\*.<sup>2</sup> \*\*\*.<sup>3</sup> Gerdau Ameristeel closed its steel nail operations in Hanrahan, LA on January 31, 2008 and sold its equipment<sup>4</sup> to \*\*\*.

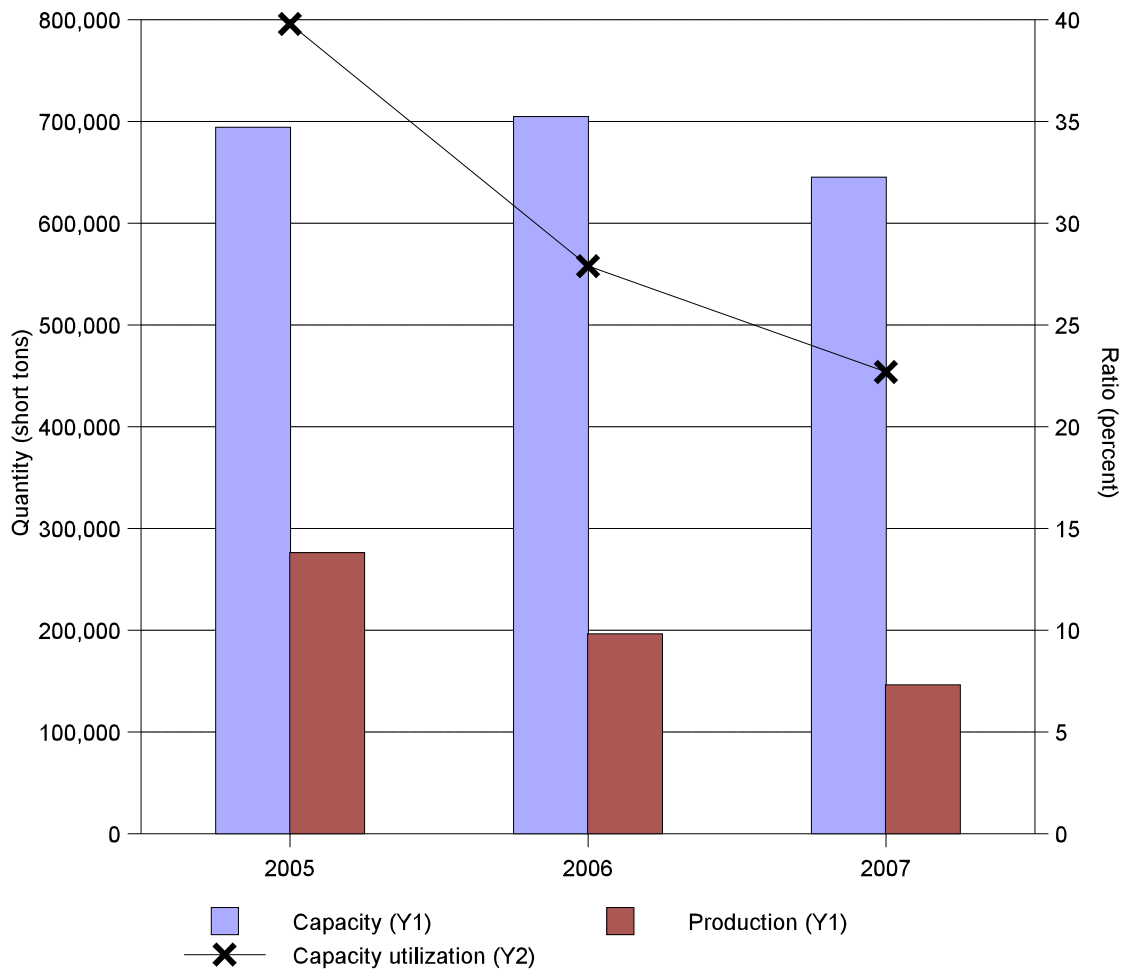
Reported constraints in the manufacturing process for U.S. producers of steel nails include the machinery used to produce the nails, as well as labor availability, maintenance of the machines, and consistent orders.

<sup>2</sup> Petitioners' postconference brief, p. 7.

<sup>3</sup> Conference transcript, p. 37 (Stirnaman).

<sup>4</sup> Hearing transcript, pp. 29-30 and p. 145 (Kerkvliet).

**Figure III-1**  
**Steel nails: U.S. capacity, production, and capacity utilization, 2005-07**



Source: Table III-3.

### U.S. PRODUCERS' SHIPMENTS

Table III-4 presents information on U.S. producers' shipments of steel nails between 2005 and 2007. Four 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>

No U.S. producer reported any internal consumption of steel nails, 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 2005 to 2007. \*\*\* reported commercial shipments in 2007 were \*\*\* the quantity of its 2005 commercial shipments.

---

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

**Table III-4**  
**Steel nails: U.S. producers' shipments, by types and shares, 2005-07**

Item	Calendar year		
	2005	2006	2007
<b>Quantity (short tons)</b>			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	275,448	196,601	143,868
Export shipments	***	***	***
Total shipments	***	***	***
<b>Value (1,000 dollars)<sup>1</sup></b>			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	385,057	287,606	220,411
Export shipments	***	***	***
Total shipments	***	***	***
<b>Unit value (per short ton)<sup>1</sup></b>			
Commercial shipments	\$***	\$***	\$***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	1,398	1,463	1,532
Export shipments	***	***	***
Total shipments	***	***	***
<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

Table continued on next page.

**Table III-4--Continued**  
**Steel nails: U.S. producers' shipments, by types and shares, 2005-07**

Item	Calendar year		
	2005	2006	2007
<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
<sup>1</sup> F.o.b. U.S. point of shipment. Note.--Because of rounding, figures may not add to the totals shown. Source: Compiled from data submitted in response to Commission questionnaires.			

Table III-5 presents information on reported U.S. producers' U.S. commercial shipments of steel nails by type/finish in 2007. Over three-quarters of U.S. shipments of steel nails in 2007 were collated nails (over 75 percent of which were collated-bright nails), and collated nails were 82 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 values of galvanized nails were higher than the average unit value of bright nails.

**Table III-5**  
**Steel nails: U.S. producers' U.S. shipments, by type of nail and finish, 2007**

Type of nail/finish	Quantity (short tons)	Value (\$1,000)	Unit value (dollars per ton)
<b>Collated:</b>			
Bright (no finish)	85,943	107,945	\$1,256
Galvanized	***	***	***
Other	***	***	***
Total	113,490	187,264	1,650
<b>Uncollated:</b>			
Bright (no finish)	25,678	26,707	1,040
Galvanized	***	***	***
Other	***	***	***
Total	31,290	40,655	1,299
Note.--Not all U.S. producers reported U.S. shipments of steel nails by type/finish. Source: Compiled from data submitted in response to Commission questionnaires.			



Table III-6 presents information on U.S. producers' shipments, by form and type, in 2007. Common and pallet nails are the majority of the reported nails. Producers were asked whether they increased or decreased their production of any of the types of nails specified above from 2005 to 2007, and to indicate why their firm made any such change. Producers' responses are presented verbatim in appendix D.

**Table III-6**  
**Steel nails: U.S. producers' shipments, by form and type, 2007**

Type of nail/finish	Quantity ( <i>short tons</i> )	Value (\$1,000)	Unit value ( <i>dollars per ton</i> )
<b>Collated:</b>			
Common	108,907	180,116	\$1,654
Finishing nail	***	***	***
Drywall nail	***	***	***
Flooring nail	***	***	***
Pallet nail	4,228	5,490	1,298
Concrete masonry	***	***	***
All other types	***	***	***
Total	113,489	187,264	1,650
<b>Uncollated:</b>			
Common	6,295	15,779	2,507
Finishing nail	***	***	***
Drywall nail	***	***	***
Flooring nail	***	***	***
Pallet nail	19,959	17,752	889
Concrete masonry	***	***	***
Spikes	***	***	***
All other types	***	***	***
Total	31,476	41,443	1,317

<sup>1</sup> Not applicable.

Note.--Not all U.S. producers reported U.S. shipments of steel nails by type/finish.

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

## U.S. PRODUCERS' IMPORTS AND PURCHASES

During the period of investigation, seven U.S. producers reported direct imports of steel nails from China.<sup>6</sup> \*\*\*<sup>7</sup> as well as from nonsubject countries; \*\*\* imported subject steel nails from China as well as from nonsubject countries; and \*\*\*,<sup>8</sup> and \*\*\* imported subject steel nails from only China.<sup>9</sup> Four U.S. producers imported steel nails from nonsubject countries.<sup>10</sup> For four of the U.S. producers that imported the subject product from China, the ratio of subject imports to production increased between 2005 and 2007, especially for \*\*\* which both had ratios of subject imports to production exceeding \*\*\* percent by 2007. In fact, \*\*\* had a ratio of imports to production exceeding \*\*\* percent in 2007, but this was because it \*\*\*.<sup>11</sup> Five companies (\*\*\*) also made purchases of steel nails over the period, of which three (\*\*\*) purchased subject product from China.

Table III-7 presents data, by company, on domestic producers' direct imports, purchases of imported product, and purchases from other domestic producers.<sup>12</sup>

**Table III-7**  
**Steel nails: U.S. producers' imports, purchases, and ratios to production, 2005-07**

\*       \*       \*       \*       \*       \*       \*

Table III-8 presents combined data of nine 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), and other countries (both direct imports and purchases). U.S. producers' imports from China more than doubled from 2005 to 2007, while their imports from nonsubject sources fell by more than half. 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-8**  
**Steel nails: U.S. producers' imports, purchases, and ratios to production, 2005-07**

\*       \*       \*       \*       \*       \*       \*

## U.S. PRODUCERS' INVENTORIES

Table III-9, which presents end-of-period inventories for steel nails from 2005 to 2007, shows that inventories were relatively low as a ratio to production and shipments over the period.

---

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

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

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

<sup>9</sup> \*\*\* imported nonsubject nails as well.

<sup>10</sup> U.S. producers imported nonsubject steel nails from Austria, Canada, Colombia, Denmark, "Europe," Italy, Korea, Malaysia, Spain, Taiwan, and the UAE.

<sup>11</sup> \*\*\*.

<sup>12</sup> ITW's imports from China were ruled to be nonsubject and therefore are not included in table III-7.

**Table III-9**  
**Steel nails: U.S. producers' end-of-period inventories, 2005-07**

Item	Calendar year		
	2005	2006	2007
<b>Quantity (<i>short tons</i>)</b>			
Inventories ( <i>short tons</i> )	23,632	20,317	19,923
Ratio to production ( <i>percent</i> )	8.6	10.3	13.6
Ratio to U.S. shipments ( <i>percent</i> )	8.6	10.3	13.8
Ratio to total shipments ( <i>percent</i> )	***	***	***
Note.—Because of rounding, figures may not add to the totals shown.			
Source: Compiled from data submitted in response to Commission questionnaires.			

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

Table III-10 presents data on U.S. producers' employment-related indicia. Employment of production-related workers ("PRWs") in the U.S. steel nail industry declined by 43.5 percent between 2005 and 2007, and hours worked similarly decreased. This drop was due to the decline in operations throughout the industry. Wages paid to PRWs also declined from 2005 to 2007 (although hourly wages increased), as did productivity, and unit labor costs increased by 26.4 percent.

**Table III-10**  
**Steel nails: U.S. producers' employment-related data, 2005-07**

Item	Calendar year		
	2005	2006	2007
Production and related workers (PRWs)	1,401	1,136	791
Hours worked by PRWs ( <i>1,000 hours</i> )	3,012	2,456	1,622
Hours worked per worker	2,150	2,162	2,051
Wages paid to PRWs ( <i>1,000 dollars</i> )	41,419	38,701	27,710
Hourly wages	\$13.75	\$15.76	\$17.08
Productivity ( <i>short tons produced per 1,000 hours</i> )	91.8	80.0	90.2
Unit labor costs ( <i>per short ton</i> )	\$149.88	\$196.96	\$189.46
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-eight 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 38 firms' imports of steel nails from China accounted for \*\*\* (\*\*\*) percent) of subject U.S. imports from China by quantity in the period 2005 to 2007.

**Table IV-1**  
**Steel nails: U.S. importers and imports, by source, 2007**

\*       \*       \*       \*       \*       \*       \*

### U.S. IMPORTS

Table IV-2 and figure IV-1 present and depict U.S. imports of steel nails during 2005 to 2007. U.S. import data are based on official Commerce statistics excluding roofing nails.<sup>2</sup> Imports from the zero dumping margin Chinese producer Paslode Fasteners (Shanghai) were subtracted from the official Commerce statistics on imports from China in order to derive subject imports from China.<sup>3</sup> U.S. imports of subject steel nails from China rose by \*\*\* percent from \*\*\* short tons in 2005 to \*\*\* short tons in 2006. Such imports then fell by \*\*\* percent to \*\*\* short tons in 2007.

---

<sup>1</sup> \*\*\*.

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

<sup>3</sup> Proprietary quantities and values for ITW (Paslode) obtained from Customs were subtracted from Commerce's official total Chinese import numbers and included with nonsubject imports.

**Table IV-2**  
**Steel nails: U.S. imports, by sources, 2005-07**

Source	Calendar year		
	2005	2006	2007
<b>Quantity (short tons)</b>			
China - subject	***	***	***
China - nonsubject	***	***	***
Other sources	425,250	312,644	206,818
Subtotal - nonsubject	***	***	***
Total	905,001	928,191	768,307
<b>Value (1,000 dollars)<sup>1</sup></b>			
China - subject	***	***	***
China - nonsubject	***	***	***
Other sources	491,721	375,204	271,225
Subtotal - nonsubject	***	***	***
Total	882,879	861,198	763,859
<b>Unit value (per short ton)<sup>1</sup></b>			
China - subject	\$***	\$***	\$***
China - nonsubject	***	***	***
Other sources	1,156	1,200	1,311
Subtotal - nonsubject	***	***	***
Total	976	928	994
<b>Share of quantity (percent)</b>			
China - subject	***	***	***
China - nonsubject	***	***	***
Other sources	47.0	33.7	26.9
Subtotal - nonsubject	***	***	***
Total	100.0	100.0	100.0
<b>Share of value (percent)</b>			
China - subject	***	***	***
China - nonsubject	***	***	***
Other sources	55.7	43.6	35.5
Subtotal - nonsubject	***	***	***
Total	100.0	100.0	100.0
<sup>1</sup> Landed, duty-paid. Source: Compiled from official Commerce statistics (adjusted using proprietary Customs data for exports of Paslode Fasteners (Shanghai)).			

**Figure IV-1**  
**Steel nails: Quantity of subject and nonsubject U.S. imports, 2005-07**

\* \* \* \* \*

The United Arab Emirates (accounting for 6.5 percent of total U.S. imports of steel nails during 2007), Korea (5.3 percent), Canada (4.3 percent), Taiwan (4.3 percent), Mexico (2.0 percent), Malaysia (1.4 percent), Poland (0.9 percent), and 38 other countries (ranging between less than 0.05 percent and 0.6 percent of 2007 imports) also exported steel nails to the United States during the period for which data were collected. These nonsubject imports fell by \*\*\* percent from \*\*\* short tons in 2005 to \*\*\* short tons in 2007.

The quantity of subject imports from China increased by \*\*\* percent between 2005 and 2007. Total imports decreased during 2005-07 by 15.1 percent. Based on the import data presented in table IV-2, \*\*\* imports from China had the lowest average unit values in every year, although their average unit value increased irregularly from 2005 to 2007.

### **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 2007, \*\*\* percent of U.S. imports of subject steel nails from China were collated nails, and \*\*\* percent were uncollated nails (approximately 6 percent were classified as other nails). From 2005 to 2007, collated nails accounted for an increasing share of imports of subject steel nails from China. The unit values of both collated and uncollated subject steel nails imported from China decreased from 2005 to 2006 then rose in 2007.

**Table IV-3**  
**Collated steel nails:<sup>1</sup> U.S. imports, by sources, 2005-07**

Source	Calendar year		
	2005	2006	2007
<b>Quantity (<i>short tons</i>)</b>			
China - subject	***	***	***
China - nonsubject	***	***	***
Other sources	210,014	140,687	104,250
Subtotal - nonsubject	***	***	***
Total	366,671	410,708	394,770
<b>Value (<i>1,000 dollars</i>)<sup>2</sup></b>			
China - subject	***	***	***
China - nonsubject	***	***	***
Other sources	241,483	163,681	128,762
Subtotal - nonsubject	***	***	***
Total	382,605	395,281	400,752
<b>Unit value (<i>per short ton</i>)<sup>1</sup></b>			
China - subject	\$***	\$***	\$***
China - nonsubject	***	***	***
Other sources	1,150	1,163	1,235
Subtotal - nonsubject	***	***	***
Total	1,043	962	1,015
<sup>1</sup> Includes HTS numbers 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, and 7317.00.5518. <sup>2</sup> Landed, duty-paid.			
Source: Compiled from official Commerce statistics (adjusted using proprietary Customs data) and data submitted in response to Commission questionnaires.			



**Table IV-4**  
**Uncollated steel nails:<sup>1</sup> U.S. imports, by sources, 2005-07**

Source	Calendar year		
	2005	2006	2007
<b>Quantity (short tons)</b>			
China - subject	***	***	***
China - nonsubject	***	***	***
Other sources	***	***	***
Total	492,763	476,488	333,802
<b>Value (1,000 dollars)<sup>2</sup></b>			
China - subject	***	***	***
China - nonsubject	***	***	***
Other sources	***	***	***
Total	431,630	402,771	301,704
<b>Unit value (per short ton)<sup>1</sup></b>			
China - subject	\$***	\$***	\$***
China - nonsubject	***	***	***
Other sources	***	***	***
Total	876	845	904
<sup>1</sup> Includes HTS numbers 7317.00.5519, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, and 7317.00.5590. <sup>2</sup> Landed, duty-paid.  Note.--***.			
Source: Compiled from official Commerce statistics (adjusted using proprietary Customs data) and data submitted in response to Commission questionnaires.			

Table IV-5 presents information on U.S. importers' U.S. commercial shipments of subject steel nails imported from China, by type/finish in 2007. More than \*\*\* percent of such shipments of steel nails in 2007 were collated nails (\*\*\*) of which were collated-bright nails), and collated nails were nearly \*\*\* 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 values of galvanized nails were higher than the average unit values of bright nails.

**Table IV-5**  
**Steel nails: U.S. importers' U.S. shipments of subject imports from China, by type of nail and finish, 2007**

\* \* \* \* \*

Table IV-6 presents information on U.S. importers' U.S. commercial shipments of steel nails imported from nonsubject sources, by type/finish in 2007. Slightly more than \*\*\* of such shipments of steel nails in 2007 were collated nails (over \*\*\* percent of which were collated-bright nails), and collated nails were over \*\*\* 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 values of galvanized nails were higher than the average unit values of bright nails.

**Table IV-6**  
**Steel nails: U.S. importers' U.S. shipments of imports from nonsubject sources, by type of nail and finish, 2007**

\* \* \* \* \*

Table IV-7 presents information on U.S. importers' shipments of subject imports from China, by form and type, in 2007. Common and pallet nails accounted for the majority of the reported nails. Importers were asked whether they increased or decreased their subject imports from China of any of the types of nails specified above from 2005 to 2007, and to indicate why their firm made any such change. Importers' responses are presented in appendix D.

**Table IV-7**  
**Steel nails: U.S. importers' U.S. shipments of subject imports from China, by form and type, 2007**

\* \* \* \* \*

Table IV-8 presents information on U.S. importers' shipments of imports from nonsubject sources, by form and type, in 2007. Common and pallet nails accounted for the majority of the reported nails. Importers were asked whether they increased or decreased their imports from all other countries of any of the types of nails specified above from 2005 to 2007, and to indicate why their firm made any such change. Importers' responses are presented in appendix D.

**Table IV-8**  
**Steel nails: U.S. importers' U.S. shipments of imports from nonsubject sources, by form and type, 2007**

\* \* \* \* \*

### CRITICAL CIRCUMSTANCES

On June 16, 2008, Commerce issued its final determination that "critical circumstances" exist with regard to imports from China of steel nails from the "PRC-wide entity."<sup>4</sup> The PRC-wide entity consists of all firms in China producing or exporting steel nails other than the following entities for which Commerce did not find critical circumstances existed, (1) the Xingya Group; (2) Paslode Fasteners (Shanghai) Co., Ltd.; and (3) the 163 "separate rate" Chinese producers/exporters listed in Commerce's notice of final determination of sales at LTFV from China.<sup>5</sup> In this investigation, if both Commerce and

---

<sup>4</sup> 73 FR 3928, January 23, 2008, presented in app. A. When petitioners file timely allegations of critical circumstances, Commerce examines whether there is a reasonable basis to believe or suspect that (1) either there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales; and (2) there have been massive imports of the subject merchandise over a relatively short period.

<sup>5</sup> Critical circumstances were not found for the Xingya Group; Paslode Fasteners (Shanghai) Co., Ltd. (which has a zero dumping margin); and the separate rate Chinese producers/exporters.

the Commission make affirmative final critical circumstances determinations, subject imports from the PRC-wide entity will be subject to antidumping duties retroactive by 90 days from January 23, 2008.

Only two subject PRC-wide entity producers responded to the Commission's foreign producer questionnaire: \*\*\* are subject to the critical circumstances finding. These two accounted for \*\*\* percent of reported subject steel nails produced in China.<sup>6</sup> The following is Commerce's collected PRC-wide entity U.S. import data, by month (*in short tons*): October 2006 - 52,966; November 2006 - 40,004; December 2006 - 35,336; January 2007 - 42,259; February 2007 - 40,680; March 2007 - 38,643; April 2007 - 47,050; May 2007 - 61,244; June 2007 - 54,415; July 2007 - 66,766; August 2007 - 62,630; September 2007 - 63,858; October 2007 - 57,147; November 2007 - 42,418; December 2007 - 35,386; and January 2008 - 33,196.<sup>7</sup> For the six-month period December 2006 through May 2007 Commerce's total is 265,212 short tons and for June 2007 through November 2007 Commerce's total is 347,234 short tons, an increase of 31 percent. Using total Chinese import data compiled from official Commerce statistics for the same six-month periods for 2004-05 and 2005-06 show increases of 31 percent and 12 percent, respectively.

The following is staff's rendition of the PRC-wide entity U.S. import data, by month (*in short tons*) derived from proprietary Customs data:<sup>8</sup> October 2006 - 13,729; November 2006 - 10,971; December 2006 - 9,314; January 2007 - 11,849; February 2007 - 12,536; March 2007 - 11,462; April 2007 - 15,965; May 2007 - 18,930; June 2007 - 16,391; July 2007 - 21,446; August 2007 - 16,134; September 2007 - 17,532; October 2007 - 14,447; November 2007 - 12,321; December 2007 - 8,767; and January 2008 - 8,050. For the six-month period December 2006 through May 2007, staff's total is 80,056 short tons and for June 2007 through November 2007 staff's total is 98,271, an increase of 23 percent.

### NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.<sup>9</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 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>10</sup> Imports from China (\*\*\*) accounted for 69.8 percent of total imports of steel nails by quantity between May 2006 and April 2007.<sup>11</sup>

---

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

<sup>7</sup> Commerce subtracted the imports from ITW/Paslode and Xingya Group, and no other companies, from official Commerce statistics.

<sup>8</sup> Staff took the Customs data and subtracted those firms found to not have "critical circumstances."

<sup>9</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)).

<sup>10</sup> Section 771(24) of the Act (19 U.S.C. § 1677(24)).

<sup>11</sup> Calculated from official Commerce statistics. \*\*\* percent of imports from China were nonsubject imports in 2007.

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

Table IV-9 presents data on the apparent U.S. consumption of steel nails. Table IV-10 presents data on U.S. market shares. Figure IV-2 graphically presents data on apparent U.S. consumption.

Over the period for which data were collected in the investigation, total apparent U.S. consumption decreased. From 2005 to 2007, U.S. producers' U.S. shipments decreased, as did imports of steel nails from nonsubject sources, while subject imports from China increased irregularly.

**Table IV-9**  
**Steel nails: Apparent U.S. consumption, by sources, 2005-07**

Item	Calendar year		
	2005	2006	2007
<b>Quantity (short tons)</b>			
U.S. producers' U.S. shipments	275,448	196,601	143,868
U.S. imports from-- <sup>1</sup>			
China - subject	***	***	***
China - nonsubject	***	***	***
All other sources	425,250	312,644	206,818
Subtotal - nonsubject	***	***	***
Total imports	905,001	928,191	768,307
Apparent U.S. consumption	1,180,449	1,124,792	912,175
<b>Value (1,000 dollars)<sup>2</sup></b>			
U.S. producers' U.S. shipments	385,057	287,606	220,411
U.S. imports from-- <sup>1</sup>			
China - subject	***	***	***
China - nonsubject	***	***	***
All other sources	491,721	375,204	271,225
Subtotal - nonsubject	***	***	***
Total imports	882,879	861,198	763,859
Apparent U.S. consumption	1,267,936	1,148,804	984,270
<p><sup>1</sup> Ideally, U.S. importers' U.S. <u>shipments</u> should be used in the calculation of apparent U.S. consumption, since shipments reflect actual sales into the marketplace and would be valued on the same basis as U.S. producers' U.S. shipments. However, because of the incomplete coverage of responses to the Commission's importer questionnaire, it was necessary to use U.S. <u>imports</u> from official Commerce statistics rather than U.S. importers' U.S. shipments.</p> <p><sup>2</sup> F.o.b. U.S. point of shipment for U.S. producers' U.S. shipments, and landed, duty-paid for imports. It was not possible to report values of U.S. importers' U.S. <u>shipments</u> because of incomplete questionnaire coverage. Normally, unit values of U.S. importers' U.S. shipments are above those of U.S. imports. For example, in this investigation, U.S. importers' reported unit values of their <u>imports</u> of subject steel nails from China were \$*** per short ton in 2005, \$*** per short ton in 2006, and \$*** per short ton in 2007, whereas the unit values of their U.S. shipments of subject steel nails from China were \$*** per short ton in 2005, \$*** per short ton in 2006, and \$*** per short ton in 2007.</p>			
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.			

**Table IV-10**  
**Steel nails: Market shares, by sources, 2005-07**

Item	Calendar year		
	2005	2006	2007
<b>Share of quantity (percent)</b>			
U.S. producers' U.S. shipments	23.3	17.5	15.8
U.S. imports from-- China - subject	***	***	***
China - nonsubject	***	***	***
All other sources	36.0	27.8	22.7
Subtotal - nonsubject	***	***	***
All countries	76.7	82.5	84.2
<b>Share of value (percent)</b>			
U.S. producers' U.S. shipments	30.4	25.0	22.4
U.S. imports from-- China - subject	***	***	***
China - nonsubject	***	***	***
All other sources	38.8	32.7	27.6
Subtotal - nonsubject	***	***	***
All countries	69.6	75.0	77.6
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 2005 to 2007, while subject imports from China increased in both share of quantity and share of value. During 2005-07, nonsubject imports decreased as a share of the U.S. market by both quantity and value.

**Figure IV-2**  
**Steel nails: Apparent U.S. consumption, by sources, 2005-07**

\* \* \* \* \*

Table IV-11 presents information on the ratio of subject and nonsubject imports to U.S. production of steel nails. Over the period for which data were collected in the investigation, subject imports increased by \*\*\* percentage points as a ratio to U.S. production and nonsubject imports increased by \*\*\* percentage points over the period of investigation.

**Table IV-11**

**Steel nails: Ratios of U.S. imports to U.S. production, by sources, 2005-07**

Item	Calendar year		
	2005	2006	2007
U.S. production (in <i>short tons</i> )	276,358	196,488	146,259
<b>Ratio to U.S. production (<i>percent</i>)</b>			
U.S. imports from-- China - subject	***	***	***
China - nonsubject	***	***	***
All other sources	153.9	159.1	141.4
Subtotal - nonsubject	***	***	***
All countries	327.5	472.4	525.3
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.			

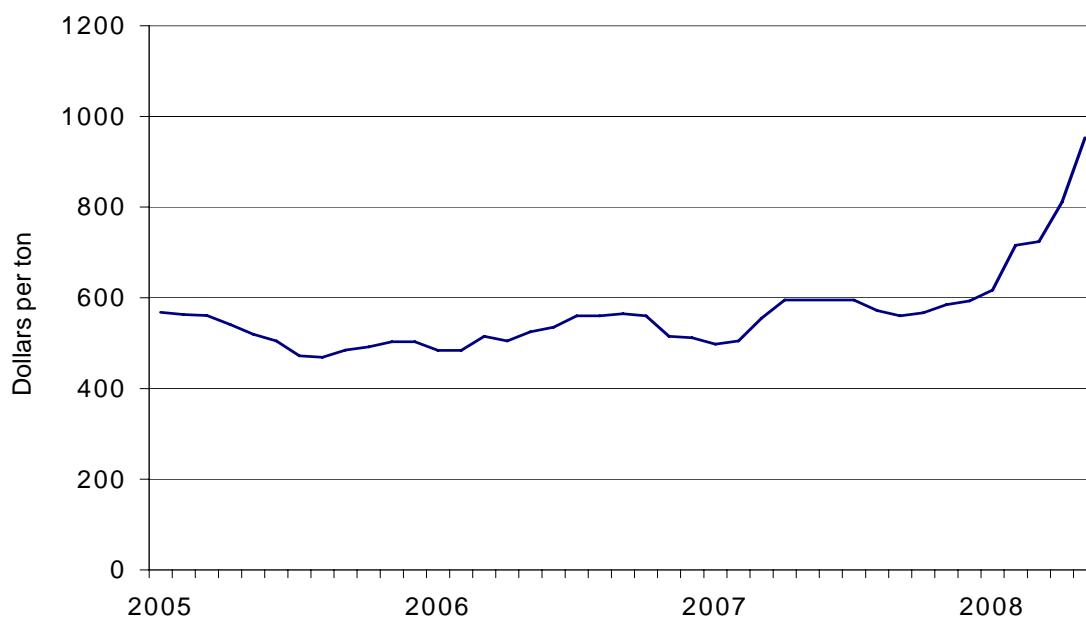
## PART V: PRICING AND RELATED INFORMATION

### FACTORS AFFECTING PRICES

#### Raw Materials

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).<sup>1</sup> Figure V-1 shows monthly prices of wire rod from 2005 to May 2008. Overall, prices varied during the period but began to increase dramatically in late 2007 and reached a period high in May 2008. Electricity and natural gas also are used in the production process for steel nails, and the costs of both also increased since 2005.<sup>2</sup>

**Figure V-1**  
**Low-carbon steel wire rod: Average monthly U.S. spot price in dollars per ton, January 2005-May 2008**



Source: Compiled from data published in Purchasing, Steel Price Transaction Report.

Producers and importers were asked to describe any trends in the prices of raw materials used to produce steel nails and whether they expect these trends to continue. All 13 responding producers<sup>3</sup> and

---

<sup>1</sup> However, cut nails are not drawn from wire, but rather cut from high-carbon steel sheet. Hearing transcript, p. 36 (McMorrow).

<sup>2</sup> U.S. Energy Information Administration, *Monthly Energy Review*, found at <http://www.eia.doe.gov/emeu/mer/contents.html>, retrieved June 17, 2008.

<sup>3</sup> Petitioners reported that raw material costs have increased substantially but that they have not been able to increase prices of steel nails enough to cover those increased costs. Hearing transcript, pp. 24, 27, and 31 (Libla, Cronin, and Kerkvliet).

42 responding importers<sup>4</sup> reported that raw material prices have increased since 2005, with 5 producers and 24 importers reporting that they expect the increases to continue. \*\*\* reported that the price of steel wire rod has increased 84.7 percent since 2006; \*\*\* reported that the price of steel wire rod has increased by 70 percent since October 2007; and \*\*\* reported that the price of steel wire rod is over \$1,000 per ton.

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

Transportation costs for certain steel nails to the United States (excluding U.S. inland costs) in 2007 are estimated to be equivalent to approximately 17.3 percent of the customs value for product from China. 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>5</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 12 U.S. producers and ranged from 4 to 15 percent, with 8 producers reporting transportation costs of 8 percent or less.<sup>6</sup> Reported U.S. inland transportation costs ranged from 1 to 25 percent of the total delivered cost for the 35 responding importers of steel nails, with 29 of those importers reporting U.S. inland transportation costs of 8 percent or less.

Twelve of the 14 responding U.S. producers reported that they arranged delivery, with 10 producers reporting that they shipped 45 percent or more of their steel nails between 101 and 1,000 miles and 3 reporting that they shipped at least 45 percent of their steel nails over 1,000 miles. Forty of the 42 responding importers reported that they arranged delivery, and 10 importers reported shipping 75 percent or more of their steel nails less than 100 miles. Eight importers reported that they shipped 70 percent or more of their steel nails between 101 and 1,000 miles, and three importers reported that they shipped 70 percent or more of their steel nails more than 1,000 miles.

### **Exchange Rates**

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese yuan appreciated relative to the U.S. dollar beginning in mid-2005 and continuing through the end of 2007 and into 2008 (figure V-2).<sup>7</sup>

---

<sup>4</sup> Stanley Fastening reported that price increases in 2007 were driven by raw material costs, which for wire rod increased more in China than in the United States. Stanley Fastening's posthearing brief, responses to questions from the Commission, p. 37 and hearing transcript, pp. 263-264 (Dutra). In addition, Stanley Fastening submitted price increase announcement letters from \*\*\* that attributed 2007 price increases to raw material costs, as well as other factors. Stanley Fastening's posthearing brief, exhibit F.

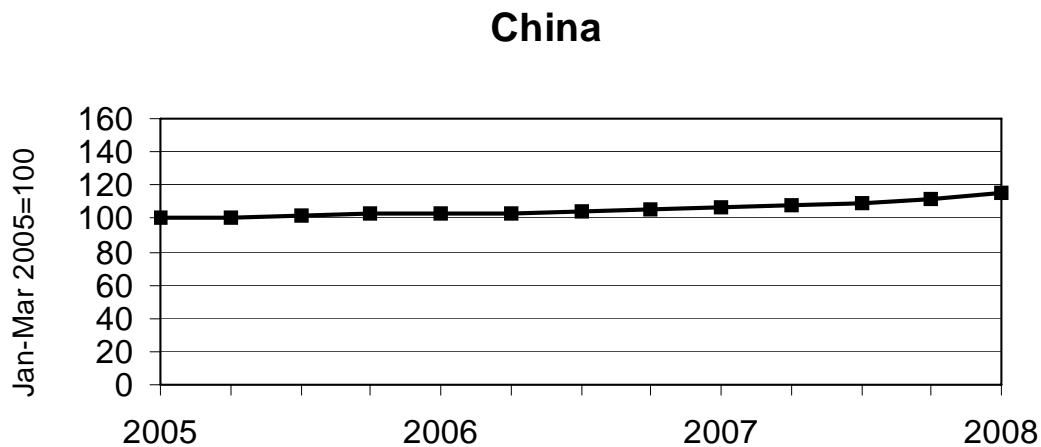
<sup>5</sup> These estimates are based on HTS subheadings 7317.00.55 (excluding statistical reporting number 7317.00.5501, roofing nails), 7317.00.65, and 7317.00.75.

<sup>6</sup> One producer apparently did not understand the question and reported a value of 100 percent.

<sup>7</sup> Real values of the Chinese yuan are not available.



**Figure V-2**  
**Exchange rates: Indices of the nominal exchange rate of the Chinese currency relative to the U.S. dollar, by quarters, January 2005-March 2008**



Source: International Monetary Fund, *International Financial Statistics*, retrieved from <http://ifs.apdi.net/imf/about.asp> on June 17, 2008.

## PRICING PRACTICES

### Pricing Methods

Five of the 14 responding U.S. producers reported using price lists to determine prices,<sup>8</sup> while 2 producers reported determining prices through transaction-by-transaction negotiations, and 2 producers reported using a “cost-plus” method to determine prices. Two producers reported that prices are largely determined by the price of competing imports, and three producers reported using both price lists and transaction-by-transaction negotiations.

Sixteen importers reported determining prices through transaction-by-transaction negotiations, 11 importers reported using price lists, and 3 reported using a combination of transaction-by-transaction negotiation and price lists. Six responding importers reported using a “cost-plus” method to determine price, and six reported that their prices were determined by market conditions. \*\*\* reported that it has different methods of determining prices depending on the end user and that it uses price lists, transaction-by-transaction negotiation, and other methods.

When asked to list the names of firms considered to be price leaders in the steel nails market, purchasers named a wide variety of companies, including U.S. producers, importers, and foreign producers. Sixteen purchasers named PrimeSource, seven named ITW, five named Stanley Fastening, and five named Hitachi Koki as price leaders. Other firms reported as price leaders in the steel nails market included Dubai Wire, Huttig, XM International, Tree Island, Southern Fastening, Senco, Mid Continent, and others. When asked how these firms exhibited price leadership, most purchasers reported that the firms named were the first to change prices and were followed by the rest of the market.

---

<sup>8</sup> \*\*\* reported that it has general price lists as well as price lists for individual customers, and \*\*\* reported that its price lists vary based on geographic region and end user.

## Sales Terms and Discounts

Five out of the 14 responding producers reported that sales terms are generally 2/10 net 30 days, and 6 reported that terms are net 30 days. The majority of importers reported sales terms of net 30 days. Five producers reported that prices are generally quoted on a f.o.b. basis; five reported that they generally quote delivered prices; and three reported that they quote prices at different levels. Among importers, 24 reported that they quote delivered prices, 6 reported that they quote f.o.b. prices, and 7 reported that they quote both f.o.b. and delivered.

Steel nails are sold almost exclusively on a spot basis.<sup>9</sup> Twelve of the 14 responding U.S. producers reported that 97 percent or more of their sales were made on a spot basis, with one producer reporting that 80 percent of its sales were made on a short-term contract basis. Thirty of 42 responding importers also reported that 85 percent or more of their sales were made on a spot basis. Nine importers reported that at least 75 percent of their sales were on a short-term contract basis, and two reported that nearly 100 percent of their sales were on a long-term contract basis.<sup>10</sup>

The three producers that reported some use of short-term contracts reported that short-term contracts are generally \*\*\* in length, with \*\*\* fixed, and renegotiations \*\*\*. Two producers reported that the contracts \*\*\* meet-or release provisions.

One producer reported some use of long-term contracts, and it reported that contracts are generally from \*\*\* in length, with \*\*\* fixed, renegotiations \*\*\*, and \*\*\* meet-or-release provisions.

Importers reported that short-term contracts are generally from two weeks to up to one year in length, with both price and quantity fixed or just price fixed, and no meet-or-release provisions. Importers reported that renegotiations are generally not possible for short-term contracts. The three importers that reported some use of long-term contracts reported that long-term contracts are generally \*\*\* in length, with \*\*\* fixed, renegotiations \*\*\*, and \*\*\* meet-or-release provisions.

Ten of the 14 responding U.S. producers reported having some sort of discount policy. Eight of the producers reported giving some sort of quantity discounts, one reported giving discounts based on payment terms, and one reported giving discounts based on quantity, payment terms, and quarterly and annual sales growth.

Twenty-six of 40 responding importers reported giving some sort of discounts, with most reporting quantity discounts. Six importers also reported giving discounts for early payment or cash payment, while others reported that discounts are given on a case-by-case basis as a result of negotiation. Fifteen importers reported that they have no discount policy.

## PRICE DATA

The Commission requested U.S. producers and importers of steel nails to provide quarterly data for the total quantity and net f.o.b. (U.S. point of shipment) value of steel nails that were shipped to

---

<sup>9</sup> Petitioners reported that purchasers generally buy on a weekly or monthly basis. Hearing transcript, pp. 106-107 (Libla, Kerkvliet, Cronin, and Dees). In addition, petitioners reported that some purchasers may send out bid requests and that others continue buying nails from a producer as long as it is price-competitive. Hearing transcript, p. 147 (Kerkvliet).

<sup>10</sup> \*\*\* reported some use of long-term contracts but specified contract lengths of \*\*\* and so these answers were considered to be for short-term contracts as per the definitions in the questionnaire.

unrelated customers in the U.S. market.<sup>11</sup> Data were requested for the period January 2005 to December 2007. The products for which pricing data were requested are defined as follows:<sup>12</sup>

**Product 1.**—10d 3" by 0.128"-0.131" (10.25 gauge) bright smooth, 20-22 degree plastic-strip collated nails;

**Product 2.**—10d 3" by 0.118"-0.121" (11 gauge) bright smooth, 20-22 degree plastic-strip collated nails;

**Product 3.**—8d 2<sup>3</sup>/<sub>8</sub>" by 0.110"-0.113" (11.5 gauge) bright screw and ring shank nails, 20-22 degree plastic-strip collated nails;

**Product 4.**—16d 3.25" by 0.148" (9 gauge) smooth vinyl- or cement-coated sinkers, bulk;

**Product 5.**—6d 2" by 0.112"-0.115" (11.5 gauge) bright drive screw (threaded), bulk;

**Product 6.**—6d 2" by 0.096"-0.099" (12.5 gauge) bright screw (threaded), 15 degree wire coil collated nails;

**Product 7.**—16d 3.25" by 0.128"-0.131" (10.25 gauge) bright smooth, 20-22 degree plastic-strip collated nails; and

**Product 8.**—5d 1.75" by 0.082"-0.086" (13.5 gauge) bright screw (threaded) 15 degree wire coil collated nails.

---

<sup>11</sup> Petitioners reported that there may be problems with the data reported by importers, including that some of the reported price data may include the prices of parts and services along with the price of the nails. Petitioners' posthearing brief, p. 6. Stanley Fastening compared the prices of nails sold to the construction sector with the prices of nails sold to the industrial sector, where its "fastening solutions" products (including tools and service) are sold, and found that \*\*\*. It also reported that it \*\*\* and that, of the remaining six pricing products, only product 6 is sold to the industrial sector. Stanley Fastening's posthearing brief, responses to questions from the Commission, pp. 29-30 and exhibit H. Stanley Fastening also reported that \*\*\*. Stanley Fastening's posthearing brief, p. 5 and exhibit B.

<sup>12</sup> Since the preliminary phase of the investigation, the definitions of products 1 through 6 have been broadened and products 7 and 8 were added. In addition, for products 1, 2, 3, 6, 7, and 8 (collated nails), quantities were requested in "thousand count of nails," and for products 4 and 5 (bulk nails), quantities were requested in short tons.

Ten U.S. producers<sup>13</sup> and 32 importers of steel nails from China<sup>14</sup> provided usable pricing data for sales of the requested products, although not all firms reported pricing for all quarters.<sup>15</sup> Tables V-1 through V-8 and figures V-3 through V-10 present f.o.b. (U.S. point of shipment) selling prices to unrelated customers for the eight products defined above produced and sold in the United States as well as for products produced in China and sold in the United States.<sup>16</sup> In addition, responding importers also reported quarterly price data for imports of steel nails from several nonsubject countries, and these pricing data are presented in appendix G.

---

<sup>13</sup> \*\*\* reported pricing data. \*\*\*, which collectively accounted for \*\*\* percent of U.S. production of steel nails in 2007, did not report pricing data. Senco reported price data during the preliminary phase of the investigation, but did not return phone calls from staff to explain why it did not report price data during this final phase. \*\*\* reported that they did not produce any of the pricing products.

<sup>14</sup> \*\*\* reported pricing data for their imports from China. \*\*\* reported price data for \*\*\* that included pre-paid freight, and \*\*\* reported annual data for products 4 and 6 that were divided equally among the four quarters. \*\*\* reported data for the collated products in short tons, so their reported data have not been included. \*\*\* reported data for all sources combined (China and nonsubject), and \*\*\* reported unit values but not associated quantities, so those data have not been included. Petitioners reported that there may be problems with the data reported by importer \*\*\*, specifically that \*\*\*. Petitioners' posthearing brief, p. 7. However, staff confirmed that \*\*\* and that it did report f.o.b. prices that were net of all discounts, rebates, etc., as requested by the Commission in the importer questionnaire. Staff telephone interview with \*\*\*. Petitioners also claimed that there may be problems with the data reported by \*\*\*. Petitioners' posthearing brief, pp. 6-7 and exhibit 1, pp. 10-15. Although \*\*\*. In addition, staff attempted to contact \*\*\* on numerous occasions in order to confirm the reported data, but staff phone calls were not returned.

<sup>15</sup> Price data excluding U.S. producers Senco, Specialty Fastening, and Stanley Fastening as related parties are included in app. F.

<sup>16</sup> Quantities for the collated nail products (six of the eight pricing products) were requested in thousand count of nails. It is not possible to accurately convert quantities measured in thousand count of nails to short tons, and so the coverage represented by reported price data on a quantity basis cannot be calculated. On a value basis, pricing data for the eight products reported by responding firms accounted for 14.0 percent of U.S. producers' U.S. shipments of steel nails in 2007 and \*\*\* percent of subject U.S. imports of steel nails from China in 2007.

**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 2005-December 2007**

Period	United States		China		
	Quantity (thousand count of nails)	Price (per thousand count of nails)	Quantity (thousand count of nails)	Price (per thousand count of nails)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	431,677	\$5.33	***
Apr.-June	***	***	634,491	5.49	***
July-Sept.	***	***	658,437	5.36	***
Oct.-Dec.	***	***	404,447	5.01	***
<b>2006:</b>					
Jan.-Mar.	***	***	590,385	4.93	***
Apr.-June	***	***	843,606	4.71	***
July-Sept.	***	***	801,987	4.72	***
Oct.-Dec.	***	***	658,140	4.66	***
<b>2007:</b>					
Jan.-Mar.	***	***	633,891	4.66	***
Apr.-June	***	***	896,604	4.38	***
July-Sept.	***	***	1,088,108	4.81	***
Oct.-Dec.	***	***	622,468	5.03	***
<sup>1</sup> Product 1.--10d 3" by 0.128"-0.131" (10.25 gauge) bright smooth, 20-22 degree 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 1, by quarters, January 2005-December 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 2005-December 2007**

Period	United States		China		
	Quantity (thousand count of nails)	Price (per thousand count of nails)	Quantity (thousand count of nails)	Price (per thousand count of nails)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	437,322	\$3.97	***
Apr.-June	***	***	526,269	4.02	***
July-Sept.	***	***	448,690	3.99	***
Oct.-Dec.	***	***	304,373	4.04	***
<b>2006:</b>					
Jan.-Mar.	***	***	556,633	4.05	***
Apr.-June	***	***	1,145,576	3.65	***
July-Sept.	***	***	711,213	3.94	***
Oct.-Dec.	***	***	548,296	3.87	***
<b>2007:</b>					
Jan.-Mar.	***	***	630,779	3.66	***
Apr.-June	***	***	468,486	4.16	***
July-Sept.	***	***	560,806	4.28	***
Oct.-Dec.	***	***	459,902	4.39	***
<sup>1</sup> Product 2.--10d 3" by 0.118"-0.121" (11 gauge) bright smooth, 20-22 degree 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 2, by quarters, January 2005-December 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 2005-December 2007**

Period	United States		China		
	Quantity (thousand count of nails)	Price (per thousand count of nails)	Quantity (thousand count of nails)	Price (per thousand count of nails)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	147,373	\$4.83	***
Apr.-June	***	***	216,613	4.50	***
July-Sept.	***	***	196,212	4.83	***
Oct.-Dec.	***	***	217,397	4.43	***
<b>2006:</b>					
Jan.-Mar.	***	***	244,975	4.36	***
Apr.-June	***	***	287,824	4.22	***
July-Sept.	***	***	250,300	4.33	***
Oct.-Dec.	***	***	213,806	4.12	***
<b>2007:</b>					
Jan.-Mar.	***	***	232,724	3.96	***
Apr.-June	***	***	240,786	3.98	***
July-Sept.	***	***	293,462	4.27	***
Oct.-Dec.	***	***	174,052	4.41	***
<p><sup>1</sup> Product 3.--8d 2-<sup>3</sup>/<sub>8</sub>" by 0.110"-0.113" (11.5 gauge) bright screw and ring shank nails, 20-22 degree plastic-strip collated nails.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>					

**Figure V-5**

**Certain steel nails: Weighted-average prices of domestic and imported product 3, by quarters, January 2005-December 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 2005-December 2007**

Period	United States		China		
	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	6,720	\$711	***
Apr.-June	***	***	7,713	718	***
July-Sept.	***	***	7,349	722	***
Oct.-Dec.	***	***	6,834	666	***
<b>2006:</b>					
Jan.-Mar.	***	***	8,290	667	***
Apr.-June	***	***	9,055	646	***
July-Sept.	***	***	8,423	644	***
Oct.-Dec.	***	***	5,340	675	***
<b>2007:</b>					
Jan.-Mar.	***	***	5,848	663	***
Apr.-June	***	***	6,466	663	***
July-Sept.	***	***	5,958	702	***
Oct.-Dec.	***	***	4,649	745	***
<sup>1</sup> Product 4.--16d 3.25" by 0.148" (9 gauge) smooth vinyl- or cement-coated sinkers, 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 4, by quarters, January 2005-December 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 2005-December 2007**

Period	United States		China		
	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	***	***	***
Apr.-June	***	***	666	907	***
July-Sept.	***	***	895	884	***
Oct.-Dec.	***	***	885	881	***
<b>2006:</b>					
Jan.-Mar.	***	***	1,094	872	***
Apr.-June	***	***	1,474	855	***
July-Sept.	***	***	1,373	860	***
Oct.-Dec.	***	***	1,271	859	***
<b>2007:</b>					
Jan.-Mar.	***	***	1,556	847	***
Apr.-June	***	***	1,519	841	***
July-Sept.	***	***	1,470	859	***
Oct.-Dec.	***	***	1,251	843	***
<sup>1</sup> Product 5.--6d 2" by 0.112"-0.115" (11.5 gauge) bright drive screw (threaded), bulk. Source: Compiled from data submitted in response to Commission questionnaires.					

**Figure V-7**

**Certain steel nails: Weighted-average prices of domestic and imported product 5, by quarters, January 2005-December 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 2005-December 2007**

Period	United States		China		
	Quantity (thousand count of nails)	Price (per thousand count of nails)	Quantity (thousand count of nails)	Price (per thousand count of nails)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	1,239,283	\$2.77	***
Apr.-June	***	***	1,314,693	2.71	***
July-Sept.	***	***	1,282,814	2.74	***
Oct.-Dec.	***	***	1,349,003	2.72	***
<b>2006:</b>					
Jan.-Mar.	***	***	1,163,346	2.64	***
Apr.-June	***	***	1,356,956	2.59	***
July-Sept.	***	***	1,284,186	2.59	***
Oct.-Dec.	***	***	1,461,114	2.72	***
<b>2007:</b>					
Jan.-Mar.	***	***	1,539,180	2.46	***
Apr.-June	***	***	1,963,004	2.45	***
July-Sept.	***	***	2,132,984	2.50	***
Oct.-Dec.	***	***	1,956,097	2.62	***
<p><sup>1</sup> Product 6.--6d 2" by 0.096"-0.099" (12.5 gauge) bright screw (threaded), 15 degree wire coil collated nails.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>					

**Figure V-8**

**Certain steel nails: Weighted-average prices of domestic and imported product 6, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table V-7**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 7 and margins of underselling/(overselling), by quarters, January 2005-December 2007**

\* \* \* \* \*

**Figure V-9**

**Certain steel nails: Weighted-average prices of domestic and imported product 7, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table V-8**  
**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 8 and margins of underselling/(overselling), by quarters, January 2005-December 2007**

\*       \*       \*       \*       \*       \*       \*

**Figure V-10**  
**Certain steel nails: Weighted-average prices of domestic and imported product 8, by quarters, January 2005-December 2007**

\*       \*       \*       \*       \*       \*       \*

### Price Trends

U.S. producers' average prices for collated products 2, 3, and 8 were fairly steady throughout the period, with the products showing increased prices in the second half of 2007. The prices of U.S.-produced collated products 1, 6, and 7 tended to decrease during the period before increasing in the second half of 2007. For the bulk nails products, \*\*\* reported data for product 4, and the price trend for that product is erratic due to \*\*\* reported. The prices of U.S.-produced product 5 decreased from the second to fourth quarter of 2005 and then showed generally steady increases through the end of 2007.

Prices of the collated nail products 1, 2, 3, 6, and 7 imported from China generally show patterns similar to that seen in prices of U.S.-produced products; the prices of product 8 imported from China generally increased during the period. Prices of imports from China of product 4 showed little variation throughout the period, and prices of product 5 generally decreased throughout the period.

### Price Comparisons

Overall, there is no clear-cut pattern of underselling among the eight products imported from China (*see* table V-9). In total, products imported from China undersold the U.S.-produced product in 51 of 96 possible quarterly comparisons.<sup>17</sup> Imports from China undersold U.S.-produced products 2 and 8 in 23 of 24 quarters but imports from China of products 1 and 3 were priced higher than the U.S. product in 23 of 24 quarters. In addition, for products 5, 6, and 7, where there was a mix of underselling and overselling, the average margins of underselling were smaller than the average margins of overselling.

Product 1 is a collated nail product, 3 inches by 0.128-0.131 inch in dimension. In the 12 quarters where comparisons were possible with sales of steel nails from China, the imported product undersold the U.S.-produced product in 1 quarter, with a margin of underselling of \*\*\* percent. In the 11 quarters where overselling occurred, the margins ranged from 1.7 to 10.8 percent (table V-1).

---

<sup>17</sup> The \*\*\* reported for U.S.-produced product 4 renders price comparisons for that product \*\*\*. Excluding product 4, products imported from China undersold the U.S.-produced product in 42 of 84 total possible comparisons.

**Table V-9**  
**Steel nails: Instances of underselling/(overselling) and the range and average margins, by source country, by product, January 2005 - December 2007**

Country and product	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
<b>China:</b>						
1	1	***	***	11	1.7 to 10.8	4.9
2	11	1.2 to 13.6	7.8	1	***	***
3	0	--	--	12	12.2 to 34.8	19.4
4	9	5.0 to 45.2	22.4	3	9.3 to 31.8	18.7
5	4	1.6 to 5.6	3.2	8	2.8 to 10.8	5.8
6	8	0.1 to 10.6	4.2	4	1.8 to 6.6	4.9
7	6	0.6 to 5.7	3.3	6	0.8 to 9.8	4.1
8	12	8.2 to 32.1	16.9	0	--	--
<b>Total</b>	51	0.1 to 45.2	8.4	45	0.8 to 34.8	8.5
Source: Compiled from data submitted in response to Commission questionnaires.						

Product 2 is a collated nail product, 3 inches by 0.118-0.121 inch in dimension. The product imported from China undersold the U.S.-produced product in 11 of 12 possible quarterly price comparisons, with margins of underselling ranging from 1.2 to 13.6 percent and oversold the U.S.-produced product in 1 quarter, with a margin of \*\*\* percent (table V-2).

Product 3 is a collated nail product, 2.375 inches by 0.11-0.113 inch in dimension. Imports from China oversold the U.S. product in all 12 quarters where comparisons were possible (table V-3).

Product 4 is a bulk nail product, 3.25 inches by 0.148 inch in dimension. In the 12 quarters where comparisons were possible, imports from China undersold the U.S.-produced product in 9 quarters (table V-4). However, due to the \*\*\*, these comparisons are \*\*\*.

Product 5 is a bulk nail product, 2 inches by 0.112-0.115 inch in dimension. The product imported from China undersold the U.S.-produced product in four quarterly price comparisons, with margins of underselling ranging from 1.6 to 5.6 percent (table V-5). In the eight quarters where overselling occurred, the margins ranged from 2.8 to 10.8 percent.

Product 6 is a collated nail product, 2 inches by 0.096-0.099 inch in dimension. In the 12 quarters where comparisons were possible, the imports from China undersold the U.S.-produced product in 8 quarters, with margins of underselling ranging from 0.1 to 10.6 percent and oversold the U.S.-produced product in 4 quarters, with margins ranging from 1.8 to 6.6 percent (table V-6).

Product 7 is a collated nail product, 3.25 inches by 0.128-0.131 inch in dimension. Imports from China undersold the U.S.-produced product in 6 of the 12 quarters where comparisons were possible, with margins of underselling ranging from 0.6 to 5.7 percent (table V-7). In the six quarters where overselling occurred, the margins ranged from 0.8 to 9.8 percent.

Product 8 is a collated nail product, 1.75 inches by 0.082-0.086 inch in dimension. The product imported from China undersold the U.S.-produced product in all 12 quarterly price comparisons, with margins of underselling ranging from 8.2 to 32.1 percent (table V-8).

### LOST SALES AND LOST REVENUES

The Commission requested that U.S. producers of steel nails report any instances of lost sales and lost revenues experienced due to competition from imports from China since January 1, 2004. Petitioners provided a list of 209 alleged lost sales (involving 75 customers) to imports of steel nails from China totaling \*\*\*.<sup>18</sup> Petitioners also reported 203 lost revenue allegations (involving 103 customers) totaling \*\*\* and attributable to lower prices caused by competition from imports from China. From the allegations reported in the petition, staff attempted to contact 13 purchasers associated with \*\*\*, or 88.6 percent, of those lost sales and 11 customers involved in \*\*\*, or 87.4 percent, of those alleged lost revenues. In addition, \*\*\* submitted additional lost sales (\*\* short tons and \$\*\*\*) and lost revenue (\$\*\*\*) allegations and \*\*\* submitted lost revenue (\$\*\*\*) allegations in their questionnaire responses for the final phase of the investigation, and staff also attempted to contact those purchasers.

In total, staff was able to confirm \*\*\* of the \*\*\* total investigated lost sales and \*\*\* of the \*\*\* total investigated lost revenues. Those selected lost sales and lost revenue allegations are presented in tables V-10 and V-11.<sup>19</sup> Additional information, where relevant, is summarized in the individual responses below.

**Table V-10**  
**Steel nails: U.S. producers' lost sales allegations concerning imports from China**

\*       \*       \*       \*       \*       \*       \*

**Table V-11**  
**Steel nails: U.S. producers' lost revenue allegations concerning imports from China**

\*       \*       \*       \*       \*       \*       \*

During the preliminary phase of the investigation, other non-petitioning U.S. producers reported that they had experienced lost sales and/or lost revenues since 2004. Of these, only \*\*\* reported contact information and total dollar values lost. \*\*\* did not report quantities for its \*\*\* lost sales allegations, and \*\*\* did not report in which countries the imported nails were produced, and so staff did not attempt to verify those allegations.

During the final phase of the investigation, \*\*\* reported that they had lost sales or lost revenues due to competition from imports. However, not enough information was provided by these producers for staff to attempt to verify these allegations.<sup>20</sup>

---

<sup>18</sup> These total values have changed somewhat since average values for all products were used to calculate total values during the preliminary phase of the investigation, and more product-specific formulas have been used to calculate total values during the final phase. In addition, all allegations involving imports from the United Arab Emirates have been removed from this section of the report.

<sup>19</sup> The tables present the lost sale and lost revenue allegations aggregated by customer.

<sup>20</sup> \*\*\* reported that there was no documentation to support their allegations; \*\*\* reported that it had lost both sales and revenues but did not supply any specific information as requested; \*\*\* reported that it had lost both sales and revenues but that the amount of activity in relation to its overall volume was not significant; \*\*\* reported that it had lost revenues but did not supply any specific information as requested; \*\*\* reported information on lost sales but gave total quantities for 2005 through 2007 along with price ranges, rather than specific instances of lost sales; and

(continued...)

\*\*\*21 \*\*\*.  
\*\*\*22 \*\*\*23 \*\*\*.  
\*\*\*24 \*\*\*.

---

<sup>20</sup> (...continued)

\*\*\* reported that it had lost revenues but did not report quantities involved or the accepted U.S. price.

<sup>21</sup> \*\*\*.

<sup>22</sup> \*\*\*.

<sup>23</sup> \*\*\*.

<sup>24</sup> \*\*\*. Staff telephone interview with \*\*\*.

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

### **BACKGROUND**

Fourteen producers<sup>1</sup> provided usable financial data on their operations producing steel nails. These reported data are believed to represent the great majority 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 2005 and 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 in both 2006 and 2007, offsetting somewhat the fall in volume. The average unit value of cost of goods sold ("COGS") and selling, general, and administrative ("SG&A") expenses combined also increased between 2005 and 2007 by more than the increase in sales unit value. The value of operating income fell between 2005 and 2007 as well, whether expressed as a ratio to net sales or on a per-unit basis.

---

<sup>1</sup> The firms are: Air Nail/ISM; Davis Wire; Gerdau; ITW-Paslode; Keystone; Maze Nails; Mid Continent; Senco; Simplex; Specialty Fastening; Stanley Fastening; Treasure Coast; Tree Island; and Wheeling-LaBelle. With the exception of \*\*\*, U.S. producers reported on the basis of fiscal years that end in December. \*\*\*. Differences between data reported in the trade and financial sections of the Commission's producers' questionnaire are primarily attributable to these timing differences. Data differences between the preliminary phase and final phase investigations include: corrections made by several firms because their data were estimated in the preliminary phase due to time constraints or because the product's scope was clarified or changed. For example, ITW-Ramset and ITW-Industrial Fastening provided data in the preliminary phase but those data have been withdrawn as they covered nonsubject product; and \*\*\*. Finally, \*\*\* provided data in the final phase of the investigation.

**Table VI-1**  
**Steel nails: Results of operations of U.S. producers, fiscal years 2005–07**

Item	Fiscal year		
	2005	2006	2007
<b>Quantity (short tons)</b>			
Total net sales <sup>1</sup>	279,790	204,082	155,699
<b>Value (\$1,000)</b>			
Total net sales <sup>1</sup>	391,509	299,920	238,774
<b>COGS:</b>			
Raw materials	199,806	150,834	122,712
Direct labor	38,504	29,562	19,542
Other factory costs	88,342	71,490	57,206
Total COGS	326,652	251,886	199,460
Gross profit	64,857	48,034	39,314
SG&A expenses	36,098	29,812	30,184
Operating income	28,759	18,222	9,130
Interest expense	710	1,178	1,364
Other expense	263	766	297
Other income	771	819	1,430
Net income	28,557	17,097	8,899
Depreciation	11,027	10,213	8,980
Cash flow	39,584	27,310	17,879
<b>Ratio to total net sales (percent)</b>			
<b>COGS:</b>			
Raw materials	51.0	50.3	51.4
Direct labor	9.8	9.9	8.2
Other factory costs	22.6	23.8	24.0
Total COGS	83.4	84.0	83.5
Gross profit	16.6	16.0	16.5
SG&A expenses	9.2	9.9	12.6
Operating income	7.3	6.1	3.8
Net income	7.3	5.7	3.7

Table continued on following page.



**Table VI-1--Continued**  
**Steel nails: Results of operations of U.S. producers, fiscal years 2005-07**

Item	Fiscal year		
	2005	2006	2007
<b>Unit value of net sales (per short ton)</b>			
Total net sales	\$1,399	\$1,470	\$1,534
COGS:			
Raw materials	714	739	788
Direct labor	138	145	126
Other factory costs	316	350	367
Total COGS	1,167	1,234	1,281
Gross profit	232	235	253
SG&A expenses	129	146	194
Operating income	103	89	59
Net income	102	84	57
<b>Number of firms reporting<sup>2</sup></b>			
Operating losses	7	8	8
Data	14	14	14
<sup>1</sup> ***. <sup>2</sup> The number of reporting firms differs from that in the preliminary phase of these investigations. ***, which did not provide financial data in the preliminary phase, is included in this data set, and ***.  Note.--Because of rounding, figures may not add to the totals shown.  Source: Compiled from data submitted in response to Commission questionnaires.			

The Commission majority determined that appropriate circumstance existed in the preliminary phase of these investigations to exclude four U.S. producers (ITW, Senco, Specialty Fastening, and Stanley Fastening) from the domestic industry as related parties.<sup>2</sup> The Commission stated that it would reexamine the appropriate application of the related parties provision as well as the factual allegations. Financial data on U.S. producers' operations excluding Senco, Specialty Fastening, and Stanley Fastening are presented in appendix H.

Table VI-2 presents data on total net sales, COGS, SG&A expenses, and operating income on a firm-by-firm basis.

---

<sup>2</sup> Views of the Commission, p. 13. Commissioner Lane determined that appropriate circumstances existed in the preliminary investigations to exclude three U.S. producers (ITW, Senco, and Stanley Fastening). *Id.*, fn. 47. Commerce has since determined that ITW-Paslode's imports from China are being fairly traded (73 FR 33977, June 16, 2008); hence, that firm no longer qualifies as a related party.

**Table VI-2**  
**Steel nails: Results of operations of U.S. producers, by firms, fiscal years 2005-07**

\* \* \* \* \*

The decline in the value of net sales between 2005 and 2007 was precipitous (39 percent), affecting each of the reporting firms \*\*\*. The decline in operating income was 68 percent at the industry-wide level; the decline in operating margins (operating income or loss as a percentage of net sales) was 3.5 percentage points. From 2005 to 2007, 12 of the 14 producers (except \*\*\*) reported lower operating margins, and the number of firms reporting operating losses increased from seven to eight. Several firms reported closing plants or discontinuing operations in part or altogether, including \*\*\*.<sup>3</sup> The effects of these closures or reduced operations are shown in the increased unit values of COGS and SG&A expenses.

Seven U.S. producers provided financial data on their operations that included both their U.S. production and their direct imports and/or their purchases of imported subject nails from China (“consolidated sales”).<sup>4</sup> These data are presented in appendix H, table H-2 for fiscal years 2005-07. Consolidated sales decreased \*\*\*, by quantity and value, but fell less than the firms’ sales of their U.S. production (\*\*\*, by quantity and value, respectively). The consolidated operations generally are \*\*\* more profitable than their U.S. operations alone for \*\*\* of the firms (\*\*\*) ; operating profit for the seven firms together fell \*\*\*.

No producer purchases nails and collates them. 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. Two reporting U.S. producers (\*\*\*) are fully integrated in that they melt and cast steel that they use to produce wire rod, which they then 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. Lastly, \*\*\* 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. The ratio of raw materials to total net sales increased \*\*\* although the average unit value of raw materials increased, as shown by the data in table VI-1. The share of total COGS accounted for by raw materials also has grown irregularly from 2005 to 2007.

A variance analysis for the 14 U.S. producers is presented in table VI-3. 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 2005 and 2007, the unfavorable operating income variance of \$19.6 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).

---

<sup>3</sup> U.S. producers’ questionnaires, responses to question II-2. *See also*, Part III in this report.

<sup>4</sup> These U.S. producers are: \*\*\*. The data in appendix H differ from those in the prehearing report in that \*\*\*.

<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.appaltree.net/aba/nails.htm>, and <http://www.glasgowsteelnail.com/nailmaking.htm>.

**Table VI-3**  
**Steel nails: Variance analysis on results of operations of U.S. producers, fiscal years 2005-07**

Item	Fiscal years		
	2005-07	2005-06	2006-07
Total net sales:			
Price variance	20,905	14,349	9,958
Volume variance	(173,640)	(105,938)	(71,104)
Total net sales variance	(152,735)	(91,589)	(61,146)
Cost of goods sold:			
Cost variance	(17,683)	(13,622)	(7,290)
Volume variance	144,875	88,388	59,716
Total cost of goods variance	127,192	74,766	52,426
Gross profit variance	(25,543)	(16,823)	(8,720)
SG&A expenses:			
Expense variance	(10,096)	(3,482)	(7,440)
Volume variance	16,010	9,768	7,068
Total SG&A variance	5,914	6,286	(372)
Operating income variance	(19,629)	(10,537)	(9,092)
Summarized as:			
Price variance	20,905	14,349	9,958
Net cost/expense variance	(27,779)	(17,104)	(14,730)
Net volume variance	(12,755)	(7,782)	(4,320)
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.			

**CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES,  
AND INVESTMENT IN PRODUCTIVE FACILITIES**

The responding firms' data on capital expenditures and research and development ("R&D") expenses related to the production of steel nails are shown in table VI-4.

**Table VI-4**  
**Steel nails: Capital expenditures and R&D expenses of U.S. producers, fiscal years 2005-07**

\* \* \* \* \*

## 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 2005 to 2007. Operating income (shown in table VI-1) was divided by total assets, resulting in ROI, shown in table VI-5.

**Table VI-5**

**Steel nails: Value of assets used in the production, warehousing, and sale, and return on investment, 2005-07**

\* \* \* \* \*

Property, plant, and equipment costs fell by \$\*\*\* and \$\*\*\*, original cost basis and book value basis, between 2005 and 2007, respectively. This drop is mostly attributable to the plant closures noted earlier, and is accounted for mainly by data reported by \*\*\*.

## 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 I.

## PART VII: THREAT CONSIDERATIONS AND *BRATSK* INFORMATION

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and 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. Also presented in this section of the report is information obtained for consideration by the Commission in relation to *Bratsk* rulings.

### THE SUBJECT INDUSTRY IN CHINA

The petition identified 75 alleged producers of steel nails in China. Table VII-1 lists information on eight Chinese firms<sup>1</sup> which responded to the Commission's questionnaire in the final phase of this investigation; 43 firms (accounting for about 71 percent of U.S. imports of steel nails from China in 2006) responded in the preliminary phase of the investigation.<sup>2</sup> The eight responding subject firms accounted for \*\*\* percent of U.S. imports of subject steel nails from China during 2007.<sup>3</sup> Table VII-2 presents data for these eight firms during 2005-07, and forecasts for 2008 and 2009.

**Table VII-1**

**Steel nails: Reporting Chinese producers/exporters, their 2007 production, exports to the United States, and share of reported Chinese exports to the United States**

\* \* \* \* \*

**Table VII-2**

**Steel nails: Subject Chinese producers' operations, 2005-07 and projected 2008-09**

\* \* \* \* \*

Reported Chinese capacity and production of steel nails increased considerably from 2005 to 2007, and capacity utilization fluctuated around \*\*\* percent. Reported Chinese exports of steel nails to the United States increased by over \*\*\* percent from 2005 to 2007. Several Chinese producers cited the 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 \*\*\* over the period, but are much smaller in volume than exports from China to the United States.

---

<sup>1</sup> Paslode Fasteners (Shanghai) Co., Ltd. was found by Commerce to have a dumping margin of zero and is thus not a subject producer, and the figures presented exclude it. Its 2007 production and exports to the United States were \*\*\* short tons and \*\*\* short tons, respectively.

<sup>2</sup> These 43 firms reported 525,419 short tons of steel nail production in 2006 (USITC Pub. 3939, Table VIII-2). In contrast, the eight subject firms responding in the final phase reported only \*\*\* short tons of steel nail production in 2007.

<sup>3</sup> In July 2007, China reduced its export tax rebate from 13 percent to 5 percent for steel nails. Petitioners' postconference brief, pp. 43-44, 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.

Of the eight responding subject Chinese producers, \*\*\* indicated in their questionnaire responses that they have plans to expand capacity. \*\*\* was the sole Chinese firm that indicated that it produced products (\*\*\*) using the same employees and machinery used in the production of steel nails.

### **TYPES OF SUBJECT NAILS EXPORTED FROM CHINA**

Table VII-3 presents information on Chinese producers'/exporters' reported subject exports to the United States, by type/finish in 2007. Nearly all such shipments of steel nails in 2007 were collated nails (mostly collated-bright nails).

**Table VII-3**  
**Steel nails: Reported subject Chinese exports to the United States, by type of nail and finish, 2007**

\* \* \* \* \*

Table VII-4 presents information on subject Chinese exports of subject steel nails, by form and type, in 2007 as reported in eight questionnaire responses. Collated flooring nails and "all other" collated nails accounted for the great majority of the reported nails from China.

**Table VII-4**  
**Steel nails: Subject Chinese producers' exports to the United States, by form and type, 2007**

\* \* \* \* \*

### **U.S. IMPORTERS' INVENTORIES**

Inventories of U.S. imports as reported are presented in table VII-5. Inventories of subject Chinese nails decreased irregularly from 2005 to 2007, and the ratios of inventories to imports and to U.S. shipments of imports declined. The ratios of inventories to imports and to U.S. shipments of imports increased substantially over the period for all other sources.

**Table VII-5**  
**Steel nails: U.S. importers' end-of-period inventories of imports, by source, 2005-07**

\* \* \* \* \*

### **U.S. IMPORTERS' CURRENT ORDERS**

Twenty-nine U.S. importers reported that they had placed orders for subject steel nails from China scheduled for entry into the United States in 2008. Table VII-6 presents U.S. importers' 2008 orders for subject steel nails from China; seven importers either did not report volumes or reported in quantities other than tonnage (e.g., containers, boxes).

**Table VII-6**  
**Steel nails: U.S. importers' current orders of subject nails from China, 2008**

\* \* \* \* \*

## 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 in third-country markets. However, on November 29, 2004, Mexico imposed an antidumping duty order on concrete steel nails from China that is still in effect.<sup>4</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>5</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 by country. The leading nonsubject countries are the UAE (accounting for 6.5 percent of total U.S. imports of steel nails during 2007), Korea (5.3 percent), Canada (4.3 percent), Taiwan (4.3 percent), Mexico (2.0 percent), Malaysia (1.4 percent), and Poland (0.9 percent), with 38 other countries ranging between less than 0.05 percent and 0.6 percent of 2007 imports (table VII-7). The unit values of imports from each of the named nonsubject countries, except for Malaysia, were higher than the unit values of imports from China in each of the calendar years; unit values may be affected by the product mix.

---

<sup>4</sup> Petitioners’ prehearing brief, p. 76 and exh. 17.

<sup>5</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-7**  
**Steel nails: U.S. imports, by sources, 2005-07**

Source	Calendar year		
	2005	2006	2007
<b>Quantity (short tons)</b>			
China - subject	***	***	***
China - nonsubject	***	***	***
United Arab Emirates	81,287	83,115	50,158
Korea	108,401	73,284	40,435
Canada	48,449	37,949	33,245
Taiwan	85,878	39,983	32,890
Mexico	49,748	33,649	15,048
Malaysia	8,264	9,598	10,980
Poland	9,234	9,002	7,048
Other sources	33,989	26,064	17,014
Total	905,001	928,191	768,307
<b>Value (1,000 dollars)<sup>1</sup></b>			
China - subject	***	***	***
China - nonsubject	***	***	***
United Arab Emirates	78,305	77,913	48,634
Korea	123,719	83,857	51,154
Canada	62,772	51,868	48,206
Taiwan	90,775	47,230	40,310
Mexico	50,228	35,722	16,685
Malaysia	8,145	8,480	9,371
Poland	10,661	11,007	10,233
Other sources	67,117	59,126	46,630
Total	882,879	861,198	763,859

Table continued on next page.



**Table VII-7--Continued**  
**Steel nails: U.S. imports, by sources, 2005-07**

Source	Calendar year		
	2005	2006	2007
<b>Unit value (per short ton)<sup>1</sup></b>			
China - subject	\$***	\$***	\$***
China - nonsubject	***	***	***
United Arab Emirates	963	937	970
Korea	1,141	1,144	1,265
Canada	1,296	1,367	1,450
Taiwan	1,057	1,181	1,226
Mexico	1,010	1,062	1,109
Malaysia	986	883	853
Poland	1,155	1,223	1,452
Other sources	1,975	2,268	2,741
Total	976	928	994
<sup>1</sup> Landed, duty-paid. Source: Compiled from official Commerce statistics.			

Table VII-8 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 believed to be minimal. In the case of UAE and Canada, for which export data are not available from the same source, partner country import data (called “mirror exports”) are provided. In addition to China, the top eleven 2007 exporting countries are also listed. In 2007, China accounted for 51.5 percent of world exports of nails and staples. The next eleven largest exporting countries totaled 37.6 percent of world exports in 2007.

**Table VII-8**  
**Nails and staples: Reporting countries' export statistics 2002-07**

Source	Calendar year					
	2002	2003	2004	2005	2006	2007
<b>Quantity (short tons)</b>						
China	395,058	514,174	761,361	1,010,041	1,268,100	1,418,647
United Arab Emirates <sup>1</sup>	51,719	53,430	74,133	82,027	84,651	51,042
Malaysia	244,084	460,548	652,417	399,824	472,403	582,645
Poland	60,852	64,370	66,494	66,735	74,799	69,730
Taiwan	124,482	128,899	149,822	118,167	60,357	56,183
Korea	202,122	175,962	180,952	133,965	93,914	54,926
Germany	32,986	31,726	36,491	33,651	43,524	42,031
United States	30,971	29,349	35,548	36,178	45,788	41,501
Canada <sup>1</sup>	80,795	77,845	72,424	51,757	40,349	37,216
Ukraine	17,411	29,407	41,570	40,904	36,472	36,652
Russia	56,989	71,710	57,786	51,740	54,746	34,819
Belgium	9,029	18,956	31,112	29,054	32,800	28,722
Subtotal	911,441	1,142,202	1,398,749	1,044,003	1,039,804	1,035,467
Other sources	361,163	357,862	418,018	383,011	352,886	300,830
Total	1,667,662	2,014,238	2,578,128	2,437,055	2,660,790	2,754,944
<sup>1</sup> Mirror exports (imports from source reported by all reporting countries). Source: Compiled from <i>Global Trade Atlas</i> .						

**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1114 and 1115  
(Final)]

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

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Scheduling of the final phase of  
antidumping investigations.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation Nos. 731-TA-1114 and 1115 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether 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 less-than-fair-value 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 (HTSUS).<sup>1</sup>

<sup>1</sup> For purposes of these investigations, the Department of Commerce has defined the subject merchandise 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10.00. Also excluded from the scope of this

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 C (19 CFR part 207).

**DATES:** *Effective Date:* January 23, 2008.

**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>.

#### SUPPLEMENTARY INFORMATION:

**Background.** The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain steel nails from China and the United Arab Emirates are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). These investigations were requested in 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).

**Participation in the investigations and public service list.** Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's

proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive."

rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

*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 the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.* The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on May 27, 2008, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

*Hearing.* The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on June 10, 2008, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 3, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 4, 2008, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.*—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 3, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 17, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before June 17, 2008. On July 1, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 3, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the 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 207.21 of the Commission's rules.

Issued: February 4, 2008.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8-2333 Filed 2-7-08; 8:45 am]

**BILLING CODE 7020-02-P**

---

---

**INTERNATIONAL TRADE  
COMMISSION**

[Investigation Nos. 731-TA-1114 and 1115  
(Final)]

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

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Revised schedule for the subject  
investigations.

**EFFECTIVE DATE:** May 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202-205-3187), 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>.

**SUPPLEMENTARY INFORMATION:** On February 8, 2008, the Commission established a schedule for the conduct of the final phase of the subject investigations (73 FR 7590). The Commission is hereby revising its schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than June 5, 2008; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on June 9, 2008; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on June 11, 2008; and the deadline for filing posthearing briefs is June 18, 2008.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: May 16, 2008.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8-11459 Filed 5-21-08; 8:45 am]

**BILLING CODE 7020-02-P**

---



**DEPARTMENT OF COMMERCE****International Trade Administration**

A-570-909

**Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** June 16, 2008.

**SUMMARY:** On January 23, 2008, the Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain steel nails ("nails") from the People's Republic of China ("PRC"). The Department amended its preliminary determination on February 7, 2008, based on comments from interested parties. The period of investigation ("POI") is October 1, 2006, to March 31, 2007. We invited interested parties to comment on our preliminary and amended preliminary determinations of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. We determine that nails from the PRC are being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Matthew Renkey or Alex Villanueva, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312 and (202) 482-3208, respectively.

**SUPPLEMENTARY INFORMATION:****Case History**

The Department published its preliminary determination of sales at LTFV on January 23, 2008. See *Certain Steel Nails from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination*, 73 FR 3928 (January 23, 2008) ("Preliminary Determination"). The Department published an amended preliminary determination on February 7, 2008. See *Certain Steel Nails from the*

*People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 7254 (February 7, 2008) ("Amended Preliminary Determination"). The Department issued a post-preliminary determination on April 21, 2008, in which it applied a new targeted dumping methodology. See Memorandum to David Spooner, Assistant Secretary for Import Administration entitled "Post-Preliminary Determinations on Targeted Dumping," dated April 21, 2008 ("Post-Preliminary Determination").

We issued ITW<sup>1</sup> and Xingya Group<sup>2</sup> additional supplemental questionnaires on January 28, 2008, and February 6, 2008, respectively. We received ITW's response on February 5, 2008, and Xingya Group's response on February 13, 2008.

Between February 11 and February 22, 2008, the Department conducted verifications of ITW Paslode<sup>3</sup> and Xingya Group's affiliated importers Senco<sup>4</sup> and Omnifast<sup>5</sup> in Chicago and Cincinnati, respectively. Between March 7 and March 21, 2008, the Department verified Paslode Shanghai,<sup>6</sup> Xingya

<sup>1</sup> Illinois Tool Works Inc., Paslode Division ("ITW Paslode") and Paslode Fasteners (Shanghai) Co., Ltd. ("Paslode Shanghai") (collectively, "ITW").

<sup>2</sup> Suzhou Xingya Nail Co., Ltd, Senco-Xingya Metal Products (Taicang) Co., Ltd., Yunfa International Resources Inc., Senco Products, Inc. ("Senco"), and Omnifast Inc. ("Omnifast") (collectively "Xingya Group").

<sup>3</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Case Analyst: Verification of the Sales Response of Illinois Tool Works Inc., Paslode Division in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated March 3, 2008 ("ITW Paslode Verification Report").

<sup>4</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Matthew Renkey, Senior Case Analyst: Verification of the Sales Response of Senco Products, Inc. in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated April 10, 2008 ("Senco Verification Report").

<sup>5</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Matthew Renkey, Senior Case Analyst: Verification of the Sales Response of Omnifast LLC in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated April 8, 2008 ("Omnifast Verification Report").

<sup>6</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Case Analyst: Verification of the Sales and Factors Response of Paslode Fasteners (Shanghai) Co., Ltd. in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated April 15, 2008 ("Paslode Shanghai Verification Report").

Group,<sup>7</sup> and Suntec Industries Co., Ltd.<sup>8</sup> in the PRC. See the "Verification" section below for additional information.

In the *Preliminary Determination*, based on our examination of Petitioners' targeted dumping allegations for ITW filed on December 11, 2007, and revised on December 13, 2007, and for Xingya Group filed on December 14, 2007, we preliminarily determined that there was a pattern of export prices for comparable merchandise that differs significantly among regions for ITW and purchasers for Xingya Group. Therefore, based on Petitioners' allegation, we conducted an analysis to determine whether targeted dumping occurred. The Department further stated that it was in the process of re-assessing the framework and standards for both targeted dumping allegations and targeted dumping analyses, and that it intended to develop a new framework in the context of this proceeding. We invited comments regarding certain principles involved in targeted dumping allegations and analyses. Accordingly, we received comments from Petitioners in this investigation,<sup>9</sup> and the mandatory respondents, ITW and Xingya Group, on February 15, 2008. These parties submitted rebuttal comments on March 10, 2008.

On April 21, 2008, the Department issued a decision memorandum in this investigation and the companion investigation on certain steel nails from the United Arab Emirates ("UAE"), in which the Department described the application of a new methodology to analyze targeted dumping. See Memorandum to David Spooner, Assistant Secretary for Import Administration entitled "Post-Preliminary Determinations on Targeted Dumping," dated April 21, 2008.

Based on this analysis, the Department found that a pattern of export prices for identical merchandise

<sup>7</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Matthew Renkey, Senior Case Analyst: Verification of the Sales and Factors Response of the Xingya Group in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China," dated April 21, 2008 ("Xingya Group Verification Report").

<sup>8</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Case Analyst: Verification of the Sales of Suntec Industries Co., Ltd. in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated April 18, 2008.

<sup>9</sup> Petitioners are: 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 United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

existed that differed significantly among purchasers for Xingya Group. See Memorandum to: James C. Doyle, Director, from: Alex Villanueva, Program Manager, RE: Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China, Regarding: Post-Preliminary Determination Analysis on Targeted Dumping: Results for the Xingya Group, dated April 21, 2008. As a result, we applied the average-to-transaction methodology to the targeted export prices and found a margin of 48.63 percent for Xingya Group. However, the Department did not find a pattern of export prices for identical merchandise that differed significantly among regions for ITW. See Memorandum to: James C. Doyle, Director, from: Alex Villanueva, Program Manager, RE: Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China, Regarding: Post-Preliminary Determination Analysis on Targeted Dumping: Results for ITW, dated April 21, 2008. As a result, we applied the average-to-average methodology to all U.S. sales and found a *de minimis* margin of 0.11 percent for ITW. On April 24, 2008, the Department issued a letter to all parties in the two investigations providing clarifications concerning the Post-Preliminary Determination.

We invited parties to comment on the *Preliminary Determination, Amended Preliminary Determination*, and Post-Preliminary Determinations. On May 1, 2008, Petitioners, ITW, Xingya Group, Jinhai and Hybest Tools,<sup>10</sup> Xuzhou, Curvet, and Tengyu,<sup>11</sup> Dinglong, Shanxi Pioneer, and Tianjin County,<sup>12</sup> and Hilti<sup>13</sup> filed case briefs. On May 8, 2008, Petitioners, ITW, and Xingya Group filed rebuttal briefs. On May 7, 2008, Petitioners and Xingya Group submitted briefs on the Department's targeted dumping methodology and on May 14, 2008, Petitioners, Xingya Group, and ITW submitted rebuttal briefs. Additionally, Dubai Wire filed a public version of its rebuttal briefs to Petitioners' targeted dumping brief on the record of this investigation.<sup>14</sup> We

<sup>10</sup> Huanghua Jinhai Hardware Products Co., Ltd. ("Jinhai") and Hybest Tools Group Co., Ltd. ("Hybest Tools").

<sup>11</sup> Xuzhou CIP International Group Co., Ltd. ("Xuzhou"), Shanghai Curvet Hardware Products Co., Ltd. ("Curvet"), and Shanghai Tengyu Hardware Tools Co., Ltd. ("Tengyu").

<sup>12</sup> Shandong Dinglong Import & Export Co., Ltd. ("Shandong Dinglong"), Shanxi Pioneer Hardware Industrial Co., Ltd. ("Shanxi Pioneer"), and Tianjin Jinghai County Hongli Industry & Business Co., Ltd. ("Tianjin County").

<sup>13</sup> Hilti Inc. and Hilti (China) Ltd. ("Hilti").

<sup>14</sup> Dubai Wire resubmitted its rebuttal brief on May 16, 2008, as the Department rejected the

also held a hearing on May 16, 2008, to discuss PRC-specific case issues and on May 19, 2008, we held a joint public hearing on the targeted dumping issues raised in this investigation and *Nails from the UAE*.

On May 6, 2008, National Nail Corp., an importer of subject merchandise, requested that the Department confirm that the scope of this investigation excludes plastic cap roofing nails.<sup>15</sup> The Department rejected this request, and all submissions associated with this request, as untimely. See Letter from Irene Darzenta Tzafolias to National Nail Corp., dated June 2, 2008.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Investigation of Certain Steel Nails from the People's Republic of China: Issues and Decision Memorandum," dated June 6, 2008, which is hereby adopted by this notice ("Issues and Decision Memorandum"). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room B-099, and is accessible on the Web at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

#### Changes Since the Preliminary Determination and Amended Preliminary Determination

Based on our analysis of information on the record of this investigation, and comments received from the interested parties, we have made changes to the margin calculations for ITW and Xingya Group. We have revalued several of the surrogate values used in the *Preliminary Determination*. The values that were modified for this final determination are those for surrogate financial ratios, carton, hydrochloric acid, stainless steel

original rebuttal brief because it contained arguments that did not address comments made in Petitioners' targeted dumping case brief. See Memorandum to The File entitled "Return of Dubai Wire FZE (Dubai Wire) Rebuttal Brief on Targeted Dumping Issues," dated May 16, 2008. Dubai filed the public version of its refiled rebuttal brief on the record of this investigation on May 16, 2008, as well.

<sup>15</sup> The May 6, 2008, submission was filed on the record of the UAE investigation on May 7, 2008. On May 12, 2008, Petitioners submitted a letter for the record of the PRC investigation opposing National Nail Corp.'s exclusion request. This letter was submitted for the record of the UAE investigation on May 27, 2008. National Nail Corp. responded to this letter on May 20, 2008.

wire rod, and the wage rate. For further details see Issues and Decision Memorandum at Comments 11, 14, 16, 18, and 19 and Memorandum to the File from Matthew Renkey, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9, and James C. Doyle, Director, AD/CVD Operations, Office 9: Certain Steel Nails from the People's Republic of China: Surrogate Values for the Final Determination, dated June 6, 2008 ("Final Surrogate Value Memo").

In addition, we have made some company-specific changes since the *Preliminary Determination*. Specifically, we have incorporated, where applicable, post-preliminary clarifications based on verification and made certain clerical error corrections for both ITW and Xingya Group. For further details on these company-specific changes, see Issues and Decision Memorandum at Comments 20 and 21.

#### Scope of Investigation

The merchandise covered by this investigation 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10.00. Also excluded from the scope of this proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this proceeding are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

### Scope Comments

#### *Banded Brads and Finish Nails*

On July 30, 2007,<sup>16</sup> Stanley Fastening Systems, LP (“Stanley”), an interested party in this proceeding, requested that banded brads and finish nails imported with a “nailer kit” or “combo kit”<sup>17</sup> as a single package be excluded from this investigation as being outside the “class or kind” of merchandise.<sup>18</sup> Based on the scope exclusion request from Stanley, the fact that Petitioners are in agreement with this request, and there appears to be no impediment to enforceability by CBP, we preliminarily determined that the above-described products are not

<sup>16</sup> This submission was filed on the record of *Nails from the UAE* on July 30, 2007.

<sup>17</sup> A “nailer kit” consists of a pneumatic nailer, a “starter box” of branded products and a carrying case. A “combo kit” consists of an air compressor, a pneumatic nailer, and a “starter box” of banded products and related accessories, such as an air hose.

<sup>18</sup> On December 12, 2007, Stanley revised its July 30, 2007, scope exclusion request arguing that its new request reflects a broader exclusion and is easily administered by U.S. Customs and Border Protection (CBP) because the description of the excluded brads and finish nails is framed solely in terms of their physical characteristics.

subject to the scope of this investigation. Since the *Preliminary Determination*, no party to this proceeding has commented on this issue and we have found no additional information that would compel us to reverse our preliminary finding. Thus, for purposes of the final determination, we continue to find that the above-described products are not subject to the scope of this investigation.

#### *Fasteners Suitable for Use in Gas-Actuated Hand Tools*

In its case brief filed on April 30, 2008, Hilti, Inc., an interested party in this proceeding, reiterated its request, submitted on January 3, 2008, that the Department modify the scope of the investigation to exclude fasteners suitable for use in gas-actuated hand tools.<sup>19</sup> Hilti claimed that modification of the scope to exclude these fasteners was supported by Petitioners<sup>20</sup> and, additionally, because the description of the excluded nails is framed solely in terms of their physical characteristics, the exclusion would be easily administered by CBP. Furthermore, Hilti pointed out that the principles and rationale the Department applied to Stanley’s scope request (*see discussion above*) in the *Preliminary Determination* applied equally to Hilti’s scope request. On January 8, 2008, ITW filed comments opposing Hilti’s scope request.

Hilti rebutted ITW’s January 8, 2008, submission arguing that ITW offered no material reason for seeking the imposition of antidumping duties against the product at issue, other than its assertion that it is a U.S. manufacturer of such merchandise. Moreover, Hilti claimed that ITW has never opposed Petitioners’ own initial exclusion of nails suitable for use in powder actuated hand tools, which Hilti claimed are functionally similar and competitive with nails suitable for use in gas-actuated tools, but simply classified under a different HTSUS number.

In its rebuttal brief submitted on May 8, 2008, ITW reiterated its arguments in its January 8, 2008, submission that, because it was the only U.S. producer of the product at issue, Petitioners’ agreement to the proposed exclusion was not relevant in light of ITW’s opposition. In addition, ITW claimed that it was perfectly reasonable and legitimate for it to oppose a petition

<sup>19</sup> We stated in the *Preliminary Determination* that we received this request too late to consider for purposes of the preliminary determination, but would consider it for the final determination.

<sup>20</sup> On January 9, 2008, Petitioners filed a letter stating that they agree with Hilti’s January 8, 2008, scope exclusion request.

generally, while at the same time opposing certain exclusions to that petition.

Based on the scope exclusion request from Hilti, Inc., the fact that Petitioners were in agreement with this request, and that there appeared to be no impediment to enforceability by CBP,<sup>21</sup> we determined that the above-described products were not subject to the scope of this investigation.<sup>22</sup>

#### *Aluminum Nails and Stainless Steel Nails*

On February 27, 2008, Duo-Fast Northeast (Duo-Fast), an interested party in this proceeding, requested that the Department exclude two types of nails from the scope of this proceeding: (1) aluminum nails, and (2) stainless steel nails.<sup>23</sup> The plain language of the scope indicates that the scope does not cover aluminum nails because nails made from aluminum are not made from steel and are, thus, not subject merchandise. However, stainless steel nails are explicitly covered in the scope of this proceeding, as the plain language of the scope covers nails produced from any type of steel, without limitation. Therefore, we have not modified the scope of investigation in accordance with Duo-Fast’s requests.

### Targeted Dumping

We have analyzed the case and rebuttal briefs with respect to targeted dumping issues submitted for the record in this investigation and in *Nails from the UAE*. As a result of our analysis, we made certain changes in the targeted dumping test we applied in the post-preliminary determination for purposes of the final determination. These changes result in a finding of targeted dumping in one region for ITW, but for Xingya Group we find that no customers were targeted. However, as indicated below, ITW’s overall margin is *de minimis*, while for Xingya Group, we continue to find an overall dumping margin above *de minimis* as indicated below. For further discussion, see Comments 1 through 9 in the “Issues and Decision Memorandum”; *see also* ITW Final Analysis Memo; Xingya Group Final Analysis Memos.

<sup>21</sup> *See* Memorandum to the File from Kate Johnson, Senior Case Analyst, entitled “Scope Exclusion Request,” dated May 1, 2008.

<sup>22</sup> While the Department notes ITW’s objection, it strives to craft a scope that both includes the specific products for which Petitioners have requested relief, and excludes those products which may fall within the general scope definition, but for which Petitioners do not seek relief.

<sup>23</sup> On March 18, 2008, Petitioners submitted a letter for the record opposing Duo-Fast’s exclusion request.

### Use of Facts Available

Section 776(a)(2) of the Tariff Act of 1930, as amended (“the Act”), provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party “promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information,” the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed “deficient” under section 782(d) if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department “finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering

authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.” See also *Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA)*, H.R. Rep. No. 103–316, Vol. 1 at 870 (1994).

### ITW

For this final determination, in accordance with sections 773(c)(3)(A) and (B) of the Act and section 776(a)(2)(A), (B) and (D) of the Act, we have determined that the use of adverse facts available (“AFA”) is warranted for three unreported materials used by ITW in the production process. See Issues and Decision Memorandum at Comment 20E; Paslode Shanghai Verification Report at 10. As partial AFA, we are using the highest single monthly usage rate for each material, by CONNUM, and applying this monthly usage ratio to all months of the POI. See ITW Final Analysis Memo for further details on these three unreported materials; see also Final Surrogate Value Memo for the surrogate values used to value these materials. We are also applying partial AFA to ITW’s indirect labor usage because ITW failed to report all labor involved directly or indirectly with the production of nails. See Issues and Decision Memorandum at Comment 20F; Paslode Shanghai Verification Report at Verification Exhibit 18B. As partial AFA, we are taking the highest number of hours worked by an individual classified in the indirect labor category for the month of October verified by the Department and multiplying this by the number of unreported workers and then by the number of months of the POI. The Department will then determine what percentage increase in the overall indirect labor hours these total additional hours constituted and then we will multiply this percentage by the current indirect labor rate in ITW’s FOP database in order to ensure that this adverse inference only affects indirect labor hours. See ITW Final Analysis Memo.

### Xingya Group

For Xingya Group, we also find it appropriate to apply partial AFA for the staples packing FOP in accordance with section 773(c)(3)(B) and sections 776(a)(2)(A), (B), and (D) of the Act, since this packing input was not previously reported to the Department. For sawdust, although this material was

identified in Xingya Group’s narrative description of the production process, we find that partial AFA is appropriate as this material was never previously reported as an FOP, and the information that Xingya Group had provided about sawdust did not verify. As partial AFA for staples and sawdust, we will use the highest monthly usage observed for the POI, information that we obtained at verification. See Issues and Decision Memorandum at Comment 21F; Xingya Group Verification Report at 14.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by ITW, Xingya Group, and one separate rate applicant, Suntec Industries Co., Ltd., for use in our final determination. See the Department’s verification reports on the record of this investigation in the CRU with respect to ITW, Xingya Group, and Suntec. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

### Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination*. For the final determination, we received no comments and made no changes to our findings with respect to the selection of a surrogate country.

### Separate Rates

In proceedings involving non-market-economy (“NME”) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991) (“*Sparklers*”), as amplified by *Notice of Final Determination of Sales at Less Than*

*Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (“*Silicon Carbide*”), and Section 351.107(d) of the Department’s regulations.

In the *Preliminary Determination*, we found that ITW, Xingya Group, and the separate rate applicants who received a separate rate (“Separate Rate Applicants”) demonstrated their eligibility for separate-rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by ITW, Xingya Group, and the Separate Rate Applicants demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status.

Additionally, based on comments received from certain Separate Rate Applicants, verification minor corrections, and a review of the record, we found that the combination rates or the spelling of names for certain exporters were not properly included in the *Preliminary Determination* and/or *Amended Preliminary Determination*. Because these errors pertain to the identification of the proper separate rates recipients for this investigation, the Department is making these corrections effective as of January 23, 2008, the date of the *Preliminary Determination*. Any liquidation instructions for the provisional measures period would reflect these corrections.

**The PRC-Wide Rate**

In the *Preliminary Determination*, the Department found that certain companies and the PRC-wide entity did not respond to our requests information. In the *Preliminary Determination* we treated these PRC producers/exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control over their export activities. No additional information has been placed on the record with respect to these entities after the *Preliminary Determination*.

The PRC-wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) and (C) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). See also, SAA at 870. We determined that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate – the PRC-wide rate – to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., *Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the “Final Determination Margins” section below.

**Critical Circumstances**

In the *Preliminary Determination*, we found that there had been massive imports of the subject merchandise over a relatively short period for Xingya

Group and the PRC-wide entity. In addition, we relied on a period of five months as the period, which was the maximum duration for the information we had available at that time, for comparison in preliminarily determining whether imports of the subject merchandise were massive.

For the final determination, however, we collected an additional three months of data from Xingya Group and ITW. After analyzing the additional data, we continue to find that the PRC-wide entity had massive imports of nails over a relatively short period of time. See Memorandum to the File from Matthew Renkey, Senior Case Analyst: Critical Circumstances Data for the Final Determination of Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China, dated June 6, 2008, at Attachment I (“CC MTF”) for the exact percentage changes. Thus, for the final determination we find that Xingya Group did not have massive imports over a relatively short period of time and no longer find critical circumstances for Xingya Group. Additionally, we continue to find that ITW and the Separate Rates Applicants did not have massive imports of nails over a relatively short period of time. *Id.*

**Corroboration**

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our adverse facts available (“AFA”) margin by comparing the U.S. price and normal values from the petition to the U.S. price and normal values for the respondents. Because no parties challenged calculation of the PRC-wide rate, we continue to find that the margin of 118.04 percent has probative value. See Xingya Group Final Analysis Memo at 1. Accordingly, we find that the rate of 118.04 percent is corroborated within the meaning of section 776(c) of the Act.

**Final Determination Margins**

We determine that the following percentage weighted-average margins exist for the POI:

**NAILS FROM THE PRC WEIGHTED-AVERAGE DUMPING MARGINS**

Exporter	Producer	Weighted-Average Margin
Paslode Fasteners (Shanghai) Co., Ltd. ....	Paslode Fasteners (Shanghai) Co., Ltd.	0%
Xingya Group: Suzhou Xingya Nail Co., Ltd, Senco-Xingya Metal Products (Taicang) Co., Ltd., Hong Kong Yu Xi Co., Ltd. ....	Suzhou Xingya Nail Co., Ltd., Senco-xingya Metal Products (Taicang) Co., Ltd., Wuxi Chengye Metal Products Co., Ltd.	21.24 %
Jisco Corporation .....	Qingdao Jisco Co., Ltd.	21.24 %
Koram Panagene Co., Ltd. ....	Qingdao Koram Steel Co., Ltd.	21.24 %
Handuk Industrial Co., Ltd. ....	Rizhao Handuk Fasteners Co., Ltd.	21.24 %

## NAILS FROM THE PRC WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter	Producer	Weighted-Average Margin
Kyung Dong Corp. ....	Rizhao Qingdong Electric Appliance Co., Ltd.	21.24 %
Xi'an Metals & Minerals Import and Export Co., Ltd. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Hebei Cangzhou New Century Foreign Trade Co., Ltd. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Hebei Cangzhou New Century Foreign Trade Co., Ltd. ....	Beijing Hongsheng Metal Products Co., Ltd.	21.24 %
Hebei Cangzhou New Century Foreign Trade Co., Ltd. ....	Tianjin Dagang Huasheng Nailery Co., Ltd.	21.24 %
Chongqing Hybest Tools Group Co., Ltd. ....	Chongqing Hybest Nailery Co., Ltd.	21.24 %
China Silk Trading & Logistics Co., Ltd. ....	Maanshan Longer Nail Product Co., Ltd.	21.24 %
China Silk Trading & Logistics Co., Ltd. ....	Wuxi Qiangye Metalwork Production Co., Ltd.	21.24 %
Beijing Daruixing Global Trading Co., Ltd. ....	Beijing Tri-Metal Co., Ltd.	21.24 %
Beijing Daruixing Global Trading Co., Ltd. ....	Beijing Daruixing Nail Products Co., Ltd.	21.24 %
Beijing Daruixing Global Trading Co., Ltd. ....	Tianjin Kunxin Hardware Co., Ltd.	21.24 %
Beijing Daruixing Global Trading Co., Ltd. ....	Tianjin Hewang Nail Making Factory	21.24 %
Huanghua Jinhai Hardware Products Co., Ltd. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Beijing Daruixing Nail Products Co., Ltd. ....	Beijing Daruixing Nail Products Co., Ltd.	21.24 %
Beijing Daruixing Nail Products Co., Ltd. ....	Beijing Tri-Metal Co., Ltd.	21.24 %
Beijing Tri-Metal Co., Ltd. ....	Beijing Tri-Metal Co., Ltd.	21.24 %
Beijing Tri-Metal Co., Ltd. ....	Beijing Daruixing Nail Products Co., Ltd.	21.24 %
Cana (Tianjin) Hardware Ind., Co., Ltd. ....	Cana (Tianjin) Hardware Ind., Co., Ltd.	21.24 %
China Staple Enterprise (Tianjin) Co., Ltd. ....	China Staple Enterprise (Tianjin) Co., Ltd.	21.24 %
Hengshui Mingyao Hardware & Mesh Products Co., Ltd. ....	Hengshui Mingyao Hardware & Mesh Products Co., Ltd.	21.24 %
Nanjing Dayu Pneumatic Gun Nails Co., Ltd. ....	Nanjing Dayu Pneumatic Gun Nails Co., Ltd.	21.24 %
Qidong Liang Chyuan Metal Industry Co., Ltd. ....	Qidong Liang Chyuan Metal Industry Co., Ltd.	21.24 %
Romp (Tianjin) Hardware Co., Ltd. ....	Romp (Tianjin) Hardware Co., Ltd.	21.24 %
Shandong Dinglong Import & Export Co., Ltd. ....	Qingyun Hongyi Hardware Factory	21.24 %
Tianjin Jinchu Metal Products Co., Ltd. ....	Tianjin Jinchu Metal Products Co., Ltd.	21.24 %
Tianjin Jurun Metal Products Co., Ltd. ....	Tianjin Jurun Metal Products Co., Ltd.	21.24 %
Zhejiang Gem-Chun Hardware Accessory Co., Ltd. ....	Zhejiang Gem-Chun Hardware Accessory Co., Ltd.	21.24 %
Huanghua Xionghua Hardware Products Co., Ltd. ....	Huanghua Xionghua Hardware Products Co., Ltd.	21.24 %
Zhaoqing Harvest Nails Co., Ltd. ....	Zhaoqing Harvest Nails Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	S-mart Tianjin Technology Development Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	Tianjin Jishili Hardware Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	Tianjin Baisheng Metal Product Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	Tianjin Foreign Trade (Group) Textile & Garment Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	Dagang Zhitong Metal Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Huanghua Shenghua Hardware Manufactory Factory	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Dagang Dongfu Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Dagang Jingang Nail Factory	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Dagang Linda Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Dagang Yate Nail Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Jieli Hengyuan Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Shishun Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Yihao Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Yongcang Metallic Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shanxi Yuci Broad Wire Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Hengshui Mingyao Hardware & Mesh Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Zhonglian Metals Ware Co., Ltd.	21.24 %
Certified Products International Inc. ....	Beijing Daruixing Nail Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Huanghua Xionghua Hardware Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Port Free Trade Zone Xiangtong Intl. Industry & Trade Corp.	21.24 %
Certified Products International Inc. ....	Shandong Dinglong Import & Export Co., Ltd.	21.24 %
Certified Products International Inc. ....	Wuhu Shijie Hardware Co., Ltd.	21.24 %
Certified Products International Inc. ....	Romp (Tianjin) Hardware Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Jurun Metal Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Yitian (Nanjing) Hardware Co., Ltd.	21.24 %
Certified Products International Inc. ....	Nanjing Da Yu Pneumatic Gun Nails Co., Ltd.	21.24 %
Certified Products International Inc. ....	Wintime Import & Export Corporation Limited of Zhongshan	21.24 %
Certified Products International Inc. ....	Tianjin Chentai International Trading Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Longxing (Group) Huanyu Imp. & Exp. Co., Ltd.	21.24 %
Certified Products International Inc. ....	Zhejiang Gem-Chun Hardware Accessory Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shanxi Pioneer Hardware Industrial Co., Ltd.	21.24 %
Certified Products International Inc. ....	Wuhu Xin Lan De Industrial Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Zhitong Metal Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Suntec Industries Co., Ltd.	21.24 %
Certified Products International Inc. ....	China Staple Enterprise (Tianjin) Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Jinghai County Hongli Industry & Business Co., Ltd.	21.24 %

## NAILS FROM THE PRC WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter	Producer	Weighted-Average Margin
Certified Products International Inc. ....	Hebei Super Star Pneumatic Nails Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shanghai Chengkai Hardware Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Jinchi Metal Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shaoxing Chengye Metal Producing Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Shenyuan Steel Producing Group Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shanghai Jade Shuttle Hardware Tools Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin Bosai Hardware Tools Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Beijing Yonghongsheng Metal Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin City Jinchi Metal Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Huanghua Huarong Hardware Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Huanghua Yufutai Hardware Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Qingyuan County Hongyi Hardware Products Factory	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin Zhitong Metal Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin Baisheng Metal Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin Dagang Hewang Nails Factory	21.24 %
Shanxi Tianli Industries Co. ....	Dingzhou Ruili Nail Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Haixing Hongda Hardware Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Huanghua Xinda Nail Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Huachang Metal Products Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Huapeng Metal Company	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Huasheng Nails Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Jin Gang Metal Products Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Kunxin Metal Products Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Linda Metal Company	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Xinyuansheng Metal Products Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Yongyi Standard Parts Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Wuqiao Huifeng Hardware Production Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Wuqiao County Huifeng Hardware Products Factory	21.24 %
Suntec Industries Co., Ltd. ....	Wuqiao County Xinchuang Hardware Products Factory	21.24 %
Suntec Industries Co., Ltd. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Haixing Linhai Hardware Products Factory	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Baisheng Metal Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin City Jinchi Metal Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin City Dagang Area Jinding Metal Products Factory	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Jishili Hardware Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Jietong Hardware Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Ruiji Metal Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Yongxu Metal Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Wuxi Baolin Nail-Making Machinery Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Suzhou Xingya Nail Co., Ltd.	21.24 %
Sinochem Tianjin Imp & Exp Shenzhen Corp. ....	Tianjin JLHY Metal Products Co., Ltd.	21.24 %
Qingdao D&L Group Ltd. ....	Tianjin City Daman Port Area Jinding Metal Products Factory	21.24 %
Qingdao D&L Group Ltd. ....	Tianjin Yongxu Metal Products Co., Ltd.	21.24 %
Qingdao D&L Group Ltd. ....	Huanghua Jinhai Metal Products Co., Ltd.	21.24 %
Qingdao D&L Group Ltd. ....	Dong'e Fuqiang Metal Products Co., Ltd.	21.24 %
Tianjin Xiantong Material & Trade Co., Ltd. ....	Tianjin Xiantong Fucheng Gun Nail Manufacture Co., Ltd.	21.24 %
Zhongshan Junlong Nail Manufactures Co., Ltd. ....	Zhongshan Junlong Nail Manufactures Co., Ltd.	21.24 %
Shandong Minmetals Co., Ltd. ....	Shouguang Meiqing Nail Industry Co., Ltd.	21.24 %
Shouguang Meiqing Nail Industry Co., Ltd. ....	Shouguang Meiqing Nail Industry Co., Ltd.	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Jishili Hardware Co., Ltd.	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Baisheng Metal Product Co., Ltd.	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Dagang Hewang Nail Factory	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Shishun Metal Product Co., Ltd.	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Xinyuansheng Metal Product Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Dagang Hewang Nails Manufacture Plant	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Dagang Jingang Nails Manufacture Plant	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Dagang Longhua Metal Products Plant	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Dagang Shenda Metal Products Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Jietong Metal Products Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Qichuan Metal Products Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Yongxu Metal Products Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Zhangjiagang Longxiang Packing Materials Co., Ltd.	21.24 %
Union Enterprise (Kunshan) Co., Ltd. ....	Union Enterprise (Kunshan) Co., Ltd.	21.24 %
Beijing Hong Sheng Metal Products Co., Ltd. ....	Beijing Hong Sheng Metal Products Co., Ltd.	21.24 %
PT Enterprise Inc. ....	Shanxi Hairui Trade Co., Ltd.	21.24 %
PT Enterprise Inc. ....	Shanxi Pioneer Hardware Industrial Co., Ltd.	21.24 %
PT Enterprise Inc. ....	Shanxi Yuci Broad Wire Products Co., Ltd.	21.24 %
Shanxi Hairui Trade Co., Ltd. ....	Shanxi Pioneer Hardware Industrial Co., Ltd.	21.24 %

NAILS FROM THE PRC WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter	Producer	Weighted-Average Margin
Shanxi Hairui Trade Co., Ltd. ....	Shanxi Yuci Broad Wire Products Co., Ltd.	21.24 %
Shanxi Pioneer Hardware Industrial Co., Ltd. ....	Shanxi Pioneer Hardware Industrial Co., Ltd.	21.24 %
Shanxi Yuci Broad Wire Products Co., Ltd. ....	Shanxi Yuci Broad Wire Products Co., Ltd.	21.24 %
Yitian Nanjing Hardware Co., Ltd. ....	Yitian Nanjing Hardware Co., Ltd.	21.24 %
Chieh Yung Metal Ind. Corp. ....	Cym (Nanjing) Nail Manufacture Co., Ltd.	21.24 %
Shanghai Seti Enterprise International Co., Ltd. ....	Suzhou Yaotian Metal Products Co. Ltd.	21.24 %
Shanghai Curvet Hardware Products Co., Ltd. ....	Shanghai Curvet Hardware Products Co., Ltd.	21.24 %
Shanghai Curvet Hardware Products Co., Ltd. ....	Shanghai Tengyu Hardware Tools Co., Ltd.	21.24 %
Shanghai Tengyu Hardware Tools Co., Ltd. ....	Shanghai Tengyu Hardware Tools Co., Ltd.	21.24 %
Shanghai Tengyu Hardware Tools Co., Ltd. ....	Shanghai Curvet Hardware Products Co., Ltd.	21.24 %
Xuzhou CIP International Group Co., Ltd. ....	Xuzhou CIP International Group Co., Ltd.	21.24 %
Xuzhou CIP International Group Co., Ltd. ....	Qingdao International Fastening Systems Inc.	21.24 %
Wuhu Shijie Hardware Co., Ltd. ....	Wuhu Shijie Hardware Co., Ltd.	21.24 %
Wuhu Xin Lan De Industrial Co., Ltd. ....	Wuhu Xin Lan De Industrial Co., Ltd.	21.24 %
Tianjin Zhonglian Metals Ware Co., Ltd. ....	Tianjin Zhonglian Metals Ware Co., Ltd.	21.24 %
Huarong Hardware Products Co., Ltd. ....	Huarong Hardware Products Co., Ltd.	21.24 %
Mingguang Abundant Hardware Products Co., Ltd. ....	Mingguang Abundant Hardware Products Co., Ltd.	21.24 %
Shandong Oriental Cherry Hardware Group Co., Ltd. ....	Shandong Oriental Cherry Hardware Group Co., Ltd.	21.24 %
Shandong Oriental Cherry Hardware Import and Export Co., Ltd. ....	Shandong Oriental Cherry Hardware Import and Export Co., Ltd.	21.24 %
Shanghai Chengkai Hardware Product. Co., Ltd. ....	Shanghai Chengkai Hardware Product. Co., Ltd.	21.24 %
Shanghai Jade Shuttle Hardware Tools Co., Ltd. ....	Shanghai Jade Shuttle Hardware Tools Co., Ltd.	21.24 %
Shanghai Yueda Nails Industry Co., Ltd. ....	Shanghai Yueda Nails Industry Co., Ltd.	21.24 %
Besco Machinery Industry (Zhejiang) Co., Ltd. ....	Besco Machinery Industry (Zhejiang) Co., Ltd.	21.24 %
The Stanley Works (Langfang) Fastening Systems Co., Ltd. ....	The Stanley Works (Langfang) Fastening Systems Co., Ltd.	21.24 %
Guangdong Foreign Trade Import & Export Corporation ....	Shanghai Nanhui Jinjun Hardware Factory	21.24 %
Tianjin Jinghai County Hongli Industry and Business Co., Ltd. ....	Tianjin Jinghai County Hongli Industry and Business Co., Ltd.	21.24 %
PRC-Wide Rate .....		118.04 %

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all entries of subject merchandise from the Separate Rate Applicants entered, or withdrawn from warehouse, for consumption on or after January 23, 2008, the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

The Department continues to find that critical circumstances exist for the PRC-wide entity and therefore we will instruct CBP to continue to suspend liquidation of all entries of subject merchandise from the PRC-wide entity entered, or withdrawn from warehouse, for consumption on or after October 25, 2007, which is 90 days prior to the date of publication of the preliminary

determination. CBP shall continue to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

In accordance with the preliminary affirmative determination of critical circumstances, we instructed CBP to suspend liquidation of all entries of the subject merchandise from Xingya Group, which were entered or withdrawn from warehouse, on or after October 25, 2007, which is 90 days prior to January 23, 2008, the date of publication of the *Preliminary Determination* in the **Federal Register**. Because we do not find critical circumstances for Xingya Group in this final determination, we will instruct CBP to terminate suspension of liquidation, and release any cash deposits or bonds, on imports during the 90 day period prior to the date of publication of the *Preliminary Determination*.

Because the Department found that the weighted-average dumping margin for subject merchandise produced and exported by Paslode Shanghai is *de minimis*, the Department will instruct CBP not to suspend liquidation of any

entries of nails from the PRC as described in the “Scope of Investigation” section that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Department will not require any cash deposit or posting of a bond for ITW when the subject merchandise is produced and exported by Paslode Shanghai. Accordingly, we will direct CBP to terminate the suspension of liquidation for shipments of nails entered, or withdrawn from warehouse, for consumption on or after January 23, 2008, the date of publication of the *Preliminary Determination*. These suspension of liquidation instructions will remain in effect until further notice.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for



importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 6, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

#### Appendix I

##### Targeted Dumping:

*Comment 1:* Appropriateness of Implementing New Methodology in These Investigations

*Comment 2:* Identifying Alleged Targets

*Comment 3:* Statistical Validity of Standard Deviation Test

*Comment 4:* Reliance on Identical Product Comparisons for Determining Targeted Dumping

*Comment 5:* Alleged Masking of Dumping Under 33% Pattern Test Threshold

*Comment 6:* Flaws of “Gap Test”

*Comment 7:* Alleged Masking of Dumping by Respondents Under Standard Deviation Test

*Comment 8:* Statistical Validity of P/2 Test

*Comment 9:* Programming Errors

*Surrogate Values:*

*Comment 10:* Wire Rod Surrogate Value

*Comment 11:* Surrogate Companies

*Comment 12:* Scrap Surrogate Value

*Comment 13:* Sigma Cap for Wire Rod

*Comment 14:* Carton Surrogate Value

*Comment 15:* Tape Surrogate Value

*Comment 16:* Wage Rate

*Comment 17:* Wire Drawing Powder Surrogate Value

*Comment 18:* Hydrochloric Acid Surrogate Value

*Comment 19:* Stainless Steel Wire Rod Surrogate Value

#### Company Specific Comments:

*Comment 20:* ITW

A. Database Use

B. Indirect Selling Expense Calculation

C. Interest Expense

D. Exclusion of Selling Expenses from SG&A Ratio

E. Possible Unreported Factors of Production

F. Unreported Indirect Labor Hours

G. Unreported Market–Economy Purchases

*Comment 21:* Xingya Group

A. Market Economy Ocean Freight

B. Partial AFA for Certain CEP Expenses Reported by Ominfast, Partial AFA for Senco’s Advertising Expenses, and Incorporation of Corrections for USBROKU, USDUTYU and EARLPYU

C. Senco’s Indirect Selling Expenses

D. Application of Total AFA or an Intermediate Input Methodology to Xingya Group Due to the Misreporting of Its Production Process

E. SXNC’s Purchases of Collating Paper

F. Partial AFA for Certain Misreported and Unreported SXNC Factors of Production

G. Critical Circumstances

#### Separate Rate Applicants:

*Comment 22:* Misidentification of Separate Rate Recipients

*Comment 23:* Separate Rate Calculation

[FR Doc. E8–13474 Filed 6–13–08; 8:45 am]

**BILLING CODE 3510–DS–S**



**DEPARTMENT OF COMMERCE****International Trade Administration**

(A-520-802)

**Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** We determine that certain steel nails (nails) from the United Arab Emirates (UAE) are not being, or are not likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at not LTFV are shown in the "Final Determination" section of this notice.

**EFFECTIVE DATE:** June 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-4929, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On January 23, 2008, the Department published in the **Federal Register** the preliminary determination of sales at LTFV in the antidumping duty investigation of nails from the UAE. See *Certain Steel Nails From the United Arab Emirates: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 3945 (January 23, 2008) (*Preliminary Determination*).

In the *Preliminary Determination*, based on our examination of the petitioners'<sup>1</sup> targeted dumping allegation filed on October 26, 2007, we preliminarily determined that there is a pattern of export prices for comparable merchandise that differs significantly among purchasers. Therefore, based on the petitioners' allegation, we conducted an analysis to determine whether targeted dumping occurred. The Department further stated that it was in the process of re-assessing the framework and standards for both

<sup>1</sup> The petitioners are: 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 United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

targeted dumping allegations and targeted dumping analyses, and that it intended to develop a new framework in the context of this proceeding. We invited comments regarding certain principles involved in targeted dumping allegations and analyses. Accordingly, we received comments from the petitioners and the respondent Dubai Wire FZE/Global Fasteners Ltd (Dubai Wire) on February 15, 2008. These parties submitted rebuttal comments on March 10, 2008.

From March 3 through March 12, 2008, we verified the constructed value (CV) and sales questionnaire responses of Dubai Wire. On March 31 and April 1, 2008, we issued the CV and sales verification reports, respectively. See Memorandum to the File entitled "Verification of the Cost Response of Dubai Wire FZE in the Antidumping Investigation of Certain Steel Nails from the UAE," dated March 31, 2008 (CVR), and Memorandum to the File entitled "Verification of the Sales Response of Dubai Wire FZE and Its Affiliate Global Fasteners Ltd in the Antidumping Investigation of Certain Steel Nails from the United Arab Emirates," dated April 1, 2008 (SVR).

On April 21, 2008, the Department issued a decision memorandum in this investigation and the companion investigation on nails from the People's Republic of China (PRC) (*Nails from the PRC*), in which the Department described the application of a new methodology to analyze targeted dumping. Based on this analysis, the Department did not find a pattern of export prices for identical merchandise that differed significantly among purchasers. See Memorandum to David Spooner, Assistant Secretary for Import Administration, entitled "Post-Preliminary Determinations on Targeted Dumping," dated April 21, 2008; and Memorandum to James Maeder, Director, AD/CVD Operations, Office 2, entitled "Post-Preliminary Determination on Targeted Dumping: Results for Dubai Wire FZE/Global Fasteners Ltd," dated April 21, 2008. As a result, we applied the average-to-average methodology to all U.S. sales and found a *de minimis* margin (0.09 percent) for Dubai Wire. On April 24, 2008, the Department issued a letter to all parties in the two investigations providing clarifications concerning the post-preliminary determinations.

On April 30, 2008, the petitioners and Hilti, Inc. (Hilti), an importer of the subject merchandise, filed case briefs. Dubai Wire filed a case brief on May 1, 2008. On May 7, 2008, the petitioners and Dubai Wire filed rebuttal briefs.

On May 6, 2008, National Nail Corp., an importer of subject merchandise in *Nails from the PRC*, requested that the Department confirm that the scope of this investigation excludes plastic cap roofing nails.<sup>2</sup> The Department rejected this request, and all submissions associated with this request, as untimely filed on June 2, 2008. See Letter from Irene Darzenta Tzafolias to White and Case, dated June 2, 2008.

On May 15, 2008, Illinois Tool Works, Inc. and Paslode Fasteners (Shanghai) Co., Ltd. (collectively, ITW) submitted the public version of their scope arguments contained in the public version of ITW's rebuttal brief filed on May 8, 2008, in *Nails from the PRC*. See "Scope Comments" section, below.

As the Department established a separate briefing schedule on targeted dumping issues, the petitioners and Suzhou Xingya Nail Co., Ltd., Senco-Xingya Metal Products (Taicang) Co., Ltd., Senco Products, Inc., and Omnifast LLC (collectively, Xingya Group), a respondent in *Nails from the PRC*, submitted case briefs with respect to these issues on May 7, 2008.<sup>3</sup> On May 14, 2008, the Xingya Group, ITW, and Dubai Wire submitted rebuttal briefs to the petitioners' targeted dumping brief.<sup>4</sup> On May 19, 2008, we held a joint public hearing on the targeted dumping issues raised in this investigation and *Nails from the PRC*.

#### Period of Investigation

The period of investigation (POI) is April 1, 2006, through March 31, 2007. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2007).

#### Scope of Investigation

The merchandise covered by this investigation 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding 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 this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10. Also excluded from the scope of this proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this proceeding are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or

<sup>2</sup> The May 6, 2008, submission was filed on the record of the UAE investigation on May 7, 2008. On May 12, 2008, the petitioners submitted a letter for the record of the PRC investigation opposing National Nail Corp.'s exclusion request. This letter was submitted for the record of the UAE investigation on May 27, 2008. National Nail Corp. responded to this letter on May 20, 2008.

<sup>3</sup> The public version of Xingya Group's brief was submitted for the record of this investigation on May 12, 2008.

<sup>4</sup> Dubai Wire resubmitted its rebuttal brief on May 16, 2008, as the Department rejected the original rebuttal brief because it contained arguments that did not address comments made in the petitioners' targeted dumping case brief. See Memorandum to The File entitled "Return of Dubai Wire FZE (Dubai Wire) Rebuttal Brief on Targeted Dumping Issues," dated May 16, 2008. The public versions of the petitioners' and ITW's targeted dumping rebuttal briefs filed in *Nails from the PRC* were submitted to this record on May 15, 2008.

equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

### Scope Comments

#### Banded Brads and Finish Nails

On July 30, 2007,<sup>5</sup> Stanley Fastening Systems, LP (Stanley), an interested party in this proceeding, requested that banded brads and finish nails imported with a “nailer kit” or “combo kit” as a single package be excluded from this investigation as being outside the “class or kind”<sup>6</sup> of merchandise.<sup>7</sup> Based on the scope exclusion request from Stanley, the fact that the petitioners are in agreement with this request, and that there appears to be no impediment to enforceability by CBP, we preliminarily determined that the above-described products are not subject to the scope of this investigation. Since the *Preliminary Determination*, no party to this proceeding has commented on this issue and we have found no additional information that would compel us to reverse our preliminary finding. Thus, for purposes of the final determination, we continue to find that the above-described products are not subject to the scope of this investigation.

#### Fasteners Suitable for Use in Gas-Actuated Hand Tools

In its case brief filed on April 30, 2008, Hilti, an interested party in this proceeding, reiterated its request, submitted on January 8, 2008, that the Department modify the scope of the investigation to exclude fasteners suitable for use in gas-actuated hand tools.<sup>8</sup> Hilti claimed that modification of the scope to exclude these fasteners was

supported by the petitioners<sup>9</sup> and, additionally, because the description of the excluded nails is framed solely in terms of their physical characteristics, the exclusion could be easily administered by CBP. Furthermore, Hilti pointed out that the principles and rationale the Department applied to Stanley’s scope request (see discussion above) in the *Preliminary Determination* applied equally to Hilti’s scope request.

Hilti rebutted ITW’s January 8, 2008, submission arguing that ITW offered no material reason for seeking the imposition of antidumping duties against the product at issue, other than its assertion that it is a U.S. manufacturer of such merchandise. Moreover, Hilti claimed that ITW has never opposed the petitioners’ own initial exclusion of nails suitable for use in powder-actuated hand tools, which Hilti claimed are functionally similar and competitive with nails suitable for use in gas-actuated tools, but simply classified under a different HTSUS subheading.

In its rebuttal brief submitted on May 8, 2008, in *Nails from the PRC*,<sup>10</sup> ITW reiterated its arguments in its January 8, 2008, submission that, because it is the only U.S. producer of the product at issue, the petitioners’ agreement to the proposed exclusion is not relevant in light of ITW’s opposition. In addition, ITW claimed that it is perfectly reasonable and legitimate for it to oppose a petition generally, while at the same time opposing certain exclusions to that petition.

Based on the scope exclusion request from Hilti, the fact that the petitioners are in agreement with this request, and that there appears to be no impediment to enforceability by CBP,<sup>11</sup> we have determined that the above-described products are not subject to the scope of this investigation.<sup>12</sup>

#### Aluminum Nails and Stainless Steel Nails

On February 27, 2008, Duo-Fast Northeast (Duo-Fast), an interested party in this proceeding, requested that the Department exclude two types of nails from the scope of this proceeding:

<sup>9</sup> On January 9, 2008, the petitioners filed a letter stating that they agree with Hilti’s January 8, 2008, scope exclusion request.

<sup>10</sup> This brief was submitted for the UAE record on May 15, 2008.

<sup>11</sup> See Memorandum to the File from Kate Johnson, Senior Case Analyst, entitled “Scope Exclusion Request,” dated May 1, 2008.

<sup>12</sup> While the Department notes ITW’s objection, it strives to craft a scope that both includes the specific products for which the petitioners have requested relief, and excludes those products which may fall within the general scope definition, but for which the petitioners do not seek relief.

(1) aluminum nails, and (2) stainless steel nails.<sup>13</sup> The plain language of the scope indicates that the scope does not cover aluminum nails because nails made from aluminum are not made from steel and are, thus, not subject merchandise. However, stainless steel nails are explicitly covered in the scope of this proceeding, as the plain language of the scope covers nails produced from any type of steel, without limitation. Therefore, we have not modified the scope of investigation in accordance with Duo-Fast’s requests.

#### Targeted Dumping

We have analyzed the case and rebuttal briefs with respect to targeted dumping issues submitted for the record in this investigation and in *Nails from the PRC*. As a result of our analysis, we made certain changes in the targeted dumping test we applied in the post-preliminary determination for purposes of the final determination. These changes continued to result in a negative targeted dumping finding for Dubai Wire. For further discussion, see Comments 1 through 9 in the “Issues and Decision Memorandum” (*Decision Memo*) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated June 6, 2008, which is hereby adopted by this notice. See also Memorandum to The File entitled “Dubai Wire FZE/Global Fasteners Ltd. Final Determination Margin Calculation,” dated June 6, 2008.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the parties to this investigation are addressed in the *Decision Memo*. A list of the issues that parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 1117 of the main Department building. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Decision Memo* are identical in content.

<sup>13</sup> On March 18, 2008, the petitioners submitted a letter for the record opposing Duo-Fast’s exclusion request.

<sup>5</sup> This submission was filed on the record of Nails from the PRC on July 30, 2007, and on the record of the instant investigation on January 7, 2008.

<sup>6</sup> A “nailer kit” consists of a pneumatic nailer, a “starter box” of branded products and a carrying case. A “combo kit” consists of an air compressor, a pneumatic nailer, and a “starter box” of banded products and related accessories, such as an air hose.

<sup>7</sup> On December 12, 2007, Stanley revised its July 30, 2007, scope exclusion request arguing that its new request reflects a broader exclusion and could be easily administered by U.S. Customs and Border Protection (CBP) because the description of the excluded brads and finish nails is framed solely in terms of their physical characteristics.

<sup>8</sup> We stated in the *Preliminary Determination* that we received this request too late to consider for purposes of the preliminary determination, but would consider it for the final determination.

**Verification**

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by Dubai Wire for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by Dubai Wire. See CVR and SVR.

**Changes Since the Preliminary Determination**

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for Dubai Wire. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memo.

**Final Determination Margins**

We determine that the weighted-average dumping margins are as follows:

%	Weighted-Average Margin Percentage
Dubai Wire FZE/Global Fasteners Ltd. ....	0.00
All Others .....	0.00

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Termination of Suspension of Liquidation**

Because the estimated weighted-average dumping margin for the sole investigated company is 0.00 percent (*de minimis*), we will direct CBP to terminate the suspension of liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after January 23, 2008, and to release any bond or other security, and refund any cash deposit.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination.

**Return or Destruction of Proprietary Information**

This notice will serve as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or

conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: June 6, 2008.

**David M. Spooner,**  
*Assistant Secretary for Import  
Administration.*

**Appendix - Issues in Decision Memorandum****Targeted Dumping Issues**

*Comment 1:* Appropriateness of Implementing New Methodology in this Investigation

*Comment 2:* Identifying Alleged Targets

*Comment 3:* Statistical Validity of Standard Deviation Test

*Comment 4:* Reliance on Identical Products for Determining Targeted Dumping

*Comment 5:* Alleged Masking of Dumping Under 33-Percent Pattern Test Threshold

*Comment 6:* Flaws of "Gap Test"

*Comment 7:* Alleged Masking of Dumping by Respondents Under Standard Deviation Test

*Comment 8:* Statistical Validity of P/2 Test

*Comment 9:* Programming Errors

**Company-Specific Calculation Issues**

*Comment 10:* Addition of G&A, Financial and Selling Expenses to GFL Processing Costs

*Comment 11:* Weight-Averaging of Dubai Wire and GFL Expenses for G&A and Financial Expense Ratios

*Comment 12:* Scrap Offset Revisions

*Comment 13:* Affiliated Party Loans and Leases

*Comment 14:* Calculation of Financial Expense Offset

*Comment 15:* Adjustment of GFL CV Profit Ratio for COM Revisions

*Comment 16:* Calculation of CV Selling Expenses and Profit Based on GFL Screw Sales

*Comment 17:* LOT Adjustment for CV Comparisons

[FR Doc. E8-13490 Filed 6-13-08; 8:45 am]

**BILLING CODE 3510-DS-S**

By order of the Commission.  
**Marilyn R. Abbott**,  
*Secretary to the Commission.*  
[FR Doc. E8-15405 Filed 7-7-08; 8:45 am]  
**BILLING CODE 7020-02-P**

---

---

**INTERNATIONAL TRADE  
COMMISSION**

**[Investigation No. 731-TA-1115 (Final)]**

**Certain Steel Nails From the United  
Arab Emirates**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Termination of investigation.

---

**SUMMARY:** On June 16, 2008, the Department of Commerce published notice in the **Federal Register** of a negative final determination of sales at less than fair value in connection with the subject investigation (73 FR 33985). Accordingly, pursuant to 19 U.S.C. 1673d(b)(1) and section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the antidumping investigation concerning certain steel nails from the United Arab Emirates (investigation No. 731-TA-1115 (Final)) is terminated.

**DATES:** *Effective Date:* July 2, 2008.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202-205-3187 or [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 individuals are advised that information on this matter can be obtained 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>.

**Authority:** This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

Issued: July 2, 2008.





**APPENDIX B**  
**HEARING WITNESSES**



**CALENDAR OF PUBLIC HEARING**

Those listed below appeared as witnesses at the United States International Trade Commission’s hearing:

**Subject:** Certain Steel Nails from China  
**Inv. Nos.:** 731-TA-1114 (Final)  
**Date and Time:** June 11, 2008 - 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 the  
Antidumping Duty Order:**

Kelley Drye & Warren  
Washington, DC  
on behalf of

Davis Wire Corp.  
Gerdau Ameristeel Corp.  
Maze Nails  
Mid Continent Nail Corp.  
Treasure Coast Fasteners, Inc.

**David Libla**, President and CEO, Mid Continent Nail Corp.

**Chris Pratt**, Director, Internal Audit and Reporting,  
Mid Continent Nail Corp.

**Peter Cronin**, Corporate Vice President, Sales and Marketing,  
Hyco Wire Group, USA (Davis Wire Corp.)

**Jim Kerkvliet**, Vice President Commercial Sales,  
Gerdau Ameristeel

**M. John Dees**, President, Treasure Coast Fasteners, Inc.

**Denis McMorro**w, President, Wheeling-LaBelle Nail Co.

**Vic Stirnaman**, Executive Vice President, Keystone Consolidated Industries

**Gina Beck**, Economist, Georgetown Economic Services

**Michael T. Kerwin**, Economist, Georgetown Economic Services

**Paul Rosenthal** )  
**Kathleen W. Cannon** )-OF COUNSEL  
**Grace W. Kim** )

**In Opposition to the Imposition of  
Antidumping Duty Orders:**

Neville Peterson LLP  
Washington, DC  
on behalf of

Stanley Fastening Systems, LP

**Denise Nemchev**, President, Stanley Bostich

**Chris Dutra**, Vice President, Product and Channel Management, Stanley Bostich

**Theodore Morris**, Assistant General Counsel and Assistant Secretary,  
The Stanley Works

**Lawrence J. Bogard** )  
**George W. Thompson** ) – OF COUNSEL  
**Casey K. Richter** )

**APPENDIX C**  
**SUMMARY DATA**



**Table C-1**

**Steel nails: Summary data concerning the U.S. market, 2005-07**

(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		
	2005	2006	2007	2005-07	2005-06	2006-07
U.S. consumption quantity:						
Amount . . . . .	1,180,449	1,124,792	912,175	-22.7	-4.7	-18.9
Producers' share (1) . . . . .	23.3	17.5	15.8	-7.6	-5.9	-1.7
Importers' share (1):						
China (subject) . . . . .	***	***	***	***	***	***
All other sources . . . . .	***	***	***	***	***	***
Total imports . . . . .	76.7	82.5	84.2	7.6	5.9	1.7
U.S. consumption value:						
Amount . . . . .	1,267,936	1,148,804	984,270	-22.4	-9.4	-14.3
Producers' share (1) . . . . .	30.4	25.0	22.4	-8.0	-5.3	-2.6
Importers' share (1):						
China (subject) . . . . .	***	***	***	***	***	***
All other sources . . . . .	***	***	***	***	***	***
Total imports . . . . .	69.6	75.0	77.6	8.0	5.3	2.6
U.S. imports from:						
China (subject):						
Quantity . . . . .	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***
Unit value . . . . .	\$***	\$***	\$***	***	***	***
Ending inventory quantity . . . . .	***	***	***	***	***	***
All other sources (2):						
Quantity . . . . .	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***
Unit value . . . . .	\$***	\$***	\$***	***	***	***
Ending inventory quantity . . . . .	***	***	***	***	***	***
All sources:						
Quantity . . . . .	905,001	928,191	768,307	-15.1	2.6	-17.2
Value . . . . .	882,879	861,198	763,859	-13.5	-2.5	-11.3
Unit value . . . . .	\$976	\$928	\$994	1.9	-4.9	7.2
Ending inventory quantity . . . . .	137,374	169,079	145,813	6.1	23.1	-13.8

Table continued on next page.

**Table C-1--Continued**  
**Steel nails: Summary data concerning the U.S. market, 2005-07**

(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		
	2005	2006	2007	2005-07	2005-06	2006-07
U.S. producers':						
Average capacity quantity . . . . .	694,236	704,958	645,227	-7.1	1.5	-8.5
Production quantity . . . . .	276,358	196,488	146,259	-47.1	-28.9	-25.6
Capacity utilization (1) . . . . .	39.8	27.9	22.7	-17.1	-11.9	-5.2
U.S. shipments:						
Quantity . . . . .	275,448	196,601	143,868	-47.8	-28.6	-26.8
Value . . . . .	385,057	287,606	220,411	-42.8	-25.3	-23.4
Unit value . . . . .	\$1,398	\$1,463	\$1,532	9.6	4.6	4.7
Export shipments:						
Quantity . . . . .	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***
Unit value . . . . .	\$***	\$***	\$***	***	***	***
Ending inventory quantity . . . . .	23,632	20,317	19,923	-15.7	-14.0	-1.9
Inventories/total shipments (1) . .	***	***	***	***	***	***
Production workers . . . . .	1,401	1,136	791	-43.5	-18.9	-30.4
Hours worked (1,000s) . . . . .	3,012	2,456	1,622	-46.1	-18.4	-34.0
Wages paid (\$1,000s) . . . . .	41,419	38,701	27,710	-33.1	-6.6	-28.4
Hourly wages . . . . .	\$13.75	\$15.76	\$17.08	24.2	14.6	8.4
Productivity (tons/1,000 hours) .	91.8	80.0	90.2	-1.7	-12.8	12.7
Unit labor costs . . . . .	\$149.88	\$196.96	\$189.46	26.4	31.4	-3.8
Net sales:						
Quantity . . . . .	279,790	204,082	155,699	-44.4	-27.1	-23.7
Value . . . . .	391,509	299,920	238,774	-39.0	-23.4	-20.4
Unit value . . . . .	\$1,399	\$1,470	\$1,534	9.6	5.0	4.4
Cost of goods sold (COGS) . . . .	326,652	251,886	199,460	-38.9	-22.9	-20.8
Gross profit or (loss) . . . . .	64,857	48,034	39,314	-39.4	-25.9	-18.2
SG&A expenses . . . . .	36,098	29,812	30,184	-16.4	-17.4	1.2
Operating income or (loss) . . . .	28,759	18,222	9,130	-68.3	-36.6	-49.9
Capital expenditures . . . . .	***	***	***	***	***	***
Unit COGS . . . . .	\$1,167	\$1,234	\$1,281	9.7	5.7	3.8
Unit SG&A expenses . . . . .	\$129	\$146	\$194	50.3	13.2	32.7
Unit operating income or (loss) .	\$103	\$89	\$59	-43.0	-13.1	-34.3
COGS/sales (1) . . . . .	83.4	84.0	83.5	0.1	0.6	-0.4
Operating income or (loss)/ sales (1) . . . . .	7.3	6.1	3.8	-3.5	-1.3	-2.3

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Consists of imports from China by ITW/Paslode and imports from all countries other than China.

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 3 firms from U.S. producer data),**  
**2005-07**

\* \* \* \* \*



**APPENDIX D**

**U.S. PRODUCERS', IMPORTERS', PURCHASERS', AND FOREIGN  
PRODUCERS'/EXPORTERS' RESPONSES TO THE COMMISSION'S  
QUESTIONS CONCERNING PRODUCTION INCREASES/DECREASES AND  
EFFECTS OF THE IMPOSITION OF PRELIMINARY ANTIDUMPING  
DUTIES ON STEEL NAILS**



The Commission's questionnaires in these final phase investigations requested comments from domestic producers regarding the following questions:

**II-15b.** Please indicate whether your firm has increased or decreased its production of any of the types of nails specified above from 2005 to 2007, and indicate why your firm has made this change in the type of nails produced:

**II-16.** Has your firm benefitted in any way, including from increased sales volumes or increased prices, from the filing of this trade case or the imposition of preliminary duties against China or the United Arab Emirates?

**II-17.** Does your firm anticipate that it will benefit from the imposition of antidumping duty orders against China and the United Arab Emirates?

\* \* \* \* \*

The Commission's questionnaires in these final phase investigations requested comments from importers regarding the following questions:

**II-10.** Please indicate whether your firm has increased or decreased its imports from China of any of the types of nails specified above from 2005 to 2007, and indicate why your firm has made this change in the type of nails imported.

**II-11.** Please indicate whether your firm has increased or decreased its imports from the United Arab Emirates of any of the types of nails specified above from 2005 to 2007, and indicate why your firm has made this change in the type of nails imported.

**II-12.** Please indicate whether your firm has increased or decreased its imports from all other countries of any of the types of nails specified above from 2005 to 2007, and indicate why your firm has made this change in the type of nails imported.

**II-13.** Did your firm change the amounts of its imports (or do you plan to change the amounts of your imports) of certain steel nails from China or the United Arab Emirates because of the filing of the petition in these investigations and/or because of the Department of Commerce's preliminary determinations of sales at less than fair value on certain steels nails from China or from the United Arab Emirates? If yes, supply specific details as to the time, nature, and amounts of any such changes in imports or orders, also indicating whether any decreases in imports from China and/or the United Arab Emirates were replaced by (or whether any increases were replaced by) certain steel nails produced in the United States and/or imported from nonsubject countries.

\* \* \* \* \*

The Commission's questionnaires in these final phase investigations requested comments from purchasers regarding the following questions:

**I-6.** Did your firm change the amounts of its purchases (or do you plan to change the amounts of your purchases) of certain steel nails from China or the United Arab Emirates because of the filing of the petition in these investigations and/or because of the Department of Commerce's preliminary determinations of sales at less than fair value on certain steel nails from China or from the United Arab Emirates?

**I-7.** Did prices increase for any of your firm's purchases of certain steel nails from China and/or the United Arab Emirates since the case was filed (May 29, 2007)?

**I-8.** Has your firm replaced, to some degree, its purchases of certain steel nails imported from China and/or the United Arab Emirates with imports from nonsubject countries (countries other than China or the United Arab Emirates) since this case was filed (May 29, 2007)?

\* \* \* \* \*

The Commission's questionnaires in these final phase investigations requested comments from foreign producers/exporters regarding the following questions:

**II-1.** Does your firm have any plans to add, expand, curtail, or shut down production capacity and/or production of certain steel nails in China or the United Arab Emirates?

**II-10b.** Please indicate whether your firm has increased or decreased its production of any of the types of nails specified above from 2005 to 2007, and indicate why your firm has made this change in the type of nails produced:

\* \* \* \* \*

**APPENDIX E**

**ADDITIONAL PURCHASING FACTOR COMPARISONS**





**Table E-1**  
**Steel nails: Comparisons of the U.S. product and products from nonsubject countries, as reported by purchasers**

Factor	U.S. vs. Canada			U.S. vs. Korea		
	S	C	I	S	C	I
	<i>Number of firms responding</i>					
Availability	3	3	0	6	5	0
Delivery terms	2	4	0	5	6	0
Delivery time	2	4	0	8	3	0
Discounts offered	0	3	2	0	8	1
Extension of credit	0	6	0	1	10	0
Lower price <sup>1</sup>	0	5	1	0	3	8
Lower U.S. transportation costs <sup>1</sup>	2	4	0	2	7	2
Minimum quantity requirements	1	4	1	6	4	1
Packaging	2	4	0	3	8	0
Product consistency	1	4	1	1	10	0
Product range	1	5	0	6	5	0
Quality meets industry standards	1	5	0	1	10	0
Quality exceeds industry standards	1	5	0	1	10	0
Reliability of supply	1	5	0	3	8	0
Technical support/service	0	6	0	10	1	0

Table continued on the next page.

**Table E-1--Continued**

**Steel nails: Comparisons of the U.S. products and products from nonsubject countries, as reported by purchasers**

Factor	U.S. vs. Mexico			U.S. vs. Taiwan		
	S	C	I	S	C	I
	<i>Number of firms responding</i>					
Availability	3	0	0	3	2	1
Delivery terms	1	2	0	2	4	0
Delivery time	2	1	0	3	3	0
Discounts offered	0	2	1	0	5	1
Extension of credit	1	2	0	0	6	0
Lower price <sup>1</sup>	0	1	2	0	2	4
Lower U.S. transportation costs <sup>1</sup>	1	1	1	1	4	1
Minimum quantity requirements	1	2	0	2	3	1
Packaging	0	3	0	2	3	1
Product consistency	2	1	0	2	4	0
Product range	3	0	0	3	2	1
Quality meets industry standards	2	1	0	0	5	1
Quality exceeds industry standards	2	1	0	2	4	0
Reliability of supply	3	0	0	2	3	1
Technical support/service	2	1	0	4	2	0

Table continued on the next page.

**Table E-1--Continued**

**Steel nails: Comparisons of the U.S. products and products from nonsubject countries, as reported by purchasers**

Factor	U.S. vs. United Arab Emirates			U.S. vs. all other nonsubject countries <sup>2</sup>		
	S	C	I	S	C	I
	<i>Number of firms responding</i>					
Availability	6	4	0	7	2	0
Delivery terms	3	5	2	0	8	1
Delivery time	9	1	0	6	3	0
Discounts offered	1	5	3	0	8	1
Extension of credit	2	7	1	3	6	0
Lower price <sup>1</sup>	0	1	9	2	2	5
Lower U.S. transportation costs <sup>1</sup>	3	2	5	1	6	2
Minimum quantity requirements	5	5	0	2	7	0
Packaging	1	9	0	4	5	0
Product consistency	0	10	0	4	4	1
Product range	3	5	2	7	1	1
Quality meets industry standards	0	10	0	4	5	0
Quality exceeds industry standards	2	8	0	4	3	2
Reliability of supply	3	7	0	5	4	0
Technical support/service	8	2	0	5	3	1
<p><sup>1</sup> A rating of "superior" on lower price or lower U.S. transportation costs indicates that the first-named country generally has lower prices or U.S. transportation costs than the second-named country.</p> <p><sup>2</sup> All other nonsubject countries includes Austria, Germany, Honduras, Indonesia, Italy, Spain, Turkey, and Vietnam.</p> <p>Note.--Not all purchasers responded for every factor. S=first-listed country's product is superior; C=both countries' products are comparable; I=first-listed country's product is inferior.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>						



**APPENDIX F**

**PRICE DATA, EXCLUDING DOMESTICALLY PRODUCED NAILS OF U.S.  
PRODUCERS SENCO, SPECIALTY FASTENING, AND  
STANLEY FASTENING**



**Table F-1**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic<sup>1</sup> and imported product 1<sup>2</sup> and margins of underselling/(overselling), by quarters, January 2005-December 2007**

Period	United States		China		
	Quantity (thousand count of nails)	Price (per thousand count of nails)	Quantity (thousand count of nails)	Price (per thousand count of nails)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	431,677	\$5.33	***
Apr.-June	***	***	634,491	5.49	***
July-Sept.	***	***	658,437	5.36	***
Oct.-Dec.	***	***	404,447	5.01	***
<b>2006:</b>					
Jan.-Mar.	***	***	590,385	4.93	***
Apr.-June	***	***	843,606	4.71	***
July-Sept.	***	***	801,987	4.72	***
Oct.-Dec.	***	***	658,140	4.66	***
<b>2007:</b>					
Jan.-Mar.	***	***	633,891	4.66	***
Apr.-June	***	***	896,604	4.38	***
July-Sept.	***	***	1,088,108	4.81	***
Oct.-Dec.	***	***	622,468	5.03	***

<sup>1</sup> Data for the United States exclude data reported by related parties \*\*\*; \*\*\* did not report price data for nails produced and sold in the United States.

<sup>2</sup> Product 1.--10d 3" by 0.128"-0.131" (10.25 gauge) bright smooth, 22-22 degree plastic-strip collated nails.

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

**Table F-2**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic<sup>1</sup> and imported product 2<sup>2</sup> and margins of underselling/(overselling), by quarters, January 2005-December 2007**

Period	United States		China		
	Quantity (thousand count of nails)	Price (per thousand count of nails)	Quantity (thousand count of nails)	Price (per thousand count of nails)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	437,322	\$3.97	***
Apr.-June	***	***	526,269	4.02	***
July-Sept.	***	***	448,690	3.99	***
Oct.-Dec.	***	***	304,373	4.04	***
<b>2006:</b>					
Jan.-Mar.	***	***	556,633	4.05	***
Apr.-June	***	***	1,145,576	3.65	***
July-Sept.	***	***	711,213	3.94	***
Oct.-Dec.	***	***	548,296	3.87	***
<b>2007:</b>					
Jan.-Mar.	***	***	630,779	3.66	***
Apr.-June	***	***	468,486	4.16	***
July-Sept.	***	***	560,806	4.28	***
Oct.-Dec.	***	***	459,902	4.39	***
<p><sup>1</sup> Data for the United States exclude data reported by related parties ***; *** did not report price data for nails produced and sold in the United States.</p> <p><sup>2</sup> Product 2.--10d 3" by 0.118"-0.121" (11 gauge) bright smooth, 20-22 degree plastic-strip collated nails.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>					



**Table F-3**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic<sup>1</sup> and imported product 3<sup>2</sup> and margins of underselling/(overselling), by quarters, January 2005-December 2007**

Period	United States		China		
	Quantity (thousand count of nails)	Price (per thousand count of nails)	Quantity (thousand count of nails)	Price (per thousand count of nails)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	147,373	\$4.83	***
Apr.-June	***	***	216,613	4.50	***
July-Sept.	***	***	196,212	4.83	***
Oct.-Dec.	***	***	217,397	4.43	***
<b>2006:</b>					
Jan.-Mar.	***	***	244,975	4.36	***
Apr.-June	***	***	287,824	4.22	***
July-Sept.	***	***	250,300	4.33	***
Oct.-Dec.	***	***	213,806	4.12	***
<b>2007:</b>					
Jan.-Mar.	***	***	232,724	3.96	***
Apr.-June	***	***	240,786	3.98	***
July-Sept.	***	***	293,462	4.27	***
Oct.-Dec.	***	***	174,052	4.41	***

<sup>1</sup> Data for the United States exclude data reported by related parties \*\*\*; \*\*\* did not report price data for nails produced and sold in the United States.  
<sup>2</sup> Product 3.--8d 2<sup>3</sup>/<sub>8</sub>" by 0.110"-0.113" (11.5 gauge) bright screw and ring shank nails, 20-22 degree plastic-strip collated nails.

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

**Table F-4**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic<sup>1</sup> and imported product 4<sup>2</sup> and margins of underselling/(overselling), by quarters, January 2005-December 2007**

Period	United States		China		
	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	6,720	\$711	***
Apr.-June	***	***	7,713	718	***
July-Sept.	***	***	7,349	722	***
Oct.-Dec.	***	***	6,834	666	***
<b>2006:</b>					
Jan.-Mar.	***	***	8,290	667	***
Apr.-June	***	***	9,055	646	***
July-Sept.	***	***	8,423	644	***
Oct.-Dec.	***	***	5,340	675	***
<b>2007:</b>					
Jan.-Mar.	***	***	5,848	663	***
Apr.-June	***	***	6,466	663	***
July-Sept.	***	***	5,958	702	***
Oct.-Dec.	***	***	4,649	745	***
<p><sup>1</sup> Data for the United States exclude data reported by related parties ***; *** did not report price data for nails produced and sold in the United States.</p> <p><sup>2</sup> Product 4.--16d 3.25" by 0.148" (9 gauge) smooth vinyl- or cement-coated sinkers, bulk.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>					

**Table F-5**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic<sup>1</sup> and imported product 5<sup>2</sup> and margins of underselling/(overselling), by quarters, January 2005-December 2007**

Period	United States		China		
	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	***	***	***
Apr.-June	***	***	666	907	***
July-Sept.	***	***	895	884	***
Oct.-Dec.	***	***	885	881	***
<b>2006:</b>					
Jan.-Mar.	***	***	1,094	872	***
Apr.-June	***	***	1,474	855	***
July-Sept.	***	***	1,373	860	***
Oct.-Dec.	***	***	1,271	859	***
<b>2007:</b>					
Jan.-Mar.	***	***	1,556	847	***
Apr.-June	***	***	1,519	841	***
July-Sept.	***	***	1,470	859	***
Oct.-Dec.	***	***	1,251	843	***
<p><sup>1</sup> Data for the United States exclude data reported by related parties ***; *** did not report price data for nails produced and sold in the United States.</p> <p><sup>2</sup> Product 5.--6d 2" by 0.112"-0.115" (11.5 gauge) bright drive screw (threaded), bulk.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>					

**Table F-6**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic<sup>1</sup> and imported product 6<sup>2</sup> and margins of underselling/(overselling), by quarters, January 2005-December 2007**

Period	United States		China		
	Quantity (thousand count of nails)	Price (per thousand count of nails)	Quantity (thousand count of nails)	Price (per thousand count of nails)	Margin (percent)
<b>2005:</b>					
Jan.-Mar.	***	***	1,239,283	\$2.77	***
Apr.-June	***	***	1,314,693	2.71	***
July-Sept.	***	***	1,282,814	2.74	***
Oct.-Dec.	***	***	1,349,003	2.72	***
<b>2006:</b>					
Jan.-Mar.	***	***	1,163,346	2.64	***
Apr.-June	***	***	1,356,956	2.59	***
July-Sept.	***	***	1,284,186	2.59	***
Oct.-Dec.	***	***	1,461,114	2.72	***
<b>2007:</b>					
Jan.-Mar.	***	***	1,539,180	2.46	***
Apr.-June	***	***	1,963,004	2.45	***
July-Sept.	***	***	2,132,984	2.50	***
Oct.-Dec.	***	***	1,956,097	2.62	***
<sup>1</sup> Data for the United States exclude data reported by related parties ***; *** did not report price data for nails produced and sold in the United States. <sup>2</sup> Product 6.--6d 2" by 0.096"-0.099" (12.5 gauge) bright screw (threaded), 15 degree wire coil collated nails. Source: Compiled from data submitted in response to Commission questionnaires.					

**Table F-7**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 7 and margins of underselling/(overselling), by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table F-8**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 8 and margins of underselling/(overselling), by quarters, January 2005-December 2007**

\* \* \* \* \*

**APPENDIX G**

**PRICES OF IMPORTS OF STEEL NAILS FROM NONSUBJECT COUNTRIES**



**Table G-1**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of imported product 1, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table G-2**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of imported product 2, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table G-3**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of imported product 3, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table G-4**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of imported product 4, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table G-5**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of imported product 5, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table G-6**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of imported product 6, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table G-7**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of imported product 7, by quarters, January 2005-December 2007**

\* \* \* \* \*

**Table G-8**

**Certain steel nails: Weighted-average f.o.b. prices and quantities of imported product 8, by quarters, January 2005-December 2007**

\* \* \* \* \*





**APPENDIX H**

**OPERATING RESULTS OF U.S. PRODUCERS  
EXCLUDING CERTAIN RELATED PARTIES  
AND  
RESULTS OF U.S. PRODUCERS ON  
THEIR CONSOLIDATED OPERATIONS**



The Commission determined that appropriate circumstance existed in the preliminary phase of these investigations to exclude four U.S. producers, ITW, Senco, Specialty Fastening, and Stanley Fastening, from the domestic industry as related parties.<sup>1</sup> The Commission stated that it would reexamine the appropriate application of the related parties provision as well as the factual allegations in the final phase of the investigations. Commerce has since determined that steel nails from the UAE are being fairly traded;<sup>2</sup> staff believes that no imports of nails from the UAE are included in the data in this appendix.<sup>3</sup> Commerce also found ITW-Paslode's imports from China to be fairly traded;<sup>4</sup> hence ITW-Paslode does not qualify as a related party and its import data are not included in this analysis. This appendix presents the results of operations of the domestic industry excluding the remaining three firms (table H-1); it also presents financial data for the seven firms that reported both results of operations on their domestically produced merchandise as well as their consolidated operations that include sales of imported subject merchandise from China (tables H-2 and H-3).

---

<sup>1</sup> Views of the Commission, p. 13. Commissioner Lane determined that appropriate circumstances existed in the preliminary phase of the investigations to exclude three U.S. producers (ITW, Senco, and Stanley Fastening). *Id.*, fn. 47.

<sup>2</sup> 73 FR 33985, June 16, 2008.

<sup>3</sup> In this regard, staff received data changes that eliminated resales of imports from the UAE from the data of one firm. E-mail to staff from \*\*\*, June 23, 2008.

<sup>4</sup> 73 FR 33977, June 16, 2008.

**Table H-1**  
**Steel nails: Results of operations of U.S. producers, excluding related parties Senco, Specialty Fastening, and Stanley Fastening, fiscal years 2005–07**

\* \* \* \* \*

Seven U.S. producers reported either purchasing or importing subject product from China, as noted earlier in this report.<sup>5</sup> In the Commission’s questionnaire, firms were requested to consolidate sales of such imported or purchased product with their sales of U.S.-produced product and present the data together (question III-12). Generally speaking, the consolidated data are consistent with data reported for these firms’ U.S. shipments of imported subject merchandise from the subject countries. Data of these reporting firms on their domestically produced merchandise are presented together with their consolidated operations in table H-2.

**Table H-2**  
**Steel nails: Results of operations of U.S. producers on their domestically produced nails and their consolidated operations, fiscal years 2005–07**

\* \* \* \* \*

**Table H-3**  
**Steel nails: Results of operations of U.S. producers on their domestically produced nails and their consolidated operations, by firms, fiscal years 2005–07**

\* \* \* \* \*

---

<sup>5</sup> As noted earlier, Commerce determined that imports from the UAE are being fairly traded, and staff believes that no imports from the UAE are included in the data in these tables. Also, data on ITW-Paslode’s imports from China, determined to have been fairly traded by Commerce, are not included here.

**APPENDIX I**

**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, 2005 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, the United Arab Emirates, or both?**

\* \* \* \* \*

**Company responses to the following question: Does your firm anticipate any negative impact of imports of steel nails from China, the United Arab Emirates, or both?**

\* \* \* \* \*

