

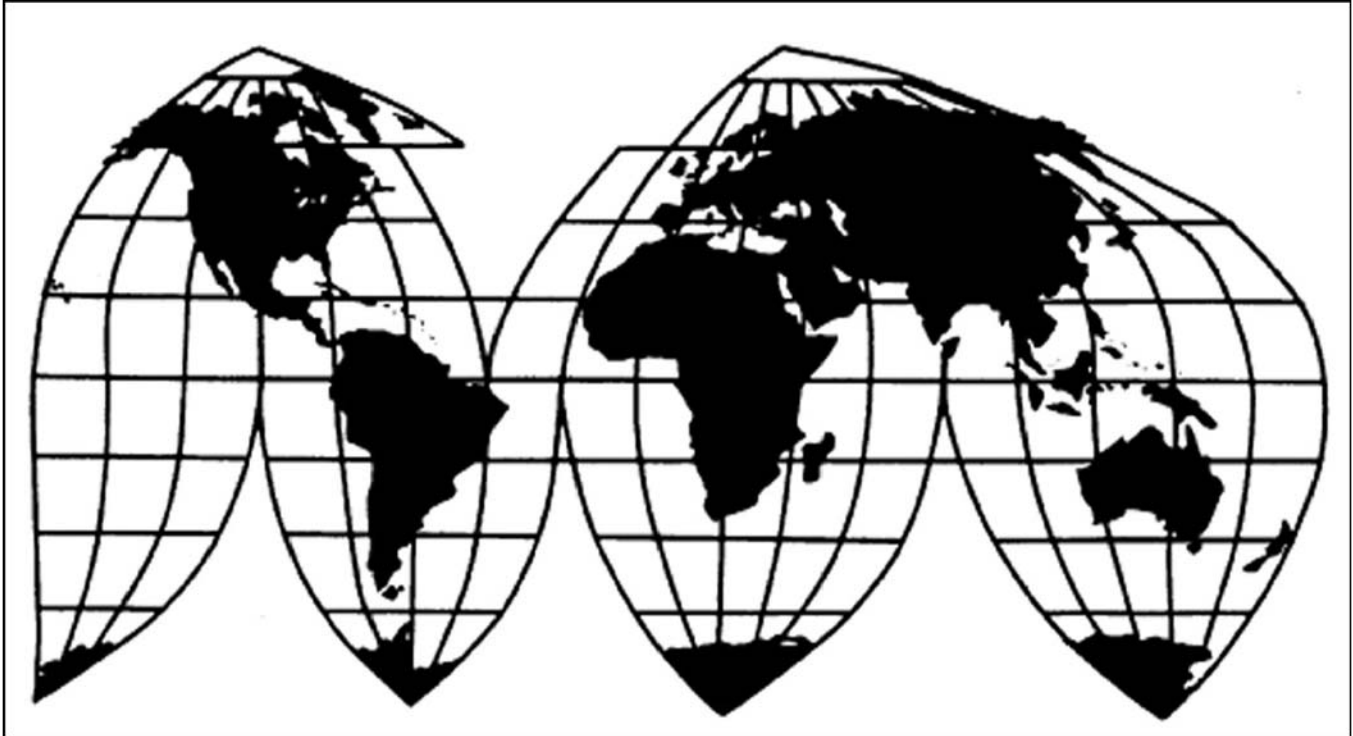
Wire Decking from China

Investigation Nos. 701-TA-466 and 731-TA-1162 (Preliminary)

Publication 4092

July 2009

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-466 and 731-TA-1162 (Preliminary)

WIRE DECKING FROM CHINA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured, by reason of imports from China of wire decking, provided for in subheading 9403.90.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of China.

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On June 5, 2009, a petition was filed with the Commission and Commerce by AWP Industries, Inc., Frankfort, KY; ITC Manufacturing, Inc., Phoenix, AZ; J&L Wire Cloth, Inc., St. Paul, MN; Nashville Wire Products Mfg. Co., Inc., Nashville, TN; and Wireway Husky Corp., Denver, NC, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of wire decking from China. Accordingly, effective June 5, 2009, the Commission instituted countervailing duty investigation No. 701-TA-466 and antidumping duty investigation No. 731-TA-1162 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 11, 2009 (74 FR 27823). The conference was held in Washington, DC, on June 26, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of wire decking from China that are allegedly sold in the United States at less than fair value and subsidized by the Government of China.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

II. BACKGROUND

The antidumping and countervailing duty petition in these investigations was filed on June 5, 2009, by AWP Industries, Inc. (“AWP”) of Frankfort, Kentucky; ITC Manufacturing, Inc. (“ITC”) of Phoenix, Arizona; J&L Wire Cloth, Inc. (“J&L”) of St. Paul, Minnesota; Nashville Wire Products Mfg. Co., Inc. (“Nashville Wire”) of Nashville, Tennessee; and Wireway Husky Corp. (“Wireway”) of Denver, North Carolina, domestic producers of wire decking (collectively, “petitioners”). Corporate representatives of the petitioners, domestic producer Nucor Corporation (“Nucor”), foreign producer Dalian Eastfound Metal Group (“Eastfound”) and U.S. importer Atlas Material Handling, Inc. (“Atlas”) (Eastfound and Atlas referred to collectively herein as “respondents”) appeared at the staff conference. Counsel for these parties filed postconference briefs as well.

Ten firms currently produce wire decking in the United States, of which seven responded to the Commission’s questionnaire.³ These questionnaire responses are estimated to account for 99 percent of domestic production of wire decking in 2008.⁴ The Commission received questionnaire responses from nine U.S. importers of subject merchandise from China, believed to account for the majority of such imports.⁵ The Commission also received questionnaire responses from five Chinese producers/exporters, which are believed to have accounted for *** percent of subject exports to the United States in 2008.⁶

¹ 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

³ Confidential Staff Report, INV-GG-062 (“CR”) at III-1; Public Staff Report (“PR”) at III-1. U.S. producers that did not respond were Complex Steel & Wire of Wayne, Michigan; Equipto, Inc. of Tatamy, Pennsylvania; and Salco Engineering & Manufacturing Co. of Jackson, Michigan. CR/PR at III-1 n.1.

⁴ CR/PR at III-1 n.1.

⁵ CR/PR at IV-1.

⁶ CR/PR at VII-3.

III. DOMESTIC LIKE PRODUCT

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.”⁷ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a whole 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.”⁸ In turn, the Tariff 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”⁹

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.¹⁰ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹¹ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹² Although the Commission must accept the U.S. Department of Commerce’s (“Commerce”) determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,¹³ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁴ The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(4)(A).

⁹ 19 U.S.C. § 1677(10).

¹⁰ 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 the following: (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).

¹¹ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹² Nippon, 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.”).

¹³ See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“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).

¹⁴ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); Torrington, 747 F. Supp. at 748-52 (affirming the Commission’s determination defining six like products in investigations where Commerce found five classes or kinds).

imported products, but may draw upon previous determinations in addressing pertinent domestic like product issues.¹⁵

B. Product Description and Analysis

In its notices of initiation, Commerce defined the imported merchandise within the scope of the investigations as follows:

welded-wire rack decking for industrial and other commercial storage racks or pallet rack systems. It is produced from carbon or alloy steel wire that has been welded into a square or rectangular mesh pattern. The wire may be galvanized or plated (e.g., chrome, zinc or nickel coated), coated with paint, epoxy, or plastic, or uncoated (“raw”). Wire decking is sold in a variety of wire gauges. The wire gauges used in the decking mesh are 0.105 inches (12 gauge) or greater. The wire may be drawn or rolled and may have a round, square or other profile.

Wire mesh decking is reinforced with structural supports that may include sheet metal support channels or additional wire or other structural supports. It is produced to various profiles, including, but not limited to, a flat (flush) profile, an upward curved back edge profile (“backstop”) or downward curved edge profile (“waterfalls”), depending on the rack storage system. Wire decking may also be referred to as “pallet rack decking,” “wire rack decking,” “wire mesh decking,” or “bulk storage shelving.” The wire decking may or may not be anchored to the rack storage system.

Wire decking’s open mesh design is intended to provide a low weight, high-strength storage platform that allows light to pass through it. It also allows water to pass through for fire protection systems, and as a result wire decking is usually mandated by insurance companies and building codes for use in commercial and industrial storage systems.

The scope does not cover the metal rack system on which the wire decking is ultimately installed. Also excluded from the scope is other wire mesh shelving that specifically lacks any structural supports welded or otherwise affixed to it. Such wire mesh shelving is known as “storage shelving” and might be used in a home or small business to store files or other non-load bearing items.¹⁶

Wire decking consists of a steel wire mesh shelf with attached reinforcing members that is ready to install as shelving on supporting rack framing in commercial and industrial storage systems.¹⁷ The

¹⁵ See, e.g., Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1988); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int’l Trade 1988).

¹⁶ CR at I-6-7, PR I-5-6. Commerce explained that wire decking enters the United States under several basket categories in the Harmonized Tariff Schedule of the United States. U.S. Customs and Border Protection has issued a ruling (NY F84777) that wire decking is to be classified under HTS 9403.90.8040. Wire decking may also be entered under HTS 7217.10, 7217.20, 7326.20, 7326.90 and 9403.20.0020. HTS numbers are provided for convenience purposes only; the physical description provided above controls the scope coverage. *Id.*

¹⁷ CR at I-8, PR at I-7. As noted in Commerce’s notice of institution, wire decking may also be referred to as “pallet rack decking,” “wire rack decking,” “wire mesh decking,” or “bulk storage shelving.” CR at I-7, PR at I-6.

(continued...)

most common profile of wire decking, “waterfall,” has a 90-degree downward curved edge that covers about 1.5 inches of the outside of the support beams. The waterfall feature helps to hold the decking in position. Other profiles include an upward bend at the back of the wire mesh surface to prevent material from being pushed too far onto or off the shelf and a wire mesh surface that is simply flat or flush.¹⁸

The size and spacing of the wire used in the mesh, as well as the number and characteristics of the support members, determine the weight and load-bearing capacity of the decking. For instance, for the most common size of decking, 42-inch by 46-inch, the weight of the section may range from 24 to 30 pounds, and its load-bearing capacity may range from 2,000 pounds to 3,500 pounds.¹⁹

Another feature of wire decking is the finish, which affects the appearance and the corrosion resistance of the product. The product may be coated with a baked-on enamel paint or a baked-on spray-powder finish, or may be fabricated from galvanized (zinc-coated) products. Wire decking may also be hot-dipped or electroplated with zinc after fabrication.²⁰

Petitioners propose a single domestic like product that corresponds with the scope of the investigations. No party opposes this definition of the domestic like product. We discuss below the information in the record concerning the factors the Commission typically examines in defining the domestic like product.

Physical Characteristics and End Uses. Although it varies in terms of profile, coating, dimensions, weight, and load-bearing characteristics, all wire decking consists of supported wire mesh that serves as shelving on rack framing in warehouse, commercial, or industrial storage systems.²¹

Interchangeability. Wire decking with similar dimensions, profiles, and load-bearing characteristics can be used interchangeably regardless of their finish or coating inasmuch as most wire decking applications do not require a specific finish.²² Similarly, it appears that differences in profile do not significantly affect the interchangeability of wire decking products that otherwise have similar characteristics.²³ Moreover, it also appears that solid shelving is not a direct substitute for wire decking because wire decking has superior performance characteristics in terms of its relatively light weight, high load-bearing capability, and openness which permits easy passage of light and water from fire protection systems.²⁴

Channels of Distribution. Channels of distribution are similar for all domestically produced wire decking. The majority of domestic producers’ shipments, 68.0 percent in 2008, were sold to distributors,

¹⁷ (...continued)

The rack framing on which the decking rests is not within the scope of these investigations.

¹⁸ CR at I-9-10, PR at I-8-9.

¹⁹ CR at I-10, PR at I-9.

²⁰ Id.

²¹ CR at I-8, PR at I-7.

²² Zinc-electroplated or hot-dipped decking is advantageous only in applications such as industrial food refrigeration storage and outdoor warehousing, which constitute only 4 or 5 percent of domestic consumption. Conference Transcript at 72, 95-96 (Rollins).

²³ For instance, an end user may prefer a flush profile simply because it permits the viewing of labels applied to the front of the shelving, which could be problematic with the waterfall profile. CR at I-10, PR at I-9. Similarly, the backstop design, although making it easier to prevent stored merchandise from sliding off the back of the shelving, does not appear to be so distinct a feature of the decking as to render other profiles unsuited for use in the same applications.

²⁴ Petitioners’ Postconference Brief at 5. Most market participants reported that there are no substitute products for wire decking. CR at II-12, PR at II-8.

with *** of the domestic producers *** selling the majority of its wire decking to distributors.²⁵ The remainder was sold directly to end users.²⁶

Manufacturing Facilities, Production Processes, and Employees. The same production processes, facilities, and employees are used in the production of wire decking of all profiles and dimensions. The basic process consists of welding carbon or alloy wire into a grid pattern with an electrical resistance welding process, after which the grid is shaped into the desired profile. Structural supports are then welded to the bottom of the deck and the decking then undergoes a finishing operation. The finishing operation of the domestic product includes the application of either a baked-on enamel or a baked-on powder coating.²⁷ Where zinc-electroplating or hot-dipping finishing processes are involved, domestic producers have tended to outsource these processes, which are heavily regulated.²⁸ Although the degree of automation of individual domestic producers may vary, this basic series of production steps is common to all domestic production.²⁹

Producer and Customer Perceptions. Petitioners assert that producers and consumers perceive all wire decking, regardless of wire gauge, structural support member type, coating, wire mesh pattern, or dimensions, to be different forms of the same product and thus perceive wire decking to be different from other shelving products.³⁰ There is no record evidence to the contrary.

Price. Prices for the six domestically produced wire decking products on which the Commission collected pricing data did not show any clear or consistent distinctions.³¹

Conclusion. Because all wire decking has common physical characteristics and end uses, shares common channels of distribution, is generally interchangeable, shares common production processes, facilities, and employees, and appears to be perceived by producers and consumers to be the same product, we find that all wire decking should be encompassed in a single domestic like product that is coterminous with the scope of these investigations.

IV. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic “producers as a whole 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.”³² 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 definition of the domestic like product, we define the domestic industry as all domestic producers of wire decking.

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 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

²⁵ CR/PR at Table II-1, II-2. The percentages for distributors include system integrators, referred to as original equipment manufacturers (“OEMs”), which build out warehouses and supply all material handling needs, including wire decking. CR/PR at Table II-1 n.1.

²⁶ CR/PR at Table II-1.

²⁷ CR at I-10, PR at I-9.

²⁸ Conference Transcript at 100 (Rollins), 182 (Kedaitis). As noted above, such zinc-electroplated or hot-dipped decking is advantageous in only limited applications. Conference Transcript at 72, 95-96 (Rollins).

²⁹ Petitioners’ Postconference Brief at 4.

³⁰ Petitioners’ Postconference Brief at 6.

³¹ CR/PR at Tables V-1-6.

³² 19 U.S.C. § 1677(4)(A).

related to an exporter or importer of subject merchandise or which are themselves importers.³³ Exclusion of such producers is within the Commission's discretion based upon the facts presented in each investigation. In these investigations, two U.S. producers, J&L and Nashville Wire, reported that they imported subject wire decking during the period examined.³⁴ Thus, they may be excluded from the industry if appropriate circumstances exist.³⁵ Petitioners argue that neither J&L nor Nashville Wire should be excluded from the domestic industry.³⁶ Respondents state that they do not believe that the subject imports of J&L and Nashville Wire were of sufficient magnitude to warrant their exclusion from the domestic industry.³⁷

Nashville Wire is the largest domestic producer of wire decking, accounting for *** percent of domestic production in 2008.³⁸ Its imports of subject merchandise were equivalent to *** percent of its production in 2006, *** percent in 2007, *** percent in 2008, and *** percent in January-March ("interim") 2009 compared with *** percent in interim 2008.³⁹ Nashville Wire reported that it imported subject merchandise "in an attempt to remain competitive with the low prices offered by Chinese producers."⁴⁰ Nonetheless we find that Nashville Wire's primary interest appears to be that of a domestic producer because its imports were fairly small relative to its domestic production, it is the largest domestic producer, and it is a petitioner in these investigations.⁴¹ Nashville Wire's financial performance was ***.⁴² Its financial performance, however, was ***.^{43 44 45} We therefore find that appropriate circumstances do not exist to exclude Nashville Wire from the domestic industry.

J&L accounted for *** percent of domestic production in 2008. Its imports were equivalent to only *** percent of its production in 2006, *** percent in 2007, and *** percent in 2008 and interim 2009.⁴⁶ It ceased importation after it was acquired by American Spring Wire in 2007.⁴⁷ J&L reported that it imported subject merchandise "in an attempt to remain competitive with the low prices offered by

³³ 19 U.S.C. § 1677(4)(B).

³⁴ CR/PR at Table III-4.

³⁵ 19 U.S.C. § 1677(4)(B).

³⁶ Petitioners' Postconference Brief, Exhibit 1 at 4.

³⁷ Respondents' Postconference Brief at 15.

³⁸ CR/PR at Table III-1.

³⁹ CR/PR at Table III-4.

⁴⁰ CR at III-7, PR at III-5.

⁴¹ CR/PR at Table III-1.

⁴² CR/PR at Tables VI-2, C-1.

⁴³ CR/PR at Tables VI-2, C-1.

⁴⁴ 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 domestic 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.

⁴⁵ For purposes of the preliminary phase of these investigations, Commissioner Pinkert does not rely upon financial performance as a factor in determining whether there are appropriate circumstances to exclude related parties from the domestic industry. The present record is not sufficient to infer from the companies' profitability on their U.S. operations whether they have derived a specific benefit from importing. See Allied Mineral Products v. United States, 28 C.I.T. 1861, 1865-67 (2004). For the final phase of these investigations, Commissioner Pinkert invites the parties to provide any information they may have with respect to whether these companies are benefitting financially from their status as related parties.

⁴⁶ CR/PR at Table III-4 n.1; Conference Transcript (Rudolph) at 39.

⁴⁷ CR/PR at Table III-4 n.1.

Chinese producers.”⁴⁸ It also is a petitioner in these investigations.⁴⁹ Based on this evidence, we find that J&L’s primary interest appears to be in domestic production. In addition, J&L’s financial performance was ***,⁵⁰ suggesting that it did not derive any concrete benefits, or operate in a manner that was different from other domestic producers, as a result of its imports of subject merchandise. We therefore find that appropriate circumstances do not exist to exclude J&L from the domestic industry.

For the reasons stated above, we define the domestic industry to include all domestic producers of wire decking.

V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS⁵¹

A. Legal Standards

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.⁵² 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.⁵³ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁵⁴ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁵⁵ 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.”⁵⁶

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is “materially injured by reason of” unfairly traded imports,⁵⁷ it does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.⁵⁸ In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that

⁴⁸ CR at III-7, PR at III-5.

⁴⁹ CR/PR at Table III-1.

⁵⁰ CR/PR at Table VI-2.

⁵¹ Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations. Based on questionnaire response data and estimates by petitioners and respondents, U.S. imports of wire decking from China were approximately 95 percent of total U.S. imports of wire decking for the entire period examined. CR at IV-5, PR at IV-2.

⁵² 19 U.S.C. §§ 1671b(a), 1673b(a).

⁵³ 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).

⁵⁴ 19 U.S.C. § 1677(7)(A).

⁵⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁶ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁷ 19 U.S.C. §§ 1671b(a), 1673b(a).

⁵⁸ Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“{T}he statute does not ‘compel the commissioners’ to employ {a particular methodology}.”), aff’d 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the “by reason of” standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.⁵⁹

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.⁶⁰ In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.⁶¹ Nor does the “by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject

⁵⁹ The Federal Circuit, in addressing the causation standard of the statute, observed that “{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that “this court requires evidence in the record ‘to show that the harm occurred “by reason of” the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.’” See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

⁶⁰ Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (“URAA”), H.R. Rep. 103-316, Vol. I at 851-52 (1994) (“{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, 542 F.3d at 877.

⁶¹ SAA at 851-52 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports.”); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

imports, which may be contributing to overall injury to an industry.⁶² It is clear that the existence of injury caused by other factors does not compel a negative determination.⁶³

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure{s} that it is not attributing injury from other sources to the subject imports.”⁶⁴ ⁶⁵ Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”⁶⁶

The Federal Circuit’s decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant “other factor” was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit’s guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.⁶⁷ The additional “replacement/benefit” test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission’s interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have “evidence in the record ‘to show that the harm occurred ‘by reason of’ the LTFV imports,’” and requires that the Commission not attribute injury

⁶² S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

⁶³ See Nippon Steel Corp., 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

⁶⁴ Mittal Steel, 542 F.3d at 877-78; see also id. at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination {and has} broad discretion with respect to its choice of methodology.”) citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

⁶⁵ Commissioner Pinkert does not join this paragraph or the following four paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal, held that the Commission is required, in certain circumstances, to undertake a particular kind of analysis of nonsubject imports. Mittal explains as follows:

What Bratsk held is that “where commodity products are at issue and fairly traded, price-competitive, non-subject imports are in the market,” the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

⁶⁶ Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

⁶⁷ Mittal Steel, 542 F.3d at 875-79.

from nonsubject imports or other factors to subject imports.⁶⁸ Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.^{69 70}

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard. Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.^{71 72}

As noted above, the Commission has nearly complete data coverage for the domestic industry. The Commission also received completed questionnaire responses from nine importers that accounted for a majority of subject imports and from five subject producers in China that accounted for an estimated *** percent of exports of wire decking from China in 2008.⁷³ For the reasons stated below, we find that there is a reasonable indication that the domestic industry producing wire decking is materially injured by reason of subject imports from China that are allegedly sold in the United States at less than fair value and subsidized by the Government of China.

B. Conditions of Competition and the Business Cycle

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

⁶⁸ Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission's alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

⁶⁹ Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Inv. Nos. 731-TA-1131-1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

⁷⁰ To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

⁷¹ Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

⁷² We provide in the discussion of impact in section V.E. below an analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

⁷³ CR at III-1, IV-1, VII-3; PR at III-1, IV-1, VII-3.

1. Demand Considerations

Because wire decking is used in pallet rack systems found in industrial and commercial warehouses, demand for wire decking is derived primarily from demand for such rack systems, which in turn is related to the economy's industrial output level and, in particular, non-residential construction.⁷⁴

When measured by apparent U.S. consumption, wire decking demand declined from *** pounds in 2006 to *** pounds in 2007 and *** pounds in 2008, for a *** percent decline from 2006 to 2008. Apparent U.S. consumption was *** percent lower in interim 2009, at *** pounds, than in interim 2008, at *** pounds.⁷⁵

2. Supply Conditions

The domestic industry is the largest source of supply in the U.S. market. Domestic producers' market share was *** percent in 2006, *** percent in 2007, and *** percent in 2008. The industry's share was *** percent in interim 2009 compared with *** percent in interim 2008.⁷⁶ U.S. producers' production capacity exceeds domestic demand.⁷⁷ Seven domestic producers accounted for 99 percent of U.S. wire decking production in 2008, with three of those producers – Nashville Wire, ITC, and AWP – accounting for approximately three-quarters of total domestic production.⁷⁸ J&L, ITC, Nashville Wire, and Nucor are “integrated” producers that draw wire rod into the wire they use in decking production rather than purchasing the wire. AWP and Wireway are non-integrated firms that purchase the wire used as the input in their decking production.⁷⁹

The market share of subject imports fluctuated between years but increased overall from *** percent in 2006 to *** percent in 2008 and was *** percent in interim 2009 compared with *** percent in interim 2008.⁸⁰ Atlas is the largest reporting U.S. importer of subject wire decking, accounting for *** percent of reported subject imports from China in 2008. Atlas is the exclusive North American importer and distributor of wire decking from the Chinese producer Eastfound.⁸¹ Atlas has purchased wire decking from U.S. producers in the past and reports that it continues to buy the domestic product when it cannot obtain wire decking from China, when domestic producers can offer shorter lead times, or when a domestic product is priced below subject imports.⁸² As discussed above, Nashville Wire, the largest U.S.

⁷⁴ CR at II-9, PR at II-6; Petitioners' Postconference Brief at 7-8; Respondents' Postconference Brief at 3-4.

⁷⁵ CR/PR at Table IV-4. The higher demand for wire decking early in the period examined reportedly resulted in significant part from the growth of big-box retailers, such as Home Depot, Lowe's, and Wal-Mart, whose consumption is reported to have dropped off beginning in the fourth quarter of 2008. *E.g.*, Transcript at 126-27 (Kedaitis).

⁷⁶ CR/PR at Tables IV-5, C-1.

⁷⁷ In 2008, the domestic producers' production capacity was equal to *** percent of apparent U.S. consumption. CR at III-2, PR at III-2. Domestic producers' capacity was 495.4 million pounds in 2006, 515.4 million pounds in 2007 and 2008 and 128.9 million pounds in interim 2008 and interim 2009. CR/PR at Table III-2.

⁷⁸ CR/PR at III-1 n.1, Table III-1.

⁷⁹ CR/PR at III-2 n.3; Conference Transcript at 53-59; Petitioners' Postconference Brief at 5. Nucor reports that it also produces the rod from which it draws the wire. Conference Transcript at 58.

⁸⁰ CR/PR at Tables IV-5, C-1.

⁸¹ Respondents' Postconference Brief at 1.

⁸² Conference Transcript at 123, 126, 176 (Kedaitis); Petitioners' Postconference Brief at 25.

producer of wire decking, also imports wire decking. It accounted for *** percent of total subject imports in 2008 and *** percent in interim 2009.⁸³

Petitioners and respondents agree that nonsubject imports, which account for approximately five percent of total imports, were not a significant factor in the U.S. wire decking market during the period examined.⁸⁴

3. Interchangeability

There is a high degree of substitutability between the domestic like product and subject imports. All seven responding domestic producers reported that the domestic like product and subject imports are always interchangeable, while all six responding importers reported that the domestic like product and subject imports are always or frequently interchangeable.⁸⁵ Six of seven domestic producers reported that differences between the domestic like product and subject imports other than price are never important, while three of six importers reported that such differences are sometimes or never important.⁸⁶ Furthermore, respondents assert that subject imports and the domestic like product compete for sales in the 85 percent of the U.S. wire decking market made up by the nine most popular product lines.⁸⁷ Wire decking produced by both subject and domestic producers has been awarded the industry's R-Mark certifications for product quality,⁸⁸ and both subject imports and domestic wire decking appear to meet specifications for use by big-box retailers.⁸⁹ As noted above, the available evidence indicates that otherwise comparable wire decking, whether of U.S. or subject origin, can be used interchangeably regardless of its finish or coating, with only a relatively small share of the market accounted for by products requiring a specific finish.⁹⁰

⁸³ CR/PR at Tables III-4, IV-2.

⁸⁴ CR/PR at Table IV-2; Petitioners' Postconference Brief at 36; Respondents' Postconference Brief at 4 n.1.

⁸⁵ CR/PR at Table II-3.

⁸⁶ CR/PR at Table II-4.

⁸⁷ Conference Transcript at 178-79 (Kedaitis). Respondents contend, however, that the less-automated Chinese producers are better able than domestic producers to serve the other 15 percent of the market that is made up of 4,200 custom or lower-volume product lines. Respondents also argue that, because the Chinese producers electrogalvanize their decking after the welding process, their decking can be used in outdoor applications and other applications for which the domestic like product is not suitable. Respondents' Postconference Brief at 17-18; Conference Transcript at 125 (Kedaitis). Accordingly, respondents' position appears to be that competition is attenuated in 15 percent of the market. Petitioners respond that they are able to serve the entire U.S. market, including the small portion consisting of the customized, lower-volume articles. CR/PR at III-2 n. 2. Domestic producers cite the fact that ITC alone manufactures approximately *** stock keeping units ("SKUs" or individual articles) and keeps *** of them in inventory and that AWP offers over 200 standard sizes and also quotes and accepts orders for all non-standard, customized deck sizes with varying designs and configurations. Petitioners' Postconference Brief at 13-15. Domestic producers also state that they are able to outsource fabricated decking that is finished using electrogalvanizing, zinc-electroplating, or hot-dipping. As noted above, however, they state that such finishes are advantageous only in limited decking applications – e.g., industrial food refrigeration storage systems and outdoors – which account for only about 4 or 5 percent of domestic consumption. Conference Transcript at 72, 100, 95-96 (Rollins).

⁸⁸ Petitioners' Postconference Brief at 10, Exhibit 1 at 9; Conference Transcript at 171-72.

⁸⁹ CR at II-15; PR at II-10.

⁹⁰ CR/PR at III-2 n.2; Petitioners' Postconference Brief at 4-5; Conference Transcript at 72, 100, 95-96 (Rollins). See also Conference Transcript at 125 (Kedaitis); Respondents' Postconference Brief at 17-18.

4. Other Conditions

The domestic industry is a relatively high variable/low fixed cost industry, and raw materials costs account for most of the industry's total cost of goods sold ("COGS").⁹¹ The main raw materials used in the production of wire decking are hot-rolled sheet steel and steel wire rod. The prices for both of these steel inputs increased significantly during the first half of 2008, peaked in July 2008, and decreased thereafter. Steel and other raw materials accounted for 68.3 percent of the industry's COGS in 2006 and 73.7 percent in 2008, but declined to 67.5 percent in interim 2009.⁹²

C. Volume of Subject Imports

Section 771(7)(C)(i) 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."⁹³

From 2006 to 2007, notwithstanding the decline in apparent U.S. consumption, subject import shipments increased by *** percent, from *** pounds in 2006 to *** pounds in 2007. Apparent U.S. consumption continued to decline in 2008, when subject import shipments declined to *** pounds, a decrease of *** percent. Subject import shipments were *** percent lower in interim 2009, at *** pounds, than in interim 2008, at *** pounds. The decline in subject imports, however, was less than the contemporaneous decline in apparent U.S. consumption; consumption was *** percent lower in interim 2008 than in interim 2008.⁹⁴

Because the decrease in demand outpaced the decrease in the volume of subject import shipments over the period examined, the market share of subject imports increased. Subject import shipments increased as a share of apparent U.S. consumption from *** percent in 2006 to *** percent in 2007, then declined to *** percent in 2008, a level above that in 2006. As demand plummeted in interim 2009 when compared to interim 2008, the market share held by subject imports was higher, at *** percent, than in interim 2008, at *** percent.⁹⁵ The increase in subject imports' market share came at the expense of domestic producers. Domestic producers' market share decreased from *** percent in 2006 to *** percent in 2007. That market share lost to subject imports was only partially regained in 2008 when domestic producers' share increased to *** percent. Domestic producers' market share was lower in interim 2009, at *** percent, than in interim 2008, at *** percent.^{96 97}

⁹¹ CR/PR at Table VI-3.

⁹² CR/PR at V-1, Table VI-3.

⁹³ 19 U.S.C. § 1677(7)(C)(i).

⁹⁴ CR/PR at Table C-1. We rely primarily on the volume of shipments of subject imports, rather than subject imports, because there are some disparities between the two measures and because apparent U.S. consumption and market shares are based on shipments of imports rather than imports. The volume of subject imports was *** pounds in 2006, *** pounds in 2007, *** pounds in 2008, *** pounds in interim 2008 and *** pounds in interim 2009. CR/PR at Table IV-2.

⁹⁵ CR/PR at Table C-1. The ratio of subject imports to domestic production measured by quantity declined slightly overall during the period examined, increasing from *** percent in 2006 to *** percent in 2007, then declining to *** percent in 2008. The ratio of subject imports to domestic production was *** percent in interim 2009 and *** percent in interim 2008. CR/PR at Table IV-6.

⁹⁶ CR/PR at Table C-1.

⁹⁷ Respondents assert that because a share of subject merchandise was imported by two domestic producers, the significance of the volume of subject imports is substantially mitigated. Respondents' Postconference Brief at 16-17. While respondents argue that subject merchandise imported by domestic producers benefitted those

(continued...)

For purposes of the preliminary phase of these investigations, we find that volume of subject imports is significant, both in absolute terms and relative to consumption in the United States.

D. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of 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.⁹⁸

As addressed in section V.B.3 above, the record indicates that there is a high degree of substitutability between subject imports and the domestic like product.⁹⁹ Price is an important consideration in wire decking purchasing decisions.¹⁰⁰

The Commission collected quarterly pricing data for six wire decking products.¹⁰¹ Usable pricing data were provided by six domestic producers, accounting for 19.4 percent of domestic producers' shipments during the period examined, and eight importers, accounting for 53.3 percent of shipments of subject imports during the period.¹⁰² Subject imports undersold the domestic like product in 76 of 77 quarterly pricing comparisons by margins ranging from 2.0 percent to 54.3 percent.^{103 104} Accordingly, we find that underselling was significant during the period examined.

Of *** lost sales allegations totaling \$*** and *** lost revenue allegations totaling \$***, eleven lost sales allegations and three lost revenue allegation were confirmed, totaling \$*** and \$***,

⁹⁷ (...continued)

producers, the fact remains that the vast majority of subject merchandise was not imported by domestic producers. CR/PR at Table IV-1. Moreover, even the share imported by domestic producers competed with other domestic producers for sales. Accordingly, we do not agree that the significance of the volume of subject imports is substantially mitigated in these investigations.

⁹⁸ 19 U.S.C. § 1677(7)(C)(ii).

⁹⁹ See also CR at II-12.

¹⁰⁰ The large majority of domestic producers reported that factors other than price are never important in sales of wire decking. CR/PR at Table II-4. Although importers of subject merchandise attached greater significance to non-price factors (*id.*), a witness on behalf of Atlas, which accounts for approximately three quarters of subject imports (CR/PR at IV-1), testified at the conference that Atlas will purchase domestic wire decking when it is lower priced than the subject imports. Conference Transcript at 126, 176 (Kedaitis) (stating that Atlas may also buy the domestic product when the lead time or destination is more favorable).

¹⁰¹ CR at V-5, PR at V-3-4.

¹⁰² CR at V-5, PR at V-3-4.

¹⁰³ CR/PR at Tables V-1-7. Respondents argue that, ***. Respondents' Postconference Brief at 19-20. A comparison of the two companies' pricing data, however, indicates that ***. CR at V-19, PR at V-10.

¹⁰⁴ As noted above, testimony at the conference indicated that, for about 95 percent of the market, the specific type of coating or finish on wire decking is irrelevant to customers. Conference Transcript at 94-95 (Rollins). Accordingly, Appendix D of the staff report presents pricing data for products 1 and 2 combined, products 3 and 4 combined, and products 5 and 6 combined, the only difference between the products in each group being the type of coating or finish. Those data show underselling in all 39 quarterly comparisons by margins ranging from 8.2 percent to 21.5 percent. CR/PR at Tables D-1 - D-3. In any final phase of these investigations, we will solicit parties' comments on the appropriate products for use in quarterly price comparisons.

respectively.¹⁰⁵ We note, however, that *** of *** purchasers involved in lost sales allegations did not respond to the Commission staff's attempts to confirm the allegations.¹⁰⁶ Four of the 17 purchasers that responded to the lost sales and lost revenue allegations reported that they had shifted purchases of wire decking from U.S. producers to subject imports since January 1, 2006. Each of those four purchasers identified price as the reason for the shift, with two of them reporting that quality, delivery times, and service were also important factors in their purchasing decisions. Moreover, six of 15 responding purchasers reported that since January 1, 2006, U.S. producers had reduced their prices in order to compete with the prices of subject imports.¹⁰⁷

Prices for both the domestically produced product and subject imports fluctuated during the first two years of the period examined. Prices for five of the six domestically produced products and all six Chinese products peaked in 2008, when raw material prices peaked.¹⁰⁸ Prices in the first quarter of 2009 for all six domestic pricing products were below the peak level, but above first quarter 2006 prices.¹⁰⁹ In light of this, we do not find significant price depression.

We do find, however, some evidence that subject import competition suppressed domestic like product prices to a significant extent during the period examined.¹¹⁰ The domestic industry's unit COGS increased by \$0.11, or 22.9 percent, from 2006 to 2008. Unit COGS was \$0.16, or 31.2 percent, higher in interim 2009 than in interim 2008.¹¹¹ These increases in unit COGS were largely attributable to increased raw material costs.¹¹² Although domestic producers were able to increase prices to some extent over the period examined, they were not able to increase them sufficiently to cover increased COGS. Domestic producers' unit net sales value increased by only \$0.09, or 15.4 percent, from 2006 to 2008, and was only

¹⁰⁵ CR at V-21; PR at V-11; CR/PR at Tables V-8, V-9.

¹⁰⁶ CR/PR at Table V-8.

¹⁰⁷ CR at V-27, PR at V-12. Respondents assert that Atlas, a U.S. importer and distributor, wins sales in large part because it is more responsive to customers' needs than domestic producers and has a more extensive distribution network, which allows it to offer shorter lead times. See Respondents' Postconference Brief at 21-22. For their part, Petitioners dispute that Atlas offers a superior distribution network. Petitioners' Postconference Brief at 12. While the record does not clearly resolve that question, disagreement as to what factors drive downstream sales does not explain why Atlas has chosen to distribute mostly subject merchandise rather than domestic wire decking. In respect to this issue, the record in these preliminary investigations indicates that price is a very important determinant, given that the subject imports and domestic product are highly interchangeable, they compete head-to-head in the products that make up 85 percent of sales, and there is also competition for sales of the numerous smaller-volume wire decking products. Although Atlas asserts that it switched to purchasing subject merchandise prior to the period examined out of concerns relating to quality (Conference Transcript at 122-25, 147-149 (Kedaitis)), the record evidence does not support the existence of any significant quality differences during the period examined, and Atlas concedes that it continues to purchase from domestic producers when they offer lower prices. Conference Transcript at 126, 176 (Kedaitis). Based on the evidence of record, we are not persuaded that Atlas purchases subject imports primarily for non-price reasons.

¹⁰⁸ CR/PR at Tables V-1-6, Figure V-1.

¹⁰⁹ CR/PR at Table V-1-6.

¹¹⁰ Commissioner Lane finds price suppression.

¹¹¹ CR/PR at Tables IV-3, C-1. Unit COGS was \$0.49 in 2006, \$0.48 in 2007, \$0.60 in 2008, and \$0.66 in interim 2009 compared with \$0.50 in interim 2008. Id. Unit net sales value was \$0.56 in 2006, \$0.55 in 2007, \$0.65 in 2008, and \$0.65 in interim 2009 compared with \$0.55 in interim 2008. CR/PR at Table C-1. The difference between unit COGS in interim 2008 and interim 2009 was partly attributable to an increase in factory overhead as well as raw material costs. CR/PR at Table IV-3.

¹¹² CR/PR at Tables IV-3.

\$0.10, or 17.4 percent, higher in interim 2009 than in interim 2008.¹¹³ Consequently, the domestic industry was caught in a cost/price squeeze as its COGS to net sales ratio increased from 87.1 percent in 2006 to 92.7 percent in 2008. The COGS to net sales ratio was also higher in interim 2009, at 101.3 percent, than in interim 2008, at 90.7 percent.¹¹⁴ In light of some evidence of price suppression combined with consistent underselling, we find that the significant volume of subject imports during the period examined had significant adverse effects on domestic producers' prices.¹¹⁵

E. Impact of the Subject Imports¹¹⁶

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."¹¹⁷ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."¹¹⁸

Based on the record of these preliminary phase investigations, we find that the domestic industry's performance declined over the period examined according to most measures. Domestic industry production declined 10 percent between 2006 and 2008, from 304.6 million pounds in 2006 to 274.1 million pounds in 2008, and was 49.9 percent lower in interim 2009, at 37.4 million pounds, than in interim 2008, at 74.5 million pounds.¹¹⁹ Domestic capacity increased 4.0 percent between 2006 and 2007, from 495.4 million pounds to 515.4 million pounds in 2007 and 2008. Capacity was 128.9 million

¹¹³ CR/PR at Tables IV-3, C-1.

¹¹⁴ CR/PR at Table C-1.

¹¹⁵ Respondents claim that the domestic industry's inability to recover COGS is attributable in part to domestic producers' ill-timed purchases of raw material inventories at prices higher than those prevailing at the time the domestic wire decking was produced or sold. Respondents' Postconference Brief at 13-15. Although one domestic producer acknowledged the timing problem to a limited extent (Conference Transcript at 85-86 (Rollins)), petitioners generally indicated that there is no real lag between domestic producers' purchase of raw materials and production of wire decking and that domestic producers do not have long-term contracts that lock them into raw material prices that may be higher or lower than current market prices. Petitioners' Postconference Brief at 36-37, Exhibit 1 (response to question 7), & Exhibit 16; Conference Transcript at 84-86. In any final phase of these investigations, we will look further into the extent to which fluctuations in raw material prices and the times at which raw materials are purchased affect the industry's performance.

¹¹⁶ Commerce initiated an antidumping duty investigation based on estimated dumping margins of 143.0 to 316.0 percent for wire decking from China. 74 Fed. Reg. 31691 (Jul. 2, 2009). Commerce initiated a countervailing duty investigation on wire decking from China based on allegations of four loan subsidy programs, seven programs for government provision of goods and services for less than adequate remuneration, five income and other direct taxes programs, four indirect tax and tariff exemption programs, six grant programs, and six preferential income tax subsidies for foreign invested entities. 74 Fed. Reg. 31700 (Jul. 2, 2009). Petitioners assert that many of these Chinese government subsidies are export subsidies prohibited under Article 3 of the Subsidies Agreement, which have the effect of encouraging Chinese producers' exportation of subject merchandise to the United States.

¹¹⁷ 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.")

¹¹⁸ 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 (Prelim.), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

¹¹⁹ CR/PR at Table III-2, C-1.

pounds in both interim 2009 and interim 2008.¹²⁰ The domestic industry's rate of capacity utilization decreased from 61.5 percent in 2006 to 53.2 percent in 2008, a decline of 8.3 percentage points, and was 28.8 percentage points lower in interim 2009, at 29.0 percent, than in interim 2008, at 57.8 percent.¹²¹

The domestic industry's net sales decreased from 318.1 million pounds in 2006 to 275.5 million pounds in 2008, a decline of 13.4 percent, and were 49.4 percent lower in interim 2009, at 36.9 million pounds, than in interim 2008, at 73.0 million pounds.¹²² The domestic industry's U.S. shipments of wire decking followed a similar trend, decreasing from 307.8 million pounds in 2006 to 265.2 million pounds in 2008, a decrease of 13.8 percent, and were 48.8 percent lower in interim 2009, at 35.6 million pounds, than in interim 2008, at 69.6 million pounds.¹²³ The domestic industry's share of apparent U.S. consumption decreased from *** percent in 2006 to *** percent in 2007, then increased to *** percent in 2008, a level *** percentage points lower than in 2006.¹²⁴

Domestic industry employment declined 15.6 percent, from 652 workers in 2006 to 550 workers in 2008. Employment was 37.9 percent lower in interim 2009, at 329 workers, than in interim 2008, at 530 workers.¹²⁵

Domestic producers' net sales value declined from \$178.8 million in 2006 to \$166.1 million in 2007, a 7.1 percent decline. Then, as domestic producers increased their prices in 2008 in an effort to recoup higher raw material costs, their net sales value returned to its 2006 level, increasing 7.7 percent in 2008 to \$178.8 million. Domestic producers' net sales value was 40.6 percent lower in interim 2009, at \$23.9 million, than in interim 2008, at \$40.3 million.¹²⁶ The domestic industry's operating income declined from \$11.4 million in 2006, or 6.4 percent of sales, to \$9.1 million in 2007, or 5.5 percent of sales, then dropped to \$837,000, or 0.5 percent of sales, in 2008. As previously discussed, although COGS increased notably in 2008 because of increased raw material costs, average sales values increased less rapidly due to price competition by the subject imports. As a result, operating income and operating margins fell. This cost-price squeeze continued in interim 2009, and operating performance declined further when compared to interim 2008. The domestic industry experienced a \$2.9 million operating loss in interim 2009, compared with operating income of \$749,000 in interim 2008.¹²⁷

The domestic industry's capital expenditures declined from \$*** in 2006 to \$*** in 2007, then increased to \$*** in 2008, a level *** percent lower than that in 2006. Its capital expenditures, however, were *** percent higher in interim 2009, at \$***, than in interim 2008, at \$***.¹²⁸ Its return on

¹²⁰ CR/PR at Tables III-2, C-1.

¹²¹ CR/PR at Table III-2, C-1.

¹²² CR/PR at Tables VI-1, C-1.

¹²³ CR/PR at Tables III-3, C-1. Producers' inventories rose, on both an absolute and a relative basis, from 2006 to 2007. Inventories were higher in interim 2009 than in interim 2008. CR/PR at Table III-5.

¹²⁴ CR/PR at Tables IV-4-5, C-1.

¹²⁵ CR/PR at Table III-7. Hours worked declined from 1.3 million in 2006 to 1.1 million in 2008, and were 148,000 in interim 2009 compared with 272,000 in interim 2008. Id. Labor productivity in pounds per hour increased from 225.8 pounds in 2006 to 253.5 pounds in 2007, then declined to 245.8 pounds in 2008, a level 8.9 percent above that in 2006. Id. Productivity was 7.9 percent lower in interim 2009, at 252.7 pounds, than in interim 2008, at 274.5 pounds. Id.

¹²⁶ CR/PR at Tables VI-1, C-1.

¹²⁷ CR/PR at Tables VI-1, C-1. The 4.9 percent increase in selling, general, and administrative expenses between 2006 and 2008 also contributed to the decline in operating income between 2006 and 2008. Id.

¹²⁸ CR/PR at Table VI-5, C-1. Research and development expenses increased from \$*** in 2006 to \$*** in 2008, but were lower in interim 2009, at \$***, than in interim 2008, at \$***. CR/PR at Table VI-5.

investment declined from 8.8 percent in 2006 to 7.1 percent in 2007, then plummeted to 0.7 percent in 2008.¹²⁹

For purposes of these preliminary phase investigations, we find that there is a causal nexus between the subject imports and the deteriorating condition of the domestic industry. Subject imports increased their market share in 2007 at the expense of domestic producers. Domestic producers were able to regain a part of that lost market share in 2008, but at the expense of not being able to increase prices sufficiently to cover increasing COGS.¹³⁰ Subject imports consistently undersold the domestic like product and contributed to the cost-price squeeze experienced by domestic producers over the period examined.¹³¹ Thus, we conclude that, for purposes of the preliminary phase of these investigations, the subject imports have had a significant adverse impact on the domestic industry.

We have considered whether there are other factors that may have had an adverse impact on the domestic industry during the period examined. We recognize that the significant decline in apparent U.S. consumption over the period examined may have had a role in the domestic industry's deteriorating performance during the period examined.¹³² In any final phase of these investigations, we intend to explore further the role that any changes in demand played in the performance of the domestic industry in order to ensure that we do not attribute to subject imports the effects of any adverse demand conditions.¹³³

Consequently, we conclude for purposes of these preliminary phase investigations that there is a causal nexus between the subject imports and the adverse condition of the domestic industry, which demonstrates a reasonable indication that the domestic industry is materially injured by reason of subject imports.

¹²⁹ CR/PR at Table VI-7.

¹³⁰ CR/PR at Table IV-4.

¹³¹ The decrease in operating income between 2006 and 2008 was largely attributable to increased costs in the amount of \$33.0 million, which were only partially offset by price increases of \$23.9 million. The decrease in operating income in interim 2009 relative to interim 2008 was again attributable to the contrast between a \$12.3 million cost increase and the \$3.5 million price increase. CR/PR at Table VI-4.

¹³² We note that, contrary to respondents' claim, the volume of subject imports did not simply follow demand trends. This is evidenced most notably by increased shipments of subject imports in 2007, when apparent U.S. consumption declined, and by the increase in subject imports' market share over the entire period examined at the expense of the domestic industry. See CR/PR at Table C-1. Moreover, petitioners argue that, because the domestic wire decking industry has low fixed costs, it does not require high capacity utilization rates to be profitable, even in an economic downturn. They claim that, although the industry was thus able to remain profitable in prior economic downturns in the face of lower demand, head-to-head competition with high volumes of low-priced imports from China has prevented it from pricing at profitable levels during the current downturn. Petitioners' Postconference Brief at 32-36.

¹³³ We also recognize, and the parties agree, that nonsubject imports were not a significant factor in the U.S. market during the period inasmuch as they were estimated to account for no more than 5 percent of total imports of wire decking over the period examined. Thus, it would appear that the injury to the domestic industry is by reason of subject imports and is not caused by nonsubject imports. CR/PR at IV-1 (responding importers did not report any imports from nonsubject countries), IV-3 (nonsubject imports were five percent of total imports during the period examined). See also Respondents' Postconference Brief at 4 n.1 (respondents stating that "it is apparent that imports of wire decking from countries other than China are insignificant . . ."); Petitioners' Postconference Brief at 36.

¹³⁴ With respect to the analysis required by the Federal Circuit in Bratsk and Mittal, Commissioner Pinkert notes that the parties agree that nonsubject imports accounted for less than five percent of total U.S. imports during the period examined. CR at II-7. Thus, price-competitive nonsubject imports were not a significant factor in the U.S. market.

CONCLUSION

For the foregoing reasons, and based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of wire decking from China that are allegedly sold in the United States at less than fair value and are allegedly subsidized by the Government of China.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on June 5, 2009, by AWP Industries, Inc. (“AWP”) of Frankfort, KY; ITC Manufacturing, Inc. (“ITC”) of Phoenix, AZ; J&L Wire Cloth, Inc. (“J&L”) of St. Paul, MN; Nashville Wire Products Mfg. Co., Inc. (“Nashville Wire”) of Nashville, TN; and Wireway Husky Corp. (“Wireway”) of Denver, NC, alleging that an industry in the United States is materially injured and is threatened with continued material injury by reason of imports from China of wire decking¹ that are allegedly sold in the United States at less than fair value (“LTFV”) and subsidized by the government of China. Information relating to the background of these investigations is provided below.²

Effective date	Action
June 5, 2009	Petition filed with Commerce and the Commission; Commission institutes investigations (74 FR 27823, June 11, 2009)
June 26, 2009	Commission’s conference ¹
July 2, 2009	Initiation of countervailing duty investigation by Commerce (74 FR 31700)
July 2, 2009	Initiation of antidumping investigations by Commerce (74 FR 31691)
July 20, 2009	Commission’s vote
July 20, 2009	Commission’s determinations transmitted to Commerce
July 27, 2009	Commission’s views transmitted to Commerce

¹ A list of witnesses that appeared at the conference is presented in app. B.

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 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.

¹ A complete description of the imported product subject to these investigations is presented in the section entitled *The Subject Product* located in Part I of this report.

² *Federal Register* notices cited in the tabulation are presented in app. A.

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

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

...

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

...

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

...

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

Organization of the Report

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

U.S. MARKET SUMMARY

The U.S. market for wire decking totaled *** pounds and approximately *** in 2008. Currently, ten firms produce wire decking in the United States. Five of these firms are the petitioners and consist of AWP, ITC, J&L, Nashville Wire, and Wireway. At least 9 firms have reported importing wire decking from China since 2006, although Atlas Material Handling, Inc. (“Atlas”) accounted for the majority of these imports throughout the period of investigation.

U.S. producers’ U.S. shipments of wire decking totaled 265 million pounds valued at \$172 million in 2008, and accounted for *** percent of apparent U.S. consumption by quantity (*** percent by value). U.S. shipments of imports from China totaled *** pounds valued at \$*** in 2008, and accounted for *** percent of apparent U.S. consumption by quantity (*** percent by value). U.S. shipments of imports from all other sources combined are estimated to total *** pounds valued at \$*** in 2008, and accounted for *** percent of apparent U.S. consumption by quantity (*** percent by value). Wire decking is generally used in commercial and industrial storage (warehouse) systems and consists of a wire mesh self supported by steel support crossbeams. Wire decking is purchased by material handling distributors, industrial shelf rack manufacturers, and big-box retailers.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C, table C-1. U.S. industry data are based on the questionnaire responses of the seven firms that accounted for virtually all U.S. production of wire decking in 2008. Data for U.S. imports from China are compiled using responses to U.S. importer questionnaires. Data for U.S. imports from nonsubject countries are estimated by both petitioners and respondents to be approximately 5 percent of total U.S. imports. As no U.S. importer reported U.S. imports from nonsubject countries, staff used this estimate of 5 percent of total U.S. imports for volume and value of such imports. Data regarding the Chinese industry are based on 5 foreign producer questionnaires. One producer in China, Dalian Eastfound Material Handling Products Co., Ltd and its related company, Dalian Eastfound Metal Products Co., Ltd. (collectively “Eastfound”) accounted for approximately *** percent of Chinese export shipments to the United States in 2008.³

PREVIOUS AND RELATED INVESTIGATIONS

Wire decking has not been the subject of any prior antidumping or countervailing duty investigations in the United States.

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On July 2, 2009, Commerce published a notice in the *Federal Register* of the initiation of its antidumping investigations on wire decking from China. Commerce reported the estimated weighted-average dumping margin for China to be 143.0 percent to 316.0 percent.⁴

³ Export shipments reported by responding Chinese producers were equivalent to *** percent of U.S. imports from China in 2008. Eastfound accounted for *** percent of total reported export shipments to the United States in 2008.

⁴ *Wire Decking from the People’s Republic of China: Initiation of Antidumping Duty Investigation*; 74 FR 31691, July 2, 2009.

NATURE OF ALLEGED COUNTERAVAILABLE SUBSIDIES

On July 2, 2009, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on wire decking from China.⁵ In its notice, Commerce listed the following programs alleged in the petition to have provided countervailable subsidies to producers of wire decking in China:⁶

A. Loan Programs

1. Honorable Enterprises Program
2. Preferential Loans for Key Projects and Technologies
3. Preferential Loans as Part of the Northeast Revitalization
4. Policy Loans for Firms Located in Industrial Zones in the City of Dalian in Liaoning Province

B. Government Provision of Goods and Services for Less Than Adequate Remuneration (“LTAR”)

1. Government Provision of Wire Rod for LTAR
2. Government Provision of Hot-Rolled Steel for LTAR
3. Government Provision of Zinc for LTAR
4. Government Provision of Electricity for LTAR
5. Provision of Land for LTAR for Firms Located in Designated Geographical Areas in the City of Dalian in Liaoning Province
6. Provision of Water for LTAR for Firms Located in Designated Geographical Areas in the City of Dalian in Liaoning Province
7. Provision of Electricity for LTAR for Firms Located in Designated Geographical Areas in the City of Dalian in Liaoning Province

C. Income and Other Direct Taxes

1. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
2. Income Tax Exemption for Investment in Domestic “Technological Renovation”
3. Preferential Income Tax Policy for Enterprises in the Northeast Region
4. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
5. Income Tax Exemption for Investors in Designated Geographical Regions Within the Province of Liaoning

⁵ Commerce has determined that the current nature of the economy in China does not create obstacles to applying the necessary criteria in the countervailing duty law and initiated a countervailing duty investigation against China. *See Coated Free Sheet Paper from the People’s Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484, 17486 (April 9, 2007).

⁶ *Wire Decking from the People’s Republic of China: Initiation of Countervailing Duty Investigation*; 74 FR 31700, July 2, 2009.

D. Indirect Tax and Tariff Exemption Programs

1. Value Added Tax (“VAT”) Deductions on Fixed Assets
2. Export Incentive Payments Characterized as “VAT Rebates”
3. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
4. VAT Exemptions for Newly Purchased Equipment in the Jinzhou District

E. Grant Programs

1. “Five Points, One Line” Program
2. Export Interest Subsidies
3. The State Key Technology Project Fund.
4. Subsidies for Development of Famous Export Brands and China World Top Brands
5. Sub-Central Government Programs To Promote Famous Export Brands and China World Top Brands
6. Exemption of Fees for Firms Located in Designated Geographical Areas in the City of Dailan in Liaoning Province

F. Preferential Income Tax Subsidies for Foreign Invested Entities (“FIEs”)

1. “Two Free, Three Half” Program
2. Income Tax Exemption Program for Export-Oriented FIEs
3. Local Income Tax Exemption and Reduction Programs for “Productive” Foreign-Invested Enterprises
4. Preferential Tax Programs for Foreign-Invested Enterprises Recognized as High or New Technology Enterprises
5. Income Tax Subsidies for FIEs Based on Geographic Location
6. VAT Refunds for FIEs Purchasing Domestically Produced Equipment

THE SUBJECT PRODUCT

Commerce’s Scope

Commerce has defined the scope of these investigations as follows:

{These investigations cover} welded-wire rack decking for industrial and other commercial storage racks or pallet rack systems. It is produced from carbon or alloy steel wire that has been welded into a square or rectangular mesh pattern. The wire may be galvanized or plated (e.g., chrome, zinc or nickel coated), coated with paint, epoxy, or plastic, or uncoated (“raw”). Wire decking is sold in a variety of wire gauges. The wire gauges used in the decking mesh are 0.105 inches (12 gauge) or greater. The wire may be drawn or rolled and may have a round, square or other profile.

Wire mesh decking is reinforced with structural supports that may include sheet metal support channels or additional wire or other structural supports. It is produced to various profiles, including, but not limited to, a flat (flush) profile, an upward curved back edge profile (“backstop”) or downward curved edge profile (“waterfalls”), depending on the rack storage system. Wire decking may also be referred to as “pallet rack decking,” “wire rack decking,” “wire mesh decking,” or “bulk storage shelving.”

The wire decking may or may not be anchored to the rack storage system.

Wire decking’s open mesh design is intended to provide a low weight, high-strength storage platform that allows light to pass through it. It also allows water to pass through for fire protection systems, and as a result wire decking is usually mandated by insurance companies and building codes for use in commercial and industrial storage systems.

The scope does not cover the metal rack system on which the wire decking is ultimately installed. Also excluded from the scope is other wire mesh shelving that specifically lacks any structural supports welded or otherwise affixed to it. Such wire mesh shelving is known as “storage shelving” and might be used in a home or small business to store files or other non-load bearing items.

Wire decking enters the United States through several basket categories in the Harmonized Tariff Schedule of the United States. U.S. Customs and Border Protection has issued a ruling (NY F84777) that wire decking is to be classified under HTS 9403.90.8040. Wire decking may also be entered under HTS 7217.10, 7217.20, 7326.20, 7326.90 and 9403.20.0020. HTS numbers are provided for convenience purposes only; the physical description provided above controls the scope coverage.

Tariff Treatment

During the period of investigation, wire decking has been classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under subheading 9403.90.80 (statistical reporting number 9403.90.8040). This HTS subheading is a residual or “basket” subheading covering wire decking and many other products. Petitioners observed that Customs has issued a ruling (NY F84777) which stated that wire decking is properly imported under HTS 9403.90.8040, but contend that wire decking may have also entered the United States under HTS 7217.10, 7217.20, 7326.20, 7326.90 and 9403.20.0020 during the period of investigation.⁷ Table I-1 depicts the HTS subheading under which wire decking is classified and its tariff treatment.

**Table I-1
Wire decking: Tariff treatment, 2009**

HTS provision	Article description	General ¹	Special	Column 2 ²
		Rates (percent ad valorem)		
9403 9403.90 9403.90.80 9403.90.8040	Other furniture and parts thereof: Parts:..... Other..... Of metal.....	Free		45.0%
¹ Normal trade relations, formerly known as the most-favored-nation duty rate. ² Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.				
Source: Harmonized Tariff Schedule of the United States (2009).				

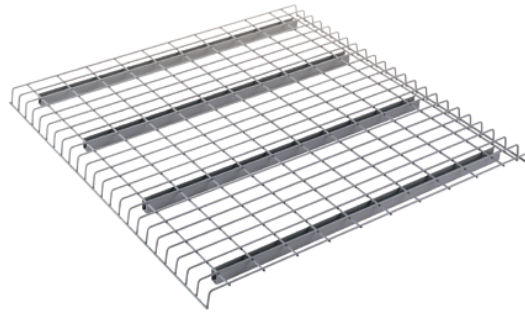
⁷ See petition, exh. General-2. Atlas, the largest U.S. importer of wire decking from China, reported that ***.

Description and Applications

The subject product, wire decking, is a fabricated decking assembly used to form a shelf surface in a rack storage system in warehouse, commercial, or industrial storage installations. The purpose is to provide a surface upon which to place materials that may be on pallets, in containers, or in some other form.

A decking section comprises a steel wire mesh shelf with attached reinforcing supports ready for installation on supporting rack framing (Figure I-1).

FIGURE I-1 Standard waterfall decking

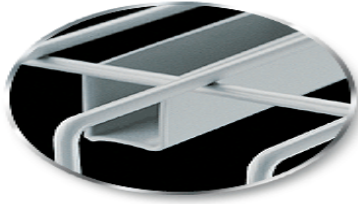


Source: Petition, Vol. I, Exhibit General-3, p. 3.

The wire mesh used for decking is usually 2 inches by 4 inches or 2 ½ inches by 4 ½ inches. The reinforcing supports are normally roll-formed, hot-rolled steel supports having a “U” or “V” shape. However, decking sections with other forms of support, such as tube or solid bar would be included within the scope. The decking supports are designed to rest on the front and rear support beams of the rack framing. There are two types of support beams commonly used in storage rack systems: step beams and box beams. A step beam has two horizontal surfaces, with the lower, inside surface providing a support surface for the reinforcing members of the wire decking section, whereas a box beam is a simple rectangular tube with only the top as a support surface. The support members of the wire decking are of either a type suitable for only rack systems having step beams, (Figure I-2) or of a flanged design suitable for rack systems having box beams (Figure I-3).⁸

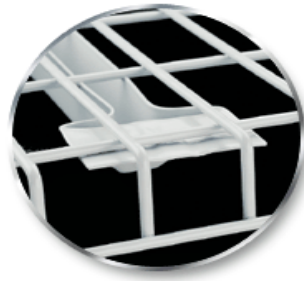
⁸ Flanged channel support beams may be used with either box or step beams, and are sometimes referred to as “universal” support beams for that reason.

FIGURE I-2 Decking with waterfall for step beam applications



Source: Petition, Vol. I, Exhibit General-3, p. 4.

FIGURE I-3 Decking (flanged) with waterfall for structural/box beam applications



Source: Petition, Vol. 1, Exhibit General-3, p. 4.

Common wire decking sizes range from 24 to 60 inches in depth and from 34 to 60 inches in width.⁹ The most common size, estimated to represent 35 to 60 percent of the market, is 42 inches in depth by 46 inches in width.¹⁰ Two wire decking sections of that size are used to shelve an 8-foot wide bay between upright supports in a storage rack, and accommodate two standard pallets.¹¹

Wire decking is produced in a number of styles. The most common, waterfall, has a wire mesh deck surface that extends in the front and back across the top of the rack support beams and is formed downward in a 90 degree bend to cover about 1.5 inches of the outside of the support beams. The waterfall feature helps to hold the decking in position and minimizes the potential for accidental displacement of the decking. Other designs, used with step beams, have a wire mesh surface that ends inside the step of the beam and is flush with the upper surface of the beam (Figure I-4). Such a design might be chosen if the user wanted an unobstructed front on the beams for the placement of labels, or wanted a slightly lighter and less costly decking. Another alternative is an upward bend at the back of the

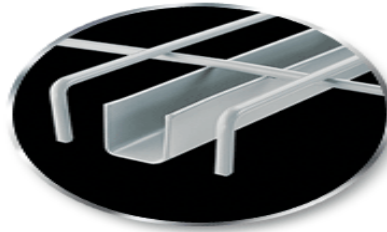
⁹ Petitioners state that the domestic industry produces decking as small as 8 inches in depth. Petition, Vol. I, p. 8.

¹⁰ Petition, Vol. I, p. 8.

¹¹ Petition, Vol. I, p. 8.

wire mesh surface to provide a stop, preventing material from being pushed too far onto the shelf or from accidentally falling off the shelf.

FIGURE I-4 Flush-fit decking with inside waterfall for step beam applications



Source: Petition, Vol. 1, Exhibit General-3, p. 4.

The size and spacing of the wire used in the mesh, as well as the number and characteristics of the support members, determine the load-bearing capacity of the decking. For the common 42 inch by 46 inch decking size mentioned above, the capacity may range from 2,000 pounds to 3,500 pounds. The weight of a single section of decking in the 42 inch by 46 inch size may be from 24 pounds to 30 pounds.

Another feature of steel decking is the finish, which affects the appearance and the corrosion resistance of the product. The product may be coated with a baked-on enamel paint or a baked-on spray-powder finish or be fabricated from galvanized (zinc-coated) products, or be hot-dipped or electroplated with zinc after fabrication. According to petitioners, the zinc electroplated (after welding) finish is common for Chinese wire decking, whereas U.S. producers generally use a painted or powder-coated finish.¹² Petitioners state that the finish is irrelevant to customers for the vast majority of sales; nonetheless, all finishes are available from the U.S. industry.¹³

Finished wire decking is commonly stacked flat on a wooden pallet for shipping. U.S. manufacturers of wire decking maintain inventory of common items in warehouses at their manufacturing locations and in other locations for the purpose of providing quick delivery. Major importers of wire decking from China also maintain inventory in selectively-located warehouses.

Wire decking is purchased by big-box retailers for their own stores and warehouses, systems integrators (companies that equip warehouses and commercial storage spaces and provide all materials handling needs, including storage racks and decking), catalogue companies, and storage rack manufacturers.

¹² Petition, Vol. II, p. 5.

¹³ Petitioners' post-conference brief, p. 15.

Manufacturing Processes

The wire mesh surface of wire decking is produced from steel wire and the support members are produced from steel sheet. The weight of steel wire is about 60 percent and that of steel sheet is about 40 percent of the total steel used to manufacture wire decking.¹⁴

Steel wire in coil form¹⁵ is processed through a straighten-and-cut machine to produce individual, straight wires of the lengths required for the cross wires of the wire mesh decking. Wire is fed from multiple reels into a wire mesh welding machine and individual cross wires are joined by electric-resistance welding at each intersection. Individual sections of decking are cut from the continuously feeding wire mesh.

Hot-rolled sheet for the support members is received in coil of the required width, typically about 3.5 inches in width and 0.083 inches in thickness. The coiled material is processed through a roll-forming machine to produce the “U” or “V” section for the support members. Individual support members are cut to required length as the roll-formed section exits from the roll-forming machine. To produce flanged support sections, individual support members are formed in a press to the required shape. The support members and the formed wire mesh deck are placed in a fixture and electric-resistance welded at each intersection of the support members with the cross wires. The waterfall and/or backstop features are formed in a press.

After welding, the decking is coated with either a baked-on enamel or a baked-on powder coating. Decking sections are transported by conveyor through a coating process. An enamel coating line comprises a cleaning section to remove any residues from the surface, a heat drying oven, a cooling section, a paint dip section, and a final curing section. A powder coating line comprises a cleaning section, a drying section, an electrostatic powder spraying section,¹⁶ and a final heat curing section. Two U.S. producers produce galvanized wire decking with a zinc rather than an enamel or powder coated finish by utilizing galvanized wire and galvanized sheet.¹⁷ U.S. producers also have the ability to supply zinc-electroplated (electrogalvanized) or hot-dip galvanized (after fabrication) wire decking through outsourcing.¹⁸

The process for producing steel decking in China is believed to be essentially the same as that in the United States, except that the operations are, in general, not as fully automated. Many Chinese producers do not have painting or powder-coating lines; as a result, much Chinese product is electroplated with zinc after fabrication, often by a toll-processing electroplater.

DOMESTIC LIKE PRODUCT ISSUES

No issues with respect to domestic like product have been raised in these investigations. The petitioners proposed that the Commission define the domestic like product as all wire decking co-extensive with the scope of the petition.¹⁹ Respondents concurred with petitioners that all wire decking

¹⁴ Conference transcript, p. 94 (Wagner).

¹⁵ Some manufacturers purchase wire from independent wire drawing firms whereas other manufacturers purchase wire rod and draw the wire to the required diameter as a part of the manufacture of wire decking. Those manufacturers that draw wire may have other uses for drawn wire, including direct sale of wire, and fabricated products such as wire mesh, baskets and others. See Conference transcript, pp. 54–59 (Rudolph, Caldwell, Wagner, Chamberlin, Brandon, Selhorst).

¹⁶ Coating powder is sprayed using an apparatus that causes individual particles of powder to be electrostatically charged and to be attracted to, and cling to the cleaned decking.

¹⁷ Wire decking produced from galvanized wire and galvanized sheet is not coated after welding.

¹⁸ Petitioners' postconference brief, Exhibit 9, p. 2.

¹⁹ Petition, Vol. I, p. 11.

constituted one domestic like product.²⁰ Petitioners proposed that the Commission should find that there is a single domestic industry producing wire decking.²¹

²⁰ Conference transcript, p. 134 (Levinson).

²¹ Petition, Vol. I, p. 13.

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

U.S. MARKET CHARACTERISTICS AND CHANNELS OF DISTRIBUTION

Wire decking is sold for use in pallet shelving systems found in warehouses and other locations where palletized loads are to be stacked vertically such as garden centers and at stores which organize their goods in a warehouse-type manner. They could be typically found at big-box stores like Home Depot or Lowe's.

Wire decking is sold to three types of customers: original equipment manufacturers ("OEMs"), distributors, and big-box stores such as Home Depot, Lowe's, and Wal-Mart.¹ OEMs manufacture pallet rack systems that incorporate wire decking, and, as such, act much like the other material handling distributors which sell a variety of products such as forklifts, conveyors, automated systems, and other warehouse requirements. One petitioner estimated there to be 1,300 to 1,400 material handling distributors in the United States.² Wire decking is then typically sold to a downstream end user, and the end users' requirements may vary greatly. Wire decking could be part of an order for a new warehouse complex, a replacement pallet rack system, or just a small number of replacement pieces. At the conference, one petitioner testified that, "for a particular end user project, we may get more than one inquiry from several different material handling distributors. The end user seeks the best bid from a variety of material handling distributors, and each of those distributors or resellers will seek a variety of bids from deck manufacturers and importers."³

Sales of wire decking occur mostly to distributors, and since 2006, the proportion of sales to this channel have been increasing after a span of several years of decreases due to the rapid growth in big-box retailers earlier in the decade. One producer reported that ***.⁴ In fact, for a few years in this decade, Wal-Mart was the largest purchaser of wire decking in the United States.⁵ A representative for producer ITC testified that big-box stores typically purchase larger orders and orders of standard-size wire decking.⁶ Mr. Kedaitis of importer Atlas believes that the big-box stores may be importing directly, but not the standard sizes which comprise the bulk of sales of wire decking.⁷ He also testified that Atlas does not sell directly to big-box retailers, in fact it reportedly avoids it. Instead, it sells mainly to firms that are downstream of big-box retailers, such as those in the "middle sized automotive, pharmaceuticals, specialty foods, footwear, {and} childrens clothing" industries.⁸ The percentage of shipments from producers and importers reported to go to distributors and end users is presented in table II-1, and the percentage of shipments to big-box stores, distributors, and OEMs is presented in table II-2.

¹ Conference transcript, p. 28 (Mack).

² Conference transcript, p. 32 (Chamberlin).

³ Conference transcript, p. 33 (Chamberlin).

⁴ ***.

⁵ Conference transcript, p. 137 (Kedaitis).

⁶ Conference transcript, p. 61 (Selhorst).

⁷ Conference transcript, pp. 186 and 189 (Kedaitis). Atlas is *** importer of wire decking from China.

⁸ Conference transcript, p. 138 (Kedaitis).

Table II-1

Wire decking: U.S. producers' and importers' U.S. shipments of wire decking, by sources and channels of distribution, 2006-08, January-March 2008, and January-March 2009

Item	2006	2007	2008	Jan.-Mar. 2008	Jan.-Mar. 2009
Share of reported shipments (percent)					
Domestic producers' U.S. shipments of wire decking to:					
Distributors ¹	63.8	64.9	68.0	69.0	66.8
End users	36.2	35.1	32.0	31.0	33.2
U.S. importers' U.S. shipments of wire decking from China:					
Distributors ¹	90.2	92.9	94.5	97.8	97.6
End users	9.8	7.1	5.5	2.2	2.4
¹ Sales to distributors includes sales to OEMs. Note.—Data for domestic producers include only U.S. commercial shipments. Source: Compiled from data submitted in response to Commission questionnaires.					

Table II-2

Wire decking: Petitioners' 2008 percentages shipped to big-box stores, distributors, and OEMs, 2008

Firm	Share of 2008 reported shipments ¹ (percent)		
	Big-box stores	Distributors	OEMs
AWP	***	***	***
ITC	***	***	***
J&L	***	***	***
Nashville Wire	***	***	***
Wireway	***	***	***
¹ ***.			
Source: Petitioners' postconference brief, exh. 1, p. 2, in response to staff question number 2.			

Some of the most-commonly required varieties of wire decking are held in inventory for quick order fulfillment. Mr. Song of Eastfound, the exclusive supplier of Atlas, reported that nine types of wire decking (out of 4,200 that his firm produces in China) accounted for 85 percent of his firm's shipments.⁹

⁹ Conference transcript, p. 164 (Song).

GEOGRAPHIC MARKETS

All seven U.S. producers reported selling wire decking nationwide, as well as five of seven responding importers. The other two responding importers serve four regions: the Northwest, Southeast, and West Coast for *** and Puerto Rico for ***.

SUPPLY AND DEMAND CONSIDERATIONS

Supply

Seven producers of wire decking responded to the Commission's questionnaire. The largest producer is *** which accounted for *** percent of sales of domestically produced wire decking in 2008 on a quantity basis, followed by ***. In addition, *** responding U.S. producers imported wire decking during the period of investigation.

Domestic Production

Based on available information, U.S. producers have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of U.S.-produced wire decking to the U.S. market. The main contributing factors to the moderate-to-large degree of responsiveness of supply are the availability of unused capacity, ample inventories, small levels of export shipments, and the existence of some production alternatives.

Industry capacity

U.S. producers' capacity rose by 4.0 percent in 2007 compared with 2006, but remained steady in 2008 and the first quarter of 2009. U.S. producers' reported capacity utilization, however, decreased steadily, from 61.5 percent in 2006 to 53.2 percent in 2008, and was 29.0 percent in the first quarter of 2009, compared with 57.8 percent in the first quarter of 2008 (*see* table III-2). Accordingly, U.S. producers have ample excess capacity with which they could increase production of wire decking.

Alternative markets

Wire decking is reportedly used in Canada, Mexico, the Middle East, and Europe.¹⁰ U.S. producers' export shipments as a percent of total shipments increased irregularly from *** percent in 2006 to *** percent in 2007 and *** percent in 2008 (*see* table III-3). Exports as a percentage of total shipments were lower in January to March 2009 (*** percent) than in January to March 2008 (*** percent). This level of exports during the period indicates that domestic producers are somewhat constrained in their ability to shift shipments between the United States and other markets in response to price changes.

Inventory levels

U.S. producers' inventories, as a share of total shipments, increased unevenly from 14.2 percent in 2006 to 16.5 percent in 2008 (*see* table III-5). The ratio of inventories to total shipments was considerably higher in the first quarter of 2009 (25.7 percent) compared with the first quarter of 2008 (11.8 percent). Most of this increase, however, is due to the steep decrease in total shipments. Actual inventories at the end of the first quarter of 2009 were higher than they were in the first quarter of 2008,

¹⁰ Conference transcript, pp. 68 (Chamberlin) and 70 (Rollins).

but lower than at the end of 2008. These data indicate that U.S. producers have a moderate amount of inventories to increase shipments to the U.S. market.

Production alternatives

All seven responding producers reported that they produce other products using the same equipment, machinery, and/or production and related workers that they use to produce wire decking, although wire decking constitutes more than 90 percent of the production capabilities for five of the seven producers. Alternative products include: concrete reinforcement mesh, drawn wire, light duty shelving, mining mesh, point-of-purchase display units, stem mesh, wire mesh containers, and other miscellaneous mesh products.

Foreign Supply

The vast majority of wire decking imported into the United States comes from China. Because it is imported in multiple basket categories in the HTSUS, it is difficult to determine which countries besides China export wire decking to the United States. No importers responding to the Commission's importer questionnaires imported wire decking from any country besides China. At the conference, both petitioners and respondents estimated nonsubject wire decking to constitute less than 5 percent of the market.¹¹ Mr. Mack of producer ITC stated that occasionally there will be imports of wire decking from Canada or Mexico.¹² Mr. Kedaitis of Atlas reported the existence of one producer in Mexico, and, at least at one time, Canada.¹³ In total, petitioners reported that they believe three firms (2 in Canada and 1 in Mexico) account for all of the U.S. imports from countries other than China. These firms include: ***. To the extent that there is production in, or imports from Canada or Mexico, they have had no effect on the domestic wire decking market.¹⁴

U.S. imports of wire decking from China increased by *** percent between 2006 and 2007, then decreased by *** percent in 2008 (*see* table C-1), and were *** percent lower in the first quarter of 2009 than the first quarter of 2008.¹⁵ Shipments of imports from China also increased between 2006 and 2007 (by *** percent) before decreasing by *** percent in 2008. Shipments of wire decking imported from China were *** percent smaller in the first quarter of 2009 than in the first quarter of 2008.

China

Industry Capacity--At the conference, Mr. Song of Eastfound testified that there are seven companies in China that reportedly manufacture and export 90 to 95 percent of wire decking shipped to the United States.¹⁶ According to five foreign producer questionnaire responses received by the Commission, reported capacity in China decreased irregularly by *** percent between 2006 and 2008 (from *** in 2006 to *** in 2007 and *** in 2008). In addition, reported capacity in China was ***

¹¹ Conference transcript, pp. 62 (Mack) and 154 (Kedaitis).

¹² Conference transcript, p. 62 (Mack).

¹³ Conference transcript, p. 154 (Kedaitis).

¹⁴ Petitioners' postconference brief, p. 36 ("Nonsubject imports are not a factor in the wire decking market."); Respondents' postconference brief, p. 4 fn. 1 ("It is apparent that import of wire decking from countries other than China are insignificant and have not been included in respondents' analysis."). Petitioners' postconference brief, exh. 1, p. 3.

¹⁵ On a quantity basis.

¹⁶ Conference transcript, p. 130 (Song).

percent lower in interim 2009 than interim 2008. Production increased *** percent from 2006 to 2007 (***), but decreased by *** percent in 2008 to ***. Wire decking production capacity in the first quarter of 2009 is *** percent below capacity in the first quarter of 2008, and actual production is *** percent lower. Whereas capacity utilization was at least *** percent through 2008, capacity utilization in China was reportedly at *** percent in the first quarter of 2009.

Alternative Markets--The share of China's shipments of wire decking exported to the United States, as a share of its total shipments, decreased irregularly from *** percent in 2006 to *** percent in 2008. Principal alternative export markets identified by Chinese producers and exporters include Asia, Australia, Canada, Guatemala, the EU, the Middle East, Papua New Guinea, Poland, and the UK. Shipments to the Chinese home market comprised less than one percent of total shipments for Chinese producers in each year of the period of study. At the conference, Mr. Song reported that the Chinese home market for wire decking is very small and disordered and uses wooden decking, not steel.¹⁷ Furthermore, importer *** has reported that "China does not use wire deck."¹⁸

Inventory Levels--The ratio of U.S. importers' U.S. inventories of wire decking from China, as a percentage of their total U.S. shipments of wire decking from China, increased irregularly from *** percent in 2006 to *** percent in 2008, and were *** percent in the first quarter of 2009 compared with *** percent in the first quarter of 2008.

Nonsubject Imports

As stated above, Canada and Mexico may have exported some wire decking to the United States during 2006-08, but this is unconfirmed. Nonsubject imports reportedly account for five percent or less of the domestic market for wire decking.¹⁹

General Supply Conditions

Both petitioners and respondents report that wire decking can be produced in a wide variety of dimensions, forms, and finishes.²⁰

When asked if there had been any changes in the product range or marketing of wire decking, five of seven producers and five of seven responding importers reported that there have not been any significant changes. Producer *** noted that there has been an increase in the availability of wire decking from China, and producer *** described a decrease in advertising and marketing of wire decks. Importer *** reported a large number of changes occurring in the wire decking market: "****."

Within the wire decking industry, the Rack Manufacturers Institute began granting an "R-Mark" to certify that certain companies' products that meet a number of certification requirements, and signifies a commitment to manufacture to ANSI MH26.6 design and capacity specifications.²¹ Petitioners reported that each petitioning firm has some or all of their products certified with an R-mark,²² and Mr. Kedaitis of Atlas testified that Atlas is a member of R-mark as well.²³ Petitioners noted that Atlas's

¹⁷ Conference transcript, p. 135 (Song).

¹⁸ *** importer questionnaire response.

¹⁹ Conference transcript, pp. 62 (Mack) and 154 (Kedaitis).

²⁰ See, e.g., conference transcript, p. 131 (Song) and petitioners' postconference brief, pp. 13-15.

²¹ The R-mark is granted to a company's individual deck, not the company in itself. Petitioners' postconference brief, exh. 10.

²² Petitioners' postconference brief, exh. 1, p. 9.

²³ Conference transcript, p. 171 (Kedaitis).

testimony with regard to quality concerns about the domestic manufacturers occurred before the period examined in these investigations.²⁴

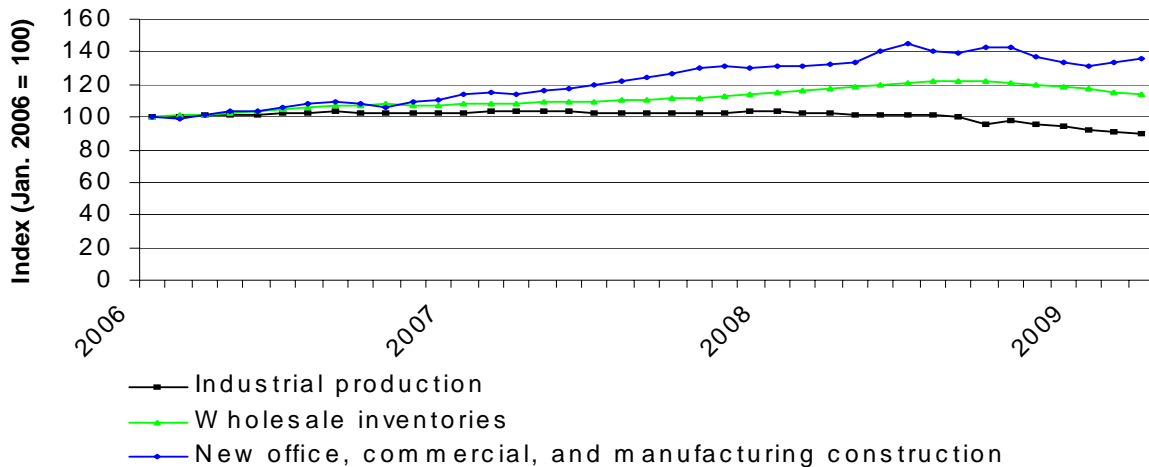
Demand

U.S. Demand

Demand Characteristics

Wire decking is used in pallet rack systems in order to warehouse inventories and demand for wire decking is directly related to the demand for pallet rack products.²⁵ Thus, demand for wire decking is derived primarily from the industrial output of the economy, and in particular investment in capital expenditures, the construction of warehouses, and commercial real estate.²⁶ Respondents also noted that the demand for wire decking is “driven by the demand for wire racking and generally follows industrial output and non-residential construction activity.”²⁷ Figure II-1 shows indices of U.S. industrial production, wholesale inventories, and non-residential office, commercial, and manufacturing new construction for January 2006-March 2009.²⁸

Figure II-1
Indices of U.S. industrial production, wholesale inventories, and non-residential office, commercial, and manufacturing new construction for January 2006-March 2009



Source: Board of Governors of the Federal Reserve System (industrial production), and Department of Commerce, Bureau of the Census (new construction and wholesale inventories).

²⁴ Petitioners’ postconference brief, p. 11, referencing conference transcript, p. 123 (Kedaitis) (reference to quality concerns in 1998 or earlier).

²⁵ *** importer questionnaire response.

²⁶ Conference transcript, p. 80 (Chamberlin), and producer questionnaire responses of ***.

²⁷ Respondents’ postconference brief, p. 3.

²⁸ All series are seasonally adjusted, and the new construction index is a seasonally-adjusted annual rate.

From 2006 to 2008, apparent U.S. consumption of wire decking decreased by 12.6 percent in terms of quantity. Producers and importers were asked specifically how the demand for wire decking in the U.S. and worldwide markets has changed since 2006. All producers reported demand declining at some point since 2006. Five producers noted a decrease in demand since 2006, while the other two noted an increase (or a fluctuation), and then a decrease in mid-to-late 2008 as the present economic downturn began. A majority of the producers that described demand as decreasing attributed the decrease to the weakening economy.²⁹ Four of six responding importers also noted a decrease, one reported no change,³⁰ and one (***) , an increase.³¹ Five importers described the wire decking industry as having been impacted negatively by the economy.

In contrast, two of the three responding producers (***) reported that demand outside the United States had not changed since 2006.³² The other producer (***) reported a decrease. Two of three responding importers (***) reported increasing demand outside the United States, while *** reported demand outside the United States had not changed or had even decreased. *** described expansion of markets in Canada and Mexico. In contrast, *** conveyed that the market for wire decking in the EU has slowed due to the global economic contraction.

Cost Share

Wire decking is used as an accessory in a pallet rack system. Five of seven responding producers estimate that wire decking accounts for between 10 and 33 percent of the final cost of a warehouse pallet rack system.³³ Six of eight importers estimated that it accounts for between 2 and 34 percent of the cost of pallet rack systems.³⁴

Substitute Products

Six of seven producers and four of eight importers reported that there are no products that can be used in place of wire decking. The lone dissenting producer reported that pallet supports and pallets could be used in place of wire decking for warehouse shelving. Among the items noted by the four importers that stated that substitutes for wire decking exist are: wood (reported by all four importers), no decking (two importers), pallet supports, punch decking, and steel corrugated decking (one importer

²⁹ One producer that noted that there was “no change” in demand stated that demand has decreased over the last three quarters due to the current recession.

³⁰ In the ***.

³¹ *** provided a very detailed response to what has occurred, in its view, to demand in the wire decking market. It reported that:

“***.” ***. Furthermore, *** continued, “***.” ***. Atlas acknowledged a collapse in demand for wire decking since October 2008, and a contraction in consumption of wire decking over the period of investigation. Conference transcript, pp. 127-128 (Kedaitis) and respondents’ postconference brief, p. 4.

³² *** added to its statement that it does not ship much outside the United States, so it cannot give a “good answer.”

³³ One producer did not estimate the cost, and the other producer reported that, as a percentage of the cost of warehouse shelving, wire decking accounts for 90 percent of the total cost.

³⁴ The other two importers estimated the cost to be 99 and 100 percent of pallet rack decks.

each).³⁵ In order to substitute for wire decking, at least 50 percent of the shelving has to be open in order to meet fire code regulations.³⁶

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 producer and importer questionnaire responses, staff believes that on the whole, there is likely to be a high degree of substitution between wire decking produced in the United States and that produced in China.

Lead Times

Producers reported a large variation in the share of their sales of wire decking that sold out of inventory or was made on a produced-to-order basis. Responses ranged from “***” to “***” of wire decking being sold out of inventory, with the remainder being sold on a produced-to-order basis.³⁷ Lead times for orders shipped out of inventory ranged from the same day to 3 days and averaged 1.5 days for six of the seven producers.³⁸ Lead times for shipments of wire decking that is produced-to-order ranged from 2 to 6 weeks and averaged 3.5 weeks.³⁹

The three largest importers, Atlas, Mighty Lift, and Nashville Wire, reported that *** percent of their sales are out of inventory.⁴⁰ Lead times for these orders were reported to be two days or less for four importers. Additionally, importers *** reported lead times of “one week” and “less than one week.” Of the remaining proportion that was sold on a produced-to order basis, importers reported lead times ranging from 5 to 10 weeks and averaging 7.3 weeks.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Producers and importers were asked to assess the interchangeability of wire decking produced in the United States, China, and nonsubject countries; responses are presented in Table II-3. The U.S. producers and importers were nearly unanimous in stating that wire decking produced in the United States is always interchangeable with wire decking from China and other countries, and that wire decking from China is always interchangeable with that produced in other countries.

³⁵ In its response, *** went into great detail about potential substitutes for wire decking:

“***.” ***. It further reported that the price of lower-priced cross-bars has “***.” ***.

³⁶ Conference transcript, p. 117 (Chamberlin).

³⁷ The following producers reported their shares sold out of inventory as follows: ***.

³⁸ The remaining producer, ***, stated that its lead time for orders from inventory are one week. Including *** raises the industry average lead time to 2.3 days.

³⁹ These data do not include the response of ***, since it replied both “3 days” and “4 weeks.”

⁴⁰ The other importers reported sales out of inventory of ***.

Table II-3**Wire decking: U.S. producers' and importers' perceived degree of interchangeability of products produced in the United States and in other countries¹**

Country comparison	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	7	0	0	0	5	1	0	0
U.S. vs. other countries	5	0	0	0	5	0	0	0
China vs. other countries	5	0	0	0	4	0	0	0

¹ Producers and importers were asked if wire decking produced in the United States and in other countries are used interchangeably and to what degree.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

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

In addition, producers and importers were asked to assess how often differences other than price were significant in sales of wire decking from the United States, China, and nonsubject countries (table II-4). All producers reported that differences other than price are "sometimes" or "never" significant in their sales of wire decking. *** added, "Price is paramount. Lead time and customer service sometimes are a factor in any pairing." Importers were more varied in their responses. *** noted two factors that always affect sales of wire decking among countries: "Availability: Often customer needs wire deck in a very short time. Whoever has the size and quantity in stock got the orders. Transportation Network: Since wire deck is low value item, transportation costs play big role." At the conference, Mr. Kedaitis of Atlas stated that product color choice, customer service, and lead times have played a role in the wire decking industry.⁴¹

Table II-4**Wire decking: U.S. producers' and importers' perceived importance of factors other than price in sales of product produced in the United States and in other countries¹**

Country comparison	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	0	0	1	6	2	1	2	1
U.S. vs. other countries	0	0	1	4	2	0	1	1
China vs. other countries	0	0	1	4	1	1	0	1

¹ Producers and importers were asked if differences other than price between wire decking produced in the United States and those produced in other countries were a significant factor in their firms' sales of wire decking.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

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

⁴¹ Conference transcript, pp. 123-124 (Kedaitis).

There is a qualification process for most purchasers, or at least for big-box retailers according to importer Atlas.⁴² Distributors do not require qualification, but rather the ability to meet specification, especially capacity requirements. For safety and liability reasons, larger customers will scrutinize the product a little more than other customers. In total, though, the process takes two to three weeks.⁴³ In the past eight months, one big-box retail store was able to qualify Mighty Lift's imports from China and has switched the majority of its wire decking purchases in the western United States from domestic production to Mighty Lift.⁴⁴

Respondents submitted declarations or e-mails from 13 purchasers noting that price is not the only characteristic that matters in the wire decking market.⁴⁵ Petitioners contend, however, that Atlas drafted the declarations of the purchasers and petitioners submitted the draft declarations in their postconference brief.⁴⁶ Four of the 13 declarations did take this form.

⁴² Conference transcript, pp. 28, 63-64 (Mack) and 154-155 (Kedaitis).

⁴³ Conference transcript, pp. 63-65 (Mack).

⁴⁴ Conference transcript, p. 29 (Mack).

⁴⁵ Respondents' postconference brief, exh. 5.

⁴⁶ Petitioners' postconference brief, exh. 13.

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

Information presented in this section of the report is based on (except as noted) the questionnaire responses of seven firms which accounted for the vast majority of U.S. production of wire decking in 2008.

U.S. PRODUCERS

The Commission sent producer's questionnaires to 10 firms identified as U.S. producers of wire decking by the petitioners. Seven U.S. producers submitted responses.¹ Table III-1 presents the list of U.S. producers with each company's U.S. production location, share of U.S. production in 2008, and position on the petition.

Table III-1
Wire decking: U.S. producers, U.S. production locations, shares of U.S. production in 2008, and positions on the petition

Firm	Production location	Share of production (percent)	Position on the petition
AWP	Frankfort, KY	***	Petitioner
Cargotainer	Adrian, MI	***	***
ITC	Phoenix, AZ	***	Petitioner
J&L ¹	St. Paul, MN	***	Petitioner
Nashville Wire	Nashville, TN	***	Petitioner
Nucor Wire ²	New Salem, PA	***	Support
Wireway	Denver, NC	***	Petitioner
¹ *** ² ***			
Source: Compiled from data submitted in response to Commission questionnaires.			

None of the U.S. producers are related to foreign producers of the subject merchandise and none are related to U.S. importers of the subject merchandise. In addition, as discussed in greater detail below, two U.S. producers, J&L and Nashville Wire, directly imported the subject merchandise.

¹ Petitioners estimated that these seven firms accounted for approximately 99 percent of U.S. production of wire decking in 2008. Petition, p. 5 and exh. General-1.

The three nonresponding U.S. producers include: (1) Complex Steel & Wire (Complex) of Wayne, MI, which petitioners estimated produced *** pounds of wire decking in 2008; (2) Equipto, Inc. (Equipto) of Tatamy, PA, which petitioners described as a *** U.S. producer of wire decking; and (3) Salco Engineering & Manufacturing Co. (Salco) of Jackson, MI, which petitioners estimated produced *** pounds of wire decking in 2008. Complex and Equipto, although not responding to ITC's questionnaire, did supply petitioners' counsel with affidavits expressing support for the petition. Petitioners' postconference brief, p. 6.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-2. Total U.S. capacity increased from 2006 to 2008 by 4.0 percent and remained steady between January-March 2008 and January-March 2009. ***. U.S. capacity volume accounted for *** percent of apparent U.S. consumption of wire decking in 2008.² Total U.S. production of the subject product decreased by 10.0 percent from 2006 to 2008 and decreased by 49.9 percent between January-March 2008 and January-March 2009.³ Capacity utilization ranged from 29.0 percent in January-March 2009 to 61.5 percent in 2006.⁴

*** U.S. producers reported events that occurred during the period of investigation that would have materially affected its production or capacity. ***. *** of the seven U.S. producers reported that they produced other products using the same manufacturing equipment and/or production employees that were used to produce wire decking. ***.

² Petitioners stated that they have the capacity to serve the entire U.S. market including the 15 percent of the total U.S. market that the parties agree is accounted for by customized wire decking. The remaining 85 percent of the total U.S. wire decking market reportedly consists of approximately nine standard wire decking products which all U.S. producers and producers in China manufacture and compete for sales. Petitioners postconference brief, pp. 8-9.

³ U.S. producers of wire decking are both "integrated and non-integrated." J&L, ITC, Nashville Wire, and Nucor are integrated as they purchase steel rod and within their production process draw it into wire. These firms reported that drawing rod into wire allowed them some economies of scale and cost savings. Conference transcript, p. 59 (Caldwell). AWP and Wireway are non-integrated firms as they purchase the downstream wire. Other than this starting point of rod or wire, U.S. producers stated that much of their production processes are similar. Petitioners' postconference brief, p. 5; Conference transcript, pp. 53-59.

⁴ Petitioners stated that the U.S. wire decking industry is a low fixed-cost industry; and therefore, does not need to maximize capacity utilization to earn profits and can be profitable even at low utilization rates. Petitioners' postconference brief, p. 34.

Table III-2

Wire decking: U.S. producers' capacity, production, and capacity utilization, 2006-2008, January-March 2008, and January-March 2009

Item	Calendar year			January-March	
	2006	2007	2008	2008	2009
Capacity (1,000 pounds)					
AWP	***	***	***	***	***
Cargotainer	***	***	***	***	***
ITC	***	***	***	***	***
J&L	***	***	***	***	***
Nashville Wire	***	***	***	***	***
Nucor Wire	***	***	***	***	***
Wireway	***	***	***	***	***
Total	495,433	515,433	515,433	128,858	128,858
Production (1,000 pounds)					
AWP	***	***	***	***	***
Cargotainer	***	***	***	***	***
ITC	***	***	***	***	***
J&L	***	***	***	***	***
Nashville Wire	***	***	***	***	***
Nucor Wire	***	***	***	***	***
Wireway	***	***	***	***	***
Total	304,553	300,268	274,148	74,519	37,355
Capacity utilization (percent)					
AWP	***	***	***	***	***
Cargotainer	***	***	***	***	***
ITC	***	***	***	***	***
J&L	***	***	***	***	***
Nashville Wire	***	***	***	***	***
Nucor Wire	***	***	***	***	***
Wireway	***	***	***	***	***
Total	61.5	58.3	53.2	57.8	29.0
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORT SHIPMENTS

As detailed in table III-3, the volume of U.S. producers' U.S. shipments of wire decking decreased by 13.8 percent from 2006 to 2008 and decreased by 48.8 percent between January-March 2008 and January-March 2009. The value of U.S. shipments also decreased by 0.8 percent and 39.9 percent, respectively, during the same time periods. ***, ***, reported export shipments ***. Other export markets reported include ***. Export shipments from U.S. producers remained steady from 2006 to 2008, but decreased by *** percent from January-March 2008 to January-March 2009.

Table III-3

Wire decking: U.S. producers' shipments, by types, 2006-2008, January-March 2008, and January-March 2009

Item	Calendar year			January-March	
	2006	2007	2008	2008	2009
Quantity (1,000 pounds)					
U.S. commercial shipments	307,797	290,572	265,218	69,618	35,618
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Value (\$1,000)¹					
U.S. commercial shipments	173,286	161,018	171,983	38,410	23,094
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Unit value (per pound)					
U.S. commercial shipments	\$0.56	\$0.55	\$0.65	\$0.55	\$0.65
Export shipments	***	***	***	***	***
Average	***	***	***	***	***
Share of shipment quantity (percent)					
U.S. commercial shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
¹ F.o.b. U.S. point of shipment. Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' IMPORTS AND PURCHASES OF IMPORTS

Two of the seven U.S. producers, J&L and Nashville Wire, reported that they directly imported wire decking from China during the period of investigation. These firms stated that they imported wire decking from China “in an attempt to remain competitive with the low prices offered by Chinese producers,” but claimed that their primary interest lies with domestic production.⁵ Table III-4 presents these firms’ direct imports of subject product from China, their U.S. production, and the ratio of their U.S. imports to their U.S. production.

Table III-4
Wire decking: U.S. producers’ subject imports and purchases of subject imports, 2006-2008, January-March 2008, and January-March 2009

Item	2006	2007	2008	January-March	
				2008	2009
Quantity (1,000 pounds); ratio to production (percent)					
J&L:¹					
Production (<i>quantity</i>)	***	***	***	***	***
Imports from China (<i>quantity</i>)	***	***	***	***	***
Imports from China (<i>ratio to production</i>)	***	***	***	***	***
Nashville Wire:²					
Production (<i>quantity</i>)	***	***	***	***	***
Imports from China (<i>quantity</i>)	***	***	***	***	***
Imports from China (<i>ratio to production</i>)	***	***	***	***	***
¹ J&L ceased the importation of wire decking from China subsequent to its sale to American Spring Wire Corp in 2007. Conference transcript, p. 39 (Rudolph). ² ***. Petitioners’ postconference brief, p. 39 and exh. 1, p. 4.					
Source: Compiled from data submitted in response to Commission questionnaires.					

⁵ Petitioners’ postconference brief, exh. 1, p. 4; Conference transcript, p. 24 (Rollins) and p. 39 (Rudolph). Respondents stated that they do not believe these U.S. producers’ U.S. imports are of sufficient magnitude to exclude them from the U.S. industry. Respondents, however, argued that Nashville Wire’s imports should not be considered competing with, or negatively impacting, the U.S. industry. Respondents’ postconference brief, p. 15.

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of wire decking for the period of investigation are presented in table III-5. Inventories as a share of production, U.S. and total shipments increased irregularly from 2006 to 2008 and increased sharply in interim 2009 compared with interim 2008.

Table III-5
Wire decking: U.S. producers' end-of-period inventories, 2006-2008, January-March 2008, and January-March 2009

Item	Calendar year			January-March	
	2006	2007	2008	2008	2009
Inventories (<i>1,000 pounds</i>)	45,278	35,842	45,509	34,610	38,008
Ratio to production (<i>percent</i>)	14.9	11.9	16.6	11.6	25.4
Ratio to U.S. shipments (<i>percent</i>)	14.7	12.3	17.2	12.4	26.7
Ratio to total shipments (<i>percent</i>)	14.2	11.9	16.5	11.8	25.7

Note.--January-March ratios are calculated using annualized production and shipment data.
Source: Compiled from data submitted in response to Commission questionnaires.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers (“PRWs”) engaged in the production of wire decking, the total hours worked by such workers, and wages paid to such PRWs during the period for which data were collected in these investigations are presented in table III-6. From 2006 to 2008, the number of PRWs decreased by 15.6 percent and decreased by 37.9 percent in interim 2009 compared with interim 2008, hours worked decreased by 17.3 percent, and decreased by 45.5 percent between the interim periods. From 2006 to 2008, wages paid decreased by 16.2 percent (decreased by 38.5 percent between the interim periods), hourly wages increased by 1.4 percent (increased by 13.0 percent between the interim periods), productivity increased by 8.9 percent (decreased by 7.9 percent between the interim periods), and unit labor costs decreased by 6.9 percent (increased by 22.7 percent between the interim periods).

ITC stated at the conference that it had undertaken temporary shutdowns and reductions in its workforce during the period of investigation. In 2008 and 2009, it permanently laid off 42 employees. J&L also stated that recently it had temporarily laid off a number of production workers.⁶

⁶ Petitioners’ postconference brief, p. 28. ***. U.S. producers’ questionnaire responses, question II-9.

Table III-6

Wire decking: Average number of production and related workers producing wire decking, hours worked, hours worked per worker, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2006-2008, January-March 2008, and January-March 2009

Item	Calendar year			January-March	
	2006	2007	2008	2008	2009
PRWs (<i>number</i>)	652	611	550	530	329
Hours worked (<i>1,000</i>)	1,349	1,185	1,115	272	148
Hours worked per worker	2,070	1,939	2,028	512	449
Wages paid (<i>\$1,000</i>)	\$21,718	\$19,297	\$18,209	\$4,531	\$2,787
Hourly wages	\$16.10	\$16.29	\$16.33	\$16.69	\$18.85
Productivity (<i>pounds per hour</i>)	225.8	253.5	245.8	274.5	252.7
Unit labor costs (<i>per pound</i>)	\$0.07	\$0.06	\$0.07	\$0.06	\$0.07

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

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 60 firms believed to be U.S. importers of wire decking, as well as to all ten U.S. producers.¹ Usable questionnaire responses were received from nine firms, which accounted for what is believed to be the majority of U.S. imports from China.² Data for U.S. imports from China are compiled using the U.S. importer questionnaire responses received by the Commission. By far the largest reporting U.S. importer, Atlas, accounted for *** percent of all reported U.S. imports from China in 2008, and for the *** of reported U.S. imports from China throughout the period of investigation. Atlas is the exclusive North American distributor and importer of wire decking from the Chinese producer Eastfound.³ U.S. importers submitting questionnaires to the Commission did not report any U.S. imports from nonsubject countries during the period of investigation. Petitioners and respondents agreed that U.S. imports from nonsubject countries were approximately 5 percent of total U.S. imports throughout the period of investigation. Therefore, data for U.S. imports from nonsubject countries are based on a 5 percent estimate of total U.S. import volume and value.

Table IV-1 lists all responding U.S. importers of wire decking from China, their U.S. locations, and their quantities of imports, by source, in 2008.

Table IV-1

Wire decking: Reported U.S. imports, by importers and by sources of imports, 2008

* * * * *

¹ The Commission sent questionnaires to 60 firms identified in the petition. Petitioners claimed that the Commission has not received complete data on U.S. imports because many of the 60 firms listed in the petition as U.S. importers did not submit responses to the Commission's questionnaire. Petitioners' postconference brief, p. 17. Petitioners do not attempt to quantify this alleged understatement of U.S. imports. It should be noted, however, that the absolute volumes reported by U.S. importers that did respond to the Commission's questionnaire are much larger than the absolute volumes estimated in the petition. Compare Table IV-2 to Petition, exh. General-5.

Respondents stated that they believed the universe of actual U.S. importers of wire decking to be substantially smaller. At the conference, respondent witnesses testified that three U.S. importers accounted for approximately 90 percent of U.S. imports from China during the period of investigation. These importers, listed from largest to smallest, are: (1) Atlas, (2) Nashville Wire, and (3) Mighty Lift. Respondents claimed that the remaining 10 percent of U.S. imports from China may be accounted for by smaller, independent importers and the big-box retailers. Conference transcript, pp. 187-188 (Kedaitis, Levinson).

Respondents also supplied trade data obtained from a private database depicting that these "other" importers never accounted for more than 7.76 percent of exports from China. Respondents claimed the data show that eight Chinese producers accounted for the vast majority of exports to the United States (ranging from 92.2 percent in interim 2009 to 98.6 percent in interim 2008) and that these exporters are the suppliers to Atlas, Nashville Wire, and Mighty Lift. They claimed that the remaining volume accounts for "other" importers. Respondents' postconference brief, exh. 2.

² In addition to the nine usable responses (those respondents are shown in table IV-1), the Commission also received 19 responses from firms indicating that they did not import wire decking during the period examined. These firms included: ***.

³ Respondents' postconference brief, p. 1.

U.S. IMPORTS

Table IV-2 shows that the volume of U.S. imports of wire decking from China remained steady from 2006 to 2007 and then decreased by *** percent from 2007 to 2008 and decreased by *** percent from January-March 2008 to January-March 2009.⁴ The value of U.S. imports from China increased by *** percent from 2006 to 2008, but decreased by *** percent between January-March 2008 and January-March 2009. Based on a mutually agreed upon estimate by petitioners and respondents, the volume and value of U.S. imports from nonsubject countries remained steady at approximately 5 percent of total U.S. imports throughout the period of investigation.⁵

Table IV-2

Wire decking: U.S. imports, by sources, 2006-2008, January-March 2008, and January-March 2009

* * * * *

NEGLIGENCE

The Tariff Act of 1930 provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition.⁶ The share (in *percent*) of the total quantity of U.S. imports from China for the entire period of investigation approximated 95 percent of total U.S. imports based on U.S. import data compiled from the Commission's questionnaire responses and estimates agreed upon by petitioners and respondents, and thus, well above the 3 percent negligibility threshold .

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of wire decking are presented in table IV-3. The quantity of apparent U.S. consumption of the subject product decreased by *** percent from 2006 to 2008 and decreased a further *** percent between January-March 2008 and January-March 2009. The value of apparent U.S. consumption increased by *** percent from 2006 to 2008, but decreased by *** percent between the interim periods. Petitioners and respondent agreed that U.S. consumption of wire decking is tied closely to total U.S. industrial output and that the current recession has certainly dampened U.S. industrial activities.⁷

⁴ This decreasing trend differs from that of the estimated increasing trend of U.S. imports from China set forth in the petition. Petition, p. 15.

⁵ Petitioners' postconference brief, p. 36 ("Nonsubject imports are not a factor in the wire decking market."); Respondents' postconference brief, p. 4 fn. 1 ("It is apparent that imports of wire decking from countries other than China are insignificant and have not been included in respondents' analysis."). Petitioners reported that they believe three firms (2 in Canada and 1 in Mexico) account for all of the U.S. imports from countries other than China. These firms include: ***. Petitioners' postconference brief, exh. 1, p. 3.

⁶ 19 U.S.C. § 1677(24)(A)(ii).

⁷ Petitioners postconference brief, p. 7; Respondents' postconference brief, pp. 3-4.

Table IV-3

Wire decking: U.S. shipments of domestic product, U.S. importers' U.S. shipments and apparent U.S. consumption, 2006-2008, January-March 2008, and January-March 2009

Item	Calendar year			January-March	
	2006	2007	2008	2008	2009
Quantity (1,000 pounds)					
U.S. producers' U.S. shipments	307,797	290,572	265,218	69,618	35,618
U.S. importers' U.S. shipments from--					
China	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
Value (\$1,000)					
U.S. producers' U.S. shipments	173,286	161,018	171,983	38,410	23,094
U.S. importers' U.S. shipments from--					
China	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
<p>Source: U.S. producers' U.S. shipments and U.S. imports from China are compiled from data submitted in response to Commission questionnaires. U.S. imports from nonsubject countries are compiled using an estimate which both petitioners and respondents agree to be approximately 5 percent of total U.S. imports.</p>					

U.S. MARKET SHARES

Data on U.S. market shares for wire decking are presented in table IV-4. From 2006 to 2007, U.S. producers lost *** percentage points of market share based on quantity and *** percentage points based on value. However, from 2007 to 2008, U.S. producers gained *** percentage points of market share based on quantity and lost *** percentage points based on value. Between January-March 2008 and January-March 2009, U.S. producers lost *** percentage points of U.S. market share based on volume and *** percentage points based on value. All of the U.S. industries market share gains and losses came at the expense or gain of U.S. imports from China as both petitioners and respondent attested that U.S. imports from nonsubject countries approximated 5 percent of total U.S. imports during the period of investigation.

Table IV-4
Wire decking: Apparent U.S. consumption and market shares, 2006-2008, January-March 2008, and January-March 2009

* * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Data on the ratio of imports to U.S. production of wire decking are presented in table IV-5.

Table IV-5
Wire decking: U.S. production, U.S. imports, and ratios of imports to production, 2006-2008, January-March 2008, and January-March 2009

Item	Calendar year			January-March	
	2006	2007	2008	2008	2009
Quantity (1,000 pounds)					
U.S. production	304,553	300,268	274,148	74,519	37,355
U.S. imports from--					
China	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	***	***	***	***	***
Ratio of imports to U.S. production (percent)					
U.S. imports from--					
China	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	***	***	***	***	***
Source: U.S. production and U.S. imports from China are compiled from data submitted in response to Commission questionnaires. U.S. imports from nonsubject countries are compiled using an estimate which both petitioners and respondents agree to be approximately 5 percent of total U.S. imports.					

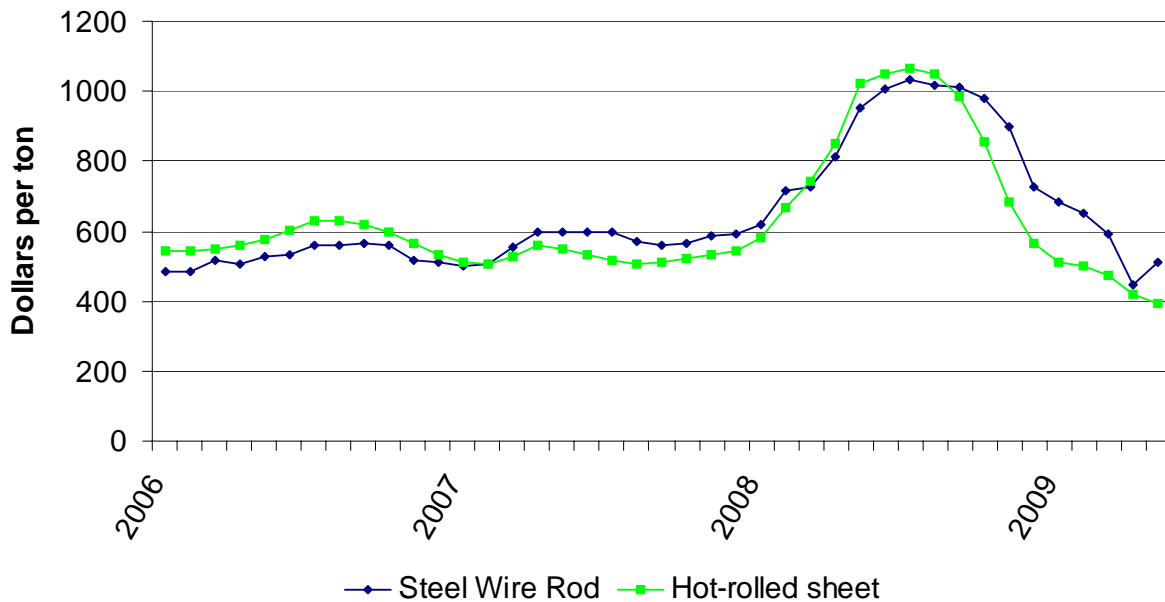
PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Materials

The main raw materials used in the production of wire decking are hot-rolled sheet steel and steel wire rod which has been drawn. Steel and other raw materials accounted for 73.7 percent of the total cost of goods sold (COGS) during 2008 (*see* Part VI: Financial Condition of U.S. Producers). The price of steel wire rod fluctuated until the second half of 2007, and began to increase rapidly in the beginning of 2008 (figure V-1). Prices for both peaked in July 2008 and have been decreasing since then, with the exception of an increase in the cost of steel wire rod in the last month for which data are available (May 2009). As such, steel and other raw materials accounted for 68.3 percent of COGS in 2006, but 73.7 percent by 2008, and fell to 67.5 percent in the first quarter of 2009.

Figure V-1
Steel wire rod and hot-rolled sheet: Average monthly U.S. prices, January 2006-May 2009



Source: Compiled from data published in *Purchasing* magazine, purchasingdata.com, Steel Price Transaction Report.

U.S. Inland Transportation Costs

Four of seven U.S. producers reported that, generally, U.S. inland transportation costs ranged from 5 to 12 percent of the total delivered cost of wire decking, and averaged 10.0 percent.¹ Five of six responding importers reported that inland transportation costs ranged between 8 and 20 percent (averaging 11.6 percent) of the total delivered cost of wire decking.²

All responding U.S. producers reported that they arranged delivery. Producers reported that they shipped 12.5 percent of their wire decking less than 100 miles, 68.9 percent of their wire decking between 101 and 1,000 miles, and 18.5 percent of their wire decking more than 1,000 miles, based on a simple average. Five of the seven responding importers reported that they arranged delivery. Based on a simple average, the six responding importers reported shipping 56.2 percent of their wire decking less than 100 miles, 24.7 percent between 101 and 1,000 miles, and 19.2 percent more than 1,000 miles.³

PRICING PRACTICES

Pricing Methods

The seven U.S. producers of wire decking reported that they use a variety of methods in determining prices. The manner in which prices are determined can depend on the size of the customer. Overall, six producers use transaction-by-transaction negotiations, two have contracts for multiple shipments (especially to large customers like ***), two use price lists combined with negotiation, and two factor in costs plus a markup.^{4 5}

Similarly, six producers use transaction-by-transaction negotiations, two use price lists combined with negotiation, two factor in costs plus a markup, and one has contracts for multiple shipments (especially to large customers like ***).⁶

Five of the seven producers reported that they sell their wire decking via long-term contracts and short-term contracts, as well as on the spot market. The other two (***) reported that they only sell wire decking on the spot market. Based on a simple average, 8.0 percent of U.S. producers' sales are via long-term contracts (over 12 months in length), 20.7 percent of sales are via short-term contracts (12 months or less in length), and 71.4 percent are spot sales. Five of seven responding importers sell wire decking exclusively on a spot basis. Those that do not, (***), sell five percent on a long-term contract basis, and one percent on a short-term contract basis, respectively.

*** long-term contracts are typically two years in length, and *** has *** that is one year in length. All three noted that prices could be renegotiated during the contract. Two producers noted that only prices are fixed.⁷ No producers indicated that long-term contracts have a meet-or-release clause, though *** stated that there is a three-month cancellation notice that can be given instead of price renegotiation. Short-term contracts entered into by the three responding producers can vary in length

¹ Two producers reported inland transportation costs of ***, and one (***) reported a range of *** percent.

² The other importer (***) reported a range of *** percent.

³ Figures do not add to 100 percent due to rounding. Of the large importers, *** reported that *** percent of their imports are shipped within 100 miles of their respective warehouses.

⁴ Multiple producers reported that they use more than one method of determining prices.

⁵ All producers and importers stated that they do not sell wire decking over the internet. Two firms noted that leads may be generated via the internet, but sales normally occur via other methods.

⁶ As with the producers, multiple importers reported that they use more than one method of determining prices. These data include producers who also import.

⁷ *** did not report whether prices or quantities were fixed.

from 4 months (***) to a year (***)⁸ Two of three responding producers reported that only prices are fixed, that prices are renegotiable, and that meet-or-release clauses are not typically included.⁹

*** reported selling imported wire decking via long-term contracts that guarantee only price.¹⁰ Short-term contracts entered into by *** are typically 10 months in length, have prices which can be renegotiated, and do not contain meet-or-release clauses.

Sales Terms and Discounts

All producers and five of seven responding importers reported that sales terms for wire decking are net 30 days. The other two importers require half of their payment upon placement of an order and the other half upon delivery. Two of the seven producers and one importer stated that they give discounts for early payment of *** percent. Six of seven producers reported that prices are generally quoted on an f.o.b. basis, and the other, ***, quotes prices on both a delivered and f.o.b. basis. Among responding importers, three generally quote f.o.b. prices, two reported that they generally quote delivered prices, and one, ***, quotes prices using both methods.

With respect to discounts, five of seven producers reported offering some type of volume discount on their sales of wire decking,¹¹ and two reported that they do not offer discounts. Four of seven responding importers reported giving quantity discounts and three reported that they do not offer discounts.¹²

PRICE DATA

The Commission asked U.S. producers and importers of wire decking to provide quarterly data for the total quantity and f.o.b. value of wire decking that was shipped to unrelated customers in the U.S. market during the period January 2006 to March 2009. The products for which pricing data were requested are as follows:¹³

***Product 1.*—Wire decking, 42”(depth) x 46”(width), flanged channel, 3 channels, 4 to 6 gauge wire, 2” to 2.5” by 4” to 4.5” grid spacing, coated with zinc or zinc oxide**

***Product 2.*—Wire decking, 42”(depth) x 46”(width), flanged channel, 3 channels, 4 to 6 gauge wire, 2” to 2.5” by 4” to 4.5” grid spacing, uncoated or coated with a substance other than zinc or zinc oxide**

***Product 3.*—Wire decking, 42”(depth) x 46”(width), step channel, 3 channels, 4 to 6 gauge wire, 2” to 2.5” by 4” to 4.5” grid spacing, coated with zinc or zinc oxide**

⁸ *** reported four-month long contracts as short-term contracts, and 12-month long contracts as long-term contracts. Its short-term contracts do not ***.

⁹ *** reported that sometimes both price and quantity are fixed, whereas sometimes neither are fixed, and that meet-or-release clauses are typically included in its short-term contracts.

¹⁰ ***.

¹¹ These discounts are in addition to those previously mentioned for early payment, and include discounts given for individual quotes of larger sales quantities.

¹² These discounts are in addition to those previously mentioned for early payment, and include discounts given for individual quotes of larger sales quantities.

¹³ Purchasers, however, reportedly consider size and capacity of the wire decking that they want to buy. Conference transcript, p. 75 (Chamberlin and Rollins). These pricing products cover wire deck with various capacity limits.

Product 4.—Wire decking, 42”(depth) x 46”(width), step channel, 3 channels, 4 to 6 gauge wire, 2” to 2.5” by 4” to 4.5” grid spacing, uncoated or coated with a substance other than zinc or zinc oxide

Product 5.—Wire decking, 48”(depth) x 46”(width), flanged channel, 3 channels, 4 to 6 gauge wire, 2” to 2.5” by 4” to 4.5” grid spacing, coated with zinc or zinc oxide

Product 6.—Wire decking, 48”(depth) x 46”(width), flanged channel, 3 channels, 4 to 6 gauge wire, 2” to 2.5” by 4” to 4.5” grid spacing, uncoated or coated with a substance other than zinc or zinc oxide

Six U.S. producers provided usable pricing data for sales of the requested products, along with eight importers with sales of wire decking from China. In addition, importers were asked for data from nonsubject countries, however, there were no reported sales of imported wire decking from nonsubject countries. Not all firms reported pricing for all products for all quarters. Pricing data for the six products reported by these firms, shown in tables V-1 to V-6 and figures V-2 to V-7, accounted for 19.4 percent of U.S. producers’ U.S. shipments of wire decking and 53.3 percent of U.S. imports of wire decking from China in January 2006 to March 2009, on a quantity basis.^{14 15} At the conference, Mr. Song stated that nine SKUs comprise approximated 85 percent of his firm’s sales.¹⁶ Three of these standard products are apparently included among these six pricing products.

¹⁴ Using sales values instead yields similar percentages. Quantities for these coverage data were derived using the following weights available at Nashville Wire’s website: 25.5 lbs. per unit for products 1 and 2, 20.2 lbs. for products 3 and 4, and 32.3 lbs. for products 5 and 6. <http://www.nashvillewire.com/mh/wiredecking.asp?SubNavType=2#>. These weights are reflective of units that have capacities of 2500-2550 pounds, the most standard capacity. Conference transcript, pp. 75-76 (Rollins), p. 94 (Brandon), and p. 169 (Kedaitis), and ***.

¹⁵ Additionally, testimony was presented at the conference that the final coating does not matter for at least 95 percent of the market. Conference transcript, pp. 94-95 (Rollins). Appendix D presents pricing data for products 1 and 2 combined, products 3 and 4 combined, and products 5 and 6 combined, since the only factor that differentiates each of these products is the final coating. The largest volumes of each size/type of imported Chinese wire decking are of products 1, 3, and 5, whereas the largest volumes of each size/type of domestically produced wire decking are of products 2, 4, and 6.

¹⁶ Conference transcript, p. 140 (Song).

Table V-1

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported product 1,¹ and margins of underselling, by quarters, January 2006-March 2009

Period	United States		China		
	Price (per unit)	Quantity (units)	Price (per unit)	Quantity (units)	Margin (percent)
2006:					
January-March	\$***	***	\$***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	9.72	151,075	***
2007:					
January-March	***	***	9.62	135,397	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	9.86	132,850	***
2008:					
January-March	***	***	10.13	136,553	***
April-June	***	***	11.97	144,356	***
July-September	***	***	14.34	122,488	***
October-December	***	***	13.53	77,822	***
2009:					
January-March	***	***	10.11	48,012	***

¹ Wire decking, 42" (depth) x 46" (width), flanged channel, 3 channels, 4 to 6 gauge wire, 2" to 2.5" by 4" to 4.5" grid spacing, coated with zinc or zinc oxide.

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

Table V-2

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported product 2,¹ and margins of (overselling)/underselling, by quarters, January 2006-March 2009

Period	United States		China		
	Price (per unit)	Quantity (units)	Price (per unit)	Quantity (units)	Margin (percent)
2006:					
January-March	\$11.47	91,756	\$***	***	***
April-June	11.06	95,925	***	***	***
July-September	***	***	***	***	***
October-December	11.57	79,843	***	***	***
2007:					
January-March	10.98	95,271	***	***	***
April-June	10.70	108,640	***	***	***
July-September	10.79	110,008	***	***	***
October-December	11.10	85,878	***	***	***
2008:					
January-March	11.30	127,559	***	***	***
April-June	13.41	107,194	***	***	***
July-September	17.78	67,325	***	***	***
October-December	15.22	70,316	***	***	***
2009:					
January-March	11.64	55,523	***	***	***

¹ Wire decking, 42" (depth) x 46" (width), flanged channel, 3 channels, 4 to 6 gauge wire, 2" to 2.5" by 4" to 4.5" grid spacing, uncoated or coated with a substance other than zinc or zinc oxide.

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

Table V-3

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported product 3,¹ and margins of underselling, by quarters, January 2006-March 2009

* * * * *

Table V-4

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported product 4,¹ and margins of underselling, by quarters, January 2006-March 2009

Period	United States		China		
	Price (per unit)	Quantity (units)	Price (per unit)	Quantity (units)	Margin (percent)
2006:					
January-March	\$11.15	437,333	\$***	***	***
April-June	11.23	427,443	***	***	***
July-September	11.48	458,260	***	***	***
October-December	11.43	426,053	***	***	***
2007:					
January-March	10.96	442,043	***	***	***
April-June	10.71	449,044	***	***	***
July-September	11.21	399,041	***	***	***
October-December	10.94	364,042	***	***	***
2008:					
January-March	11.18	537,525	***	***	***
April-June	13.41	469,802	***	***	***
July-September	16.93	288,585	***	***	***
October-December	15.22	274,259	***	***	***
2009:					
January-March	11.86	202,477	***	***	***

¹ Wire decking, 42" (depth) x 46" (width), step channel, 3 channels, 4 to 6 gauge wire, 2" to 2.5" by 4" to 4.5" grid spacing, uncoated or coated with a substance other than zinc or zinc oxide.

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

Table V-5

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported product 5,¹ and margins of underselling, by quarters, January 2006-March 2009

Period	United States		China		
	Price (per unit)	Quantity (units)	Price (per unit)	Quantity (units)	Margin (percent)
2006:					
January-March	\$***	***	\$***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
2007:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	11.17	33,510	***
October-December	***	***	***	***	***
2008:					
January-March	***	***	***	***	***
April-June	***	***	13.65	31,995	***
July-September	***	***	16.28	23,991	***
October-December	***	***	15.92	14,990	***
2009:					
January-March	***	***	***	***	***

¹ Wire decking, 48" (depth) x 46" (width), flanged channel, 3 channels, 4 to 6 gauge wire, 2" to 2.5" by 4" to 4.5" grid spacing, coated with zinc or zinc oxide.

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

Table V-6

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported product 6,¹ and margins of underselling, by quarters, January 2006-March 2009

* * * * *

Figure V-2

Wire decking: Weighted-average f.o.b. selling prices and quantities of product 1 as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

Figure V-3

Wire decking: Weighted-average f.o.b. selling prices and quantities of product 2 as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

Figure V-4
Wire decking: Weighted-average f.o.b. selling prices and quantities of product 3 as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

Figure V-5
Wire decking: Weighted-average f.o.b. selling prices and quantities of product 4 as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

Figure V-6
Wire decking: Weighted-average f.o.b. selling prices and quantities of product 5 as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

Figure V-7
Wire decking: Weighted-average f.o.b. selling prices and quantities of product 6 as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

Price Trends

Prices of U.S.-produced wire decking generally decreased from the start of 2006 until the third quarter of 2006. Prices then generally fell through the first half of 2007. Prices increased slightly through the first quarter of 2008 before rapidly increasing (about 20 percent in each quarter across all products) in the second and third quarters, as raw material input prices were rising.¹⁷ In the final two quarters of the period of study, as raw material prices fell, prices for these wire decking products decreased as well. In the first quarter of 2009, prices fell across all products, and by more than 20 percent for products 1, 2, and 4. Overall, prices for these six products increased from the first quarter of 2006 to the first quarter of 2009, by amounts ranging from 1.5 percent (product 2) to *** percent ***.

Prices of wire decking products imported from China followed similar trends since 2006. During the middle of 2008, prices of wire decking from China did not increase as much as domestic price did, nor did they fall as greatly in the last quarter of 2009. In the first quarter of 2009, prices fell a little more for imported Chinese wire decking than domestically produced wire decking did (22.3 percent compared to 21.4 percent). Overall, prices for five of these six products increased from the first quarter of 2006 to the first quarter of 2009, by amounts ranging from 1.5 percent (product 1) to *** percent ***. For ***, prices over the period of study decreased *** percent.

Price Comparisons

Imports of wire decking from China undersold the U.S. product in 76 of 77 quarterly comparisons, with margins of underselling ranging from 2.0 to 54.3 percent. Conversely, imports of wire decking from China oversold the U.S. product in one quarterly comparison, with a margin of overselling 6.0 percent. A summary of margins of underselling and overselling is presented in table V-7.

¹⁷ Products 1, 3, and 5 are galvanized products that ***.

Table V-7

Wire decking: Number of quarters of underselling and overselling and highest and lowest margins of underselling and (overselling), by product number

Product	Number of quarters of underselling	Number of quarters of (overselling)	Margins of underselling			Margins of (overselling)		
			Average (percent)	Range (percent)		Average (percent)	Range (percent)	
				Min	Max		Min	Max
1	13	0	23.0	9.5	43.1	--	--	--
2	12	1	13.3	6.5	22.5	(6.0) ¹	(6.0) ¹	(6.0) ¹
3	13	0	18.8	10.1	25.8	--	--	--
4	13	0	10.0	2.0	20.6	--	--	--
5	13	0	17.6	2.7	54.3	--	--	--
6	12	0	16.6	6.6	29.5	--	--	--
Total	76	1	16.6	2.0	54.3	(6.0)	(6.0)	(6.0)

¹ This occurred during ***, and may be reflective of the very low quantity (***) of imported Chinese wire decking sold in that quarter.

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

Respondents noted that pricing data submitted by Atlas and ITC, which respondents contend is the cause for the decline in prices of wire decking, showed ***.¹⁸ In a comparison of these two companies' pricing data, ***. In contrast, ***.¹⁹ Respondents submitted internal price quotes, sales notes, correspondence and published price pages regarding domestic manufacturers' prices from December 2008 forward.²⁰ Petitioners surmised that the low-priced domestic manufacturer that respondents were referring to in their testimony at that conference²¹ was ***.²² Petitioners reported that ***.²³ Furthermore, petitioners stated that ***.²⁴

¹⁸ Respondents' postconference brief, pp. 19-20. In addition, respondents submitted ***. Respondents' postconference brief, exh. 4.

¹⁹ If coatings were to be disregarded, so that products 1 and 2 were combined into a single pricing product, as well as product 3 with product 4 and product 5 with product 6, *** ***. In the remaining ***.

²⁰ Respondents' postconference brief, exh. 3. Among these documents, comparisons were made 17 times regarding ***, 16 times regarding ***, 8 times with no specific domestic producer, 7 times with respect to ***, 2 times with respect to ***, and 4 times regarding some other distributor. Additionally, 17 documents were submitted without a point of comparison. Six quotes noted the importance of, or sales lost due to, lead times.

²¹ Conference transcript, pp. 169-170 (Kedaitis and Wolfe).

²² Petitioners' postconference brief, pp. 25-26.

²³ Ibid. However, respondents submitted ***. Respondents' postconference brief, exh. 3.

²⁴ Petitioners' postconference brief, p. 26.

LOST SALES AND LOST REVENUES

The Commission requested that U.S. producers of wire decking report any instances of lost sales and lost revenues experienced due to competition from imports from China since January 1, 2006. Six producers reported having lost sales or revenues to purchasers during this time period. Also, all three of the producers that did not file the petition reported that they had reduced prices and one had rolled back announced price increases, allegedly due to imports from China. All three of these producers also alleged that they had lost sales due to low-priced imports from China. All of the lost sales and lost revenue allegations are presented in tables V-8 and V-9. More detail is provided for some of the allegations thereafter.

Staff contacted 36 listed purchasers, of which 18 purchasers responded.²⁵ There were *** lost sales allegations totaling \$*** and *** lost revenue allegations totaling \$***.²⁶ Eleven of the lost sales allegations and three of the lost revenue allegations were confirmed, totaling \$*** and \$***, respectively. Additional information, where relevant, is summarized in the individual responses below.

Table V-8
Wire decking: U.S. producers' lost sales allegations

* * * * * * *

Table V-9
Wire decking: U.S. producers' lost revenue allegations

* * * * * * *²⁷

In addition, purchasers responding to lost sales and lost revenue allegations were asked whether they shifted their purchases of wire decking from U.S. producers to suppliers of wire decking from China since January 2006. Four of the 17 responding purchasers (***) reported that they had shifted purchases of wire decking from U.S. producers to subject imports since January 1, 2006; all of these purchasers reported that price was the reason for the shift. Purchasers *** and *** stated that, in addition to price, quality, delivery times, and service are all important factors in their purchase decisions. Purchaser *** reported that it is often less expensive to purchase pallet rack and wire decks from separate manufacturers due to specialization rather than manufacturers that provide both pallet racks and wire decks.

In addition, six of 15 responding purchasers (***) reported that since January 1, 2006, U.S. producers reduced their prices in order to compete with the prices of subject imports. Additionally, ***.²⁸ The four purchasers responding that domestic producers had not reduced prices in response to the pricing of imported Chinese wire decking stated why they responded negatively: *** and *** reported that the falling prices were due to the falling prices in all steel products, and *** stated that “the domestics are selling for the same or for less” than the imported wire decks.²⁹

²⁵ The Commission was not supplied with sufficient information to investigate lost revenue allegations with respect to ***. *** did not ***. Staff contacted all purchasers on two separate occasions.

²⁶ The lost revenue and lost sales allegations were made by ***.

²⁷ Fax from ***.

²⁸ Fax from ***.

²⁹ Fax from ***.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Seven producers,¹ provided usable financial data for their operations on wire decking. These firms accounted for the vast majority of the domestic industry's production/sales volume during 2008. No internal consumption or related transfers were reported.

OPERATIONS ON WIRE DECKING

Results of operations of the U.S. producers on their wire decking operations are presented in table VI-1, which includes data on a per-unit basis as well as operating income (loss) to net sales ratio.

The financial results of the producers on their wire decking operations deteriorated over the period data were gathered. Net sales quantities decreased by over 13 percent from 2006 to 2008, and were 49 percent lower in January-March (interim) 2009 compared to January-March (interim) 2008. Net sales values remained at almost the same level between the full-year periods (actually a slight increase of less than 0.01 percent) and decreased substantially by almost 41 percent between the two interim periods. Net sales value increased negligibly between 2006 and 2008, as the increase in the per-pound sale values (from *** per pound) offset the decrease in sales quantities. Operating income decreased continuously and the result was an operating income of less than \$1 million in 2008 compared to an operating income of over \$11 million in 2006. The decrease in the operating income between 2007 and 2008 resulted from the \$0.10 per pound increase in unit sales values being \$0.02 per pound lower than the \$0.12 per pound increase in unit total costs – the unit cost of goods sold (“COGS”) increased by \$0.12 per pound (led primarily by the increase of raw material costs) while unit selling, general and administrative (“SG&A”) expenses remained relatively the same level, for a net total cost (COGS and SG&A expenses combined) increase of \$0.12 per pound.

Unit sales values also increased by *** per pound (17 percent) between the two interim periods, but unit total costs increased by *** per pound (35 percent), resulting in an operating loss of approximately \$2.9 million in interim 2009 compared to an operating income of over \$0.7 million in interim 2008. Five out of total seven producers experienced operating losses during interim 2009 while each of the remaining two producers reported operating income to net sales ratios of ***.

The increases in the per-unit COGS relative to per-unit selling prices resulted in decreased operating income from 2007 (\$9.1 million) to 2008 (\$0.8 million) and again from interim 2008 (\$0.7 million) to interim 2009 (negative \$2.9 million). The operating margin (negative 12.0 percent) in interim 2009 was the worst during the entire period data were collected and examined.

¹ The producers with a fiscal year end other than December are ***. However, the financial data of *** were submitted on a calendar year basis.

Table VI-1

Wire decking: Results of operations of U.S. producers, fiscal years 2006-08, January-March 2008, and January-March 2009

Item	Fiscal year			January-March	
	2006	2007	2008	2008	2009
	Quantity (1,000 pounds)				
Net sales	318,084	299,938	275,545	73,017	36,932
	Value (\$1,000)				
Net sales	178,817	166,058	178,832	40,285	23,924
COGS	155,706	144,735	165,710	36,529	24,237
Gross profit (loss)	23,111	21,323	13,122	3,756	(313)
SG&A expenses	11,713	12,227	12,285	3,007	2,546
Operating income (loss)	11,398	9,096	837	749	(2,859)
Interest expense	1,846	2,096	1,491	371	199
Other expense	2,031	1,717	2,511	423	224
Other income	2,274	2,187	2,953	520	209
Net income (loss)	9,795	7,470	(212)	475	(3,073)
Depreciation/amortization	5,531	4,817	4,696	1,179	1,046
Cash flow	15,326	12,287	4,484	1,654	(2,027)
	Value (per pound)				
Net sales	\$0.56	\$0.55	\$0.65	\$0.55	\$0.65
COGS	0.49	0.48	0.60	0.50	0.66
Gross profit (loss)	0.07	0.07	0.05	0.05	(0.01)
SG&A expenses	0.04	0.04	0.04	0.04	0.07
Operating income (loss)	0.04	0.03	0.00 ¹	0.01	(0.08)
	Ratio to net sales (percent)				
COGS	87.1	87.2	92.7	90.7	101.3
Gross profit (loss)	12.9	12.8	7.3	9.3	(1.3)
SG&A expenses	6.6	7.4	6.9	7.5	10.6
Operating income (loss)	6.4	5.5	0.5	1.9	(12.0)
	Number of firms reporting				
Operating losses	3	4	4	4	5
Data	7	7	7	7	7
¹ Positive, but less than \$0.004.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Selected financial data, by firm, are presented in table VI-2. While four producers experienced operating losses in 2008 and interim 2008, five producers incurred operating losses in interim 2009. *** experienced substantial operating losses in interim 2009, ***, respectively. *** raw material costs increased due to an increase of wire costs in 2008 and interim 2009 and its per-unit factory overhead and SG&A expenses also increased in interim 2009 due to the decline in production/sales quantities.² *** increased, mainly due to *** in 2008 and interim 2009 compared to 2007 and interim 2008.³ The per-unit raw material costs of *** increased substantially in 2008 and/or interim 2009, and the unit factory overhead of *** and unit SG&A expenses of *** increased substantially in 2008 and interim 2009, respectively, mainly due to *** in 2008 and interim 2009 compared to 2007 and interim 2008, respectively. ***.⁴

Table VI-2
Wire decking: Results of operations of U.S. producers, by firm, fiscal years 2006-08, January-March 2008, and January-March 2009

* * * * *

Selected aggregate per-unit cost data of the producers on their operations, i.e., COGS and SG&A expenses, are presented in table VI-3. Raw material costs (largely wire rod, wire, and hot-rolled steel and slit sheet steel) increased *** from 2007 to 2008 and again from interim 2008 to interim 2009, and factory overhead increased substantially from interim 2008 to interim 2009, which resulted in much higher COGS and total cost (which included SG&A expenses).⁵ SG&A expenses also increased *** from interim 2008 (\$*** per pound) to interim 2009 (\$*** per pound), the result of *** production/sales quantities for the majority of producers.

² June 24, 2009 e-mail from ***.

³ June 25, 2009 e-mail from ***. ***.

⁴ June 23, 24, 26, and July 1 e-mails from ***. When the utility of the goods in the ordinary course of business is no longer as great as their cost, a departure from the cost principle of measuring the inventory is required. Whether the cause is obsolescence, physical deterioration, changes in price levels, or any other, the difference should be recognized by a charge to income in the current period. This usually is accomplished by stating the goods at a lower level designated as market (*lower of cost or market principle*) (ARB-43, Chapter 4, Statement 5). However, another Generally Accepted Accounting Principle (“GAAP”), Financial Accounting Standard (FAS-151, *Inventory Costs; an amendment of ARB No.43, Chapter 4*) requires that abnormal amounts be recognized as current-period charges regardless of whether they meet the criterion of “so abnormal.”

⁵ June 25, 2009 e-mail from ***. Refer to footnote 3 in this section.

Table VI-3
Wire decking: Per-unit costs of U.S. producers, fiscal years 2006-08, January-March 2008, and January-March 2009

Item	Fiscal year			January-March	
	2006	2007	2008	2008	2009
COGS:	<i>Value (per pound)</i>				
Raw materials	\$0.33	\$0.34	\$0.44	\$0.35	\$0.44
Direct labor	0.06	0.05	0.05	0.05	0.06
Factory overhead	0.10	0.09	0.10	0.09	0.15
Total COGS	0.49	0.48	0.60	0.50	0.66
SG&A expenses	0.04	0.04	0.04	0.04	0.07
Total cost	0.53	0.52	0.65	0.54	0.73
Source: Compiled from data submitted in response to Commission questionnaires.					

A variance analysis showing the effects of prices and volume on the producers' sales of wire decking, and of costs and volume on their total cost, is shown in table VI-4. The analysis is summarized at the bottom of the table. The analysis indicates that the decrease in operating income (\$10.6 million) between 2006 and 2008 was attributable mainly to the negative effect of increased costs/expenses (\$33.0 million) which was partially offset by the positive effect of increased price (\$23.9 million). The decrease in operating income in interim 2009 relative to interim 2008 was attributable again to a negative cost/expense variance in conjunction with a favorable price variance.

Table VI-4

Wire decking: Variance analysis of operations of U.S. producers, fiscal years 2006-08, January-March 2008, and January-March 2009

Item	Between fiscal years			January-March
	2006-08	2006-07	2007-08	2008-09
	Value (\$1,000)			
Net sales:				
Price variance	23,929	(2,558)	26,279	3,548
Volume variance	(23,914)	(10,201)	(13,505)	(19,909)
Total net sales variance	15	(12,759)	12,774	(16,361)
Cost of sales:				
Cost variance	(30,827)	2,088	(32,746)	(5,761)
Volume variance	20,823	8,883	11,771	18,053
Total cost variance	(10,004)	10,971	(20,975)	12,292
Gross profit variance	(9,989)	(1,788)	(8,201)	(4,069)
SG&A expenses:				
Expense variance	(2,138)	(1,182)	(1,052)	(1,025)
Volume variance	1,566	668	994	1,486
Total SG&A variance	(572)	(514)	(58)	461
Operating income variance	(10,561)	(2,302)	(8,259)	(3,608)
Summarized as:				
Price variance	23,929	(2,558)	26,279	3,548
Net cost/expense variance	(32,966)	906	(33,798)	(6,786)
Net volume variance	(1,524)	(650)	(740)	(370)
<p>Note.--Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>				

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are presented in table VI-5. *** accounted for a majority of the domestic industry's capital expenditures during the period for which data were collected. Capital expenditures decreased from 2006 to 2007 due to *** and increased from 2007 to 2008 due mainly to ***. Four producers reported R&D expenses. R&D expenses increased slightly and continuously between 2006 to 2008 and decreased somewhat between the two interim periods. Capital expenditures, by firm, are presented in table VI-6.

Table VI-5

Wire decking: Capital expenditures and R&D expenses by U.S. producers, fiscal years 2006-08, January-March 2008, and January-March 2009

* * * * *

Table VI-6

Wire decking: Capital expenditures by U.S. producers, by firms, fiscal years 2006-08, January-March 2008, and January-March 2009

* * * * *

ASSETS AND RETURN ON INVESTMENT

U.S. producers were requested to provide data on their assets used in the production and sales of wire decking during the period for which data were collected to assess their return on investment ("ROI"). Although ROI can be computed in different ways, a commonly used method is operating income earned during the period divided by the total assets utilized for the operations. Therefore, staff calculated ROI as operating income divided by total assets used in the production and sales of wire decking. Data on the U.S. producers' total assets and their ROI are presented in table VI-7.

The value of total assets decreased between 2006 and 2008 as net accounts receivable and net book value of property, plant, and equipment (PPE) decreased continuously over the period. The trend of ROI over the period was the same as the trend of the operating loss margin to net sales in table VI-1 over the same period.

Table VI-7

Wire decking: Value of assets and return on investment of U.S. producers, fiscal years 2006-08

Item	At end of fiscal year		
	2006	2007	2008
Value of assets:	Value (\$1,000)		
1. Current assets:			
A. Cash and equivalents	714	2,859	1,911
B. Trade receivables (net)	29,046	28,945	22,569
C. Inventories	26,226	22,360	28,027
D. All other current	577	524	306
Total current	56,563	54,688	52,813
2. Non-current assets:			
A. Productive facilities ¹	120,434	118,251	116,582
B. Productive facilities (net) ²	68,383	67,822	62,513
C. Other non-current	4,938	5,133	8,770
Total non-current	73,321	72,955	71,283
Total assets	129,884	127,643	124,096
	Value (\$1,000)		
Operating income (loss)	11,398	9,096	837
	Ratio of operating income to total assets (percent)		
Return on investment	8.8	7.1	0.7
¹ Original cost of property, plant, and equipment (PPE).			
² Net book value of PPE (original cost less accumulated depreciation).			
Source: Compiled from data submitted in response to Commission questionnaires.			

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of wire decking from China. Their responses were in appendix E.

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors¹--

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

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

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

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

(V) inventories of the subject merchandise,

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

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

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

under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

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

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

Information on the nature of the alleged subsidies was presented in Part I of this report; 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.

THE INDUSTRY IN CHINA

The Commission requested data from 83 firms which were listed in the petition and believed to produce wire decking in China during the period of investigation.³ The Commission received five responses, including one from a large producer of wire decking in China, Dalian Eastfound Metal Products Co., Ltd. and its related company Dalian Eastfound Material Handling Co., Ltd. (collectively

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

³ Petition, exh. General-4. Petitioners and respondents appear to disagree as to the number of substantial producers of wire decking in China. Petitioners submitted a list of 83 producers in the petition. Subsequently, petitioners submitted a list of 48 firms in China which they believed produced wire decking. Petitioners' postconference brief, exh. 18. Petitioners allege that many producers of wire decking have not responded to the Commission's questionnaire and that the reported data for China is significantly understated.

Respondents claimed that there are eight predominate producers in China that accounted for more than 90 percent of exports to the United States during the period of investigation. These firms include: (1) Eastfound; (2) Dalian Huameilong Metal Products Co., Ltd. ("Huameilong"); (3) Dalian Xingbo Metal Products Co., Ltd. ("Xingbo"); (4) Dandong Riqian Logistics Equipment Co., Ltd. ("Riqian"); (5) Tianjin Jiali Machine Manufacturing Co., Ltd. ("Jiali"); (6) Tianjin Dingxing Co., Ltd. ("Dingxing"); (7) Tianjin Zhonglian Metals Ware Co., Ltd. ("Zhonglian"); and (8) Tianjin Machinery Import & Export Corp. ("Machinery").

Respondents asserted that the eight predominate Chinese producers listed above serve the three major U.S. importers (Atlas, Nashville Wire, and Mighty Lift). The remaining producers of wire decking in China supply the "other" U.S. importers which they allege consist of small, independent importers and big-box retailers and never accounted for more than *** percent of exports during the period of investigation. Respondents' postconference brief, exh. 2. Petitioners reported that ***. Petitioners' postconference brief, p. 39.

“Eastfound”).⁴ Data regarding the Chinese industry are based on these five foreign producer questionnaires, which are believed to account for approximately *** percent of Chinese export shipments to the United States in 2008. Eastfound estimated that in 2008, it accounted for *** percent of total exports of wire decking to the United States and *** percent to *** percent of total production of wire decking in China.⁵

Table VII-1 presents data for capacity, production, and shipments of wire decking from all reporting producers in China. Chinese producers’ capacity decreased by *** percent from 2006 to 2008 and decreased an additional *** percent between January-March 2008 and January-March 2009.⁶ Capacity is projected to *** percent from 2008 to 2009. The production of Chinese producers decreased by *** percent from 2006 to 2008, and decreased by an additional *** percent between the interim periods, and they project a *** percent from 2008 to 2009. Chinese producers reported capacity utilization rates ranging from *** percent in January-March 2009 to *** percent in 2006 and interim 2008.

Throughout the period of investigation, the majority of the Chinese producers’ shipments went to the United States. Chinese producers’ volume of shipments to its home market are *** during the period of investigation.⁷ The volume of Chinese producers’ export shipments to the United States decreased by *** percent from 2006 to 2008, and decreased as a share of China’s total shipments from *** percent of their total shipments in 2006 to *** percent in 2008. From 2006 to 2008, Chinese shipments to other countries increased by *** percent, and accounted for *** percent of total shipments in 2006 and *** percent of total shipments in 2008. The largest reporting Chinese producer, Eastfound, reported that *** are its principal export markets other than the United States.

Table VII-1
Wire decking: China’s reported production capacity, production, shipments, and inventories, 2006-2008, January-March 2008, January-March 2009, and projections for 2009 and 2010

* * * * *

U.S. IMPORTERS’ INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from China are shown in table VII-2. No U.S. importer reported U.S. imports from countries other than China.

⁴ The four additional producers in China that submitted foreign producer questionnaires include: ***. These firms represent *** percent of reported 2008 Chinese production of wire decking.

The Commission also received responses from *** firms reporting that they did not produce or export the subject product to the United States during the period of investigation. These firms include: ***.

⁵ Eastfound’s foreign producer questionnaire, questions II-3 and II-4. Eastfound’s exports to the United States accounted for *** percent of the total 2008 exports to the United States and *** percent of total 2008 production in China reported to the Commission and set forth in Table VII-1.

⁶ Eastfound reported that on February 1, 2009, it closed one of its two wire decking manufacturing facilities and since October of 2008 has laid off more than 500 PRWs. Respondents’ postconference brief, p. 5; Conference transcript, p. 132 (Song).

⁷ There is essentially no Chinese home market for wire decking as warehouses in China still generally use pallet storage systems constructed with wood as opposed to steel decking. Conference transcript, p. 135 (Song); Petitioners’ postconference brief, pp. 41-42.

Table VII-2

Wire decking: U.S. importers' end-of-period inventories of subject and nonsubject imports, by sources, 2006-2008, January-March 2008, and January-March 2009

* * * * *

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested U.S. importers to indicate whether they imported or arranged for the importation of wire decking after March 31, 2009. *** of the nine reporting U.S. importers stated that they had imported or arranged for importation since March 31, 2009. Table VII-3 presents the *** U.S. importers which indicated that they had imported or arranged for the importation of the subject product from China and the quantity of those U.S. imports.

Table VII-3

Wire decking: U.S. importers' orders of subject imports from China subsequent to March 31, 2009, by firm

* * * * *

ANTIDUMPING AND COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There is no indication that wire decking has been the subject of any other import relief investigations in any other countries.

INFORMATION ON PRODUCERS IN NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury “by reason of subject imports,” the legislative history states “that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) ‘to ensure that it is not attributing injury from other sources to the subject imports.’”⁸

There is production of wire decking in both Canada and Mexico. In Mexico, Necochea Internacional de Laminados, S.A. de C.V. (Necochea) produces wire decking at its plant in Gomez Palacio, about 400 miles from Laredo TX.⁹ According to its web site, Necochea is a manufacturer and integrator of rack storage and retrieval systems.¹⁰

In Canada, there are at least two significant producers of wire decking, both located in the Province of Quebec. Premier Wire has a capacity of about *** decks per year; is currently running at about *** percent of capacity and sells its decking ***.¹¹ The total Canadian market is estimated by ***

⁸ Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006).

⁹ E-mail correspondence from ***, July 6, 2009.

¹⁰ <http://www.necochea.com.mx/cuerpo.html>, retrieved July 8, 2009.

¹¹ Staff interview with ***, July 8, 2009.

decks per year.¹² The second significant producer, Forma Fil, has a capacity of about *** decks per day, or *** decks per year.¹³ It is currently running at about *** percent of capacity and sells its product ***, although it does ***.¹⁴ There are two other producers in Canada, but their production is not significant.¹⁵

¹² Ibid.

¹³ Staff interview with ***, July 7, 2009.

¹⁴ Ibid.

¹⁵ Staff interview with ***, July 8, 2009.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701-TA-466 and 731-TA-1162 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of wire decking, provided for in subheading 9403.90.8040 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by July 20, 2009. The Commission's views are due at Commerce within five business days thereafter, or by July 27, 2009.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202-708-5408), 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.*—These investigations are being instituted in response to a petition

**INTERNATIONAL TRADE
COMMISSION**

[Investigation Nos. 701-TA-466 and 731-TA-1162 (Preliminary)]

Wire Decking from China

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping and countervailing duty investigations and

filed on June 5, 2009, by AWP Industries, Inc., Frankfort, KY; ITC Manufacturing, Inc., Phoenix, AZ; J&L Wire Cloth, Inc., St. Paul, MN; and Nashville Wire Products Mfg. Co., Inc., Nashville, TN.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 26, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Christopher J. Cassise (202-708-5408) not later than June 24, 2009, to arrange for their appearance. Parties in support of the imposition of antidumping and countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request

permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 1, 2009, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to 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 207.12 of the Commission's rules.

Issued: June 8, 2009.

By order of the Commission.

William R. Bishop,

Secretary to the Commission.

[FR Doc. E9-13703 Filed 6-10-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-949]

Wire Decking From the People's Republic of China: Initiation of Antidumping Duty Investigation

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

DATES: *Effective Date:* July 2, 2009.

FOR FURTHER INFORMATION CONTACT:

Charles Riggle or Andrea Staebler Berton, AD/CVD Operations, Office 8, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0650 and (202) 482-4037, respectively.

SUPPLEMENTARY INFORMATION:**The Petition**

On June 5, 2009, the Department of Commerce ("the Department") received an antidumping duty ("AD") petition concerning imports of wire decking from the People's Republic of China ("PRC") filed in proper form by AWP Industries, Inc., ITC Manufacturing, Inc., J&L Wire Cloth, Inc., and Nashville Wire Products Mfg. Co., Inc., (collectively, "Petitioners").¹ On June 11, 2009, and June 12, 2009, the Department issued requests for additional information and clarification of certain areas of the Petition. Based on the Department's request, Petitioners filed supplements to the Petition on June 16, 2009, and June 17, 2009 (respectively, "Supplement to the AD/CVD Petitions and Supplement to the AD Petition"). The Department requested further clarifications from Petitioners by supplemental questionnaire and phone on June 18, 2009, regarding scope, export price, and

¹ See the Petition for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, as amended ("Petition"), filed on June 5, 2009. On June 22, 2009, Petitioners submitted a letter stating that another domestic producer of the like product, Wireway Husky Corporation, had joined the petition.

surrogate values (“SV”).² On June 19, 2009, Petitioners filed the information requested regarding export price and on June 22, 2009, Petitioners filed the information requested in the additional supplemental questionnaire, including a revised scope (respectively “Second Supplement to the AD Petition, and Second Supplement to the AD/CVD Petitions”).

On June 23 and 24, 2009, the Department contacted Petitioners to suggest additional changes to the scope language. On June 24, 2009, Petitioners filed a final version of the scope language.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (“the Act”), Petitioners allege that imports of wire decking from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act, and they have demonstrated sufficient industry support with respect to the investigation that they are requesting the Department to initiate (see “Determination of Industry Support for the Petition” below).

Scope of Investigation

The products covered by this investigation are wire decking from the PRC. For a full description of the scope of the investigation, please see the “Scope of Investigation” in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by July 15, 2009, twenty

calendar days from the signature date of this notice. Comments should be addressed to Import Administration’s APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of wire decking to be reported in response to the Department’s antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as (1) general product characteristics and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe wire decking, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by July 15, 2009. Additionally, rebuttal comments must be received by July 22, 2009.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.³

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the

² See Memorandum to the File, “Wire Decking from the People’s Republic of China: Phone Call with Petitioners Regarding Antidumping Petition Questions,” dated June 19, 2009; see also Memorandum to the File “Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Wire Decking from the People’s Republic of China: Suggested Scope Changes,” dated June 22, 2009.

³ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

domestic like product analysis begins is “the article subject to an investigation,” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that wire decking constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.⁴

In determining whether Petitioners have standing under section 732(c)(4)(A), we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of Investigation” section above. To establish industry support, Petitioners provided their 2008 production of the domestic like product, as well as the 2008 production of the domestic like product for four non-petitioning companies who are supporters of the Petition, and compared this to total production of the domestic like product for the entire domestic industry. See Volume I of the Petition, at 4, and Exhibit General-1, and Supplement to the AD/CVD Petitions, dated June 16, 2009, at 10, and Attachment 3, and Second Supplement to the AD/CVD Petitions, dated June 22, 2009, at 3, and Attachment 1, and Petitioners’ Submission, dated June 22, 2009. Petitioners calculated total domestic production based on their own production plus data provided by the four non-petitioning companies that produce the domestic like product in the United States, who are supporters of the Petition. See Volume I of the Petition, at Exhibit General-1, and Supplement to the AD/CVD Petitions, dated June 16, 2009, at Attachment 3, and Second Supplement to the AD/CVD Petitions, dated June 22, 2009, at 3, and Attachment 1; *see also* Initiation Checklist as Attachment II, Industry Support. In addition, Petitioners identified one other company as a producer of the domestic like product and were able to obtain its 2008 production of the domestic like product in order to calculate total domestic

production of the domestic like product.⁵

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).⁶ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.⁷ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.⁸

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department initiate.⁹

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industry’s injured condition is illustrated by reduced market share, increased import

penetration, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production, shipments, capacity, and capacity utilization, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.¹⁰

Period of Investigation

In accordance with 19 CFR 351.204(b)(1), because this Petition was filed on June 5, 2009, the anticipated period of investigation (“POI”) is October 1, 2008, through March 31, 2009.

Allegations of Sales at Less than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department has based its decision to initiate an investigation with respect to the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculations, if appropriate.

Export Price

Petitioners calculated export prices (“EPs”) for wire decking based on three purchase orders and the corresponding invoices.¹¹ The Department has not made any adjustments to U.S. EP.

Normal Value

Petitioners state that in every previous less-than-fair value investigation involving merchandise from the PRC, the Department has concluded that the PRC is a non-market economy country (“NME”) and, as the Department has not revoked this determination, its NME status remains in effect today.¹² The Department has previously examined the PRC’s market status and determined that NME status should continue for the PRC.¹³ In addition, in recent

⁴ For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Wire Decking from the PRC (“Initiation Checklist”) at Attachment II (“Industry Support”), dated concurrently with this notice and on file in the Central Records Unit (“CRU”), Room 1117 of the main Department of Commerce building.

⁵ *See* Supplement to the AD/CVD Petitions, dated June 16, 2009, at 9.

⁶ *See* Section 732(c)(4)(D) of the Act, and Initiation Checklist at Attachment II.

⁷ *See* Initiation Checklist at Attachment II.

⁸ *See id.*

⁹ *See id.*

¹⁰ *See* Initiation Checklist at Attachment III.

¹¹ *See* Initiation Checklist for further discussion.

¹² *See* Volume II of the Petition, at 2.

¹³ *See* Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, regarding The People’s Republic of China Status as a Non-Market Economy, dated May 15, 2006. This document is available online at <http://ia.ita.doc.gov/download/prc-nme-status/prc-nme-status-memo.pdf>.

investigations, the Department has continued to determine that the PRC is an NME country.¹⁴

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value ("NV") of the product is appropriately based on factors of production valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners argue that India is the appropriate surrogate country for the PRC because it is at a comparable level of economic development and it is a significant producer of wire decking products.¹⁵ Petitioners state that the Department has determined in previous investigations and administrative reviews that India is at a level of development comparable to the PRC.¹⁶ Petitioners identified a major producer of wire decking in India, Mekins Agro Products Ltd. ("Mekins"), and assert that Mekins has the capacity to supply up to 500 metric tons of wire mesh products per month, indicating that India is a significant producer of wire decking products.¹⁷

Based on the information provided by Petitioners, the Department believes that the use of India as a surrogate country is appropriate for purposes of initiation. However, after initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

¹⁴ See *Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 14514 (March 31, 2009); *Frontseating Service Valves from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 74 FR 10886 (March 13, 2009); *1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 10545 (March 11, 2009).

¹⁵ See Volume II of the Petition, at 3.

¹⁶ See *id.*

¹⁷ See *id.*

Petitioners provided dumping margin calculations using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioners calculated NVs for four wire decking products.

Petitioners valued the factors of production using reasonably available, public surrogate country data, including India import data from the Monthly Statistics of the Foreign Trade of India ("MSFTI") from the period July 2008 through December 2008.¹⁸

Petitioners state that they valued drawing powder, wire, hot-rolled sheet, coating powder, steel scrap, metal scrap, and pallet using Indian import data from the MSFTI, under the following Indian HTS numbers: 7217.90.99 and 7217.10.10 for wire; 7208.27.30, 7208.39.30, 7208.54.30, 7211.19.10, 7211.19.50, and 7211.19.90 for hot-rolled sheet, 3907.91.20 for coating powder, 7204.41.00 for steel scrap, 7208.39 for metal scrap, and 4415.20.00 for pallet.¹⁹

Petitioners valued drawing powder using Indian import data from the MSFTI, under Indian HTS number 3403.99.01 for the period April 2002 through March 2003, because no contemporaneous data was readily available.²⁰ Accordingly, the Department inflated April 2002 through March 2003 value to make it contemporaneous for our period.

Petitioners valued carbon steel wire rod based on Indian domestic price statistics reported by the Joint Plant Committee ("JPC"). They adjusted these reported prices for excise and VAT taxes.²¹

Petitioners valued electricity, water and natural gas based on SVs used in a previous preliminary determination.²² In using the previous preliminary determination, Petitioners valued electricity using a rate from India's Central Electricity Authority ("CEA") from 2006 which was inflated.²³ However, the Department has determined that because the rates listed in this source became effective on a variety of different dates, the average rate should not be adjusted for

¹⁸ See *id.* at 6.

¹⁹ See Volume II of the Petition, at 6–12, and Exhibit AD–3. See also Supplement to the AD Petition, dated June 17, 2009, at 5–8, and Attachments 6 and 7.

²⁰ See Volume II of the Petition, at 8, and Exhibit AD–3. See also Supplement to the AD Petition, dated June 17, 2009, at 8, and Attachments 6 and 7. For further discussions see Initiation Checklist.

²¹ See Volume II of the Petition, at 7–8, and Exhibit AD–3.

²² See Volume II of the Petition, at 10–11, and Exhibit AD–3.

²³ See Initiation Checklist for further discussion.

inflation.²⁴ Therefore, the electricity value for this initiation is based on the reported 2006 CEA rate without any inflation.

Petitioners submitted two values for electrogalvanization, a tolling process, one from JPC data and the other from Galrebars.²⁵ The Department relied only on the value from Galrebars for electrogalvanization as this value was used previously by the Department in another proceeding.²⁶

Petitioners valued labor using the wage rate data published on the Department's Web site, at <http://ia.ita.doc.gov/wages/05wages/05wages-051608.html>.²⁷

Where Petitioners were unable to find input prices contemporaneous with the POI, Petitioners adjusted for inflation using the wholesale price index for India, as published in "International Financial Statistics" by the International Monetary Fund.²⁸ Petitioners used exchange rates, as provided on the Department's Web site, to convert Indian Rupees to U.S. Dollars.²⁹

Petitioners based factory overhead, selling, general and administrative expenses ("SG&A"), and profit, on the financial ratios of Mekins, an Indian producer of wire decking.³⁰

Fair-Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of wire decking from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on the comparison of EP to NV, as noted above, the estimated dumping margins for the PRC range from 143 percent to 316 percent.

Initiation of Antidumping Investigation

Based upon the examination of the Petition concerning wire decking from the PRC and other information reasonably available to the Department, the Department finds that this Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of wire decking from the PRC are being, or are

²⁴ See *id.*

²⁵ See Initiation Checklist for further discussion, and Supplement to the AD Petition, dated June 17, 2009, at 5–6, and Attachment 4.

²⁶ See *id.*

²⁷ See Volume II of the Petition, at 10.

²⁸ See *id.* at 6–12, and Exhibit AD–3. See also Supplement to the AD Petition, dated June 17, 2009, at 5–10, and Attachment 6. For further discussion see Initiation Checklist.

²⁹ See Volume II of the Petition, at 7 and Exhibit AD–2.

³⁰ See Volume II of the Petition, at 12, and Exhibit AD–3. See also Supplement to the AD Petition, dated June 17, 2009, at 9.

likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Targeted-Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted-dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted-dumping allegations, 19 CFR 351.301(d)(5).³¹ The Department stated that “{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.”³²

In order to accomplish this objective, if any interested party wishes to make a targeted-dumping allegation in any of these investigations pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the preliminary determination.

Respondent Selection

For the PRC, the Department will request quantity and value information from all known exporters and producers identified, with complete contact information, in the Petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status.³³ Appendix II of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters/producers no later than July 16, 2009. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration Web site, at <http://>

³¹ See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 73 FR 74930 (December 10, 2008).

³² See *id.* at 74931.

³³ See *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); and *Initiation of Antidumping Duty Investigation: Certain Artist Canvases From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005).

ia.ita.doc.gov/ia-highlights-and-news.html. The Department will send the quantity and value questionnaire to those PRC companies identified in the Petition, Volume I, at Exhibit General-4.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate status application.³⁴ The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, available on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due sixty (60) days from the date of publication of this initiation notice in the **Federal Register**.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates/Combination Rates Bulletin³⁵ states: {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the POI. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of combination rates because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and

³⁴ See *Certain Circular Welded Carbon Quality Steel Line Pipe from the Republic of Korea and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 73 FR 23188, 23193 (April 29, 2008) (*Certain Circular Welded Carbon Quality Steel Line Pipe from the PRC*).

³⁵ See Import Administration Policy Bulletin, Number: 05.1, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” dated April 5, 2005, available on the Department's Web site at <http://ia.ita.doc.gov/policy/bull05-1.pdf>.

produced by a firm that supplied the exporter during the POI.³⁶

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the Government of the PRC. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than July 20, 2009, whether there is a reasonable indication that imports of wire decking from the PRC materially injure, or threaten material injury to, a U.S. industry. A negative ITC determination covering all classes or kinds of merchandise covered by the Petition would result in the investigation being terminated. Otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 25, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

The scope of the investigation covers welded-wire rack decking, which is also known as, among other things, “pallet rack decking,” “wire rack decking,” “wire mesh decking,” “bulk storage shelving,” or “welded-wire decking.” Wire decking consists of wire mesh that is reinforced with structural supports and designed to be load bearing. The structural supports include sheet metal support channels, or other structural supports, that reinforce the wire mesh and that are welded or otherwise affixed to the wire mesh, regardless of whether the wire mesh and supports are assembled or unassembled and whether shipped as a kit or packaged separately. Wire decking is produced from carbon or alloy steel wire that has been welded into a mesh pattern. The wire may be galvanized or

³⁶ See also *Certain Circular Welded Carbon Quality Steel Line Pipe from the Republic of Korea and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 73 FR 23188, 23193 (April 29, 2008).

plated (e.g., chrome, zinc or nickel coated), coated (e.g., with paint, epoxy, or plastic), or uncoated ("raw"). The wire may be drawn or rolled and may have a round, square or other profile. Wire decking is sold in a variety of wire gauges. The wire diameters used in the decking mesh are 0.105 inches or greater for round wire. For wire other than round wire, the distance between any two points on a cross-section of the wire is 0.105 inches or greater. Wire decking reinforced with structural supports is designed generally for industrial and other commercial storage rack systems.

Wire decking is produced to various profiles, including, but not limited to, a flat ("flush") profile, an upward curved back edge profile ("backstop") or downward curved edge profile ("waterfalls"), depending on the rack storage system. The wire decking may or may not be anchored to the rack

storage system. The scope does not cover the metal rack storage system, comprised of metal uprights and cross beams, on which the wire decking is ultimately installed. Also excluded from the scope is wire mesh shelving that is not reinforced with structural supports and is designed for use without structural supports.

Wire decking enters the United States through several basket categories in the Harmonized Tariff Schedule of the United States ("HTSUS"). U.S. Customs and Border Protection has issued a ruling (NY F84777) that wire decking is to be classified under HTSUS 9403.90.8040. Wire decking has also been entered under HTSUS 7217.10, 7217.20, 7326.20, 7326.90, 9403.20.0020 and 9403.20.0030. While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of the investigations is dispositive.

Appendix II

Where it is not practicable to examine all known exporters/producers of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930, as amended, permits us to investigate (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see "Scope of Investigation" section of this notice), produced in the PRC, and exported/shipped to the United States during the period October 1, 2008, through March 31, 2009.

Market	Total quantity in metric tons	Terms of sale	Total value
United States:			
1. Export Price Sales			
2. a. Exporter Name			
b. Address			
c. Contact			
d. Phone No.			
e. Fax No.			
3. Constructed Export Price Sales			
4. Further Manufactured			
Total Sales			

Total Quantity

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sales

- Please report all sales on the same terms (e.g., free on board at port of export).

Total Value

- All sales values should be reported in U.S. dollars. Please indicate any exchange rates used and their respective dates and sources.

Export Price Sales

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated customer occurs before importation into the United States.
 - Please include any sales exported by your company directly to the United States.
 - Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
 - If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
 - Please do not include any sales of subject merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated customer occurs after importation. However, if the first sale to the unaffiliated customer is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
 - Please include any sales exported by your company directly to the United States;
 - Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
 - If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
 - Please do not include any sales of subject merchandise manufactured in Hong Kong in your figures.

Further Manufactured

- Sales of further manufactured or assembled (including re-packaged) merchandise is merchandise that undergoes further manufacture or assembly in the United States before being sold to the first unaffiliated customer.
 - Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing

expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

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DEPARTMENT OF COMMERCE**International Trade Administration**

[C-570-950]

Wire Decking From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* July 2, 2009.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 4014, Washington, DC 20230; telephone: (202) 482-2209.

SUPPLEMENTARY INFORMATION:**The Petition**

On June 5, 2009, the Department of Commerce ("Department") received a petition filed in proper form by AWP Industries, Inc., ITC Manufacturing, Inc., J&L Wire Cloth, Inc., Nashville Wire Products Mfg. Co., Inc., and Wireway Husky Corporation (collectively, "Petitioners"), domestic producers of wire decking. On June 11, 2009, and June 12, 2009, the Department issued requests for additional information and clarification of certain general areas of the Petition. Based on the Department's request, Petitioners filed supplements to the Petition on June 16, 2009, and June 17, 2009, (respectively, "Supplement to the

General Petition and Supplement to the AD Petition"). On June 18, 2009, and June 22, 2009, the Department also requested clarification of Petitioners' subsidy allegations. Based on the Department's request, Petitioners filed supplements to the countervailing duty ("CVD") petition on June 23, 2009, and June 24, 2009.

The Department requested further clarifications from Petitioners by supplemental questionnaire and phone on June 18, 2009, regarding scope, and issue relating to the AD Petition. On June 22 and 24, 2009, Petitioners filed the information requested in the additional supplemental questionnaire, including a revised scope.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended ("the Act"), Petitioners allege that manufacturers, producers, or exporters of wire decking in the People's Republic of China ("PRC") receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act, and Petitioners have demonstrated sufficient industry support with respect to the CVD investigation (*see* "Determination of Industry Support for the Petition" section below).

Period of Investigation

The proposed period of investigation ("POI") is January 1, 2008, through December 31, 2008.

Scope of Investigation

The products covered by this investigation are wire decking from the PRC. For a full description of the scope of the investigation, please see the "Scope of the Investigation" in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by July 15, 2009, twenty calendar days from the signature date of

this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the PRC for consultations with respect to the CVD Petition. The Department held these consultations in Beijing, China on June 23, 2009. *See* the Memorandum from Sarah C. Ellerman through Melissa Skinner to the File, entitled, "Countervailing Duty Petition on Wire Decking from the People's Republic of China: Consultation with the Government of the People's Republic of China," (June 24, 2009), which is on file in the Central Records Unit ("CRU") of the main Department of Commerce building, Room 1117.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International

Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that wire decking constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Wire Decking from the PRC ("Initiation Checklist") at Attachment II ("Industry Support"), dated concurrently with this notice and on file in the CRU.

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, Petitioners provided their 2008 production of the domestic like product, as well as the 2008 production of the domestic like product for four non-petitioning companies who are supporters of the Petition, and compared this to total production of the

domestic like product for the entire domestic industry. *See* Volume I of the Petition, at 4, and Exhibit General-1, and Supplement to the AD/CVD Petitions, dated June 16, 2009, at 10, and Attachment 3, and Second Supplement to the AD/CVD Petitions, dated June 22, 2009, at 3, and Attachment 1, and Petitioners' Submission, dated June 22, 2009. Petitioners calculated total domestic production based on their own production plus data provided by the four non-petitioning companies that produce the domestic like product in the United States, who are supporters of the Petition. *See* Volume I of the Petition, at Exhibit General-1, and Supplement to the AD/CVD Petitions, dated June 16, 2009, at Attachment 3, and Second Supplement to the AD/CVD Petitions, dated June 22, 2009, at 3, and Attachment 1; *see also* Initiation Checklist as Attachment II, Industry Support. In addition, Petitioners identified one other company as a producer of the domestic like product and were able to obtain its 2008 production of the domestic like product in order to calculate total domestic production of the domestic like product.

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 702(c)(4)(D) of the Act, and Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product. *See* Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic

industry within the meaning of section 702(b)(1) of the Act. *See id.*

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department initiate. *See id.*

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of wire decking from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industries producing wire decking. In addition, Petitioners allege that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industry's injured condition is illustrated by reduced market share, increased import penetration, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production, shipments, capacity, and capacity utilization, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Petition).

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably

available to the petitioner(s) supporting the allegations.

The Department has examined the CVD Petition on wire decking from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of wire decking in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

- A. Loan Programs
 1. Honorable Enterprises Program
 2. Preferential Loans for Key Projects and Technologies
 3. Preferential Loans as Part of the Northeast Revitalization
 4. Policy Loans for Firms Located in Industrial Zones in the City of Dalian in Liaoning Province
- B. Government Provision of Goods and Services for Less Than Adequate Remuneration ("LTAR")
 1. Government Provision of Wire Rod for LTAR
 2. Government Provision of Hot-Rolled Steel for LTAR
 3. Government Provision of Zinc for LTAR
 4. Government Provision of Electricity for LTAR
 5. Provision of Land for LTAR for Firms Located in Designated Geographical Areas in the City of Dailan in Liaoning Province
 6. Provision of Water for LTAR for Firms Located in Designated Geographical Areas in the City of Dailan in Liaoning Province
 7. Provision of Electricity for LTAR for Firms Located in Designated Geographical Areas in the City of Dailan in Liaoning Province
- C. Income and Other Direct Taxes
 1. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
 2. Income Tax Exemption for Investment in Domestic "Technological Renovation"
 3. Preferential Income Tax Policy for Enterprises in the Northeast Region
 4. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
 5. Income Tax Exemption for Investors in Designated Geographical Regions Within the Province of Liaoning
- D. Indirect Tax and Tariff Exemption Programs
 1. Value Added Tax (VAT) Deductions on Fixed Assets
 2. Export Incentive Payments Characterized as "VAT Rebates"
 3. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises

- Using Imported Equipment in Encouraged Industries
4. VAT Exemptions for Newly Purchased Equipment in the Jinzhou District
- E. Grant Programs
1. "Five Points, One Line" Program
 2. Export Interest Subsidies
 3. The State Key Technology Project Fund.
 4. Subsidies for Development of Famous Export Brands and China World Top Brands
 5. Sub-Central Government Programs To Promote Famous Export Brands and China World Top Brands
 6. Exemption of Fees for Firms Located in Designated Geographical Areas in the City of Dailan in Liaoning Province
- F. Preferential Income Tax Subsidies for Foreign Invested Entities ("FIEs")
1. "Two Free, Three Half" Program
 2. Income Tax Exemption Program for Export-Oriented FIEs
 3. Local Income Tax Exemption and Reduction Programs for "Productive" Foreign-Invested Enterprises
 4. Preferential Tax Programs for Foreign-Invested Enterprises Recognized as High or New Technology Enterprises
 5. Income Tax Subsidies for FIEs Based on Geographic Location
 6. VAT Refunds for FIEs Purchasing Domestically Produced Equipment

For further information explaining why the Department is investigating these programs, see the Initiation Checklist.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

A. Policy Lending to Wire Decking Producers

Petitioners allege that the GOC, through various national level industrial plans, directs credit to wire decking producers. Similar to the Department's finding in *Wire Grating from the PRC Initiation*, we find that Petitioners have not sufficiently alleged that the GOC's industrial plans specifically direct credit to producers of wire decking. See *Certain Steel Grating from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 30278, 30281 (June 25, 2009) ("*Steel Grating from the PRC Initiation*"). Petitioners may re-submit this allegation to the extent the Department selects an integrated producer whose affiliated input suppliers are producing a steel input that is covered by the GOC's industrial plans.

B. Export Loans

Petitioners allege that in *Line Pipe from the PRC*, the Department found that a number of companies benefitted from export-contingent loans from State owned commercial banks ("SOCBs") and that Chinese wire decking

producers would be eligible for such loans. See *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 70961 (Nov. 24, 2008) ("*Line Pipe from the PRC*"), and accompanying Issues and Decision Memorandum ("*Line Pipe from PRC Decision Memorandum*") at "Export Loans." According to Petitioners, this program has not been eliminated by any reforms to the Chinese banking system. However, the producers investigated in *Line Pipe from the PRC* are not identified in the Petition filed on the record of this proceeding. Therefore, we find that the support relied on in *Line Pipe from the PRC* to initiate an investigation of the Export Loans program does not apply to the facts of this proceeding. Petitioners have provided insufficient evidence indicating that wire decking producers can benefit from this alleged program.

C. Export Assistance Grants

Petitioners allege that grants are provided to exporters. However, Petitioners fail to identify the administering authority that is allegedly providing the grants (*i.e.*, national, provincial, or local governments) or the program under which the alleged benefits are provided. Therefore, we are not initiating an investigation of this allegation.

D. Provision of Land for LTAR

Petitioners allege that the GOC prohibits private land ownership in the PRC. According to Petitioners, private companies may purchase land-use rights, but national and local governments do not provide the rights consistently with market principles. Petitioners assert that the government may take land from farmers, often without fair compensation, and transfer this land to industrial users. Further, Petitioners allege that commercial sales are often conducted illegally through opaque processes marked by widespread corruption.

Petitioners did not provide evidence that the GOC is providing land for LTAR at the national level. Further, with the exception of Jiangxi Province and the City of Dalian in Liaoning Province, Petitioners do not provide any information to support their allegation that provincial and local governments in the PRC provide land for LTAR. Therefore, we are limiting our investigation of this allegation to alleged sales of land for LTAR to wire decking producers located in the City of Dalian.

D. Government Restraints on Exports of Wire Rod, Flat-Rolled Steel, and Zinc

Petitioners allege that the GOC imposes export restrictions (such as export quotas, export taxes, export licensing, and restrictions on which enterprises are eligible to export) to intervene in markets for such primary raw materials as wire rod, flat-rolled steel, and zinc that are consumed in the production of wire decking. Petitioners contend that these restrictions increase the supply of wire rod, flat-rolled steel, and zinc and thereby artificially lower the prices within the PRC to downstream wire decking producers.

Petitioners have not adequately shown how these particular export taxes and licenses constitute entrustment or direction of private entities by the GOC to provide a financial contribution to producers of subject merchandise. Moreover, Petitioners have not provided sufficient data regarding historic price trends demonstrating, *e.g.*, that price decreases correlated with the imposition of the alleged export restraints. The Department declined to initiate on this program in prior CVD initiations involving the PRC. See, *e.g.*, *Notice of Initiation of Countervailing Duty Investigation: Certain Kitchen Appliance Shelving and Racks from the People's Republic of China*, 73 FR 50304, 50306 (August 26, 2008) (*Racks and Shelves from the PRC Initiation*). Therefore, we are not investigating the government restraints on wire rod, flat-rolled steel, and zinc exports.

E. Tax Reduction for Enterprises Making Little Profit

Petitioners allege that, according to China's WTO subsidies notification, enterprises with annual taxable incomes between RMB 30,000 and 100,000 are eligible for a 3 percent reduction in their annual income tax rate.

We find Petitioners have not established with reasonably available information that "enterprises making little profit" are a *de jure* specific group because Petitioners have provided no explanation of why companies with access to this program comprise an enterprise or industry, or group of enterprises or industries, as those terms are normally interpreted by the Department. See, *e.g.*, *Preamble to Countervailing Duty Regulations*, 63 Fed. Reg. 65348, 65357 (November 25, 1998) ("* * * because the user represented numerous and diverse industries, the program was found not to be specific"). Therefore, we are not initiating an investigation of this allegation.

F. China's Enforced Undervaluation of Its Currency

Petitioners allege that the GOC-maintained exchange rate effectively prevents the appreciation of the Chinese currency (RMB) against the U.S. dollar. In addition, Petitioners allege that the GOC requires that foreign exchange earned from export activities be converted to RMB at the government prescribed rate. Therefore, when producers in the PRC sell their dollars at official foreign exchange banks, as required by law, the producers receive more RMB than they otherwise would if the value of the RMB were set by market mechanisms.

Consistent with past initiations, we are not initiating on this allegation on the grounds that Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. *See, e.g., Racks and Shelves from the PRC Initiation*, 73 FR at 50307.

G. Reduction in or Exemption From Fixed Assets Investment Orientation Regulatory Tax

The Petitioners claim that producers of wire decking are exempted from or receive preferential income tax rates on investments in fixed assets. These tax breaks apply to both new construction and upgrades in the encouraged industries.

We are not initiating on this program because Petitioners have not provided information to demonstrate that wire decking producers would be covered by the relevant legislation. For example, the legislation includes specific aspects of the iron and steel production process that are eligible for tax benefits, but it does not include any processes related to production of wire decking. However, if one of the mandatory respondents chosen in this investigation is part of a vertically integrated steel company, or cross-owned with a primary steel producer, Petitioners may re-allege this program under a timely-filed new subsidy allegation, at which time the Department will reconsider the information provided.

H. Preferential Investment Policies for FIEs Located in Liaoning Province

Petitioners allege that the Liaoning Province allows FIEs located in the province to enjoy "preferential policies for foreign investment projects." They further allege that the relevant legislation specifically covers wire decking producers. Petitioners identify several wire decking producers located in Liaoning Province.

The supporting documentation provided by Petitioners does not specifically mention any loans and the term "preferential investment policies" by itself, as indicated in the source document included in the Petition, does not constitute a sufficient basis for initiation. We are not initiating an investigation of this program.

Respondent Selection

To determine the total and relative volume and value of import data for each potential respondent, the Department normally relies on U.S. Customs and Border Protection import data for the POI. However, in the instant proceeding, the Harmonized Tariff Schedule of the United States ("HTSUS") categories that include subject merchandise are very broad, and include products other than those subject to this investigation. Therefore, because of the unique circumstances of this case, the Department will issue "Quantity and Value Questionnaires" to potential respondents for the purposes of respondent selection. The Department will send the quantity and value questionnaire to PRC companies identified in the June 5, 2009 Petition, at Exhibit 4, Volume 1. The Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration's Web site, at <http://ia.ita.doc.gov/ia-highlights-and-news.html>.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the Petition has been provided to the Government of the PRC. As soon as and to the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, consistent with section 351.203(c)(2) of the Department's regulations.

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized wire decking from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will

proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 25, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

The scope of the investigation covers welded-wire rack decking, which is also known as, among other things, "pallet rack decking," "wire rack decking," "wire mesh decking," "bulk storage shelving," or "welded-wire decking." Wire decking consists of wire mesh that is reinforced with structural supports and designed to be load bearing. The structural supports include sheet metal support channels, or other structural supports, that reinforce the wire mesh and that are welded or otherwise affixed to the wire mesh, regardless of whether the wire mesh and supports are assembled or unassembled and whether shipped as a kit or packaged separately. Wire decking is produced from carbon or alloy steel wire that has been welded into a mesh pattern. The wire may be galvanized or plated (*e.g.*, chrome, zinc or nickel coated), coated (*e.g.*, with paint, epoxy, or plastic), or uncoated ("raw"). The wire may be drawn or rolled and may have a round, square or other profile. Wire decking is sold in a variety of wire gauges. The wire diameters used in the decking mesh are 0.105 inches or greater for round wire. For wire other than round wire, the distance between any two points on a cross-section of the wire is 0.105 inches or greater. Wire decking reinforced with structural supports is designed generally for industrial and other commercial storage rack systems.

Wire decking is produced to various profiles, including, but not limited to, a flat ("flush") profile, an upward curved back edge profile ("backstop") or downward curved edge profile ("waterfalls"), depending on the rack storage system. The wire decking may or may not be anchored to the rack storage system. The scope does not cover the metal rack storage system, comprised of metal uprights and cross beams, on which the wire decking is ultimately installed. Also excluded from the scope is wire mesh shelving that is not reinforced with structural supports and is designed for use without structural supports.

Wire decking enters the United States through several basket categories in the Harmonized Tariff Schedule of the United States ("HTSUS"). U.S. Customs and Border Protection has issued a ruling (NY F84777) that wire decking is to be classified under HTSUS 9403.90.8040. Wire decking has also been entered under HTSUS 7217.10, 7217.20, 7326.20, 7326.90, 9403.20.0020 and 9403.20.0030. While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of the investigations is dispositive.

[FR Doc. E9-15705 Filed 7-1-09; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B
LIST OF CONFERENCE WITNESSES

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

Subject: Wire Decking from China
Inv. Nos.: 701-TA-466 and 731-TA-1162 (Preliminary)
Date and Time: June 26, 2009 - 9:30 a.m.

The conference in connection with these investigations was held in the Main Hearing Room (Room 101), U.S. International Trade Commission, 500 E Street, S.W., Washington, DC.

OPENING STATEMENTS

Petitioner: **Kathleen W. Cannon**, Kelley, Drye & Warren LLP
Respondents: **Lizabeth R. Levinson**, Garvey Schubert Barer

IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES:

Kelley, Drye & Warren LLP
Washington, DC
on behalf of

AWP Industries, Inc.
ITC Manufacturing, Inc.
J&L Wire Cloth, Inc.
Nashville Wire Products Mfg. Co.
Wireway/Husky Corp.

Craig Chamberlin, President & CEO, AWP Industries, Inc.

Rob Rollins, Division Manager, Material Handling Division, Nashville Wire Products Mfg. Co.

Todd Mack, General Manager, ITC Manufacturing, Inc.

Jim Rudolph, General Sales Manager, J&L Wire Cloth, Inc.

Ron Young, President, Wireway/Husky Corp.

John Caldwell, President, ITC Manufacturing, Inc.

Tim Selhorst, President, American Spring Wire Corp.

Steve Wagner, Division Operations Manager, Material Handling Division, Nashville Wire Products Mfg. Co.

IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES—Continued:

Gina Beck, Economic Consultant, Georgetown Economic Services

Kathleen W. Cannon)
)—OF COUNSEL
Alan Luberda)

Wiley Rein LLP
Washington, DC
on behalf of

Nucor Wire Products, Inc.

Mark Brandon, Vice President and General Manager, Nucor Wire Products, Inc.

Alan Price)—OF COUNSEL

IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES:

Garvey Schubert Barer
Washington, DC
on behalf of

Atlas Material Handling, Inc.
Dalian Eastfound Metal Products Co., Ltd.

Vic Kedaitis, Vice President and General Manager, Atlas Material Handling Inc.

Kerry B. Wolfe, General Counsel and Vice President for Strategic Development, The Altas Companies.

Song Bin, President, Dalian Eastfound Metal Products Co., Ltd.

Lizabeth R. Levinson)
)—OF COUNSEL
Ronald M. Wisla)

CLOSING STATEMENTS

Petitioner: **Kathleen W. Cannon**, Kelley Drye & Warren LLP
Respondents: **Lizabeth R. Levinson**, Garvey Schubert Barer

APPENDIX C
SUMMARY DATA

Table C-1

Wire decking: Summary data concerning the U.S. market, 2006-08, January-March 2008, and January-March 2009

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2006	2007	2008	January-March		2006-08	2006-07	2007-08	Jan.-Mar. 2008-09
				2008	2009				
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. import shipments from:									
China:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
U.S. producers':									
Average capacity quantity	495,433	515,433	515,433	128,858	128,858	4.0	4.0	0.0	0.0
Production quantity	304,553	300,268	274,148	74,519	37,355	-10.0	-1.4	-8.7	-49.9
Capacity utilization (1)	61.5	58.3	53.2	57.8	29.0	-8.3	-3.2	-5.1	-28.8
U.S. shipments:									
Quantity	307,797	290,572	265,218	69,618	35,618	-13.8	-5.6	-8.7	-48.8
Value	173,286	161,018	171,983	38,410	23,094	-0.8	-7.1	6.8	-39.9
Unit value	\$0.56	\$0.55	\$0.65	\$0.55	\$0.65	15.2	-1.6	17.0	17.5
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	45,278	35,842	45,509	34,610	38,008	0.5	-20.8	27.0	9.8
Inventories/total shipments (1)	14.2	11.9	16.5	11.8	25.7	2.3	-2.3	4.6	13.9
Production workers	652	611	550	530	329	-15.6	-6.2	-10.0	-37.9
Hours worked (1,000s)	1,349	1,185	1,115	272	148	-17.3	-12.2	-5.8	-45.5
Wages paid (\$1,000s)	21,718	19,297	18,209	4,531	2,787	-16.2	-11.1	-5.6	-38.5
Hourly wages	\$16.10	\$16.29	\$16.33	\$16.69	\$18.85	1.4	1.2	0.2	13.0
Productivity (pounds per hour)	225.8	253.5	245.8	274.5	252.7	8.9	12.3	-3.0	-7.9
Unit labor costs	\$0.07	\$0.06	\$0.07	\$0.06	\$0.07	-6.9	-9.9	3.3	22.7
Net sales:									
Quantity	318,084	299,938	275,545	73,017	36,932	-13.4	-5.7	-8.1	-49.4
Value	178,817	166,058	178,832	40,285	23,924	0.0	-7.1	7.7	-40.6
Unit value	\$0.56	\$0.55	\$0.65	\$0.55	\$0.65	15.4	-1.5	17.2	17.4
Cost of goods sold (COGS)	155,706	144,735	165,710	36,529	24,237	6.4	-7.0	14.5	-33.6
Gross profit or (loss)	23,111	21,323	13,122	3,756	(313)	-43.2	-7.7	-38.5	(3)
SG&A expenses	11,713	12,227	12,285	3,007	2,546	4.9	4.4	0.5	-15.3
Operating income or (loss)	11,398	9,096	837	749	(2,859)	-92.7	-20.2	-90.8	(3)
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	\$0.49	\$0.48	\$0.60	\$0.50	\$0.66	22.9	-1.4	24.6	31.2
Unit SG&A expenses	\$0.04	\$0.04	\$0.04	\$0.04	\$0.07	21.1	10.7	9.4	67.4
Unit operating income or (loss)	\$0.04	\$0.03	\$0.00	\$0.01	(\$0.08)	-91.5	-15.4	-90.0	(3)
COGS/sales (1)	87.1	87.2	92.7	90.7	101.3	5.6	0.1	5.5	10.6
Operating income or (loss)/ sales (1)	6.4	5.5	0.5	1.9	(12.0)	-5.9	-0.9	-5.0	-13.8

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not available/not applicable.

(3) Undefined.

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. (U.S. imports from China are compiled from data submitted in response to Commission questionnaires; U.S. imports from nonsubject countries are estimated, as petitioners and respondents agree that these imports are approximately 5 percent of total U.S. imports).

APPENDIX D

QUARTERLY PRICE DATA FOR COMBINED PRICING PRODUCTS

Table D-1

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported products 1 and 2 combined,¹ and margins of underselling, by quarters, January 2006-March 2009

* * * * *

Table D-2

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported products 3 and 4 combined,¹ and margins of underselling, by quarters, January 2006-March 2009

* * * * *

Table D-3

Wire decking: Weighted-average f.o.b. prices and quantities of domestic and imported products 5 and 6 combined,¹ and margins of underselling, by quarters, January 2006-March 2009

* * * * *

Figure D-1

Wire decking: Weighted-average f.o.b. selling prices and quantities of products 1 and 2 combined, as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

Figure D-2

Wire decking: Weighted-average f.o.b. selling prices and quantities of products 3 and 4 combined, as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

Figure D-3

Wire decking: Weighted-average f.o.b. selling prices and quantities of products 5 and 6 combined, as reported by U.S. producers and importers, by quarters, January 2006-December 2008

* * * * *

APPENDIX E

**ALLEGED EFFECTS OF IMPORTS ON U.S. PRODUCERS' EXISTING
DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT,
AND ABILITY TO RAISE CAPITAL**

The Commission requested U.S. processors to describe any actual or potential negative effects since January 1, 2006, on their return on investment, 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 wire decking from China. Their responses are as follows:

Actual Negative Effects

AWP.—***

Cargotainer.—***

ITC.—***

J&L.—***

Nashville Wire.—***

Nucor.—***

Wireway.—***

Anticipated Negative Effects

AWP.—***

Cargotainer.—***

ITC.—***

J&L.—***

Nashville Wire.—***

Nucor.—***

Wireway.—***

