

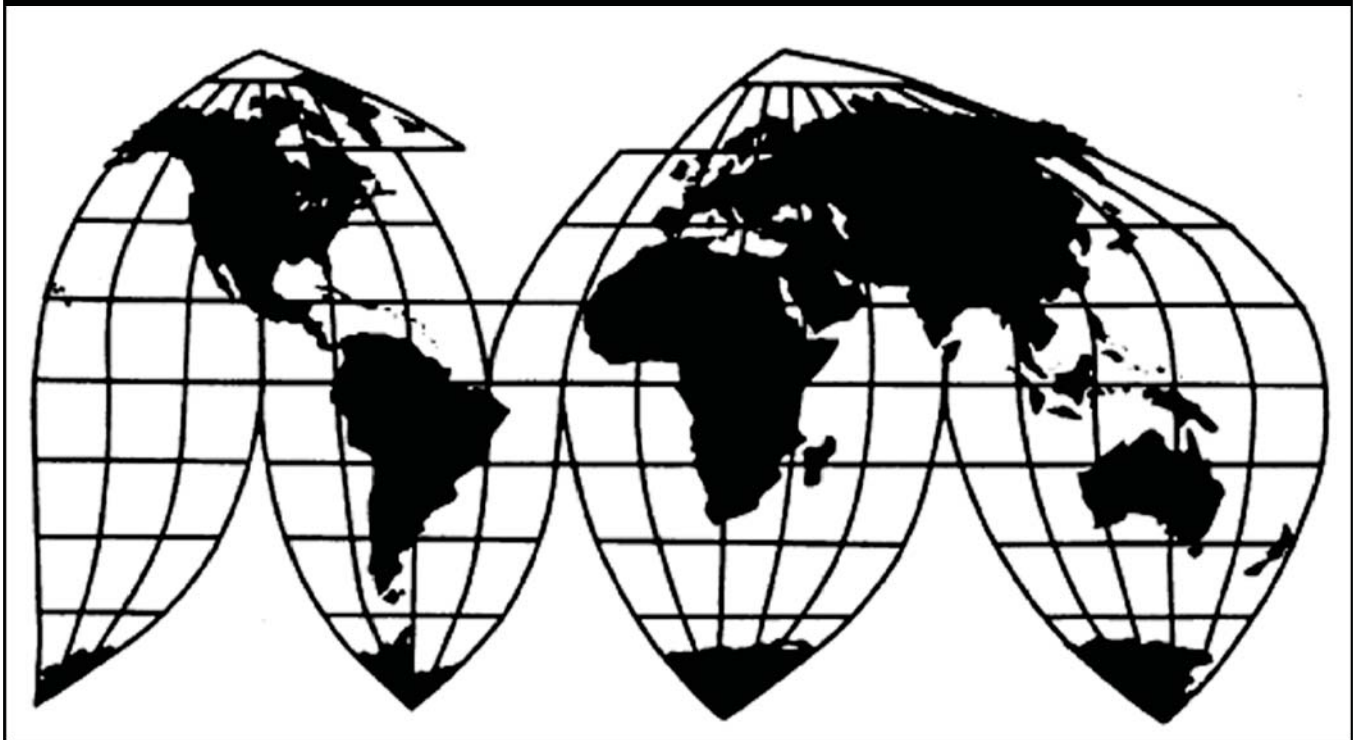
Certain Steel Grating from China

Investigation Nos. 701-TA-465 and 731-TA-1161 (Final)

Publication 4168

July 2010

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

Investigations Nos. 701-TA-465 and 731-TA-1161 (Final)

CERTAIN STEEL GRATING 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 705(b) and 735(B) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) and (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports of certain steel grating from China, provided for in subheading 7308.90.70 of the Harmonized Tariff Schedule of the United States, that the U.S. Department of Commerce has determined are subsidized and sold in the United States at less than fair value.²

BACKGROUND

These investigations were instituted in response to a petition filed on May 29, 2009, by Alabama Metal Industries, Birmingham, AL and Fisher & Ludlow, Wexford, PA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain steel gratings from China were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and dumped within the meaning of 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on February 25, 2010 (75 FR 8746). The hearing was held in Washington, DC, on May 25, 2010, 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)).

² All six Commissioners voted in the affirmative.

VIEWS OF THE COMMISSION

Based on the record in the final phase of these investigations, we find that an industry in the United States is materially injured by reason of imports of certain steel grating (“CSG”) from China that the U.S. Department of Commerce (“Commerce”) has found to be subsidized by the Government of China and to be sold in the United States at less than fair value.

I. BACKGROUND

The petitions in these investigations were filed on May 29, 2009. The petitioners are domestic producers Alabama Metal Industries Corp. of Birmingham, AL (“AMICO”) and Fisher & Ludlow, Inc. of Wexford, PA (“Fisher”) (collectively, “Petitioners”). Petitioners filed prehearing and posthearing briefs and appeared at the hearing. No producer, exporter, or importer of subject merchandise from China participated at the hearing or filed a prehearing or posthearing brief.

Staff report data on the domestic industry are based on questionnaire responses of five of seven domestic producers that accounted for nearly all U.S. production of CSG in 2009.¹ U.S. imports from China are based on official import statistics.² No Chinese producer and/or exporter of CSG responded to the Commission’s questionnaire in these final phase investigations.^{3 4}

II. 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.”⁵ 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 [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁶ In turn, the Tariff Act defines “domestic like

¹ Confidential Staff Report (“CR”) and Public Staff Report (“PR”) at III-1.

² CR/PR at IV-1 and Table IV-2.

³ CR/PR at VII-1.

⁴ Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in injury investigations, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” SAA at 869.

⁵ 19 U.S.C. § 1677(4)(A).

⁶ 19 U.S.C. § 1677(4)(A).

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.”⁷

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.⁸ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁹ The Commission looks for clear dividing lines among possible domestic like products and disregards minor variations.¹⁰ Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,¹¹ the Commission determines what domestic product is like the imported articles Commerce has identified.¹²

B. Product Description

The Department of Commerce defined the imported merchandise within the scope of the investigations as follows:

Certain steel grating, consisting of two or more pieces of steel, including load-bearing pieces and cross pieces, joined by any assembly process, regardless of: (1) size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as bar grating, although the components may consist of steel other than bars, such as hot rolled sheet, plate, or wire rod.

The scope excludes expanded metal grating, which is comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of

⁷ 19 U.S.C. § 1677(10).

⁸ 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).

⁹ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹⁰ 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.”).

¹¹ 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).

¹² 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 in which Commerce found five classes or kinds).

multiple pieces of steel. The scope also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel.¹³

CSG is a downstream steel product distinguished by two sets of components – the “bearing bars” that extend across the length and the “crossbars” that transverse (typically perpendicular to) the bearing bars to form a “panel.”¹⁴ CSG is designed to support and distribute the weight of objects, which is achieved through varying dimensions and spacing of both the bearing bars and crossbars. As such, CSG is used in environments that require not only light and air filtration but load bearing and load distribution as well.¹⁵ CSG is available in various forms including “standard welded bar grating” (crossbars welded across the tops of bearing bars), “press-locked steel grating” (notched bars), “swage-locked steel grating” (crossbars passing through and swaged or crimped on each side of the bearing bars), and “riveted steel grating” (pre-bent bars riveted between adjacent bearing bars).¹⁶

The majority of CSG is sold for private industrial and commercial applications including utility plants, offshore oil platforms, and manufacturing facilities. Common end-uses include walkways, mezzanines, catwalks, platforms for overhead signs, fire escapes, and stairways and flooring. CSG also serves as decking and supports for heavy-duty applications such as motor-vehicle bridges, railway rolling-stock flooring, drainage pit covers, boat-landing ramps, truck beds, and mooring docks.¹⁷ CSG is commonly produced in accordance with American National Standards Institute (“ANSI”) standards.¹⁸

C. Like Product Analysis

In the preliminary phase of these investigations, petitioners argued for a single domestic like product coextensive with the scope of these investigations. In its preliminary phase determination, the Commission considered whether the definition of the domestic like product should be expanded beyond the scope to include other types of grating including expanded metal, safety plank grating, fiberglass grating, and aluminium bar grating. The Commission found that although CSG may overlap with other grating in certain light-weight applications, CSG’s physical characteristics differ from the other four types of grating as only CSG can be used in heavy load-bearing applications. Noting that CSG had the same channels of distribution as the other gratings, the Commission observed that expanded metal and CSG were perceived to be distinct products and were manufactured using different processes and different employees. Finally, the Commission found that CSG was priced higher than expanded metal and safety plank grating and was priced lower than aluminum bar grating due to input costs. Based on these differences, the Commission found a clear dividing line between CSG and other types of grating and defined the domestic like product as CSG, coextensive with the scope of the investigations.¹⁹

¹³ Certain Steel Grating from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 75 Fed. Reg. 32366 (June 8, 2010).

¹⁴ CR at I-8, PR at I-6.

¹⁵ Certain Steel Grating from China, Inv. Nos. 701-TA-465 and 731-TA-1161, USITC Pub. 4087 (July 2009) (“USITC Pub. 4087”); CR at I-8, PR at I-6.

¹⁶ CR at I-8, PR at I-6.

¹⁷ CR/PR at II-1.

¹⁸ CR at I-8, I-15, II-9, II-12, PR at I-11-12, II-5, and II-9.

¹⁹ USITC Pub. 4087 at 5-7.

In these final phase investigations, Petitioners maintain that the Commission should again define the domestic like product as CSG coextensive with the scope in these investigations.²⁰ The record concerning criteria that the Commission examines in defining the domestic like product has not changed materially since the preliminary determinations.²¹ Accordingly, for the reasons stated in the preliminary determinations, we define a single domestic like product as CSG, coextensive with Commerce's scope.

III. DOMESTIC INDUSTRY

A. In General

The domestic industry is defined as the domestic “[p]roducers 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.”²² In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. Based on our definition of a single domestic like product, we define a single domestic industry consisting of all domestic producers of CSG.

B. Whether to Include Fabricators in the Domestic Industry

In the preliminary phase of the investigations, the Commission noted that the record indicated that there were certain fabricators that further process CSG. The Commission stated that it would examine whether these fabricators may be considered part of the domestic industry.²³ Petitioners argue that fabricators/distributors do not engage in sufficient production activity to be considered part of the domestic industry.²⁴ Questionnaires were sent to 26 firms believed to further process CSG produced by another firm.²⁵ In their responses, only one of these firms stated that it further processed CSG and it provided very limited data relating to its operations.²⁶ Given that we have such limited data on fabricators/distributors, the issue of whether to include them within the domestic industry is essentially moot.

C. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry as a related party 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 related to an exporter or importer of subject merchandise or which are themselves

²⁰ Petitioners' Prehearing Brief at 4.

²¹ See generally CR at I-8-I-16, II-1, PR at I-6, I-12, and II-1.

²² 19 U.S.C. § 1677(4)(A).

²³ USITC Pub. 4087 at 7 n. 41.

²⁴ Petitioners' Prehearing Brief at 5-6.

²⁵ CR at III-2, PR at III-1.

²⁶ CR at III-2, PR at III-1. *** Questionnaire Response. *** only provided data on its ***.

importers.²⁷ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.²⁸

In the preliminary phase of these investigations, Petitioners argued that *** should be excluded from the domestic industry as a related party.^{29 30} The Commission found that two domestic producers, *** and ***, qualified as related parties but concluded that circumstances did not warrant the exclusion of either producer from the domestic industry.³¹ In the final phase of these investigations, Petitioners again argue that the Commission should exclude *** from the domestic industry as a related party.³²

***, ***, ***, accounted for *** percent of domestic production in 2009.³³ *** imported *** kilograms ("kg") of subject merchandise in 2007 and *** kg in 2008, but did not import any subject merchandise in 2009.³⁴ *** reported that it imported the subject merchandise from China in order to ***.³⁵ In both years that it imported the subject merchandise, *** ratio of imports from China to production was *** at *** percent in 2007 and *** percent in 2008.³⁶ *** also made significant capital expenditures during the period of investigation, reporting that these expenditures were divided between ***.³⁷ As such, it appears that *** primary interest is domestic production rather than importation. We note, however, that ***.³⁸

It does not appear that *** derives a significant benefit from its importation of the subject merchandise. Although ***, its operating income trends were similar to those of other domestic

²⁷ 19 U.S.C. § 1677(4)(B).

²⁸ The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. These latter two considerations were cited as appropriate factors in Allied Mineral Products, Inc. v. United States, 28 CIT 1861, 1865 (2004) ("The most significant factor considered by the Commission in making the 'appropriate circumstances' determination is whether the domestic producer accrued a substantial benefit from its importation of the subject merchandise."); USEC, Inc. v. United States, 132 F. Supp. 2d 1, 12 (Ct. Int'l Trade 2001) ("the provision's purpose is to exclude from the industry headcount domestic producers substantially benefitting from their relationships with foreign exporters."), *aff'd*, 34 Fed. Appx. 725 (Fed. Cir. 2002); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) ("where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry").

²⁹ Confidential Preliminary Views at 17; Public Preliminary Views at 12.

³⁰ Commissioners Aranoff and Pinkert determined to exclude *** from the domestic industry in the preliminary phase.

³¹ Confidential Preliminary Views at 15-17; Public Preliminary Views at 11-12.

³² Petitioners' Prehearing Brief at 19.

³³ CR/PR at Table III-1.

³⁴ CR/PR at Table III-5.

³⁵ *** Questionnaire Response.

³⁶ CR/PR at Table III-5.

³⁷ CR at VI-14, PR at VI-3. *** capital expenditures increased from *** in 2007 to *** in 2007 and then decreased to *** in 2009. CR/PR at Table VI-5.

³⁸ CR/PR at Table III-1.

producers, decreasing overall from 2007 to 2009.^{39 40} Furthermore, as *** is the *** producer of CSG, exclusion may skew the domestic industry's data.

We therefore find that appropriate circumstances do not exist to exclude *** from the domestic industry.

***. *** is one of *** U.S. producers of CSG.⁴¹ It is unique among domestic producers in that ***. During the period of investigation, *** sold *** percent of its domestic production on the merchant market.⁴² *** imports of subject merchandise increased from *** kg in 2007 to *** kg in 2008 but decreased to *** kg in 2009.⁴³ Its ratio of imports to production was at a *** level in 2007, *** percent. Its ratio of imports to production *** percent in 2008, but this ratio fell to *** percent with the reduction of its imports and its increase of domestic production in 2009.⁴⁴ We note that the decrease in *** imports in 2009 may be attributable to the filing of this case and the *** level of inventories for its fabrication operations, which totaled *** in 2009.⁴⁵ Representatives of *** indicated that ***. According to its representatives, the ***.⁴⁶

According to ***, which had historically purchased CSG panels from domestic producers, it imported subject merchandise because ***.⁴⁷ Petitioners, however, counter that the reason that ***.⁴⁸ We note that ***.⁴⁹ Thus, *** exit from the market did not prevent *** from purchasing domestic product in 2007 and most of 2008.

*** capital expenditures were *** throughout the period of investigation and it was the ***. Its capital expenditures were *** in 2007, *** in 2008 and *** in 2009⁵⁰ and its *** were *** in 2007, *** in 2008, and *** in 2009.⁵¹ Although Petitioners argue that ***.⁵² We note that ***.⁵³

³⁹ Consistent with her practice in past investigations and reviews, Commissioner 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.

⁴⁰ Commissioner Pinkert has considered *** financial performance in these final phase investigations as a factor in whether or not to exclude it from the domestic industry – he has done so because the Commission gathered data on the company's combined subject imports and domestic production operations as well as its domestic production operations. CR/PR at Table VI-2; Table C-4; *** Questionnaire Response. He finds that the data show similar operating margins for *** combined subject import/domestic operations and domestic operations, and thus do not indicate that the company derived a substantial benefit from subject imports.

⁴¹ CR/PR at Table III-1.

⁴² CR/PR at Table VI-2; *** Questionnaire Response.

⁴³ CR/PR at Table III-5.

⁴⁴ CR/PR at Table III-5.

⁴⁵ *** Questionnaire Response.

⁴⁶ Edward Petronzio July 9, 2009 telephone interview with ***.

⁴⁷ CR/PR at Table III-5 n.5.

⁴⁸ Petitioners' Posthearing Brief Ex. 1 at 8 n.16.

⁴⁹ CR/PR at Table VI-2 n.2.

⁵⁰ CR/PR at Table VI-5 as revised by memorandum INV-HH-067 of June 22, 2010.

⁵¹ CR/PR at Table VI-5.

⁵² CR/PR at Table VI-5 as revised by memorandum INV-HH-067 of June 22, 2010.

⁵³ CR/PR at Table III-1.

Although ***, its operating income and operating income trends were similar to those of other domestic producers, decreasing from 2007 to 2009.^{54 55 56} Finally, *** accounted for *** percent of domestic CSG production in 2009⁵⁷ and comparison of financial data of the U.S. industry including and excluding *** shows ***.⁵⁸

On balance, Chairman Okun, Commissioner Aranoff, and Commissioner Pinkert find that, in light of *** imports and its *** ratio of imports to domestic production, *** interest lies primarily in importation rather than domestic production. Accordingly, they find that appropriate circumstances exist to exclude *** from the domestic industry.⁵⁹

Commissioner Pearson, Commissioner Lane, and Commissioner Williamson find that, given *** capital and research and development expenditures, its interest lies primarily in domestic production rather than importation. Additionally, the record does not indicate that *** derived a substantial financial benefit from its importation as its operating income and operating margin trends are similar to those of the other domestic producers. Finally, exclusion or inclusion of *** would not skew the data for the domestic industry. Accordingly, Commissioner Pearson, Commissioner Lane, and Commissioner Williamson do not find appropriate circumstances exist to exclude *** from the domestic industry.

Based on the reasons discussed above and consistent with the Commission's definition of the domestic like product, Chairman Okun, Commissioner Aranoff, and Commissioner Pinkert define the domestic industry as U.S. CSG producers ***. Commissioner Pearson, Commissioner Lane, and Commissioner Williamson define the domestic industry as all U.S. producers of CSG.

⁵⁴ CR/PR at Table VI-2.

⁵⁵ Consistent with her practice in past investigations and reviews, Commissioner 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.

In the preliminary phase of these investigations, Commissioner Aranoff found that *** primary interest lay in importation. In the final phase, *** did not provide the Commission with sufficient information to determine the extent of its investment ***. Absent such information, Commissioner Aranoff does not find that *** primary interest has returned from importation to domestic production.

⁵⁶ Commissioner Pinkert has considered *** financial performance in these final phase investigations as a factor in whether or not to exclude it from the domestic industry – he has done so because the Commission gathered data on the company's combined subject imports and domestic production operations as well as its domestic production operations. CR/PR at Table VI-2; Table C-4; *** Questionnaire Response. He finds that the data show *** operating margins for *** combined subject import/domestic operations than for its domestic operations alone. This is, however, only a minor factor in his decision to exclude the company from the domestic industry. The predominant factor is that its primary activity has shifted from domestic production to the importation of subject merchandise. See n. 59.

⁵⁷ CR/PR at Table III-1.

⁵⁸ CR/PR at Tables C-1 and C-2.

⁵⁹ Commissioner Pinkert finds that *** historically purchased commodity-grade CSG from a domestic producer, but switched to imports from China during the period of investigation. CR/PR at Table III-5, n. 5. He finds that *** primary interest thus shifted from domestic production to the importation of subject merchandise, and he therefore determines to exclude *** from the domestic industry. As *** shifted its focus from domestic production to importation of subject merchandise, its capital expenditures related to domestic production fell ***; although those expenditures increased in 2009, they did not return to 2007 levels. CR/PR at Table VI-5, as revised.

IV. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA^{60 61}

A. Legal Standards

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.⁶² 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.⁶³ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁶⁴ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁶⁵ 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.”⁶⁶

Although the statute requires the Commission to determine whether the domestic industry is “materially injured by reason of” unfairly traded imports,⁶⁷ 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.⁶⁸ 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 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

⁶⁰ As noted above, Chairman Okun, Commissioner Aranoff and Commissioner Pinkert have excluded *** from the domestic industry, while Commissioner Pearson, Commissioner Lane, and Commissioner Williamson included all U.S. producers within the domestic industry. All six Commissioners note that the trends for the domestic industry with or without *** are similar. Where these Views refer to data pertaining to the domestic industry, Chairman Okun, Commissioner Aranoff, and Commissioner Pinkert rely on data reported in the staff report at Table C-2, which provides information for the domestic industry excluding ***, and Commissioner Pearson, Commissioner Lane, and Commissioner Williamson rely on data reported in the staff report at Table C-1, which provides information for the domestic industry including ***.

⁶¹ In these investigations, subject imports accounted for substantially more than 3 percent of the volume of CSG imported into the United States from all sources in the most recent 12-month period for which data are available preceding the filing of the petition. CR at IV-6, PR at IV-3. Thus, we find that subject imports are not negligible under 19 U.S.C. § 1677(24).

⁶² 19 U.S.C. §§ 1671d(b), 1673d(b).

⁶³ 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 . . . and explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

⁶⁴ 19 U.S.C. § 1677(7)(A).

⁶⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁶⁶ 19 U.S.C. § 1677(7)(C)(iii).

⁶⁷ 19 U.S.C. §§ 1671d(a), 1673d(a).

⁶⁸ 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).

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.⁶⁹

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 non-subject 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.⁷⁰ In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.⁷¹ 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 non-subject

⁶⁹ 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).

⁷⁰ 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.

⁷¹ 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, Invs. 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.⁷² It is clear that the existence of injury caused by other factors does not compel a negative determination.⁷³

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.”^{74 75} Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”⁷⁶

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 non-subject 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 non-subject imports.⁷⁷ The additional “replacement/benefit” test looked at whether non-subject 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

⁷² S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

⁷³ 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.”).

⁷⁴ 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.

⁷⁵ 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 relating to present material injury, to undertake a particular kind of analysis of non-subject imports, albeit without reliance upon presumptions or rigid formulas. 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.

⁷⁶ 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.”).

⁷⁷ Mittal Steel, 542 F.3d at 875-79.

injury from non-subject imports or other factors to subject imports.⁷⁸ 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 non-subject 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.^{79 80}

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.⁸¹ Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.⁸²

⁷⁸ 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).

⁷⁹ Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Invs. Nos. 731-TA-1131 to 1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

⁸⁰ 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 non-subject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large non-subject 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 non-subject imports.

⁸¹ We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

⁸² 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.").

B. Captive Production⁸³

We must assess whether the statutory captive production provision applies in these investigations, and whether we consequently must focus our analysis on the merchant market when assessing market share and factors affecting the financial performance of the domestic industry. We find that a significant amount of domestic production of CSG is both captively consumed and is sold in the merchant market,⁸⁴ and thus the threshold requirement is met. The record, however, indicates that CSG sold in the merchant market is used in the production of the same downstream products for which CSG is captively consumed.⁸⁵ Accordingly, we find that the third criterion of the captive production provision is not satisfied, and therefore the captive provision does not apply in these investigations.

C. Conditions of Competition

The following conditions of competition inform our analysis in the final phase of these investigations.

1. Demand Conditions

CSG is used in a variety of end-use applications. The majority of CSG is used in private industrial and commercial applications including utility plants, offshore platforms, and manufacturing facilities. Demand for CSG is derived from non-residential construction which includes the manufacturing and power sectors.⁸⁶

Apparent U.S. consumption of CSG increased from 176.8 million kg in 2007 to *** kg in 2008, and then decreased to *** kg in 2009, an overall decrease of *** percent. Most of the decrease occurred

⁸³ As amended by the URAA, section 19 U.S.C. § 1677(7)(C)(iv) provides as follows:

(iv) CAPTIVE PRODUCTION -- If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that –

- (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,
- (II) the domestic like product is the predominant material input in the production of that downstream article, and
- (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,

then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product.

19 U.S.C. § 1677(7)(C)(iv). The SAA indicates that where a domestic like product is transferred internally for the production of another article coming within the definition of the domestic like product, such transfers do not constitute internal transfers for the production of a “downstream article” for purposes of the captive production provision. SAA at 853.

⁸⁴ The record indicates that during the period of investigation, captive consumption represented *** percent of the volume of U.S. producers’ U.S. shipments in 2007, *** percent in 2008, and *** percent in 2009. CR/PR at III-5. Commercial shipments accounted for *** percent of U.S. producers’ U.S. shipments in 2007, *** percent in 2008 and *** percent in 2009. Transfers to related firms accounted for *** percent of U.S. producer’ U.S. shipments in each year of the investigation period. CR/PR at Table III-3.

⁸⁵ CR at I-11, III-5, PR at I-8, III-5.

⁸⁶ Petitioners’ Prehearing Brief Ex. 3 at 5.

between 2008 and 2009 when consumption fell by *** percent.⁸⁷ In most investigations, Commission practice is to derive apparent U.S. consumption from the domestic shipments of U.S. producers and U.S. importers. Apparent consumption based on domestic shipments of imports often provides a better indicator of actual consumption than apparent consumption based simply on imports because it reflects any change in importers' inventories. In these investigations, however, usable questionnaire data were received from only sixteen companies representing slightly less than half of total imports from China in 2009. Consequently, data for U.S. imports from China and nonsubject countries are compiled from official Commerce statistics and the consumption data do not reflect any changes in inventories of subject and nonsubject imports.⁸⁸

U.S. producers, importers and purchasers generally reported that demand had decreased or fluctuated.⁸⁹ Several purchasers also indicated that demand for CSG during the period of investigation has been affected by, among other things, the influx of subject imports and the downturn in the economy. As noted above, the demand for CSG is derived from nonresidential construction, which includes the manufacturing and power sectors. While residential construction is more immediately affected by declines in the U.S. economy, nonresidential construction is a lagging indicator and "typically lags the general economy by about 18 months."⁹⁰ A project may be funded to completion, rather than abandoned, even though market demand for the construction may have waned.⁹¹ Although residential construction declined during the period, the record shows that construction in manufacturing and power sectors increased until the second half of 2009. According to the U.S. Census Bureau, nonresidential construction spending increased overall by 4.0 percent from 2007 to 2009. Specifically, nonresidential spending increased by 9.9 percent from \$650.2 billion in 2007 to \$714.7 billion in 2008, and then decreased by 5.4 percent to \$676.2 billion in 2009.⁹²

While nonresidential construction activity increased by nearly 10 percent from 2007 to 2008, subject import volume increased by *** percent. The record indicates that a substantial proportion of the subject imports entering the U.S. market during this time went into inventory. Inventory data are incomplete due to limited questionnaire responses from importers and purchasers.⁹³ U.S. importers' reported end-of-period inventories of subject imports, which were already high in 2007 at *** kg, increased by *** percent to *** kg in 2008. From 2008 to 2009, importers' inventories of subject CSG decreased by *** percent to *** kg.⁹⁴ At the same time, changes in purchasers' inventories appeared to follow a similar trend. Although only 16 of 65 firms responded to the Commission's purchaser questionnaire, these 16 purchasers reported that subject imports comprised 8.0 percent (296,000 kgs) of their total inventories at the end of 2007. By the end of 2008, subject imports as a share of purchasers' total inventories had increased to 19.9 percent (667,000 kgs), then decreased to 6.6 percent (153,000 kgs) at the end of 2009.⁹⁵ The decline shown in apparent U.S. consumption from 2008 to 2009 generally mirrors the decline in these inventories over the same period. As such, it appears that apparent U.S. consumption data, which do not account for the inventory build-up and the subsequent drawdown of inventories, overstate both the increase in demand in 2008 and the decrease in demand in 2009. Consequently, we find nonresidential construction spending levels to be the more reliable measure of

⁸⁷ CR/PR at Tables C-1 and C-2.

⁸⁸ CR/PR at IV-1.

⁸⁹ CR at II-7.

⁹⁰ FMI Construction Outlook, 1st Quarter 2010 Report at 3, contained in Petitioners' Prehearing Brief Ex. 8.

⁹¹ Petitioners' Prehearing Brief at 12.

⁹² Calculated from U.S. Census Bureau data contained in Petitioners' Prehearing Brief Ex. 4.

⁹³ CR/PR at II-1, IV-1.

⁹⁴ CR/PR at Table C-1.

⁹⁵ Calculated from Purchaser Questionnaire Responses.

CSG demand during the period of investigation. Thus, we find that demand for CSG was fairly strong throughout the period and decreased only at a moderate rate at the end of the period.

2. Supply Conditions

The domestic industry was the largest source of supply in the U.S. market, accounting for roughly *** of U.S. consumption by quantity over the period of investigation.⁹⁶ The number of domestic producers declined during the period of investigation with the exit of Leavitt in early 2009. Domestic production capacity, which was greater than apparent U.S. consumption for each year of the period of investigation, increased from 2007 to 2009.⁹⁷ The domestic industry had considerable unused capacity throughout the period of investigation as its capacity utilization rates declined steadily from 2007 to 2009.⁹⁸

Subject import volume, which was already sizeable in 2007, increased in 2008 before declining in 2009.⁹⁹ Subject imports' market share was 8.2 percent in 2007, *** percent in 2008, and *** percent in 2009.¹⁰⁰ The volume of nonsubject imports declined from 2007 to 2009.¹⁰¹ Nonsubject imports' share of the quantity of apparent U.S. consumption declined from 10.7 percent in 2007 to *** percent in 2008 and then increased *** to *** percent by quantity in 2009.¹⁰² The principal sources of nonsubject imports in 2009 were Canada, Taiwan, Mexico, and India.¹⁰³

As indicated above, U.S. importers' inventories of imports from China were also a considerable source of supply during the period of investigation.

3. Interchangeability

The record indicates that there is a high degree of interchangeability between CSG from domestic and other sources, and that price is an important consideration in purchasing decisions. While CSG is sold in various tolerances and dimensions, as noted above, most CSG is produced to ANSI standards.¹⁰⁴ Most producers, importers, and purchasers reported that nonsubject imports, subject imports, and the domestic like product are "always" or "frequently" used interchangeably.¹⁰⁵ Three of the four responding producers reported that differences other than price are "sometimes" or "never" significant in sales of

⁹⁶ The market share for the domestic industry including all U.S. producers was 81.2 percent in 2007, *** percent in 2008, and *** percent in 2009. CR/PR at Table C-1. The market share for U.S. producers excluding *** was *** percent in 2007, *** percent in 2008, and *** percent in 2009. CR/PR at Table C-2.

⁹⁷ Production capacity for the domestic industry including all U.S. producers increased from 277.2 million kg in 2007 to 332.2 million kg in 2008, and decreased to 315.4 million kg in 2009. CR/PR at Table C-1. Domestic production capacity for the domestic industry excluding *** increased from *** kg in 2007 to *** kg in 2008, and then decreased to *** kg in 2009. CR/PR at Table C-2.

⁹⁸ Capacity utilization rates for all U.S. producers decreased from 56.2 percent in 2007 to 46.8 percent in 2008, and then to 37.3 percent in 2009. CR/PR at Table C-1. Capacity utilization rates for U.S. producers excluding *** decreased from *** percent in 2007 to *** percent in 2008, and then to *** percent in 2009. CR/PR at Table C-2.

⁹⁹ CR/PR at Tables C-1 and C-2.

¹⁰⁰ CR/PR at Table C-1.

¹⁰¹ CR/PR at Tables C-1 and C-2.

¹⁰² CR/PR at Table C-1.

¹⁰³ CR at II-6, PR at II-4.

¹⁰⁴ CR at I-8, I-15, II-9, II-12, PR at I-11-I-12, II-5, and II-9.

¹⁰⁵ CR/PR at Table II-5.

nonsubject imports, subject imports, and the domestic like product.¹⁰⁶ Importers were more divided on this issue. Half of the importers reported that differences other than price are “frequently” or “sometimes” significant in the sales of subject imports and the domestic like product. Most importers reported that differences other than price were “frequently” or “sometimes” significant with respect to sales of the domestic like product or subject imports compared to nonsubject imports.¹⁰⁷

4. Other Conditions

Almost all U.S. producers and importers reported that CSG is sold on a spot basis and that they determine their prices on a transaction-by-transaction basis.¹⁰⁸

Raw material costs are a significant part of the final cost of CSG, constituting 60 to 70 percent of the total cost of CSG production.¹⁰⁹ Raw material costs fluctuated during the period of investigation and averaged \$0.86 per kg in 2009.¹¹⁰ The principal raw materials for producing CSG include coils of hot-rolled steel sheet and thin-gauge plate, or flat bars (merchant bars) and wire rods. Prices for hot-rolled sheet/plate, wire rod, and merchant bars rose slightly in 2007 and then increased sharply in the first half of 2008 but declined from the second half 2008 to the beginning of 2009, increasing thereafter.¹¹¹ In May of 2009 the prices of hot-rolled coil and wire rod were below prices in 2007, but by April 2010 hot-rolled coil, merchant bar, and wire rod prices were again above prices in 2007.¹¹²

D. Volume of the 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.”¹¹³

In absolute terms, the volume of subject imports increased from 14.4 million kg in 2007 to *** kg in 2008, an increase of *** percent, far outpacing the increase in nonresidential construction activity for the same period. From 2008 to 2009, the volume of subject imports declined by *** percent to *** kg.¹¹⁴ Subject imports’ market share by quantity increased from 8.2 percent in 2007 to *** percent in 2008 and then fell to *** percent in 2009.¹¹⁵ The decline in subject imports from 2008 to 2009 far exceeded the decline in demand as nonresidential construction spending decreased by 5.4 percent for the same period.¹¹⁶

In contrast, domestic producers’ U.S. shipments increased only slightly from 2007 to 2008, and then decreased sharply in 2009. Domestic producers’ market share decreased from 2007 to 2008, but

¹⁰⁶ CR/PR at Table II-6.

¹⁰⁷ CR/PR at Table II-6.

¹⁰⁸ CR at V-3, PR at V-2.

¹⁰⁹ CR/PR at Table VI-3.

¹¹⁰ CR/PR at Tables VI-1 and VI-3.

¹¹¹ CR/PR at Figure V-1; CR at VI-9-10.

¹¹² CR/PR at Figure V-1.

¹¹³ 19 U.S.C. § 1677(7)(C)(i).

¹¹⁴ CR/PR at Tables C-1 and C-2. The volume of subject imports may be understated. The staff report does not include imports from *** because *** indicated that its imports were structural steel, not CSG. CR at IV-3, PR at V-1. According to Petitioners, ***. See Petitioners’ Final Comments at 4 n.11.

¹¹⁵ CR/PR at Tables C-1 and C-2.

¹¹⁶ CR/PR at Tables C-1 and C-2; Petitioners’ Prehearing Brief at Ex. 4.

increased in 2009.¹¹⁷ Nonsubject import volume, on the other hand, decreased steadily from 2007 to 2009. Nonsubject market share decreased from 2007 to 2008, and increased by *** percentage points in 2009.^{118 119}

Although the volume of subject imports and market share decreased *** in 2009, the record shows that the presence of subject imports in the U.S. market was more significant than the data on import volume and market share in 2009 suggest. From 2007 to 2008, there was a large build-up of U.S. importers' inventories of subject imports. As noted above, purchasers also built up sizeable inventories of subject imports from 2007 to 2009.¹²⁰ These substantial inventories of CSG from China were worked off in 2009, severely limiting the domestic industry's ability to gain sales in the market place. This situation was exacerbated by the continuing, albeit lower, volume of subject imports as domestic producers had to compete with low-priced subject imports for fewer sales in the U.S. market in 2009 as well as with the sale of the bulk of the inventory overhang. The record shows that, as inventories of subject imports were used in 2009, domestic producers' U.S. shipments by quantity declined by *** percent, far outpacing the *** percent decline in nonresidential construction spending in that year.¹²¹

Accordingly, we conclude that subject import volume is significant, both in absolute terms and relative to consumption and production in the United States.

E. 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

¹¹⁷ CR/PR at Tables C-1 and C-2.

¹¹⁸ CR/PR at Tables C-1 and C-2.

¹¹⁹ The ratio of subject imports to U.S. production of all U.S. producers increased from 9.3 percent in 2007 to *** percent in 2008, and then decreased to *** percent in 2009. CR at IV-9, PR at IV-5. The ratio of subject imports to U.S. production of U.S. producers excluding *** increased from *** percent in 2007 to *** percent in 2008, and then decreased to *** percent in 2009. CR at IV-9, PR at IV-5.

¹²⁰ CR/PR at II-1 and Purchaser Questionnaire Responses.

¹²¹ 19 U.S.C. § 1677(7)(I), provides as follows:

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

Accordingly, we have considered whether the volume of subject imports was affected by the filing of the petition. The exact effect that the filing of the petition had on subject imports is masked in large measure by the substantial inventories of subject imports sold throughout the supply chain in the U.S. market in 2009. There is evidence in the record that the filing of the case has affected subject import volume. For example, in an article in a steel trade publication, a Chinese producer indicated that his company's exports to the United States had been reduced in 2009 in response to rumors about a possible investigation. See Petitioners' Prehearing Brief at Ex. 14. Additionally, according to a purchaser of subject imports, ***, CSG producers reduced their shipments to the U.S. market significantly as a result of these investigations. Accordingly, we find that subject import volume would have been higher to some degree in late 2009 but for the filing of the petition.

prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹²²

As noted above, the record indicates that there is a high degree of interchangeability between CSG, regardless of the country of origin, and that price is an important consideration in purchasing decisions.

The Commission collected quarterly pricing data for five pricing products. Usable pricing data were provided by three domestic producers, accounting for 15.1 percent of the total value of domestic producers' U.S. commercial shipments during 2009, and six importers, accounting for 20.1 percent of the total value of importers' U.S. shipments of subject imports in that year.¹²³ The record shows widespread underselling by the subject imports throughout the period of investigation. Subject imports undersold the domestic like product in 42 of 51 quarterly pricing comparisons by margins ranging from 4.8 percent to 48.7 percent.¹²⁴ Moreover, the nine instances of overselling by subject imports (almost all relating to ***) occurred mostly in 2007,¹²⁵ indicating that underselling intensified in 2008 as the volume and market share of subject imports grew.¹²⁶ Accordingly, we find subject import underselling of the domestic like product to be significant.

This underselling has had a direct effect on the domestic industry's level of production and sales, as the domestic industry, rather than lowering its prices, sacrificed volume to maintain pricing. Because the low-priced subject imports were in the most common gratings sizes, U.S. producers produced smaller volumes of more specialized products that are more difficult and expensive to produce.¹²⁷ As a result, both domestic production and U.S. shipments fell significantly from 2007 to 2009. Although nonresidential construction activity declined in 2009, both domestic production and U.S. shipments declined at a far greater rate.¹²⁸ Notably, ***, a U.S. producer that only produced the most common sizes of CSG, reported that it *** due to the loss of *** sales to lower-priced imports.¹²⁹ *** stated that ***.¹³⁰ Thus, the effects of underselling manifest themselves predominantly in the lost volumes of domestic sales rather than in direct effects on domestic prices.¹³¹

We note, however, that available data indicate that domestic producers' prices for five products for which data were collected fluctuated but ended the period lower than at the beginning. Subject import prices did not have a discernible pattern although they remained well below domestic producers' prices throughout the period of investigation. Domestic producers' prices rose through the third quarter of 2008, then steadily declined until the fourth quarter of 2009.¹³² Although the decline in domestic producers' prices in 2009 can be attributed in part to decreases in demand and raw material costs, we find that subject

¹²² 19 U.S.C. § 1677(7)(C)(ii).

¹²³ CR at V-5, PR at V-4.

¹²⁴ CR/PR at Table V-7.

¹²⁵ CR/PR at Table V-5.

¹²⁶ CR/PR at Tables V-I-5, C-1, and C-2.

¹²⁷ CR at VI-12, PR at VI-2.

¹²⁸ CR/PR at Tables C-1 and C-2.

¹²⁹ *** Questionnaire Response at 15.

¹³⁰ *** Questionnaire Response at 15.

¹³¹ Commissioner Pearson and Commissioner Aranoff do not join the remainder of this section.

¹³² CR/PR at Tables V-1-5.

imports contributed to this price depression.¹³³ From 2008 to 2009, the domestic industry's unit COGS declined, but its average unit sales value declined at a faster rate.¹³⁴ Additionally, there are anecdotal reports of downward pressure on domestic producers' prices due to the subject imports¹³⁵ as well as confirmed lost sales totaling \$*** and lost revenues totaling \$***.¹³⁶ Notably, three of the purchasers who disagreed with the lost sales or lost revenue allegations indicated that they had purchased the lower priced Chinese product instead of the domestic product, but at either lower amounts or at a different time period than was alleged.¹³⁷ At the same time, three of the six purchasers that responded to the lost sales and lost revenue allegations indicated that U.S. producers reduced their prices in order to compete with the Chinese product.¹³⁸

For the foregoing reasons, we find that there has been significant underselling by the subject imports, that this underselling led to lost sales throughout the period, and that subject imports depressed domestic prices in 2009. We consequently determine that subject imports had significant adverse price effects on the domestic industry.

F. Impact of the Subject Imports on the Domestic Industry¹³⁹

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."¹⁴⁰ 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."¹⁴¹

We have examined the performance indicators in trade and financial data for the domestic industry and find that subject imports had a significant adverse impact on the domestic industry. Although some indicators fluctuated, the domestic industry experienced overall declines in almost all statutory performance indicators as a result of the substantial presence of subject imports throughout the period of investigation.

¹³³ We note that domestic prices generally followed the price trends of their steel inputs, but lower prices at the end of the period were not simply the result of lower raw material costs. Indeed, the record shows that as domestic producers' COGS to net sales ratio increased from 2008 to 2009, average unit values fell. CR/PR at Table C-2.

¹³⁴ CR/PR at Tables C-1 and C-2.

¹³⁵ According to producer ***. *** Questionnaire Response at 36; *** similarly reported that ***. *** Questionnaire Response at 37. *** also stated that ***. *** Questionnaire Response at IV-13.

¹³⁶ Calculated from CR/PR at Tables V-8 and V-9.

¹³⁷ CR at V-17-21, PR at V-7-8.

¹³⁸ CR at V-20-21, PR at V-7-8.

¹³⁹ In its final determinations of sales at LTFV, Commerce found the following weighted-average dumping margins: 136.76 percent for named individual producers and exporters and 145.18 percent for all others. CR/PR at Table I-2. In its final determination, Commerce found twelve subsidy programs to be countervailable. Commerce found final net subsidy rates of 62.46 percent for Ningbo Jiulong Machinery Manufacturing Co., Ltd. and all others. CR/PR at Table I-1.

¹⁴⁰ 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.")

¹⁴¹ 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).

The domestic industry's market share declined from 2007 to 2008 but then recovered *** in 2009 as the market share of subject imports declined.¹⁴² The domestic industry's production remained relatively flat from 2007 to 2008, but then decreased by over 24 percent from 2008 to 2009.¹⁴³ Domestic producers' U.S. shipments increased very slightly from 2007 to 2008, but then declined by over 26 percent in 2009. Capacity utilization rates, which were already low in 2007, steadily declined from 2007 to 2009.¹⁴⁴ Employment, wages, and hours worked increased from 2007 to 2008 but then declined in 2009. Productivity, however, steadily declined from 2007 to 2009.¹⁴⁵ Additionally, as noted above, *** was forced to *** as a result of subject imports.¹⁴⁶

Due to the significant presence of aggressively priced subject imports, the domestic industry's financial indicators also deteriorated. The domestic industry's net sales in terms of quantity increased *** from 2007 to 2008, and then fell ***, while net sales in terms of value increased from 2007 to 2008, but decreased *** in 2009.¹⁴⁷ The domestic industry's capital expenditures declined from 2007 to 2008, but increased in 2009.¹⁴⁸ At the same time, the domestic industry's operating income increased *** from 2007 to 2008, but fell *** from 2008 to 2009.¹⁴⁹ The domestic industry's operating income margin increased slightly from 2007 to 2008, but in 2009 was barely break-even.¹⁵⁰

¹⁴² U.S. producers' share of apparent U.S. consumption for all U.S. producers was 81.2 percent in 2007, *** percent in 2008, and *** percent in 2009. CR/PR at Table C-1. U.S. producers' share of apparent U.S. consumption excluding *** was *** percent in 2007, *** percent in 2008, and *** percent in 2009. CR/PR at Table C-2.

¹⁴³ Production for all U.S. producers was 156 million kg in 2007 and 155 million kg in 2008, and then decreased to 118 million kg in 2009. CR/PR at Table C-1. Production for the domestic industry excluding *** was *** kg in 2007 and *** kg in 2008, and then decreased to *** kg in 2009. CR/PR at Table C-2.

¹⁴⁴ Capacity utilization rates for all U.S. producers declined from 56.2 percent in 2007 to 46.8 percent in 2008, and 37.3 percent in 2009. CR/PR at Table C-1. Capacity utilization rates for all U.S. producers excluding *** declined from *** percent in 2007 to *** percent in 2008, and *** percent in 2009. CR/PR at Table C-2.

¹⁴⁵ The number of workers for the domestic industry including all U.S. producers increased from 598 in 2007 to 626 in 2008, and then decreased to 518 in 2009. Wages paid increased from \$26 million in 2007 to \$28 million in 2008, and then decreased to \$21 million in 2009. Productivity (kg per hour) decreased from 122.0 in 2007 to 116.4 in 2008, and to 108.5 in 2009. CR/PR at Table C-1.

The number of workers for the domestic industry excluding *** increased from *** in 2007 to *** in 2008, and then decreased to *** in 2009. Wages paid increased from *** in 2007 to *** in 2008, and then decreased to *** in 2009. Productivity (kg per hour) decreased from *** in 2007 to *** in 2008, and to *** in 2009. CR/PR at Table C-2.

¹⁴⁶ Petitioners' Prehearing Brief at 8; *** Questionnaire Response at III-16.

¹⁴⁷ Net sales in terms of quantity for the domestic industry including all U.S. producers increased from *** kg in 2007 to *** kg in 2008, and then decreased to *** kg in 2009. Net sales in terms of value increased *** in 2007 to *** in 2008, and then decreased to *** in 2009. CR/PR at Table C-1.

Net sales in terms of quantity for the domestic industry excluding *** increased from *** kg in 2007 to *** kg in 2008, and then decreased to *** in 2009. Net sales in terms of value increased from *** in 2007 to *** in 2008, and then decreased to *** in 2009. CR/PR at Table C-1.

¹⁴⁸ Capital expenditures for the domestic industry including all U.S. producers decreased from \$7.6 million in 2007 to \$3.1 million in 2008, and then increased to \$6.3 million in 2009. CR/PR at Table C-1 as revised by memorandum INV-HH-067 of June 22, 2010.

Capital expenditures for the domestic industry excluding *** decreased from *** in 2007 to *** in 2008, and then increased to *** in 2009. CR/PR at Table C-2 as revised by memorandum INV-HH-067 of June 22, 2010.

¹⁴⁹ CR/PR at Tables C-1 and C-2.

¹⁵⁰ Operating income for the domestic industry including all U.S. producers increased from \$*** in 2007 to \$*** in 2008, and then decreased to \$*** in 2009. Operating income margins increased slightly from 12.2 percent in 2007 to 13.4 percent in 2008, and decreased to 2.9 percent in 2009. CR/PR at Table C-1.

(continued...)

Based on all the foregoing trends, we find that there is a causal nexus between the subject imports and the deteriorating condition of the domestic industry. This conclusion is based on the substantial presence of, and increase in, subject import volume and market share from 2007 to 2008, driven by pervasive subject import underselling. The adverse impact of subject imports continued into 2009. Even though the absolute volume of subject imports declined ***, subject imports continued to injure the domestic industry because importers and purchasers drew down their inventories of subject imports in 2009.

We have considered whether there are other factors that may have had an impact on the domestic industry. We recognize that while the decline in CSG demand in 2009 played a role in the domestic industry's condition for that year, the injurious effects of subject imports on the domestic industry continued to be felt and worsened in 2009 primarily due to the large overhang of inventories held by importers and purchasers. In contrast to the fairly moderate decline in nonresidential construction spending from 2008 to 2009, the declines in the domestic industry's trade and financial indicators were precipitous. At most, the decline in demand in 2009 served simply to aggravate the adverse effects caused by subject imports. In sum, we find that the decline in demand for CSG in 2009 does not sever the causal link between subject imports and the injury suffered by the domestic industry, and we do not attribute to subject imports the effects of any adverse demand conditions.

We have also considered the role of nonsubject imports in the market and find that material injury suffered by the domestic industry cannot be attributed to nonsubject imports. Nonsubject imports' share of the quantity of apparent U.S. consumption declined from 10.7 percent in 2007 to *** percent in 2008 and then increased *** to *** percent in 2009.¹⁵¹ Even though the market share of nonsubject imports rose *** in 2009 as compared with 2008, nonsubject imports were not price competitive as the prices of these imports mostly were higher than those of subject imports throughout the period of investigation.¹⁵² We have not attributed to subject imports any effects from nonsubject imports.

¹⁵⁰ (...continued)

Operating income for the domestic industry excluding *** increased from *** in 2007 to *** in 2008, and then decreased to *** in 2009. Operating income margins increased *** from *** percent in 2007 to *** percent in 2008, and decreased to *** percent in 2009. CR/PR at Table C-2.

¹⁵¹ CR at Table C-1.

¹⁵² Commissioner Pinkert finds that the two triggering factors under Bratsk and Mittal are satisfied. First, he finds that CSG is a commodity product. It is commonly produced to industry standards, and there is a high degree of substitutability among shipments from domestic and other sources. Most producers and importers, as well a majority of purchasers, report that nonsubject imports, subject imports, and the domestic like product are "always" or "frequently" used interchangeably. CR at I-8, PR at I-6; CR/PR at Table II-5. CR at II-12, PR at II-9. Second, he finds that price-competitive, nonsubject imports are a significant factor in the U.S. market. They collectively accounted for *** percent or more of the market throughout the period under examination, and they undersold the domestic like product in 63 of 80 price comparisons. CR/PR at Table IV-4; CR/PR at D-1, Appendix D.

Although the record evidence is limited regarding whether nonsubject imports would have replaced the subject imports had the latter exited the U.S. market during the period under examination, Commissioner Pinkert assumes *arguendo* that they would have done so and finds that the domestic industry would nevertheless have benefitted from the higher prices that would have resulted from the absence of subject imports. Collectively, nonsubject imports oversold subject imports in 40 out of 67 price comparisons. CR/PR at D-3. Moreover, the average unit values of nonsubject imports were higher than those of subject imports during the period under examination except for 2009 (reflecting anomalous AUVs in the first six months of 2009). CR/PR at Table IV-2.

CONCLUSION

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

PART I: INTRODUCTION

BACKGROUND

These investigations result from petitions filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by Alabama Metal Industries Corp., of Birmingham, AL (“AMICO”) and Fisher & Ludlow, Inc., of Wexford, PA (“Fisher”) on May 29, 2009, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and less-than-fair-value (“LTFV”) imports of certain steel grating (“CSG”)¹ from China. Information relating to the background of the investigations is provided below.²

Effective date	Action
May 29, 2009	Petition filed with Commerce and the Commission; institution of Commission investigations (74 FR 27049, June 5, 2009)
June 25, 2009	Commerce’s notices of initiation (74 FR 30273 (AD); 74 FR 30278 (CVD))
July 20, 2009	Commission’s preliminary determinations (74 FR 35204)
November 3, 2009	Commerce’s preliminary CVD determination (74 FR 56796); alignment of CVD with final AD determination
January 6, 2010	Commerce’s preliminary AD determination (75 FR 847)
February 25, 2010	Commission’s notice of scheduling of final phase investigations (75 FR 8746)
May 26, 2010	Commission’s hearing ¹
June 8, 2010	Commerce’s final CVD determination (75 FR 32362, June 8, 2010); Commerce’s final AD determination (75 FR 32366, June 8, 2010)
June 24, 2010	Commission’s vote
July 13, 2010	Commission’s determinations transmitted to Commerce
¹ App. B has a list of witnesses that appeared at the hearing.	

¹ See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject to these investigations.

² *Federal Register* notices since November 3, 2009, cited in the tabulation are presented in app. A.

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.

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

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

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

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

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

Organization of the Report

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

U.S. MARKET SUMMARY

CSG is comprised of certain downstream steel products which are manufactured from multiple, separate pieces of steel, including load-bearing pieces and cross pieces. These separate pieces are then joined together by welding, riveting, swaging, or pressing. CSG serves in a wide range of heavy load-bearing applications including flooring, railroad car stand platforms, vehicle bridges, freight car flooring, boat landing ramps, and catwalks. The product may also be used in applications that require less of a load-bearing application such as pedestrian walkways, mezzanines, overhead sign platforms, and fire escape platforms.³ The leading U.S. producers of CSG are AMICO and IKG Industries ("IKG"), while leading exporters of CSG from China to the United States include ***.⁴ The leading U.S. importers of CSG from China are ***.

Apparent U.S. consumption of CSG totaled approximately *** million kilograms (\$*** million) in 2009. Currently, six firms are known to produce CSG in the United States.⁵ U.S. producers' U.S. shipments of CSG totaled 108.4 million kilograms (\$162.3 million) in 2009, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from China totaled *** million kilograms (\$*** million) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from nonsubject sources totaled 11.2 million kilograms (\$20.0 million) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigations is presented in appendix C, table C-1. Table C-2 presents data concerning the U.S. market, excluding *** from the domestic producers' data, table C-3 presents data concerning U.S. producers that also fabricate/process CSG, and table C-4 presents data concerning U.S. producers' combined operations on their subject imports and domestic production of CSG. Except as noted, U.S. industry data are based on questionnaire responses of five firms that accounted for the vast majority of U.S. production of CSG during 2009. U.S. imports are based on official import statistics of Commerce.

³ Petitioners' postconference brief, exh. 1, p. 7.

⁴ As identified by proprietary data provided by U.S. Customs and Border Protection.

⁵ AMICO; Fisher; Bailey Bridges, Inc. ("Bailey"); IKG Industries ("IKG"); MLP Steel, LLC; Laurel Steel Division ("Laurel"); and Ohio Gratings. A seventh producer, Leavitt Tube Co., LLC ("Leavitt"), went out of business ***.

PREVIOUS AND RELATED INVESTIGATIONS

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

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Subsidies

On June 8, 2010, Commerce published a notice in the *Federal Register* of its final determination of countervailable subsidies for producers and exporters of CSG from China.⁶ Table I-1 presents Commerce's findings of subsidization of CSG in China.

Table I-1

CSG: Commerce's final subsidy determination with respect to imports from China

Entity	Final countervailable subsidy margin (<i>percent ad valorem</i>)
Ningbo Jiulong Machinery Manufacturing Co., Ltd.	62.46
All others	62.46

Source: 75 FR 32362, June 8, 2010.

Programs determined to be countervailable are as follows:

1. Government Provision of Hot-Rolled Steel for Less than Adequate Remuneration
2. Government Provision of Wire Rod for Less than Adequate Remuneration
3. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
4. Government Provision of Electricity for Less than Adequate Remuneration
5. Other Grant Programs
 - a) Export Grant 2006, 2007, 2008
 - b) Jiulong Lake Town Grant 2008
 - c) Energy Saving Grant 2008
 - d) Foreign Trade Grant 2008
 - e) Famous Brand Grant 2008
 - f) Innovative Small- and Medium-Sized Enterprise Grant 2008
 - g) Water Fund Refund/Exemption 2008
 - h) Product Quality Grant

⁶ *Certain Steel Grating from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32362, June 8, 2010.

Sales at LTFV

On June 8, 2010, Commerce published a notice in the *Federal Register* of its final determination of sales at LTFV with respect to imports from China.⁷ Table I-2 presents Commerce's dumping margins with respect to imports of CSG from China.

Table I-2

CSG: Commerce's final weighted-average LTFV margins with respect to imports from China

Exporter	Producer	Final dumping margin (percent ad valorem)
Sinosteel Yantai Steel Grating Co., Ltd.	Sinosteel Yantai Steel Grating Co., Ltd.	136.76
Ningbo Haitian International Co., Ltd.	Ningbo Lihong Steel Grating Co., Ltd.	136.76
Yantai Xinke Steel Structure Co., Ltd.	Yantai Xinke Steel Structure Co., Ltd.	136.76
All others		145.18
Source: 75 FR 32366, June 8, 2010.		

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the scope of these investigations as follows:

Certain steel grating, consisting of two or more pieces of steel, including loadbearing pieces and cross pieces, joined by any assembly process, regardless of: (1) size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as bar grating, although the components may consist of steel other than bars, such as hot-rolled sheet, plate, or wire rod.

The scope excludes expanded metal grating, which is comprised of a single piece of coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of multiple pieces of steel. The scope also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel.⁸

⁷ *Certain Steel Grating From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 32366, June 8, 2010.

⁸ *Certain Steel Grating from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 32366, June 8, 2010.

Tariff Treatment

Commerce indicated in its preliminary determinations that CSG is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.90.70. Table I-3 presents current tariff rates for CSG. As Table I-3 illustrates, imports of CSG from countries (including China) that enjoy normal trade relations status enter the United States free of duty.

Table I-3
CSG: Tariff rates, 2010

HTS provision	Article description	General ¹	Special ²	Column 2 ³
		Rates (<i>ad valorem</i>)		
7308	Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge sections, lock gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns) of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel:			
7308.90	Other:			
	Columns, pillars, posts, beams, girders and similar structural units:			
7308.90.30	Not in part of alloy steel.....	Free		20%
7308.90.60	Other.....	Free		30%
	Other:			
7308.90.70	Steel grating.....	Free		45%

¹ Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to China.
² Special rates not applicable when General rate is free.
³ 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 (2010).

THE PRODUCT

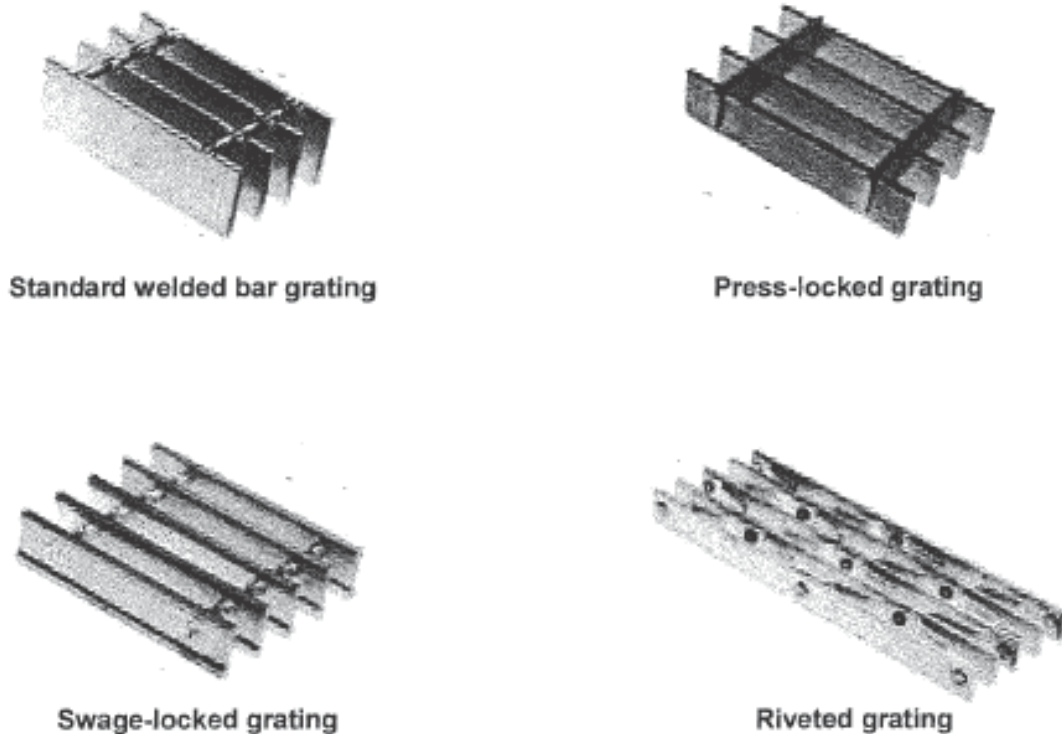
Description and Applications

CSG is a fabricated product distinguished by two sets of components— the “bearing bars” that extend across the length and the “crossbars” that transverse (typically perpendicular to) the bearing bars to form a “panel.” The dimensions and spacing of both the bearing bars and crossbars are designed for a wide variety of load-bearing and load-distribution applications. CSG is available in various forms (figure I-1) including “standard welded bar grating” with crossbars welded across the tops of the bearing bars, “press-locked grating” with notched bearing bars and sometimes notched crossbars mechanically pressed together, “swage-locked grating” characterized by crossbars passing through and swaged (crimped) on each side of bearing bars, and “riveted grating” distinguished by reticulated (pre-bent) bars riveted between adjacent bearing bars to enhance load-carrying capacity. Upper edges of the bearing bars can be serrated for greater traction. Common end uses include walkways, mezzanines, and catwalks; platforms for overhead signs, fire escapes, and railway rolling-stock stand platforms; and stairways and flooring. Decking and supports are heavier-duty applications for CSG, for example motor-vehicle bridges, railway rolling-stock flooring, drainage pit covers, boat landing ramps, truck beds, running boards, and mooring

docks.⁹ CSG is commonly produced to American National Standards Institute (“ANSI”)/National Association of Architectural Metal Manufacturers (“NAAMM”) standards MBG 531-09 or MBG 532-09.¹⁰

Figure I-1

Certain steel grating: Standard welded bar grating, press-locked grating, swage-locked grating, and riveted grating



Source: Reproduced with permission from Alabama Metal Industries Corp., *Grating and Expanded Metals*, January 2008.

⁹ See “Bar Grating Video” on AMICO’s website at <http://amico-grating.com/bar-grating-video.htm>, retrieved June 1, 2010. Standard-size CSG panels measure 3 feet wide by 24 feet long. ***.

¹⁰ NAAMM, AANSI/NAAMM MBG 531-09 Metal Bar Grating Manual,” Metal Bar Grating Division, Glen Ellyn, IL: NAAMM, December 10, 2009 and “ANSI/NAAMM MBG 532-09 Heavy-Duty Metal Bar Grating Manual,” Metal Bar Grating Division, Glen Ellyn, IL: NAAMM, October 27, 2009.

Manufacturing Processes

Reportedly, the manufacturing technology for producing steel grating products is well-established and dispersed worldwide.¹¹ Production of CSG typically involves the following processing phases: (1) slitting and cutting of steel wound in coils, (2) forming of the bearing and crossbars into a panel, and (3) finishing of the assembled panel. First, in the slitting and cutting phase, flat-rolled steel coils¹² are unrolled and then slit to width and cut to length for the bearing bars. Likewise, steel wire rod¹³ for the crossbars is uncoiled, straightened, cut to length, and then mechanically twisted.¹⁴ Producers can also purchase the bearing bars already pre-cut to size from either steel coil or steel flat bars, and the crossbars pre-cut and pre-twisted from steel rods, albeit reportedly at a significant cost premium over the uncut steel mill products bought in bulk.¹⁵ For the CSG to provide greater tread surface traction, the upper edges of the individual bearing bars can be serrated in preparation for the forming phase.

Next, in the forming phase, CSG is assembled by either welding or cold pressing the pre-cut bearing and crossbars into a panel. To form a panel by welding, a high-voltage electric welder heats the same spot across the top of each bearing bar, and a separate press machine forces the crossbars onto the heated bearing bars to complete the CSG panel. Reportedly, the majority of U.S. steel grating products is produced by semi-automated forge-welding machinery (the “Newcor method of production”) that is ***. Forge welding generally produces *** panels per hour,¹⁶ and requires manual placement of the pre-cut bearing bars into the spacing slots of a jig (“setter”) that holds them in place during welding and pressing.¹⁷ Some U.S. facilities also utilize the more highly automated welding machinery developed by Entwicklungs und Verwertungs GmbH (the “EVG method of production”). Starting with multiple coils of cut-to-width strip, the EVG method results in higher output, reportedly *** panels per hour.¹⁸

Alternatively, CSG panels can be formed by various processes that do not require welding. For press-locked grating products, the bearing bars and sometimes the crossbars are notched or slotted before being hydraulically pressed together. Swage-locked grating products are formed by the crossbars being driven through the bearing bars, and swaged along each side of the bearing bars to lock them in place. To assemble riveted grating products, reticulated bars are riveted between the bearing bars.¹⁹

The assembled panels are inspected and tested for weld integrity, tensile strength, bearing-bar alignment, and load tolerance. Finally, some CSG panels may be subject to various processes in the finishing phase, including dip-coat (rather than spray) painting or electrolytic galvanizing for corrosion

¹¹ For example, Ningbo Jiulong Machinery Manufacturing Co., Ltd., located in China, describes itself as “a leading manufacturer specialized in producing press-welded steel grating” that owns “six International advanced auto-pressed welding machines” (“Profile” <http://www.jlgrating.com/about.asp>).

¹² ANSI/NAAMM standards MBG 531-09 and MBG 532-09 specify that the steel for bearing bars shall conform to ASTM A-1011/A-1011M Commercial Steel (Type B) for hot-rolled carbon steel coil and strip and ASTM A 36/A 36M for structural steel bars. ANSI/NAAMM MBG 531-09, p. 23; and MBG 532-09, p. 14.

¹³ ANSI/NAAMM standards MBG 531-09 and MBG 532-09 specify that the steel for crossbars shall conform to ASTM A-510/A-510M for carbon steel wire rod and coarse round wire. Ibid.

¹⁴ Crossbars are twisted to enhance surface traction, facilitate assembly, and impart rigidity of the CSG. Conference transcript, pp. 76-77 (Rutter) and p. 77 (Smith).

¹⁵ Petition, p. 8. ***.

¹⁶ Staff verification report, ***, report May 27, 2010.

¹⁷ See “Bar Grating Video” on AMICO’s website at <http://amico-grating.com/bar-grating-video.htm>, retrieved June 1, 2010.

¹⁸ Staff verification report, ***, report May 27, 2010.

¹⁹ See “Bar Grating Video” on AMICO’s website at <http://amico-grating.com/bar-grating-video.htm>, retrieved June 1, 2010.

resistance.²⁰ Fabrication, which covers a wide range of cutting, welding, and banding activities from the simple cutting of a panel of steel grating to length to more complex operations such as cutting openings in the grating for pipes to pass through the CSG, may also be done. Many gratings will require some fabrication as the standard steel grating panel - 3' wide by 24' long - is not of the dimensions needed by all end users. There are a variety of firms that fabricate steel grating. AMICO, as well as some other manufacturers of grating, both makes and fabricates gratings. Steel service centers may also do some fabrication, grating distributors fabricate, and steel processors may also do some grating fabrication. End users may also do some fabrication of the purchased steel grating. Fabrication is generally done on ungalvanized grating as the welding process on galvanized grating produces toxic fumes.²¹ Reportedly, the majority of domestically produced CSG is sold ungalvanized for this reason.²²

DOMESTIC LIKE PRODUCT ISSUES

No domestic like product issues have been raised in these investigations, although certain other types of grating can substitute for CSG. The petitioner proposes a single domestic like product – CSG – coextensive with Commerce’s scope.²³ No respondent interested parties commented on this issue. In the preliminary phase of the investigations, the Commission defined the domestic like product as CSG coextensive with the scopes of these investigations.²⁴ The Commission’s decision regarding the appropriate domestic product(s) that are “like” the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price. Information regarding these factors is discussed below, except for channels of distribution, which is discussed in Part II of this report.

Physical Characteristics and Uses

Several other types of fabricated products are also manufactured by producers of CSG, including expanded metal of steel or aluminum, safety plank grating of steel or aluminum, and fiberglass grating. However, the petitioners note that these items are not considered suitable for the heavy load-bearing applications that CSG can support.²⁵ CSG is stronger at its mid-section point and can support loads up to several hundred pounds more per square foot than either expanded metal or safety plank grating (figure I-2). Further, CSG is suitable for motor vehicle traffic but both expanded metal and safety plank grating are not.²⁶ Also, unlike CSG that is assembled from separate pieces of steel,²⁷ expanded metal²⁸ is recognizable as a single sheet of steel or aluminum that has been slit and pulled along one direction to

²⁰ Ibid.

²¹ ***.

²² Conference transcript, p. 63 (Smith).

²³ Hearing transcript, p. 17 (Brightbill).

²⁴ *Certain Steel Grating from China, Investigation Nos. 701-TA-465 and 731-TA-1161 (Preliminary)*, USITC Publication 4087, July 2009, p. 7.

²⁵ Petition, p. 14; and conference transcript, p. 29 (Scott).

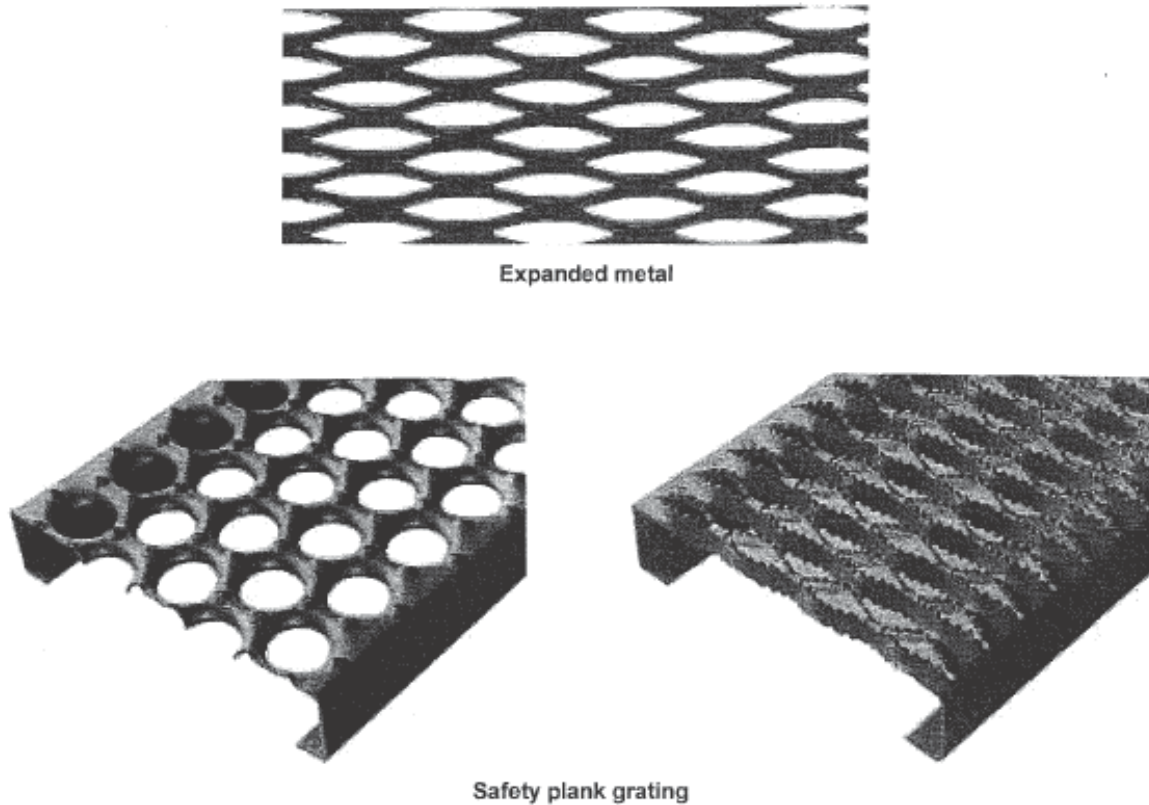
²⁶ Conference transcript, p. 31 (Scott).

²⁷ Conference transcript, p. 28 (Scott).

²⁸ Expanded metal of steel is classified under HTS subheading 7314.50.00. There is not a similar breakout for expanded metal of aluminum in HTS chapter 76.

create an open lattice network. Hence, expanded metal is commonly utilized in enclosure, protective (safety-guard), decorative, and filtration applications.²⁹ Likewise, safety plank grating³⁰ is characterized as a long strip of steel or aluminum with a top surface shaped by punching of holes with serrated edges and smooth edges folded over by cold forming. The major application of safety plank grating is to provide a non-slip surface for light pedestrian traffic on work platforms, vehicle steps and running boards, roof-top walkways, and stair treads.³¹

Figure I-2
Other metal grating: Expanded metal and safety plank grating



Source: Reproduced with permission from Alabama Metal Industries Corp., *Grating and Expanded Metals*, January 2008.

Fiberglass grating is available either as one-piece or as assembled panels. For grating panels, fiberglass combines durability, corrosion resistance, fire retardancy, non-electrical conductivity, non-magnetism, stability, and light weight. Slip-resistant flooring systems are the major end-use applications

²⁹ Conference transcript, pp. 29-30 (Scott).

³⁰ There is not a specific breakout in the HTS for safety plank grating, either of steel or aluminum.

³¹ Conference transcript, pp. 29-31 (Scott).

for fiberglass gratings, including work platforms, ramps, stair treads, trench covers, and catwalks in a wide range of industries.³²

Petitioners consider certain aluminum (e.g., press-locked swage-locked, and riveted) grating as capable of being utilized in similar applications as CSG; however, because aluminum does not rust or corrode easily, its use is typically limited to more caustic environments, such as wastewater treatment facilities.³³ Given the higher cost of aluminum compared to steel, aluminum grating is sold at higher prices than steel grating.³⁴ Aluminum bar grating is included, along with grating of carbon steel and stainless steel, in ANSI/NAAMM standard MBG 531-09.³⁵ However, aluminum grating is not covered by ANSI/NAAMM standard MBG 532-09, which only includes CSG of carbon or stainless steels.³⁶

Manufacturing Facilities and Production Employees

Expanded metal and safety plank grating may be produced in the same facilities as CSG. However, these products are manufactured on separate production equipment and typically by separate groups of employees.³⁷ Although steel and aluminum grating may be produced in the same facilities, the production equipment and production employees are separate for each type of metal grating. Nor can aluminum be welded, so forge welding and EVG equipment are not suitable for manufacturing aluminum grating.³⁸

Fiberglass grating is produced either as an one-piece molded panel or as pultruded-components assembled into a panel. Molded fiberglass grating is manufactured by interweaving fiberglass strands with thermosetting resins with the grating dimensions and surfaces shaped by molds.³⁹ The first step in manufacturing pultruded fiberglass grating is continuous molding of the bearing bars and cross rods, both consisting of a fiberglass core, clad with glass matting, and finally clad with a synthetic surface material that are pulled (pultruded) through a resin bath and a heated steel die that imparts and sets the final cross-sectional shapes. Next, the pultruded fiberglass panel is assembled by mechanically pressing the cross rods across the tops of the aligned bearing bars.⁴⁰

Interchangeability and Customer and Producer Perceptions

According to the petitioners' witness, CSG is viewed by customers as a different product than either expanded metal or safety plank grating due to distinct manufacturing processes and different applications. Further, the separate divisions and technical standards at NAAMM for CSG versus expanded metal and safety plank grating⁴¹ reflect that producers and users consider these separate

³² AMICO, "Fiberglass," available at <http://amico-grating.com/fiberglass.htm>; and "Fiberglass Grating," available at <http://amico-seasafe.com/fiberglass-grating.htm>.

³³ Petition, pp. 14-15.

³⁴ Petition, p. 14.

³⁵ NAAMM, "ANSI/NAAMM MBG 531-09 Metal Bar Grating Manual."

³⁶ NAAMM, "ANSI/NAAMM MBG 532-09 Heavy-Duty Metal Bar Grating Manual."

³⁷ Petition, p. 15.

³⁸ Petition, p. 15.

³⁹ AMICO, "GatorGrate Open-molded Grating," available at <http://amico-seasafe.com/grate1.htm>.

⁴⁰ AMICO, "GatorDeck Pultruded Grating," available at <http://amico-seasafe.com/deck1.htm>.

⁴¹ Safety plank grating is not among the products covered by NAAMM and no standard has been published by NAAMM for this product. ***, telephone interview with Commission staff, June 26, 2009.

products.⁴² For example, a separate standard by the Expanded Metal Manufacturers Association (EMMA) Division of NAAMM (EMMA 557-99) covers expanded metal of carbon steel, stainless steel, and aluminum.⁴³

A representative of one of the petitioners noted that ANSI/NAAMM standards are voluntary and there is no certification process. Hence, both domestic and foreign producers, including those in China, can claim that their CSG meets ANSI/NAAMM standards. As such, customers must rely on the producer's reputation that its product adheres to the specific dimensional and integrity standards.⁴⁴ ***.⁴⁵ Petitioner representatives indicated that there are no country-of-origin marking requirements for CSG, so the domestic and imported products can appear similar enough to be almost indistinguishable due to lack of markings.⁴⁶

Price

Pricing data for five types of CSG are presented in Part V of this report. U.S. producers' reported average prices for those types of CSG ranged between \$*** and \$*** per square foot during January 2007-December 2009. In contrast, expanded-metal grating generally sells for \$*** to \$*** per square foot.⁴⁷

⁴² Conference transcript, pp. 31-32 (Scott).

⁴³ NAAMM, "NAAMM Standard EMMA 557-99 Standards for Expanded Metal," Expanded Metal Manufacturers Association Division, Glen Ellyn, IL: NAAMM, 1999.

⁴⁴ Conference transcript, pp. 62-63 (Scott). There need not be third-party confirmation that material meets ANSI/NAAMM standards. A manufacturer can run its own tests, measurements, etc., to determine if the steel meets the standards. For example, in Commerce's Certain Steel Grating from the People's Republic of China antidumping investigation, Commerce requested Ningbo Jiulong Machinery Manufacturing Co., Ltd., a steel grating manufacturer in China, to supply mill test certificates for its steel inputs. A mill test certificate, issued by a steel mill, notes the results of certain tests, measurements, etc., made on a certain batch of steel at the steel mill. It is not mandatory to have third-party confirmation of mill certificates. Commerce determined that at least some of the submitted mill test certificates were inaccurate. "When comparing the suppliers' mill test certificates from our verification exhibits to mill test certificates we obtained from CBP {Customs and Border Protection}, we found material mismatches. In its response to the Department's supplemental questionnaire, Ningbo Jiulong explained that Ningbo Jiulong creates its own mill test certificates, but admitted that these mill test certificates are unreliable." See *Issues and Decision Memorandum for the Final Determination*, May 28, 2010, (A-570-947 Investigation Public Document IA/NME/4: TEM) found on Commerce's website at <http://ia.ita.doc.gov/frn/summary/prc/prc-fr.htm>.

⁴⁵ ***.

⁴⁶ Conference transcript, pp. 41-42 (Rutter and Smith).

⁴⁷ Petitioners' postconference brief, exh. 1, p. 10.

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

U.S. MARKET CHARACTERISTICS

CSG has numerous end uses, including pedestrian walkways such as mezzanines, catwalks, overhead sign platforms, fire escape platforms, railway rolling-stock stand platforms, stairways, and flooring; and heavy-duty applications such as vehicle bridges, railway rolling-stock flooring, drainage pit covers, boat landing ramps, truck beds, and mooring docks.

CHANNELS OF DISTRIBUTION

Table II-1 presents information on channels of distribution for U.S. producers as well as for U.S. importers of subject product from China and from nonsubject countries. U.S. product was sold more frequently to distributors¹ than to end users in 2007 through 2009. Chinese product was sold mainly to distributors in 2007 and 2008 but was sold mainly to end users in 2009. Imports from nonsubject countries were mainly sold to end users in 2007 through 2009.

Table II-1

CSG: U.S. producers' and importers' U.S. shipments, by channels of distribution, 2007-09

Item	Period		
	2007	2008	2009
Share of reported shipments (percent)			
Domestic producers' U.S. shipments of CSG to:			
Distributors	72.8	71.9	71.4
End users	27.2	28.1	28.6
U.S. importers' U.S. shipments of CSG from China to:			
Distributors	50.1	62.1	30.4
End users	49.9	37.9	69.6
U.S. importers' U.S. shipments of CSG from all other countries to:			
Distributors	10.9	5.0	2.1
End users	89.1	95.0	97.9
Note.—Data for domestic producers consist of only U.S. commercial shipments.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Purchasers

Purchaser questionnaires were sent to 65 firms, and 19 purchasers returned completed questionnaires including 6 who were also importers (table II-2).² Purchasers include ***, and fabricator, ***, and fabricator, and ***, a distributor. Of the remaining 16 responding purchasers, 6 were distributors, 3 were fabricators, 5 were both distributors and fabricators, 1 was a “***,” and 1 was an end user. Eleven purchasers reported their end-of-year inventories. Reported inventories increased from

¹ Distributors may include converters who do not sell CSG in the form in which they purchase it.

² ***.

6.1 million kilograms in 2007 to 7.1 million in 2008, but then declined to 2.7 million in 2009. Most of the change was the result of changes in inventories of imports from China.

Table II-2
CSG: Purchasers, type of firm, value of purchases, and sources

* * * * *

SUPPLY AND DEMAND CONSIDERATIONS

Supply

U.S. Supply

Based on available information, U.S. CSG producers have the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced CSG to the U.S. market. The main contributing factor to the high degree of responsiveness of supply is the availability of unused capacity.

Industry capacity

Overall U.S. capacity increased from 277.2 million kilograms in 2007 to 332.2 million kilograms in 2008 and then declined to 315.4 million kilograms in 2009. Capacity utilization was low and decreased from 56.2 percent in 2007 to 37.3 percent in 2009.

Three of the four responding U.S. producers reported changes in the product range, product mix, or marketing of CSG since January 1, 2007. All three reported that increased imports from China caused changes. One (***) reported loss of market share, sales, production, and employment; one (***) reported that Chinese sales were concentrated in standard sizes that were sold in large amounts to large fabricators and distributors at the expense of domestic CSG;³ and one (***) reported more competition in the market. In contrast, none of the eight responding importers reported changes in product range, product mix, or marketing of CSG since January 1, 2007.

Alternative markets

Between January 2007 and December 2009, U.S. producers' exports of CSG increased from *** percent of their shipments in 2007 to *** percent in 2009. At these levels, U.S. producers may have some ability to reduce exports as a means to increase supply in the United States.

Inventory levels

U.S. producers' inventories as a ratio to their total shipments increased irregularly from *** percent in 2007 to *** percent in 2009. This level of inventories may allow some increase in shipments from inventories.

³ Petitioners reported that "China's imports focused on the highest volume commodity grating product which are the core of Petitioners' businesses." Conference transcript, p. 6 (Price).

Production alternatives

Three out of the five responding U.S. producers reported that they did not produce any other products on the equipment used to produce CSG. The other two reported that they also produce aluminum grating on the same equipment as CSG.

Subject Imports from China

No Chinese producers responded to the questionnaire in the final phase of the investigations. Most of the information presented herein consists of responses from the preliminary phase of the investigations, in which three Chinese producers, accounting for an estimated 6 percent of production of CSG in China and 32 percent of exports of CSG to the United States in 2008, provided responses to the Commission's questionnaire.

Based on available information, Chinese producers have the ability to respond to changes in demand with large changes in the quantity of shipments of CSG to the U.S. market. The main contributing factors to the high degree of responsiveness of supply are large increases in unused capacity and the existence of large sales to alternative markets.

Industry capacity

Reported Chinese capacity to produce CSG increased from *** kilograms in 2007 to *** kilograms in 2008 and from *** kilograms in the first quarter of 2008 to *** kilograms in the first quarter of 2009. Petitioners estimated that total Chinese capacity was over 2.0 million short tons or 1.8 billion kilograms.⁴

Alternative markets

The responding Chinese producers' exports to the United States increased from *** percent of their total reported shipments in 2007 to *** percent in 2008, but decreased *** from *** percent in the first quarter of 2008 to *** percent in the first quarter of 2009. These producers' shipments of CSG to the Chinese home market (including internal consumption) fell from *** percent of their total shipments in 2007 to *** percent in 2008, but rose from *** percent in the first quarter of 2008 to *** percent in the first quarter of 2009. These firms' shipments to non-U.S., non-Chinese markets increased from *** percent of their total shipments in 2007 to *** percent in 2008, and also increased from *** percent in the first quarter of 2008 to *** percent in the first quarter of 2009.

Inventory levels

Inventories of the responding Chinese producers, as a ratio to their total shipments of CSG, declined from *** percent in 2007 to *** percent in 2008, but increased from *** percent in the first quarter of 2008 to *** percent in the first quarter of 2009.

Production alternatives

*** of the Chinese producers reported producing other products using the same equipment as CSG.

⁴ Hearing transcript, pp. 30-31 (Brightbill), and petitioners' posthearing brief, p. 12.

Nonsubject Imports

The United States has imported CSG from Canada, Taiwan, Mexico, and India, listed in descending order based on 2009 volume. The two known Canadian producers are each related to a U.S. producer. Imports from Canada decreased from 14.2 million kilograms in 2007 to 12.3 million kilograms in 2008 and 8.6 million kilograms in 2009. Imports from all other nonsubject-country sources also declined, from 4.7 million kilograms in 2007 to 2.8 million kilograms in 2008, to 2.6 million kilograms in 2009.

Demand

Based on available information, the overall demand for CSG is likely to change relatively little in response to changes in price. The main contributing factors are the limited range of substitute products and the small cost share of CSG in most of its ultimate end uses. However, some factors increase the responsiveness of demand, including the existence of at least some substitutes.

Available data indicate that total apparent U.S. consumption of CSG increased from 176.8 million kilograms in 2007 to *** million kilograms in 2008 and then decreased to *** million kilograms in 2009.

The petitioners contend that apparent consumption does not reflect actual consumption because much of the imports in 2008 ended up in inventories. Petitioners argue that a better indicator of demand is the level of nonresidential construction in the manufacturing, power, transportation, and commercial sectors.⁵ According to petitioners, demand in these sectors held up until mid-2009 and then declined significantly.⁶ AMICO reported that its sales of nonsubject products have held up better in the downturn than sales of CSG because its sales of CSG have been affected by the “dumped and subsidized” CSG.⁷ Petitioners report that U.S. inventories of Chinese CSG continue to reduce sales and prices in 2010.⁸

Demand Characteristics

Three of the 4 responding U.S. producers and 4 of the 10 responding importers reported that U.S. demand had declined since January 2007. One U.S. producer and two importers reported that demand had fluctuated, three importers reported that demand had increased, and one reported that demand was unchanged. Firms that reported decreased demand cited the economic downturn; firms that reported increased demand cited either new customers or increased demand in the oil and gas sector.

Purchasers that were end users were asked to report how demand for their end uses had changed since 2007. Only three responded; two reported that demand had decreased and one that demand had fluctuated.

Business Cycles

Petitioners reported that demand for CSG follows the overall business cycle, but that, unlike for products used in residential construction, it does not follow an annual cycle.⁹ Petitioners reported that CSG is mainly used in projects lasting from two to four years and that, once started, projects are finished

⁵ Hearing transcript, p. 18 (Brightbill).

⁶ Hearing transcript, p. 19 (Brightbill).

⁷ Hearing transcript, pp. 36-37 (Smith).

⁸ Hearing transcript, pp. 59-62, 79-81 (Kaplan, Rutter, Smith, Scott).

⁹ Conference transcript, p. 88 (Scott).

even if the economy has changed.¹⁰ Changes in demand for CSG thus lag behind the general economy.¹¹ Spikes in demand occur when hurricanes hit areas where there are off-shore drilling platforms (e.g., the Gulf of Mexico) because safety procedures require that steel grating stored on the platforms for repairs be thrown into the Gulf when a hurricane approaches.¹² Eight of the 18 responding purchasers reported that CSG is subject to distinctive business cycles or conditions of competition including: low-priced imports have affected demand; the influx of Chinese product has caused U.S. manufacturers to “pick and choose” whom they supply; demand is related to booms in construction and construction seasonality; and 7-to-10 year cycles of demand.

Substitute Products

One of the three responding U.S. producers, two of the three responding importers, and 10 of 16 responding purchasers reported substitutes for CSG. Substitutes listed include wood flooring, metal plates, aluminum grating, plank decking, resin/fiberglass grating, expanded metal grating, and checker plate.¹³ All responding firms reported that the price of substitutes did not affect the price of CSG.

Cost Share

Two U.S. producers, three importers, and one purchaser estimated CSG’s share of the cost of one or more downstream products. Cost shares ranged from less than 1 percent to 40 percent, with five of the six firms reporting shares of 10 percent or less.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported CSG depends on such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, leadtimes between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is a relatively high degree of substitutability between U.S. and Chinese products, particularly for commodity types and grades and for galvanized product.

Factors Affecting Purchasing Decisions

Table II-3 summarizes purchasers’ responses concerning the top three factors in their purchase decisions. Price was the most frequently reported first and second factor, although availability was very close to price. Quality was the most frequently reported third factor.

Purchasers were asked to rate the importance of 15 factors in their purchasing decisions (table II-4). Factors reported by most purchasers to be very important were price (17 of 18 responding purchasers); product consistency (16 purchasers); availability and reliability of supply (15 purchasers); and delivery time and quality meets ANSI, NAAMM or ASTM standards (14 purchasers).

¹⁰ Hearing transcript, p. 25 (Kaplan).

¹¹ Hearing transcript, p. 37 (Smith).

¹² ***. Conference transcript, p. 87 (Scott).

¹³ Checker plate is a solid plate of steel with raised nubs to prevent slips; plank decking is also called safety plank grating, which is made from a single thin plate of steel that is cut and expanded or pierced and punched. Conference transcript, pp. 29, 58 (Scott, Rutter).

Table II-3**CSG: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers**

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Price	7	7	3
Availability	6	6	3
Quality	4	3	6
Traditional supplier/contract	1	1	1
Reliability	1	0	2
Delivery Time	0	1	1
Other ¹	0	1	3

¹ Other factors consisted of lead time for the second factor and credit, meeting industrial standards, and product range for the third factor.

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

Table II-4**CSG: Importance of purchasing factors, as reported by U.S. purchasers**

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	15	3	0
Delivery terms	8	10	0
Delivery time	14	4	0
Discounts offered	9	6	3
Extension of credit	8	7	3
Minimum quantity requirements	4	7	7
Packaging	1	13	4
Price	17	1	0
Product range	8	9	1
Product consistency	16	2	0
Quality meets ANSI, NAAMM, or ASTM standards	14	2	2
Quality exceeds industry standards	5	11	2
Reliability of supply	15	3	0
Technical support/service	5	8	5
U.S. transportation costs	4	11	3

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

Eight of 19 responding purchasers reported that they required that CSG meet ANSI, NAAMM, or ASTM standards for all of their CSG purchases, and 1 reported requiring the meeting of standards for some of its purchases. Four firms required certification or prequalification beyond ANSI, NAAMM, or ASTM including: new vendor forms; quality audits; and requests that suppliers “substantially meet” NAAMM/ANSI standards. Seven firms reported qualification times that ranged from 1 to 90 days, with five of these reporting that qualification took 10 days or fewer. Firms were also asked what qualifications were necessary for new suppliers. Eighteen purchasers reported requirements for new suppliers, including quality, price, availability, reliability of the supplier, and delivery; the time required for new supplier qualification ranged from 2 to 120 days, with an average of 23 days.

Purchasers were asked how frequently they were aware of the country of origin of the CSG they purchased, how often they knew the manufacturer, and how often their buyers were interested in the country of origin of the goods they supply; responses are shown below.

Purchaser/customer decision	Always	Usually	Sometimes	Never
Purchaser knows if product is U.S.-produced or imported	6	9	1	2
Purchaser knows producer	8	7	2	1
Purchaser’s customers know or are interested in country of origin	1	6	10	0

Purchasers were also asked if they or their customers ever specifically order CSG from one country in particular over other possible sources of supply. Eight of 18 responding purchasers responded affirmatively. Seven purchasers reported that either they or some of their customers prefer/require U.S.-produced product, and one reported that Italian product is preferred for certain types of architectural uses.

Asked if certain grades, forms, or types of CSG were only available from a single source, 15 purchasers reported “no” and 1 reported “yes,” that *** produced close mesh materials not produced by others.

When asked how often they purchase the lowest-priced CSG, 1 of the purchasers responded “always,” 11 responded “usually,” 5 responded “sometimes,” 2 responded “rarely,” and 1 responded “never.” Purchasers were also asked if they purchased CSG from one source when a comparable but lower-priced product was available from another source. The reasons provided by 17 purchasers for not purchasing lowest-priced product included: lead time, availability, inventory control, reliability, relationship, reputation, ease of buying, problem resolution, quality, domestic-only requirements, and minimum-order requirements.

Lead Times

Lead times from inventories reported by U.S. producers ranged from 0 to 10 days, with three of the four producers reporting 2 or 3 days. Three importers reported lead times from inventories ranging from “up to 1 week” to 10 days. U.S. producers’ lead times from production ranged from 1 week to 6 months, with *** reporting lead times of 1 to 2 weeks, *** reporting lead times of ***, and *** reporting *** months. Importers’ lead time from production in China was reported by six importers as ranging from 3 weeks to 4 months, with three of these importers reporting lead times from 2 to 3 months.

Comparison of the U.S.-Produced and Imported CSG

Petitioners reported that most product is sold as meeting ANSI/NAAMM standards but that suppliers may state that their product meets these standards even if it does not; it is difficult for purchasers to test the product to determine if it actually meets these standards.¹⁴ In addition, petitioners reported that Chinese product was sometimes underweight, with the bars not as thick as reported in the specifications.¹⁵

In order to determine whether U.S.-produced CSG can generally be used in the same applications as imports, U.S. producers, U.S. importers, and U.S. purchasers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably (table II-5). All four responding U.S. producers, most responding purchasers, and most responding importers reported that U.S. product can always or frequently be used interchangeably with product from China and product from nonsubject countries. Most producers, all importers, and most purchasers reported that Chinese CSG can always or frequently be used interchangeably with CSG from nonsubject countries. Explanations firms gave for limited interchangeability were that imported product was sometimes made using the metric measuring system (not the imperial system used in the United States), resulting in different standard sizes, and that certain projects require domestic content.

Table II-5
CSG: Perceived interchangeability between product produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	3	1	0	0	3	5	1	0	5	7	3	0
U.S. vs. nonsubject countries	3	1	0	0	2	2	0	0	1	6	0	0
China vs. nonsubject countries	2	1	1	0	2	2	0	0	2	4	5	0

Note.--A = Always, F = Frequently, S = Sometimes, N = Never.
 Source: Compiled from data submitted in response to Commission questionnaires.

Producers, importers, and purchasers were requested to provide information regarding the significance of differences other than price for domestic, subject, and nonsubject CSG (table II-6). Two of the four responding U.S. producers reported that there are never differences other than price for all country pairs. Half or more of the responding importers reported that there are sometimes or frequently differences other than price for each pair, while most purchasers reported that there are either sometimes or never differences. Reported differences included the domestic producers’ refusal to sell at market prices; domestic producers cut off some potential purchasers; differences between product produced to the imperial vs. the metric system; tariffs; labor costs; and imports may not conform to NAAMM or ASTM standards.

¹⁴ Conference transcript, p. 62 (Scott).

¹⁵ Conference transcript, p. 59 (Scott).

Table II-6

CSG: Perceived importance of differences in factors other than price between product produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	1	0	1	2	2	3	1	2	3	2	4	4
U.S. vs. nonsubject countries	1	0	1	2	0	1	2	1	1	2	3	2
China vs. nonsubject countries	0	0	2	2	0	1	2	1	0	1	3	1
Note.--A = Always, F = Frequently, S = Sometimes, N = Never.												
Source: Compiled from data submitted in response to Commission questionnaires.												

Purchasers were asked to compare domestically-produced CSG and CSG produced in China and nonsubject countries with respect to 15 different attributes (table II-7). Of the 15 firms that compared U.S. and Chinese product, a plurality reported that the products were comparable for five factors. For availability, delivery time, extension of credit, minimum quantity requirements, reliability of supply, and technical support/service, most responding purchasers reported that the U.S. product was superior; for product range and delivery terms, equal numbers reported that the U.S. product was superior and that the Chinese and U.S. products were comparable; for price, the majority reported that the U.S. product was inferior (i.e., higher in price); and for discounts offered, five purchasers reported that U.S. product was superior, four that U.S. and Chinese product were comparable, and three reported that U.S. product was inferior.

Six firms compared U.S. and nonsubject products on the 15 factors. For eight factors, the majority reported that U.S. and nonsubject-country CSG are comparable. For availability, delivery time, and reliability of supply, three each reported that U.S. CSG is superior and that U.S. and nonsubject products are comparable. For extension of credit and minimum quantity requirements, three reported that U.S. and nonsubject products are comparable; two reported that the U.S. product is superior; and one reported that the U.S. product is inferior. For lowest price, three reported that U.S. and nonsubject products are comparable; two that reported the U.S. product is inferior (i.e., higher in price); and one reported that the U.S. product is superior (i.e., lower in price). For discounts offered, two purchasers each reported that the U.S. product is superior; comparable; and inferior to nonsubject CSG.

Three firms compared Chinese CSG to nonsubject CSG on the 15 factors. The majority reported that they are comparable for all factors except for lowest price, for which the majority reported that Chinese product is superior (i.e., lower in price).

Table II-7

CSG: Comparisons between U.S.-produced, subject Chinese, and nonsubject-country products, as reported by U.S. purchasers

Factor	Number of firms reporting								
	U.S. vs. China			U.S. vs. nonsubject			China vs. nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	10	4	1	3	3	0	0	3	0
Delivery terms	7	7	1	2	4	0	0	3	0
Delivery time	10	3	2	3	3	0	0	3	0
Discounts offered	5	4	3	2	2	2	0	3	0
Extension of credit	8	4	2	2	3	1	0	3	0
Minimum quantity requirements	8	6	1	2	3	1	0	2	1
Packaging	4	10	1	1	4	1	1	2	0
Lowest price ¹	2	3	10	1	3	2	2	1	0
Product range	7	7	0	2	4	0	0	3	0
Product consistency	4	11	0	0	6	0	0	3	0
Quality meets ANSI, NAAMM, or ASTM standards	3	10	1	1	5	0	0	3	0
Quality exceeds industry standards	4	9	1	2	4	0	0	3	0
Reliability of supply	10	4	1	3	3	0	0	3	0
Technical support/service	8	6	1	2	4	0	0	2	1
U.S. transportation costs	6	7	0	1	4	0	0	3	0
<p>¹ A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the other country's price.</p> <p>Note.—S = Superior, C = Comparable, I = Inferior.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>									

As seen in table II-8, 13 of the 18 responding purchasers reported that domestically-produced CSG "always" meets minimum quality specifications. Five of the 11 responding purchasers reported that the Chinese CSG always meets minimum quality specifications.

Table II-8**CSG: Ability to meet minimum quality specifications, by source**

Country	Number of firms reporting ¹			
	Always	Usually	Sometimes	Never
United States	13	4	1	0
China	5	5	1	0
Canada	2	2	0	0
All others	1	2	1	0

¹ Purchasers were asked how often domestically-produced or imported CSG meets minimum quality specifications for their own or their customers' uses.

Source: Compiled from responses to Commission questionnaires.

ELASTICITY ESTIMATES

This section discusses elasticity estimates; parties are encouraged to comment on these estimates and should do so as an attachment to their prehearing or posthearing briefs.

U.S. Supply Elasticity¹⁶

The domestic supply elasticity for CSG measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of CSG. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced CSG. Analysis of these factors earlier indicates that the U.S. industry is likely to be able to greatly increase or decrease shipments to the U.S. market; an estimate in the range of 3 to 6 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for CSG measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of CSG. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the CSG in the production of any downstream products. Based on the available information, the aggregate demand for CSG is likely to be inelastic; a range of -0.5 to -1.0 is suggested.

Substitution Elasticity¹⁷

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products. Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (e.g., availability, sales

¹⁶ A supply function is not defined in the case of a non-competitive market.

¹⁷ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced CSG and imported CSG is likely to be in the range of 2 to 4.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged subsidies and margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of five firms that accounted for the vast majority of U.S. production of CSG during 2009.

U.S. PRODUCERS

The Commission sent producer questionnaires to the seven firms identified in the petitions as U.S. producers of CSG: AMICO, Fisher, Bailey, IKG, Laurel, Ohio Gratings, and Leavitt. Of these, five provided useable data and the remaining two provided no response.¹ Of the domestic producers that provided useable data, petitioners AMICO and Fisher combined for *** percent of U.S. production in 2009. A third domestic producer, IKG, accounted for approximately *** percent of U.S. production in 2009. Presented in table III-1 is a list of domestic producers of CSG, each company's position on the petition,² production location(s), related and/or affiliated firms, and shares of reported production of CSG in 2009.

As indicated in table III-1, three U.S. producers are related to nonsubject foreign producers of CSG and none are related to U.S. importers of the subject merchandise.³ In addition, as discussed in greater detail below, three U.S. producers *** directly import CSG and one (***) purchases CSG from a domestic producer.

The Commission also sent questionnaires to 26 firms that were thought to further process CSG produced by another firm; one *** firm, ***, responded in the affirmative, but provided only limited data. Of the five responding CSG producers, one, ***, responded that it "further processes certain steel grating produced by another firm" (question I-8 of the producer's questionnaire). Presented below are its answers to questions regarding further processing:

- 1. The source and extent of your firm's capital investment. *****
- 2. The technical expertise involved in your U.S. processing activities. ***.**
- 3. The value added (in percent) added by your firm to the product in the United States. ***.**
- 4. The number of your employees involved in processing the product in 2009. ***.**
- 5. The quantity and type of any parts or materials you sourced in the United States. ***.**
- 6. Any other costs or activities in the United States directly leading to further processing of certain steel grating. ***.**

¹ The Commission did not receive responses from Bailey or Laurel, both of which produce relatively small amounts of CSG. Bailey produced *** kilograms of CSG in 2008 and Laurel produced *** kilograms; together, they accounted for less than *** percent of domestic production in that year. Both entities concentrate on heavier duty grating (primarily for bridge applications). Both Bailey and Laurel have indicated publicly that they support the filing of the petitions on behalf of the domestic industry. Petitioners' June 9, 2009 response to Commerce's June 4, 2009 supplemental questionnaire, exhs. 5 and 6.

² In addition to those producers who have indicated support for the petition, on June 15, 2009 the United Steel, Paper, Forestry, Rubber, Manufacturing, Energy, Allied Industrial & Service Workers International Union AFL-CIO ("USW") filed a letter in support of the petitions. Also, a USW representative testified at the Commission's June 19, 2009 conference.

³ AMICO and Fisher are related to producers in Canada. IKG is related to a producer in Mexico.

Table III-1

CSG: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and shares of 2009 reported U.S. production

Firm	Position on petition	U.S. production location(s)	Related and/or affiliated firms	Share of 2009 production (percent)
AMICO	Petitioner	Birmingham, AL Dayton, TX Orem, UT Bourbonnais, IL	Gibraltar Industries ¹ AMICO Canada ²	***
Fisher	Petitioner	Wexford, PA Saegertown, PA Litchfield, IL	Nucor ¹ Fisher & Ludlow, Ltd. ²	***
IKG	***	Channelview, TX Leeds, AL Sand Springs, OK Garrett, IN	Harsco Industries ¹ Electroforjados Nacionales ³	***
Leavitt ⁴	***	Jackson, MS	MKK USA Inc. Sumitomo Corp.	***
Ohio Gratings	***	Canton, OH Linden, UT	Meiser Bartley Gratings ⁵ Interstate Gratings ⁵	***

¹ Parent company.
² Sister company and producer in Canada.
³ Subsidiary and producer in Mexico.
⁴ Leavitt no longer produces CSG. It is jointly owned by MKK USA Inc. (60 percent) and Sumitomo Corp. of America (40 percent).
⁵ Subsidiary.

Note.—Because of rounding, shares may not total to 100.0 percent.

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

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. producers' capacity, production, and capacity utilization data for CSG are presented in table III-2. U.S. producers' capacity greatly exceeded apparent U.S. consumption of CSG in each period for which data were collected. Between 2007 and 2009, total reported U.S. capacity increased by 13.8 percent. U.S. production of CSG decreased from 155.7 million kilograms in 2007 to 117.7 million kilograms in 2009. Capacity utilization decreased by 18.8 percentage points between 2007 and 2009.

The domestic producers were asked to report any changes in the character of their operations or organization relating to the production of CSG since January 1, 2007. ***. Two U.S. producers (***) reported the production of products other than CSG on the same equipment and machinery and using the same production and related workers employed in the production of CSG.⁴

⁴ *** reported using *** percent of its equipment and workers to produce CSG; *** reported using *** percent of its equipment and *** percent of its workers to produce CSG. Alternative products produced using the same production resources consisted of ***.

Table III-2

CSG: U.S. producers' production capacity, production, and capacity utilization, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
Capacity (kilograms)	277,153	332,185	315,447	161,167	154,280
Production (kilograms)	155,678	155,506	117,738	59,002	58,736
Capacity utilization (percent)	56.2	46.8	37.3	36.6	38.1
Note.--Most firms reported capacity (production capabilities) based on operating 40-168 hours per week and 50-52 weeks per year.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' SHIPMENTS

As detailed in table III-3, the volume of U.S. producers' U.S. shipments of CSG decreased by 24.4 percent between 2007 and 2009. The value of U.S. producers' U.S. shipments of CSG followed the same trend, decreasing by 26.0 percent between 2007 and 2009. Three producers (***) reported internal consumption during the period and one producer reported transfers of CSG to related firms.⁵ Three firms reported export shipments.⁶

Captive Consumption

Section 771(7)(C)(iv) of the Act states that--

If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that--

(I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,

(II) the domestic like product is the predominant material input in the production of that downstream article, and

(III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article, then the Commission, in determining market share and the factors affecting financial performance . . . , shall focus primarily on the merchant market for the domestic like product.⁷

⁵ *** reported transfers at market value to ***, which subsequently took over marketing rights. The transferred grating had minimal processed inputs from sources other than *** before it was sold to a third party. *** domestic producer questionnaire response, question II-10.

⁶ *** reported exporting to Canada. *** reported exporting to Canada and Germany.

⁷ 19 U.S.C. § 1677(7)(C)(iv).

Table III-3

CSG: U.S. producers' shipments, by types, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
Quantity (1,000 kgs)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	143,493	146,790	108,443	55,539	52,904
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Value (1,000 dollars)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	219,397	262,939	162,263	85,832	76,430
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Unit value (per kg)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
Average, U.S.	\$1.53	\$1.79	\$1.50	\$1.55	\$1.44
Export shipments	***	***	***	***	***
Average, all	***	***	***	***	***
Share of quantity (percent)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	94.4	93.3	93.1	92.5	93.7
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Captive (internal) consumption accounted for *** percent of the volume of U.S. producers' U.S. shipments of CSG in 2007, *** percent in 2008, and *** percent in 2009. *** accounted for the majority of internal consumption in those years. Captive consumption of CSG by U.S. producers of CSG essentially consists of those firms transferring CSG internally for fabrication; the resulting fabricated product is then sold commercially.

The first requirement for application of the captive consumption provision is that the domestic like product that is internally transferred for processing into a downstream article not enter the merchant market for the domestic like product. As mentioned above, the internally transferred product is fabricated and then sold commercially.

The second criterion of the captive consumption provision concerns whether the domestic like product is the predominant material input in the production of the downstream article that is captively produced. Although the value added by fabrication varies depending on the type of CSG, in general CSG is the predominant material input into the fabricated product that is sold commercially.

The third criterion of the captive consumption provision is that the production of the domestic like product sold in the merchant market is generally not used in the production of the downstream article produced from the domestic like product that is internally transferred for processing. In fact, the domestic like product sold in the merchant market is used in the production of the downstream article (the fabricated CSG) produced from the domestic like product that is internally transferred for processing. At the Commission's hearing, the petitioners stated that they do not believe that this third criterion is met in these investigations.⁸

U.S. PRODUCERS' INVENTORIES

Table III-4, which presents end-of-period inventories for CSG, shows that inventories declined between 2007 and 2009.

Table III-4
CSG: U.S. producers' end-of-period inventories, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
Inventories (1,000 kgs)	17,539	15,653	16,923	14,643	16,923
Ratio to production (percent)	11.3	10.1	14.4	12.4	14.4
Ratio to U.S. shipments (percent)	12.2	10.7	15.6	13.2	16.0
Ratio to total shipments (percent)	***	***	***	***	***

Note.—Partial-year ratios are based on annualized production and shipments.

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

⁸ Hearing transcript, p. 97 (DeFrancesco).

U.S. PRODUCERS' IMPORTS AND PURCHASES

U.S. producers' imports and purchases of CSG are presented in table III-5.⁹ ***.

Table III-5

CSG: U.S. producers' imports, 2007-09, January-June 2009, and July-December 2009

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for CSG are presented in table III-6. Employment of production and related workers ("PRWs") decreased by 13.4 percent between 2007 and 2009. According to testimony given at the conference, petitioners AMICO and Fisher began laying off workers in late 2008. AMICO ***.¹⁰ The closing of Leavitt's facility in Jackson, MS *** also contributed to the decrease in PRWs in the domestic CSG industry.

Between 2007 and 2009, hours worked by PRWs decreased by 15.0 percent. Total wages paid to PRWs followed the same pattern, decreasing between 2007 and 2009 by 16.7 percent. Productivity levels decreased between 2007 and 2009 by 11.1 percent. Unit labor costs increased by 10.2 percent between 2007 and 2009.

Table III-6

CSG: U.S. producers' employment-related data, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
Production and related workers (PRWs)	598	626	518	533	503
Hours worked by PRWs (1,000 hours)	1,276	1,336	1,085	538	547
Hours worked per PRW	2,134	2,134	2,095	1,009	1,087
Wages paid to PRWs (1,000 dollars)	25,591	27,534	21,314	10,367	10,947
Hourly wages	\$20.06	\$20.61	\$19.64	\$19.27	\$20.01
Productivity (kilograms produced per hour)	122.0	116.4	108.5	109.6	107.4
Unit labor costs (per kilogram)	\$0.16	\$0.18	\$0.18	\$0.18	\$0.19

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

⁹ *** reported purchasing CSG from *** because the grating ***. Purchases as a ratio to its production were *** percent during the period for which data were collected.

¹⁰ Producers' questionnaire, question II-2.

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

U.S. IMPORTERS

Importer questionnaires were sent to 35 firms believed to be importers of subject CSG, as well as to all U.S. producers of CSG.¹ Usable questionnaire responses were received from 16 companies, representing 49.3 percent of total imports from China in 2009 under HTS subheading 7308.90.70.² Data for U.S. imports from China and nonsubject countries are compiled using official Commerce statistics. According to official Commerce statistics, China was the largest source of U.S. imports in 2008 and Canada was the largest nonsubject source.³

Table IV-1 lists all responding U.S. importers of CSG from China and other sources, their locations, and their shares of U.S. imports (official Commerce total) in 2009.

Table IV-1
CSG: U.S. importers, U.S. headquarters, related and/or affiliated firms, and share of reported imports from China in 2009

* * * * *

U.S. IMPORTS

Table IV-2 and figure IV-1 present and depict U.S. imports of CSG during 2007-09 and during January-June 2009 and July-December 2009. U.S. import data are based on official Commerce statistics for CSG, with an additional adjustment to delete imports by ***, which indicated that its imports classified as steel gratings were in reality structural steel, a nonsubject product.⁴ U.S. imports of CSG from China increased from 14.4 million kilograms in 2007 to *** million kilograms in 2008,⁵ dropping to *** million kilograms in 2009. The value of imports of CSG from China followed a similar trend during 2007-09. In contrast, imports of CSG from nonsubject sources decreased in quantity and value between 2007 and 2009.

¹ The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection (“Customs”), may have imported greater than one percent of total imports under HTS subheading 7308.90.70 in any one year since 2006.

² In addition, four firms responded in the preliminary phase of the investigations but did not in the final phase.

³ Petitioners AMICO and Fisher both have sister companies that produce CSG in Canada. Fisher was established in 1954 and began producing CSG in the United States in 2006, after it acquired Tru-Weld Grating. Prior to this, Fisher operated several distribution centers in the United States that it supplied from its Canadian operations. Conference transcript, p. 39 (Rutter).

⁴ HTS subheading 7308.90.70.

⁵ The rise in imports from China began in 2006, peaking in 2008.

Table IV-2

CSG: U.S. imports, by sources, 2007-09, January-June 2009, and July-December 2009

Source	Calendar year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
Quantity (1,000 kgs)					
China	14,450	***	***	***	***
All other sources	18,826	15,072	11,211	6,201	5,010
Total	33,276	***	***	***	***
Value (1,000 dollars)¹					
China	16,026	***	***	***	***
All other sources	32,795	31,739	19,983	10,494	9,489
Total	48,820	***	***	***	***
Unit value (per kg)¹					
China	\$1.11	***	***	***	***
All other sources	1.74	\$2.11	\$1.78	\$1.69	\$1.89
Average	1.47	***	***	***	***
Share of quantity (percent)					
China	43.4	***	***	***	***
All other sources	56.6	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Share of value (percent)					
China	32.8	***	***	***	***
All other sources	67.2	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
¹ Landed, U.S. port of entry, duty-paid. Note.—*** reported that its imports classified as steel grating actually consisted of structural steel, a nonsubject product. Source: Compiled from official Commerce statistics.					

Figure IV-1

CSG: Quantity of subject and nonsubject U.S. imports, 2007-09, January-June 2009, and July-December 2009

* * * * *

According to testimony given at the conference, petitioners observed that the influx of imports in the second half of 2008 far exceeded demand.⁶ Petitioners contend that the resulting sales went into inventory throughout the U.S. distribution system, including at importers, distributors, customers, and elsewhere.⁷ Since CSG is designed for longevity and can be stored unsold for long periods of time, in the preliminary phase of the investigations petitioners estimated that it might take eight to ten months to clear out the CSG that was in inventories.⁸

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.⁹ Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation.¹⁰ Subject imports from China accounted for the great majority of U.S. imports of CSG from all countries from April 2008 through March 2009.¹¹

U.S. Imports by Geographical Markets

Houston, TX, was the largest district of entry for imports of CSG from China, accounting for most subject imports from January 2007 to December 2009, over four times the quantity of imports landed at any other port. The Houston port provides a convenient point of entry for CSG imports given its proximity to oil and energy plants located near the Gulf Coast, which are the main source of business for CSG. According to testimony given at the conference, CSG producers do a great deal of business when hurricanes or severe weather threaten or damage oil rigs and other industrial complexes in the Gulf of Mexico.¹²

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of CSG during the period of investigation are shown in table IV-3 and figure IV-3. Between 2007 and 2009, total apparent U.S. consumption decreased *** percent by quantity and *** percent by value. During the same period, subject imports of CSG declined *** percent by quantity and *** percent by value. In contrast, nonsubject imports decreased throughout the period for which data were gathered. Between 2007 and 2009, U.S. producers' U.S. shipments of CSG decreased by 24.4 percent in quantity and 26.0 percent by value.

⁶ Conference transcript, pp. 13-14 (Smith).

⁷ Petitioners' postconference brief, p. 9.

⁸ Conference transcript, p. 75 (Scott).

⁹ Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

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

¹¹ Official Commerce statistics.

¹² Conference transcript, p. 16 (Smith).

Table IV-3**CSG: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2007-09, January-June 2009, and July-December 2009**

Item	Calendar year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
Quantity (1,000 kgs)					
U.S. producers' U.S. shipments	143,493	146,790	108,443	55,539	52,904
U.S. imports from--					
China	14,450	***	***	***	***
Nonsubject countries	18,826	15,072	11,211	6,201	5,010
Total U.S. imports	33,276	***	***	***	***
Apparent U.S. consumption	176,769	***	***	***	***
Value (1,000 dollars)					
U.S. producers' U.S. shipments	219,397	262,939	162,262	85,832	76,430
U.S. imports from--					
China	16,026	***	***	***	***
Nonsubject countries	32,795	31,739	19,983	10,494	9,489
Total U.S. imports	48,820	***	***	***	***
Apparent U.S. consumption	268,217	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.					

Figure IV-3**CSG: Apparent U.S. consumption, by sources, 2007-09, January-June 2009, and July-December 2009**

* * * * *

U.S. MARKET SHARES

U.S. market share data are presented in table IV-4. U.S. producers' shipments dropped from 81.2 percent of the quantity of apparent U.S. consumption in 2007 to *** percent in 2008, and then rose to *** percent in 2009. Between 2007 and 2009, U.S. imports from China increased their share of the quantity of apparent U.S. consumption of CSG from 8.2 percent in 2007 to *** percent in 2008, before falling to *** percent in 2009.

Table IV-4

CSG: U.S. consumption and market shares, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
Quantity (1,000 kgs)					
Apparent U.S. consumption	176,769	***	***	***	***
Value (1,000 dollars)					
Apparent U.S. consumption	268,217	***	***	***	***
Share of quantity (percent)					
U.S. producers' U.S. shipments	81.2	***	***	***	***
U.S. imports from-- China	8.2	***	***	***	***
Nonsubject countries	10.7	***	***	***	***
All countries	18.8	***	***	***	***
Share of value (percent)					
U.S. producers' U.S. shipments	81.8	***	***	***	***
U.S. imports from-- China	6.0	***	***	***	***
Nonsubject countries	12.2	***	***	***	***
All countries	18.2	***	***	***	***
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.					

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of CSG is presented in table IV-5. The ratio of subject imports to U.S. production increased from 9.3 percent in 2007 to *** percent in 2008 before dropping to *** percent in 2009. The ratio of nonsubject imports to U.S. production decreased from 12.1 percent in 2007 to 9.5 percent of U.S. production in 2009.

Table IV-5

CSG: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
Quantity (1,000 kgs)					
U.S. production	155,678	***	***	***	***
Imports from:					
China	14,450	***	***	***	***
Nonsubject countries	18,826	15,072	11,211	6,201	5,010
Total imports	33,276	***	***	***	***
Ratio of U.S. imports to production (percent)					
Imports from:					
China	9.3	***	***	***	***
Nonsubject countries	12.1	9.7	9.5	10.5	8.5
Total imports	21.4	***	***	***	***
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.					

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Petitioners report that steel constitutes 60 to 70 percent of U.S. producers' total cost of producing CSG.¹ The principal raw materials used for producing CSG are coils of hot-rolled steel sheet and thin-gauge plate, or flat bars, which are cut into bearing bars, and wire rods, which are cut for the crossbars used in welded and swage lock grating. The costs of hot-rolled coil, wire rod, and merchant bars rose slightly during in 2007, then rose abruptly in 2008 before falling in the second half of 2008 and the beginning of 2009 after which prices rose steadily. In May of 2009 the prices of hot-rolled coil and wire rod were below prices in 2007, but by April 2010 hot-rolled coil, merchant bar, and wire rod prices were again above prices in 2007.

Figure V-1

U.S. steel prices: Monthly prices of hot rolled coil, wire rod, and merchant bar, * monthly average prices, January 2007 through April 2010**

* * * * *

U.S. Inland Transportation Costs

Among U.S. producers, U.S. inland transportation costs ranged from 4.5 to 6 percent. All four U.S. producers reported that they arrange transportation for their customers. U.S. producers reported that collectively they sell between 5 and 15 percent of their CSG within 100 miles of their production facilities, half or more of their sales between 100 and 1,000 miles of their production facilities, and 10 to 40 percent more than 1,000 miles from their production facilities.

Five importers reported U.S. inland transportation costs that ranged between 1 and 5 percent. Six of 11 responding importers reported that they arranged transportation for their customers, while five importers reported that their customers arranged transportation. Five of the eight responding importers reported selling all of their product between 0 and 100 miles from their U.S. points of shipment, two reported selling half or more of their product between 101 and 1,000 miles from their U.S. points of shipment, and one reported selling all its product over 1,000 miles from its U.S. point of shipment.

All four responding U.S. producers reported selling nationwide. One of the 10 responding importers reported selling nationwide. Three importers reported selling in only one region, with the remaining six reporting sales in 2 to 3 regions. Destination regions most commonly reported by importers included the Southeast, the Southwest, and the West Coast.

PRICING PRACTICES

CSG is sold in many forms with variations that include the methods of attaching the bearing bars to the cross bars; the size of the bearing and cross bars; the spacing between bearing bars and cross bars; use of carbon and stainless steel; plain or serrated surfaces; the use of coatings; and end finishing.² Bearing bars may be attached to the cross bars by welds, press locks, swage locks, or rivets. Welded steel grating is the least expensive type and the most common. Grating is typically more expensive per square

¹ Conference transcript, p. 15 (Smith).

² This includes "addition of end bands, small weldments, or basic cutouts." Petition p. 9.

foot if it is heavier (with more steel used), if it is galvanized³ (although the petitioners report that Chinese product is typically galvanized in order to protect it while it is shipped and that the Chinese galvanized product is not more expensive than ungalvanized product),⁴ and if it is stainless steel rather than carbon steel.

Pricing Methods

Three of 4 responding producers and 11 of the 14 responding importers reported using transaction-by-transaction negotiations to determine price, with 2 of these importers and 1 producer also reporting the use of price lists. One producer reported using a proprietary algorithm and negotiations to determine price. One importer reported contract sales and two importers reported internal consumption of their imports of CSG.

All four responding U.S. producers and eight of nine responding importers reported selling most of their product using spot sales. All four U.S. producers reported selling from 5 to 44 percent of their product using short-term contracts, but only two importers reported selling from 30 to 100 percent, respectively, using short-term contracts. Only one importer reported details on its long-term contracts, but this firm did not report its shares sold on spot and contract bases. Petitioners report that in a small share of the market they obtain projects spanning long time periods. In these projects, prices include price escalators based on CRU or American Metal Market prices but the escalators have become “harder to enforce.”⁵

Contract details were reported by four producers and three importers. Short-term contracts ranged from less than 1 month to 6 months for U.S. producers and were 3 months for both importers that reported short-term contracts. Two of the four responding producers and one of the two responding importers reported that contract terms were renegotiated during the period of a short-term contract. Three producers and two importers reported that contracts fixed both price and quantity, and one producer reported that short-term contracts fix price. One importer reported that short-term contracts included meet-or-release provisions. One importer gave details on its long-term contracts, reporting that they were 4 years in length, not renegotiated, fixed price, and contained meet-or-release clauses.

Sales Terms and Discounts

All 4 responding U.S. producers and 9 of the 10 responding importers stated that their typical sales terms were net 30 days. Three of the four responding U.S. producers and four of the eight responding importers reported quoting prices on a delivered basis, and one producer and four importers reported that prices were on an f.o.b. basis.

Two of the 4 responding U.S. producers and 8 of the 11 responding importers reported that they did not have a discount policy. Two U.S. producers and two importers reported offering quantity or annual volume discounts, and one importer reported discounts for special accounts.

³ Petitioners report they typically sell galvanized grating at \$1.30 a square foot more than ungalvanized product. Conference transcript, p. 15 (Smith).

⁴ Conference transcript, p. 64 (Smith).

⁵ Hearing transcript, pp. 106-108 (Smith, Scott, Rutter).

PRICE DATA

The Commission requested U.S. producers and importers of CSG to provide quarterly data for the total quantity (in both square feet and kilograms)⁶ and value of CSG that was shipped to unrelated customers in the U.S. market. Data were requested for the period January-March 2007 through October-December 2009. The products for which pricing data were requested are as follows:

Product 1.--1.25 inches deep by 3/16 inch thick 19-4 (bearing bars spaced at 19/16" on center (or metric equivalent), cross bars spaced at 4" on center (or metric equivalent)), 3 foot by 20 foot welded bar grating panel, carbon steel, unserrated, unpainted, ungalvanized, excluding alloy, microalloy, and stainless.

Product 2.--1.00 inch deep by 3/16 inch thick 19-4 (bearing bars spaced at 19/16" on center (or metric equivalent), cross bars spaced at 4" on center (or metric equivalent)), 3 foot by 20 foot welded bar grating panel, carbon steel, serrated, galvanized, excluding alloy, microalloy, and stainless.

Product 3.--1.25 inches deep by 3/16 inch thick 19-4 (bearing bars spaced at 19/16" on center (or metric equivalent), cross bars spaced at 4" on center (or metric equivalent)), 3 foot by 20 foot welded bar grating panel, carbon steel, serrated, galvanized, excluding alloy, microalloy, and stainless.

Product 4.--1.50 inches deep by 3/16 inch thick 19-4 (bearing bars spaced at 19/16" on center (or metric equivalent), cross bars spaced at 4" on center (or metric equivalent)), 3 foot by 20 foot welded bar grating panel, carbon steel, serrated, galvanized, excluding alloy, microalloy, and stainless.

Product 5.--1.25 inches deep by 3/16 inch thick, 19-4 (bearing bars spaced at 19/16" on center (or metric equivalent), cross bars spaced at 4" on center (or metric equivalent)), 3 foot x 24 foot welded bar grating panel, carbon steel, unserrated, unpainted, ungalvanized, excluding alloy, microalloy, and stainless.

Three U.S. producers and six importers provided usable pricing data for sales of the requested products from the United States and China,⁷ although not all firms reported pricing for all products for all quarters. Pricing data reported by these firms accounted for approximately 15.1 percent of the total value of U.S. producers' U.S. commercial shipments of CSG and 20.1 percent of the total value of U.S. shipments of subject imports from China between 2007 and 2009.

⁶ The weight per square foot was calculated for firms that provided both feet and weight. This ratio was typically very similar for each product reported by each firm. However, the weight per square foot varied by firms. The differences between the weights per square foot were relatively small among the U.S. producers but larger among importers. The weight of imported CSG per square foot was not consistently above or below that of U.S. CSG.

⁷ Price data are reported in terms of feet rather than kilos because more firms provided such data. Usable price data were provided by U.S. producers *** and from importers of Chinese product ***. In addition, nonsubject-country pricing data were provided by ***. Pricing data for imports from China by *** were not included because they did not include data in terms of feet.

Price Trends

U.S. products 1 through 5 followed similar trends, varying within a relatively narrow range between 2007 and the first quarter of 2008; in the second quarter of 2008, prices rose sharply and peaked in the third quarter of 2008. In 2009, prices fell sharply before leveling off somewhat or rising slightly in the last two quarters (tables V-1 to V-5 and figures V-2 to V-6). Thus, the major changes in U.S. prices during the period appeared to follow steel input prices (figure V-1). In contrast, prices for the Chinese product followed no discernible pattern. Appendix D provides pricing data for CSG imported from nonsubject countries.⁸

Table V-1

CSG: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2007- December 2009

* * * * * * *

Figure V-2

CSG: Weighted-average prices and quantities of domestic and imported product 1, by quarters, January 2007-January 2009

* * * * * * *

Table V-2

CSG: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2007- December 2009

* * * * * * *

Figure V-3

CSG: Weighted-average prices and quantities of domestic and imported product 2, by quarters, January 2007-January 2009

* * * * * * *

Table V-3

CSG: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2007- December 2009

* * * * * * *

Figure V-4

CSG: Weighted-average prices and quantities of domestic and imported product 3, by quarters, January 2007-December 2009

* * * * * * *

⁸ Data are not presented for countries with less than three pricing points.

Table V-4

CSG: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January 2007- December 2009

* * * * *

Figure V-5

CSG: Weighted-average prices and quantities of domestic and imported product 4, by quarters, January 2007-December 2009

* * * * *

Table V-5

CSG: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, January 2007- December 2009

* * * * *

Figure V-6

CSG: Weighted-average prices and quantities of domestic and imported product 5, by quarters, January 2006-December 2009

* * * * *

Price Comparisons

Selected price comparisons for domestically produced and imported Chinese products are presented in table V-6. Margins of underselling and overselling are presented in table V-7. As can be seen from table V-7, prices for CSG imported from China were below those for U.S.-produced CSG in 42 of 51 instances; margins of underselling ranged from 4.8 to 48.7 percent. In the remaining nine instances, prices for CSG from China were between 0.7 and 51.1 percent above prices for the domestic product.

Table V-6

CSG: Summary of weighted-average f.o.b. prices, by product and by country

Country	Number of quarters	Highest price	Lowest price	Change in price ¹
		<i>Per square foot</i>	<i>Per square foot</i>	<i>Percent</i>
Product 1				
United States	12	\$***	\$***	***
China	8	***		***
Product 2				
United States	12	***	***	***
China	12	***	***	***
Product 3				
United States	12	***	***	***
China	11	***	***	***
Product 4				
United States	12	***	***	***
China	8	***	***	***
Product 5				
United States	12	***	***	***
China	12	***	***	***

¹ Percentage change from the first quarter for which price data were reported to the last quarter for which price data were reported, based on unrounded data.

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

Table V-7

CSG: Instances of underselling/overselling and the range and average of margins, January 2007-December 2009

Country	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
China	42	4.8-48.7	20.6	9	0.7-51.1	8.7

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

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of CSG to report any instances of lost sales or revenues they experienced due to competition from imports of CSG from China during 2006 through December 2009. Of the five responding U.S. producers, three reported that they had to either reduce prices or roll back announced price increases or that they had lost sales. The 18 lost sales allegations totaled \$28,509,800 and involved 22,836 short tons of CSG (table V-8) and the four lost revenues allegations totaled \$2,866,667 and involved 28,317 short tons of CSG (table V-9). Staff received responses from seven purchasers summarized below.

***.

Table V-8

CSG: U.S. producers' lost sales allegations

* * * * *

Table V-9

CSG: U.S. producers' lost revenue allegations

* * * * *

***.

***.

***.

***.

***.

***.

In addition, purchasers who were sent lost sales/lost revenue questionnaires in the preliminary phase of the investigations were also asked whether since January 2006 their firm had switched from U.S.-produced to Chinese grating; three of the seven responding firms reported "yes." Of those reporting that they had changed from U.S. product to Chinese product, two reported that price was the reason for this change. One of them reported that "the term switching is not accurate. We purchased some grating from China." The firm shifting to Chinese product for reasons other than price reported that "****." Another, answering "no," reported it had only purchased *** of Chinese product and that it continued to purchase U.S. product.

Purchasers were asked whether since January 2006 U.S. producers had reduced their prices of CSG to compete with prices of CSG imported from China. Three of the six responding purchasers reported that U.S. producers had reduced their prices because of imports from China. One of these reported that the effect was much more noticeable in 2007. One reported that it quoted the Chinese price

which was 35 percent lower to its supplier of U.S.-produced material and this resulted in a lower price for the U.S. product. One reported that “prices have moved based on the producers’ cost of flat-rolled coil that is used in the production of grating. Pricing has moved up and down since 2006.” One reported that it did not answer “yes” or “no” because it did not know why U.S. producers changed their prices. One reported that U.S. prices had not changed because of the Chinese product but because the cost of steel fell.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Five U.S. firms provided usable financial data for each of their latest three fiscal years on their operations producing CSG.¹ These reported data are believed to represent over 95 percent of U.S. CSG production in 2009.

OPERATIONS ON CSG

Income-and-loss data for the reporting U.S. producers of CSG are presented in table VI-1, and are briefly described here.

- Total net sales fell irregularly between 2007 and 2009 because of lower sales quantity and a *** decrease in average unit values.²
- The absolute values of the cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses followed sales, increasing from 2007 to 2008, but were *** lower in 2009. The ratio of COGS and of SG&A expenses to net sales increased irregularly between 2007 and 2009 as did the average unit values of those two cost categories. The cost drivers of COGS were other factory costs and raw material costs. From 2007 to 2008, steel price increases led to increased raw material costs. Both raw material and other factory costs fell from 2008 to 2009 because of lower sales volume. The average unit value of other factory costs also increased from 2007 to 2008 and remained at virtually the same level in 2009 even though sales volume fell in that year.
- Operating income increased *** from 2007 to 2008, partly because of the increase in sales volume but mainly because the unit value of sales increased more than unit costs (COGS plus SG&A expenses). Operating income fell in 2009 for the opposite reasons: sales volume was lower and unit costs decreased less than unit revenues.³
- Net income before taxes and cash flow followed the same trend as operating income during 2007-09.

Table VI-1

CSG: Results of operations of U.S. producers, 2007-09, January-June 2009, and July-December 2009

* * * * *

¹ The firms are: AMICO, Fisher, IKG, Leavitt, and Ohio Gratings. Each of the reporting firms has a fiscal year that ends on or about December 31. There are minor differences between data reported in the trade and financial sections of the Commission’s U.S. producers’ questionnaire, which are attributable to rounding. Commission staff verified the questionnaire response of *** and changes have been incorporated in this report. See Verification Report, May 27, 2010, EDIS document 426241.

² Demand for CSG is reportedly tied to nonresidential construction. Petitioners’ prehearing brief, pp. 10-12 and hearing transcript, p. 18 (Brightbill), and pp. 57-58 (Kaplan).

³ See variance analysis (table VI-4); also, *see* petitioners’ postconference brief, pp. 24-25, 29, and 31-32, and hearing transcript, p. 24 (Brightbill) and p. 28 (Kaplan).

AMICO ***. The firm's operating ***. The quantity, value, and AUV of AMICO's commercial sales fell between 2007 and 2009. Its internal consumption ***. Full-year 2009 was impacted by the operating results in July-December of that year. AMICO ***.⁴

IKG ***. The quantity and value of IKG's total net sales fell between 2007 and 2009, while its sales AUV increased ***. It was *** of the full years; although its operating income fell by about *** percent from 2007 to 2009, its operating income margin ***. IKG, ***.⁵

Fisher⁶ and Ohio Gratings ***. Fisher produces ***. The AUVs of Ohio Gratings's commercial sales ***.⁷ ***. Personnel at Ohio Gratings Grating explained that its ***. Leavitt ***. ***.⁸ ***.

The results of operations on a firm-by-firm basis are shown in table VI-2.

Table VI-2

CSG: Selected results of operations of U.S. producers, by firm, 2007-09, January-June 2009, and July-December 2009

* * * * *

Raw material inputs utilized in the production of CSG are hot-rolled steel sheet in standard grades (carbon, alloy, and stainless steel grades) for the bearing bars and steel wire rod in standard grades (carbon, alloy, and stainless steel grades) for the crossbars. In thicker grades, steel plate may be substituted for steel sheet. Some manufacturers may choose to purchase pre-slit steel coil or buy steel bar if they do not have the needed machinery to process the bearing bars or crossbars into the desired size, as noted in the petition.⁹ Raw material costs, which consist of the previously mentioned steel items, declined irregularly in terms of dollar amounts from 2007 to 2009 due to the fall in sales as well as steel prices; raw material costs also declined as a percentage of total COGS during the same period, but increased as a percentage of total net sales. Raw material costs were much lower in July-December 2009 compared with January-June (accounting for nearly all of the decline in total COGS). Industry witnesses testified that costs are rising in 2010 and suggested that U.S. producers are experiencing a cost-price squeeze.¹⁰ The data for 2007-09 are shown in table VI-3.

Table VI-3

CSG: Raw material costs of U.S. producers, by firm, 2007-09, January-June 2009, and July-December 2009

* * * * *

⁴ Petition, vol. 1, exh. 1-3.

⁵ Petition, vol. 1, exh. 1-3.

⁶ Fisher purchased Truweld Grating Inc. in ***.

⁷ Petition, vol. 1, exh. 1-3, with regard to ***. ***.

⁸ Petitioners' postconference brief, p. 34.

⁹ Petition, vol. 1, p. 8 and petitioners' postconference brief, exh. 1, p. 3.

¹⁰ Hearing transcript, pp. 40 and 66 (Rutter).

A variance analysis for the operations of U.S. producers of CSG is presented in table VI-4. The information for this variance analysis is derived from table VI-1.¹¹ A variance analysis is more effective when the product involved is a homogeneous product with no variation in product mix (i.e., consistency in the cost structure). Although petitioners stated that the product mix has changed very little, they noted that because of imports in common steel grating sizes, U.S. producers have had to produce smaller volumes of their most common products as well as increase the volume of more specialized products that are more difficult and expensive to produce.¹²

Table VI-4
CSG: Variance analysis on the operations of U.S. producers, 2007-09, and January-June 2009 to July-December 2009

* * * * *

The analysis shows that the decrease of \$*** in the operating income from 2007 to 2009 was attributable to the combination of an unfavorable price variance (unit sales values increased), an unfavorable net cost/expense variance (unit costs increased), and an unfavorable volume variance. The volume variance from 2007 to 2009 was unfavorable (the volume portion of the sales variance was greater than the volume portion of the net cost/expense variance). Operating income increased by \$*** between January-June 2009 and July-December 2009 because a favorable net cost expense (unit costs decreased) was greater than an unfavorable price variance (unit prices decreased).

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Each of the U.S. producers was asked about the nature of its capital expenditures and research and development (“R&D”) expenses (table VI-5). AMICO stated that it ***.¹³ Fisher stated that its capital expenditures were focused on ***.¹⁴ IKG stated that its capital expenditures have been split between ***.¹⁵ Leavitt’s capital expenditures were ***.¹⁶ Ohio Gratings provided a list of some of its more significant items, including ***.¹⁷
 ***.¹⁸

¹¹ A variance analysis is calculated in three parts: sales variance, cost of sales variance, and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost or expense (cost/expense) variance (in the case of the cost of sales and SG&A expense variance), and a volume variance. The sales or cost/expense variance is calculated as the change in unit price or per-unit cost/expense times the new volume, while the volume variance is calculated as the change in volume times the old unit price or per-unit cost/expense. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively, and the volume variance is the sum of the volume components of the net sales, COGS, and SG&A expense variances.

¹² Petitioners’ postconference brief, exh. 1, p. 4 (citing Rutter testimony, conference transcript, pp. 23-24).

¹³ E-mail to Commission staff from ***, July 1, 2009. AMICO added to its response ***. EDIS document 406383.

¹⁴ E-mail to Commission staff from ***, June 30, 2009. EDIS document 406383.

¹⁵ E-mail to Commission staff from ***, June 30, 2009. EDIS document 406383.

¹⁶ Telephone interview with ***, July 1, 2009. EDIS document 406383.

¹⁷ E-mail to staff from ***, June 30, 2009. EDIS document 406383.

¹⁸ *Ibid.*

Table VI-5

CSG: Capital expenditures and research and development expenses of U.S. producers, 2007-09, January-June 2009, and July-December 2009

Item	Fiscal year			2009	
	2007	2008	2009	Jan.-June	July-Dec.
<i>Value (1,000 dollars)</i>					
Capital expenditures:					
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Total	7,580	3,071	6,320	5,390	930
R&D expenses:					
***	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.					

ASSETS AND RETURN ON INVESTMENT

Data on the U.S. producers’ total assets and their return on investment (“ROI”) are presented in table VI-6. Total assets utilized in the production, warehousing, and sale of CSG for reporting U.S. producers declined by 10 percent from 2007 to 2009. ROI, which is calculated as the ratio of operating income to total assets, therefore followed the trend of operating income. ROI fell irregularly by *** percentage points from 2007 to 2009.

Table VI-6

CSG: The value of assets and return on investment of U.S. producers, fiscal years 2007–09

* * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers of CSG to describe any actual or potential negative effects of imports of CSG from China on their firms’ growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Their responses are shown below.

Actual Negative Effects

* * * * *

Anticipated Negative Effects

* * * * *

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). 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. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries and the global market.

THE INDUSTRY IN CHINA

The petitions in these investigations identified 16 potential producers and/or exporters of CSG from China. In the final phase of the investigations, the Commission sent questionnaires to the 25 firms that were sent questionnaires during the preliminary phase of the investigations as well as to 15 additional firms; no completed responses were received.¹

Information from the Preliminary Phase Report

The responding firms (***) estimated that they accounted for 6.0 percent of production of CSG in China and 32.3 percent of exports of CGS from China to the United States in 2008. Reported exports of CSG to the United States by these firms in 2008 were equivalent to *** percent of the quantity of U.S. imports of CSG from China in that year based on official Commerce statistics.

Table VII-1 presents data for reporting producers of CSG from China from 2006-08, January-March 2008, January-March 2009, and forecasts for 2009 and 2010. Production increased by *** percent between 2006 and 2008, while capacity increased by *** percent during the same period. Reported exports to the United States increased by *** percent between 2006 and 2008, but decreased by *** percent during the interim periods. According to petitioners, the Chinese government maintains a five-percent value-added tax rebate on CSG that is exported.²

Table VII-1

CSG: Data for reporting producers from China, 2006-08, January-March 2008, January-March 2009, and projected 2009 and 2010

* * * * *

Information from the Final Phase of the Investigations

Although no producers in China provided data in the final phase of these investigations, information on the industry in China is available from a study of the steel grating market in China which was commissioned by the petitioners. The study indicated that the industry in China has an annual

¹ Two firms responded that they did not produce steel gratings; no other firm responded.

² Petitioners' postconference brief, exh. 1, p. 1.

production capacity of over 2 million short tons or 1.8 billion kilograms.³ Petitioners contend that demand for CSG is weakening in China, that there has been a reining in of lending for construction activities, and that steel grating producers in China are export-oriented.⁴ China also reportedly has a 5-percent value-added-tax rebate of CSG that is exported.⁵

U.S. INVENTORIES OF CSG FROM CHINA

Inventories of U.S. imports as reported are presented in Table VII-2. Inventories of Chinese CSG *** from 2007 (***) million kilograms) to 2008 (***) million kilograms) before dropping to *** million kilograms in 2009. In contrast, inventories from all other sources decreased throughout the period. Inventory data are incomplete because importers' questionnaires were received from firms accounting for less than 50 percent of the quantity of U.S. imports during the period.

Table VII-2

CSG: U.S. importers' end-of-period inventories of imports, by source, 2007-09

* * * * *

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of CSG from China after December 31, 2009. No firms indicated that they had imported or arranged for the importation of CSG from China after that date.

ANTIDUMPING INVESTIGATIONS IN THIRD-COUNTRY MARKETS

No producer, importer, or foreign producer reported any countervailing or antidumping duty orders on CSG from China in third-country markets.

INFORMATION ON 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.'"⁶

As discussed in Part IV of this report, the largest nonsubject source of CSG is Canada. As figure VII-1 illustrates, imports of CSG from Canada and all other sources decreased throughout the period for which data were gathered.

³ The report was prepared by ***, and was provided as ex. 11 of the petitioners' prehearing brief. The report analyzed 57 producers in China who reportedly combined for a capacity of 1.1 million short tons or 975 million kilograms of steel grating per year. Petitioners' prehearing brief, p. 14.

⁴ Petitioners' posthearing brief, Answers to Questions, pp. 22-23.

⁵ Petitioners' prehearing brief, p. 46.

⁶ 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).

Figure VII-1

CSG: U.S. imports, by source, 2007-09, January-June 2009, and July-December 2009

* * * * *

APPENDIX A
***FEDERAL REGISTER* NOTICES**

material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of certain steel gratings, provided for in subheading 7308.90.70 of the Harmonized Tariff Schedule of the United States.¹

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

DATES: *Effective Date:* January 6, 2010.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202-205-3187 or fred.ruggles@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters

**INTERNATIONAL TRADE
COMMISSION**

[Investigation Nos. 701-TA-465 and 731-TA-1161 (Final)]

Certain Steel Grating From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701-TA-465 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731-TA-1161 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with

¹ For purposes of these investigations, the Department of Commerce has defined the subject merchandise as "certain steel grating, consisting of two or more pieces of steel, including load-bearing pieces and cross pieces, joined by any assembly process, regardless of: (1) Size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as 'bar grating,' although the components may consist of steel other than bars, such as hot-rolled sheet, plate, or wire rod. The scope of this investigation excludes expanded metal grating, which is comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of multiple pieces of steel. The scope of this investigation also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel."

in China of certain steel gratings, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed May 29, 2009, by Alabama Metal Industries, Birmingham, AL and Fisher & Ludlow, Wexford, PA.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on May 11, 2010, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on May 25, 2010, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 17, 2010. A nonparty who

has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 19, 2010, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is May 18, 2010. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 1, 2010; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before June 1, 2010. On June 17, 2010, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 21, 2010, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also

be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

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

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

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

By order of the Commission.
Issued: February 22, 2010.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2010-3879 Filed 2-24-10; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-570-948]

Certain Steel Grating from the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) has determined that countervailable subsidies are being provided to producers and exporters of steel grating from the People's Republic of China (PRC). For information on the estimated countervailable subsidy rates, please see the "Suspension of Liquidation" section, below.

EFFECTIVE DATE: June 8, 2010.

FOR FURTHER INFORMATION CONTACT: Justin Neuman or Nicholas Czajkowski AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0486, (202) 482-1395, respectively.

Petitioners

Petitioners in this investigation are Alabama Metal Industries Corp. (AMICO) and Fisher & Ludlow (collectively, "Petitioners").

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation (POI), is January 1, 2008 through December 31, 2008.

Case History

The following events have occurred since the preliminary determination. *See Certain Steel Grating from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 74 FR 56796 (November 3, 2009) (*Preliminary Determination*).

The Department issued several supplemental questionnaires to the Government of the People's Republic of China (GOC) and Ningbo Jiulong Machinery Manufacturing Co., Ltd. (Ningbo Jiulong). The Department received responses to questionnaires issued to the GOC in December 2009, as well as in January and February 2010. The Department received responses to questionnaires issued to Ningbo Jiulong in December 2009, as well as in January, February, and March 2010. Public versions of the questionnaires and

responses, as well as the various memoranda cited below, are available in the Department's Central Records Unit (Room 1117 in the HCHB Building) (hereinafter referred to as the CRU).

As explained in the Memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for this final CVD determination is now May 28, 2010. See Memorandum to the Record from Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm" (February 12, 2010).

On February 24, 2010, Department officials met with Petitioners' counsel to discuss issues related to the upcoming verification of the GOC and Ningbo Jiulong. See Memorandum for the File from Nicholas Czajkowski, Case Analyst, AD/CVD Operations, *Meeting with Counsel for Petitioners: Countervailing Duty Investigation on Certain Steel Grating from the People's Republic of China* (February 26, 2010).

On March 8, 2010, Petitioners placed on the record a detailed analysis of mill test certificates that were provided to the Department by Ningbo Jiulong. See Letter to Secretary Locke from Timothy C. Brightbill, *Certain Steel Grating from the People's Republic of China: Comments on Mill Test Certificates* (March 8, 2010).

From March 8 through March 13, 2010, we conducted verification of the questionnaire responses submitted by the GOC and Ningbo Jiulong. We issued verification reports on April 14, 2010. See Memorandum to the File from Thomas Beline, Staff Attorney; Nicholas Czajkowski, International Trade Analyst; and Justin Neuman, International Trade Analyst, *Verification of the Questionnaire Responses Submitted by the Government of China* (April 14, 2010), and Memorandum to the File from Thomas Beline, Staff Attorney; Nicholas Czajkowski, International Trade Analyst; and Justin Neuman, International Trade Analyst, *Verification of the Questionnaire Responses Submitted by Ningbo Jiulong Machinery Manufacturing Co., Ltd. and Ningbo Zhenhai Jiulong Electronic Equipment Factory* (April 14, 2010) (*Ningbo Jiulong Verification Report*).

On March 15, 2010, Ningbo Jiulong filed a copy of the minor corrections

provided to the Department at verification. See Letter to Secretary Locke from Gregory S. Menegaz, *Certain Steel Grating from the People's Republic of China – Minor Corrections – Ningbo Jiulong* (March 15, 2010).

On March 23, 2010, we requested permission from Customs and Border Protection (CBP) to place on the record certain entry documents that it had provided for the record in the corresponding antidumping (AD) investigation. See Memorandum to Tom Futtner, Supervisory Import Compliance Analyst, Customs Unit, Import Administration from Nicholas Czajkowski, International Trade Analyst, Office 6, *Countervailing Duty Investigation of Certain Steel Grating from the People's Republic of China: Request for Customs Documents* (March 23, 2010). Those documents were placed on the record on April 6, 2010. See Memorandum to the File from Nicholas Czajkowski, Trade Analyst, Office 6, AD/CVD Operations, *Countervailing Duty Investigation of Certain Steel Grating (CSG) from the People's Republic of China (PRC): CBP Entry Documents* (April 6, 2010).

On March 23, 2010, we issued a letter establishing a deadline for parties to rebut factual information recently added to the record. See Letter to Ningbo Jiulong from Barbara E. Tillman, Director, AD/CVD Operations, Office 6, *Countervailing Duty Investigation; Certain Steel Grating from the People's Republic of China* (March 23, 2010).

On March 23, 2010, Ningbo Jiulong filed clarifying and rebuttal comments related to Petitioners' March 8, 2010 analysis of mill test certificates provided by Ningbo Jiulong to the Department. See Letter to Secretary Locke from Ningbo Jiulong, *Steel Grating from China – Ningbo Jiulong Machinery Manufacturing Co. Ltd. and Ningbo Zhenhai Jiulong Electronic Equipment Factory – Rebuttal to Petitioners' March 8, 2010 Submission* (March 24, 2010).

On April 15, 2010, we issued our post-preliminary determination regarding the "Provision of Electricity for Less than Adequate Remuneration." See Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration from John M. Andersen, Acting Deputy Assistant Secretary for AD/CVD Operations, *Countervailing Duty Investigation of Certain Steel Grating from the People's Republic of China (PRC): Post-Preliminary Determination Regarding the Provision of Electricity for Less than Adequate Remuneration* (April 15, 2010).

On April 23, 2010, we received comments from Ningbo Jiulong regarding what it considers to be several

significant errors in the *Ningbo Jiulong Verification Report* issued by the Department on April 14, 2010, and urging the Department not to let those errors color its analysis for the purposes of the final determination.

On April 26, 2010, we received case briefs from Petitioners, the GOC, Ningbo Jiulong, and Yantai Xinke Steel Structure Co., Ltd. (an exporter/producer of steel grating that was not selected as a mandatory respondent in this investigation). On April 28, the Department issued a letter rejecting Petitioners' brief because it contained new factual information. See Letter to AMICO and Fisher & Ludlow from Barbara E. Tillman, Director, AD/CVD Operations, Office 6, Import Administration, *Rejection of New Factual Information Submitted in Case Brief Dated April 26, 2010*. Petitioners resubmitted their brief on April 29, 2010. Rebuttal briefs were submitted by Petitioners, the GOC, and Ningbo Jiulong on May 3, 2010.

On May 4, 2010, Ningbo Jiulong withdrew its request for a hearing. On May 6, 2010, Department officials met with representatives of Ningbo Jiulong regarding issues in the briefs submitted by their client and by Petitioners. See Memorandum for the File from Justin M. Neuman, International Trade Analyst, AD/CVD Operations, Office 6, *Ex-Parte Meeting with Representatives of Ningbo Jiulong Machinery Manufacturing Co., Ltd.* (May 10, 2010). On May 10, 2010, Department officials met with Petitioners' counsel to discuss issues related to the briefs. See Memorandum for the File from Justin M. Neuman, International Trade Analyst, AD/CVD Operations, Office 6, *Countervailing Duty Investigation of Certain Steel Grating from the People's Republic of China: Ex-Parte Meeting with Representatives of Alabama Metal Industries, Fisher and Ludlow* (May 19, 2010).

Scope of the Investigation

The products covered by this investigation are certain steel grating, consisting of two or more pieces of steel, including load-bearing pieces and cross pieces, joined by any assembly process, regardless of: (1) size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as "bar grating," although the components may consist of steel other than bars, such as hot-rolled sheet, plate, or wire rod.

The scope of this investigation excludes expanded metal grating, which

is comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of multiple pieces of steel. The scope of this investigation also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel.

Certain steel grating that is the subject of this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheading 7308.90.7000. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (ITC) is required to determine, pursuant to section 701(a)(2) of the Act, whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a United States industry. On July 20, 2009, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports from the PRC of subject merchandise. See *Certain Steel Grating From China Determinations*, 74 FR 35204 (July 20, 2009); and *Certain Steel Grating from China (Preliminary)*, USITC Pub. 4087, Inv. Nos. 701–TA–465 and 731–TA–1161 (July 2009).

Analysis of Subsidy Programs and Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled “Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Steel Grating from the People’s Republic of China,” dated concurrently with this notice (hereinafter, *Decision Memorandum*), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the

Decision Memorandum. The *Decision Memorandum* also contains a complete analysis of the programs covered by this investigation, and the methodologies used to calculate the subsidy rates. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 1117 in the main building of the Commerce Department. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Adverse Facts Available

For purposes of this final determination, we have relied on facts available and drawn adverse inferences, in accordance with sections 776(a) and (b) of the Act, with regard to Ningbo Jiulong’s receipt of countervailable subsidies under the “Provision of Hot-Rolled Steel for Less than Adequate Remuneration” and “Provision of Wire Rod for Less than Adequate Remuneration” programs. A full discussion of our decision to apply partial adverse facts available (AFA) is presented in the *Decision Memorandum* in the section “Application of Facts Available, Including the Application of Adverse Inferences,” as well as the Department’s position on Comment 4 in the *Decision Memorandum*.

With respect to the GOC’s “Provision of Electricity for Less than Adequate Remuneration,” the Department has also relied upon facts available and drawn adverse inferences, in accordance with sections 776(a) and (b) of the Act. A full discussion of our decision to apply partial AFA is presented in the section “Application of Facts Available, Including the Application of Adverse Inferences,” and the Department’s position on Comment 10 of the *Decision Memorandum*.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for the mandatory respondent under investigation, Ningbo Jiulong Machinery Manufacturing Co., Ltd. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an “all others” rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates,

and any rates determined entirely under section 776 of the Act. In this investigation, the Department selected two mandatory respondents to review. After receiving and reviewing the questionnaire responses of one of the mandatory respondents, United Steel Structures, Ltd. (USSL), the Department determined that, because USSL was not a steel grating exporter or producer, it would be an inappropriate mandatory respondent in this investigation. See Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration from John M. Andersen, Acting Deputy Assistant Secretary for AD/CVD Operations, *Countervailing Duty Investigation of Certain Steel Grating from the People’s Republic of China: Whether USSL Should be Maintained as a Mandatory Respondent*. However, because that determination was made on October 23, 2009, three days before the preliminary determination, the Department determined that it could not select an additional mandatory respondent to calculate an individual rate for in this investigation. Because there is only one respondent in this investigation for which the Department has calculated a company-specific rate, consistent with our practice and section 705(c)(5)(A)(i) of the Act, its rate serves as the “all others” rate. See e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 66 FR 50410, 50411 (October 3, 2001); and *Final Affirmative Countervailing Duty Determination: Pure Magnesium From Israel*, 66 FR 49351, 49353 (Sept. 27, 2001).

Exporter/Manufacturer	Net Countervailable Subsidy Rate
Ningbo Jiulong Machinery Manufacturing Co., Ltd. ...	62.46% <i>ad valorem</i>
All Others	62.46% <i>ad valorem</i>

As a result of our *Preliminary Determination*, we instructed CBP to suspend liquidation of all entries of steel grating from the PRC which were entered or withdrawn from warehouse, for consumption on or after November 3, 2009, the date of the publication of the *Preliminary Determination* in the **Federal Register** and to collect cash deposits of estimated countervailing duties or bonds, in the amount of the preliminary countervailing duty rates.

Pursuant to section 703(d) of the Act, we subsequently instructed CBP to discontinue the suspension of liquidation for countervailing duty

purposes for subject merchandise entered on or after March 3, 2010, but to continue the suspension of liquidation of entries made on or after November 3, 2009 through March 2, 2010.

If the ITC issues a final affirmative injury determination, we will issue a countervailing duty order and order CBP to resume the suspension of liquidation of entries of steel grating and to require a cash deposit on all such entries equal to the subsidy rate listed above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all deposits or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 28, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix

I. Summary

II. Background

III. Subsidies Valuation

- A. *Date of Applicability of CVD Law to the PRC*
- B. *Allocation Period*
- C. *Cross-Ownership*

IV. Application of Facts Available, Including the Application of Adverse Inferences

V. Analysis of Programs

A. Programs Determined to Be Countervailable

1. Government Provision of Hot-Rolled Steel for Less than Adequate Remuneration
2. Government Provision of Wire Rod for Less than Adequate Remuneration
3. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
4. Government Provision of Electricity for Less than Adequate Remuneration
5. Other Grant Programs
 - a) Export Grant 2006, 2007, 2008
 - b) Jiulong Lake Town Grant 2008
 - c) Energy Saving Grant 2008
 - d) Foreign Trade Grant 2008
 - e) Famous Brand Grant 2008
 - f) Innovative Small- and Medium-Sized Enterprise Grant 2008
 - g) Water Fund Refund/Exemption 2008
 - h) Product Quality Grant

B. Program Determined To Be Not Countervailable

Cleaning Production Grant 2008

C. Programs Determined To Be Not Used or To Not Provide Benefits During the POI

1. *GOC Provision of Steel Bar for Less than Adequate Remuneration*
2. *GOC Provision of Steel Plate for Less than Adequate Remuneration*
3. *GOC Provision of Land-Use Rights to SOEs for Less than Adequate Remuneration*
4. *“Two Free, Three Half” Program*
5. *Reduced Income Tax Rates for Export-Oriented FIEs*
6. *Preferential Income Tax Policy for Enterprises in the Northeast Region*
7. *Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China*

8. *Tax Subsidies for FIEs in Specially Designated Geographic Areas*
9. *Local Income Tax Exemption and Reduction Programs for “Productive” FIEs*
10. *Income Tax Credits for FIEs Purchasing Domestically Produced Equipment*
11. *Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises*
12. *Import Tariff and Value Added Tax (“VAT”) Exemptions for Encouraged Industries Importing Equipment for Domestic Operations*
13. *VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund*
14. *Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program*
15. *Grants to “Third-Line” Military Enterprises*
16. *Guangdong and Zhejiang Province Program to Rebate Antidumping Fees*
17. *The State Key Technology Project Fund*
18. *Export Incentive Payments Characterized as “VAT Rebates”*
19. *VAT Refunds for FIEs Purchasing Domestically-Produced Equipment*
20. *Technical Upgrading Grant 2005, 2007*
21. *Power Engine Grant 2005*
22. *Technical Innovation Grant 2006*

D. Programs For Which Ningbo Jiulong Is Determined to Be Ineligible

1. *Liaoning Province “Five Points, One Line” Program*
2. *Guangzhou City Famous Exports Brands*
3. *Grants to Companies for “Outward Expansion” in Guangdong Province*

IV. Analysis of Comments

Comment 1: Application of U.S. Countervailing Duty Law to China

Comment 2: Cut-Off Date

Comment 3: Selection of Two Mandatory Respondents

Comment 4: Application of Adverse Facts Available

Comment 5: Department Procedures

Comment 6: Provision of Hot-Rolled Steel and Wire Rod for Less than Adequate Remuneration – The Role of Mill Test Certificates

Comment 7: Provision of Hot-Rolled Steel and Wire Rod for Less than Adequate Remuneration – Whether These Programs Are Countervailable

Comment 8: Provision of Hot-Rolled Steel and Wire Rod for Less than Adequate Remuneration – Appropriate Benchmark

Comment 9: Income Tax Credits for
Domestically Owned Companies
Purchasing Domestically Produced
Equipment

Comment 10: Provision of Electricity for
Less than Adequate Remuneration

Comment 11: Grant Programs

Comment 12: Separate CVD Rate for
Xinke

VII. Recommendation

[FR Doc. 2010-13776 Filed 6-7-10; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-947]

Certain Steel Grating From the People's Republic of China: Final Determination of Sales at Less Than Fair Value

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

DATES: *Effective Date:* June 8, 2010.

SUMMARY: On January 6, 2010, the Department of Commerce ("Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping duty investigation of certain steel grating ("steel grating") from the People's Republic of China ("PRC"). See *Certain Steel Grating From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 847 (January 6, 2010) ("*Preliminary Determination*"). We invited interested parties to comment on our preliminary determination of sales at LTFV. Based on our analysis of the comments we received, we have made changes from the *Preliminary Determination*. We determine that steel grating from the PRC is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("Act"). The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-3936.

SUPPLEMENTARY INFORMATION:**Case History**

The period of investigation ("POI") is October 1, 2008, through March 31, 2009. The Department published its preliminary determination of sales at LTFV on January 6, 2010. See *Preliminary Determination*. On February 4, 2010, we postponed the final determination. See *Certain Steel Grating From the People's Republic of China: Postponement of Final Determination*, 75 FR 5766 (February 4, 2010).

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the final determination of this investigation is now May 28, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Between January 11, 2010, through January 15, 2010, the Department conducted verification of Ningbo Jiulong Machinery Manufacturing Co., Ltd. and Ningbo Zhenhai Jiulong Electronic Equipment Factory (collectively "Ningbo Jiulong"). See the "Verification" section below for additional information. On March 8, 2010, Fisher & Ludlow and Alabama Metal Industries Corporation (hereafter referred to as "Petitioners") filed comments regarding mill test certificates from Ningbo Jiulong's suppliers of steel coils and wire rod that were included in the Department's verification exhibits. Petitioners cited numerous aspects of the mill test certificates that they deemed irregular, and which indicated that the mill test certificates were not genuine.

On March 8, 2010, the Department issued a supplemental questionnaire to Ningbo Jiulong, requiring a response to Petitioners' analysis and specific allegations, and to reconcile its suppliers' mill test certificates with other information on the record. On March 9, 2010, the Department requested additional information from Petitioners, supporting the analysis in its March 8, 2010 submission. Also, on March 9, 2010, the Department requested U.S. Customs and Border Protection ("CBP") entry documents pertaining to certain Ningbo Jiulong shipments, specifically any mill test certificates filed by the importer of

record. On March 10, 2010, the Department issued an additional request to Ningbo Jiulong to provide mill test certificates for its steel inputs for certain specific U.S. sales of steel grating that the Department had selected for specific review at verification.

On March 16, 2010, and March 18, 2010, the Department received from CBP entry documentation and certain mill test certificates created by Ningbo Jiulong for steel coils, filed with CBP by the importer of record.

On March 18, 2010, Ningbo Jiulong responded to the Department's March 10, 2010, request for specific mill test certificates by stating that (1) Ningbo Jiulong could not link steel coil mill test certificates to the U.S. sales of steel grating in which the steel coil was used in production, and (2) in practice Ningbo Jiulong did not provide mill test certificates to its customer for most sales, despite the "legalistic terms in the small print" of its purchase orders.

On March 19, 2010, Petitioners responded to the Department's request with supporting information concerning the analysis in their March 8, 2010 submission. Also, on March 19, 2010, Ningbo Jiulong responded to the Department's supplemental questionnaire, stating: (1) Ningbo Jiulong cannot trace any of its suppliers' mill test certificates to specific purchases of steel coil or wire rod, because mill test certificates are production records that pertain to steel sold to multiple customers; (2) mill test certificates are not accounting records (e.g., invoices, inventory slips, delivery notes), and thus Ningbo Jiulong does not keep mill test certificates in its records in the normal course of business; (3) Ningbo Jiulong creates its own mill test certificates that it admits are unreliable, and that it has no ability to determine with its own analysis the chemical properties of any steel that it purchases; and (4) irregularities in the mill test certificates noted by Petitioners are due to the carelessness of their suppliers and/or "estimations" made by its suppliers using the content of prior mill test certificates.

On April 5, 2010, Petitioners, Ningbo Jiulong, and the Government of China submitted case briefs. On April 12, 2010, Petitioners, Ningbo Jiulong, Ningbo Haitian International Co. Ltd. ("Haitian"), and Yantai Xinke Steel Structure Co., Ltd. ("Xinke") submitted rebuttal briefs. On April 19, 2010, the Department held a public hearing.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the

“Certain Steel Grating from the People’s Republic of China: Issues and Decision Memorandum for the Final Determination,” (“Issues and Decision Memorandum”), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (“CRU”), Room 1117 of the main Commerce building, and is accessible on the World Wide Web at <http://trade.gov/ia/index.asp>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of information on the record of this investigation, we have determined that the application of total adverse facts available (“AFA”) is warranted in the case of Ningbo Jiulong. For further details, *see* Issues and Decision Memorandum at Comments 3; *see also* Memorandum from Thomas Martin to John M. Andersen, regarding: Application of Total Adverse Facts Available for Ningbo Jiulong Machinery Manufacturing Co., Ltd. in the Antidumping Duty Investigation of Certain Steel Grating from the People’s Republic of China, dated May 28, 2010 (“Ningbo Jiulong AFA Memo”).

Scope of Investigation

The products covered by this investigation are certain steel grating, consisting of two or more pieces of steel, including load-bearing pieces and cross pieces, joined by any assembly process, regardless of: (1) Size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as “bar grating,” although the components may consist of steel other than bars, such as hot-rolled sheet, plate, or wire rod.

The scope of this investigation excludes expanded metal grating, which is comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of multiple pieces of steel. The scope of this investigation also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel.

Certain steel grating that is the subject of this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheading 7308.90.7000. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Application of Adverse Facts Available to Ningbo Jiulong

Section 776(a)(1) of the Act provides that the Department may rely on facts otherwise available where necessary information is not available on the record, and section 776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party “promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information,” the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed “deficient” under section 782(d) if: (1) The information is submitted by the established deadline; (2) the information

can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the administering authority finds that an interested party has not acted to the best of its ability to comply with a request for information, the administering authority may, in reaching its determination, use an inference that is adverse to that party. The adverse inference may be based upon: (1) The petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753, or (4) any other information placed on the record.

The Department has determined that the information to construct an accurate and otherwise reliable margin is not available on the record with respect to Ningbo Jiulong because Ningbo Jiulong withheld information that had been requested, significantly impeded this proceeding, and provided information that could not be verified, pursuant to sections 776(a)(1) and (2)(A), (C) and (D) of the of Act.¹ As a result, the Department has determined to apply the facts otherwise available. Further, the Department finds that Ningbo Jiulong failed to cooperate to the best of its ability, pursuant to section 776(b) of the Act, and the Department has determined to use an adverse inference when applying facts available in this investigation.² In addition, we have concluded that the nature of Ningbo Jiulong’s unreliable submissions calls into question the reliability of the questionnaire responses with respect to Ningbo Jiulong’s claim of eligibility for separate rate status. Thus, as an adverse inference, we find that Ningbo Jiulong is part of the PRC-wide entity for purposes of this investigation.³

The PRC Entity (Including Ningbo Jiulong)

Because we begin with the presumption that all companies within a non-market-economy (“NME”) country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of

¹ See Ningbo Jiulong AFA Memo at 10–14.

² See Ningbo Jiulong AFA Memo at 14–17.

³ See Ningbo Jiulong AFA Memo at 17.

merchandise under consideration from the PRC, including Ningbo Jiulong.⁴ The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents identified as receiving a separate rate in the “Final Determination Margins” section below.

Verification

As provided in section 782(i) of the Act, the Department attempted to verify Ningbo Jiulong’s questionnaire responses.⁵ We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents. However, as detailed in the AFA section of this notice, and Comment 3 of the Issues and Decision Memorandum, we cannot conclude that the information submitted is either accurate or reliable.

Surrogate Country

In the *Preliminary Determination*, we stated that we selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) It is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to section 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination*. We received no comments on this issue after the *Preliminary Determination*, and we have made no changes to our findings with respect to the selection of a surrogate country for the final determination.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers*

from the People’s Republic of China, 56 FR 20588 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585 (May 2, 1994), and 19 CFR 351.107(d).

In the *Preliminary Determination*, we found that the separate rate applicants Sinosteel Yantai Steel Grating Co., Ltd. (“Sinosteel”), Ningbo Haitian, and Xinke (collectively, the “Separate Rate Applicants”) demonstrated their eligibility for, and were hence assigned, separate rate status. No party has commented on the eligibility of these companies for separate rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by these companies demonstrates both a *de jure* and *de facto* absence of government control with respect to their exports of the merchandise under investigation. Thus, we continue to find that they are eligible for separate rate status. Normally, the separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding *de minimis* margins or margins based entirely on AFA. See section 735(c)(5)(A) of the Act.

In the *Preliminary Determination*, the Department assigned to the Separate Rate Applicants’ exporter/producer combinations that qualified for a separate rate a weighted-average margin based on the experience of the mandatory respondent, Ningbo Jiulong. See *Preliminary Determination*. For the final determination, we have denied Ningbo Jiulong a separate rate in applying total AFA.⁶ See “Application of Adverse Facts Available To Ningbo Jiulong” section above. In this case, where there are no mandatory respondents receiving a calculated rate and the PRC-wide entity’s rate is based upon total AFA, we find that applying the simple average of the rates alleged in the petition, incorporating revisions made in Petitioners’ supplemental responses, is both reasonable and reliable for purposes of establishing a separate rate.⁷ Therefore, the Department will assign a separate rate for the Separate Rate Applicants’

exporter/producer combinations using the average of the margins alleged in the petition, or 136.76 percent, pursuant to its practice. This rate is corroborated, to the extent practicable, for the reasons stated the “Corroboration” section, below.

The PRC-Wide Rate

In the *Preliminary Determination*, the Department found that the PRC-wide entity did not respond to our requests for information. In the *Preliminary Determination*, we treated PRC exporters/producers that did not respond to the Department’s request for information as part of the PRC-wide entity because they did not demonstrate that they operate free of government control. No additional information has been placed on the record with respect to these entities after the *Preliminary Determination*. The PRC-wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). See also, Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316, vol. 1, at 870 (1994). We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity.

Because we begin with the presumption that all companies within an NME country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., *Synthetic Indigo From the People’s Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries

⁴ See, e.g., *Synthetic Indigo From the People’s Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000).

⁵ See Memorandum To the File from Robert Bolling, Thomas Martin, and Brian Soiset, “Verification of the Sales and Factors Response of Ningbo Jiulong Machinery Manufacturing Co., Ltd. in the Antidumping Investigation of Certain Steel Grating from the People’s Republic of China” dated February 23, 2010.

⁶ See Issues and Decision Memorandum at Comment 3.

⁷ See *Amended Preliminary Determination of Sales at Less Than Fair Value: Circular Welded Carbon Quality Steel Pipe From the People’s Republic of China*, 73 FR 22130, 22133 (April 24, 2008); *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People’s Republic of China*, 73 FR 6479 (February 4, 2008) and the accompanying Issues and Decision Memorandum at Comment 2.

of subject merchandise except for entries from the Separate Rate Applicants, which are listed in the “Final Determination Margins” section below.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted “corroborate” to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil*, 65 FR 5554, 5568 (February 4, 2000); see, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

As total AFA, the Department preliminarily selected the rate of 145.18 percent from the *Initiation Notice*,⁸ i.e., a margin from the petition as revised by the Department through supplemental questionnaires. Petitioners’ methodology for calculating the export price and normal value (“NV”) in the petition is discussed in the *Initiation Notice*.⁹ At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our AFA margin by comparing it to the CONNUM margins we found for the mandatory respondent. We found that the margin of 145.18 percent had probative value because it

was in the range of CONNUM model margins we found for the only participating mandatory respondent, Ningbo Jiulong. Accordingly, we found that the rate of 145.18 percent was corroborated within the meaning of section 776(c) of the Act.

Because there are no cooperating mandatory respondents to corroborate the 145.18 percent margin used as AFA for the PRC-wide entity, to the extent appropriate information was available, we revisited our pre-initiation analysis of the adequacy and accuracy of the information in the petition. See *Antidumping Investigation Initiation Checklist: Certain Steel Grating from the People’s Republic of China*, dated June 18, 2009 (“Initiation Checklist”). We examined evidence supporting the calculations in the petition and the supplemental information provided by Petitioners prior to initiation to determine the probative value of the margins alleged in the petition. During our pre-initiation analysis, we examined the information used as the basis of export price and NV in the petition, and the calculations used to derive the alleged margins. Also during our pre-initiation analysis, we examined information from various independent sources provided either in the petition or, based on our requests, in supplements to the petition (e.g., Global Trade Atlas, and Petitioners’ experience with selling and producing the merchandise under consideration), which corroborated key elements of the export price and NV calculations. See *Initiation Checklist* at 7–12. We received no comments as to the relevance or probative value of this information. Therefore, the Department finds that the margin of 145.18 percent has probative value for the purpose of being selected as the AFA rate assigned to the PRC-wide entity (including Ningbo Jiulong).

Therefore, the Department finds that the rates derived from the petition for

purposes of initiation have probative value for the purpose of being selected as the AFA rate assigned to the PRC-wide entity (including Ningbo Jiulong).

Combination Rates

In the initiation notice, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation. See *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 74 FR 19049 (April 27, 2009). This practice is described in *Separate Rates and Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, 70 FR 17233 (April 5, 2005) which states:

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

Final Determination Margins

The Department determines that the following dumping margins exist for the period October 1, 2008, through March 31, 2009:

Manufacturer	Exporter	Antidumping duty percent margin
Sinosteel Yantai Steel Grating Co., Ltd	Sinosteel Yantai Steel Grating Co., Ltd	136.76
Ningbo Haitian International Co., Ltd	Ningbo Lihong Steel Grating Co., Ltd	136.76
Yantai Xinke Steel Structure Co., Ltd	Yantai Xinke Steel Structure Co., Ltd	136.76
PRC-wide Entity ¹⁰	145.18

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department

will instruct CBP to continue to suspend liquidation of all entries of steel grating from PRC, as described in the “Scope of Investigation” section, above, entered, or

withdrawn from warehouse, for consumption on or after January 6, 2010, the date of publication of the *Preliminary Determination* in the

⁸ See *Certain Steel Grating From the People’s Republic of China: Initiation of Antidumping Duty Investigation*, 74 FR 30273, 30277 (June 25, 2009) (“Initiation Notice”).

⁹ See *Initiation Notice*, 74 FR at 30277.

¹⁰ Ningbo Jiulong Machinery Manufacturing Co., Ltd., Ningbo Zhenhai Jiulong Electronic Equipment

Factory and Shanghai DAHE Grating Co., Ltd. are part of the PRC-wide entity.

Federal Register. The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate the Department has determined in this final determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide entity rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, the Department notified the International Trade Commission ("ITC") of its final determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 28, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix I

Issues For Final Determination

General Issues

- Comment 1: Whether the Department Can Concurrently Apply Antidumping and Countervailing Duties to Non-Market Economy Producers and Exporters
 Comment 2: Whether the Department Should Recalculate the Petition Margins With Updated Surrogate Values

Ningbo Jiulong Specific Issues

- Comment 3: Whether the Department Should Apply Adverse Facts Available to Ningbo Jiulong Based Upon Submitted False Information Regarding Its Steel Inputs
 Comment 4: Whether the Department Should Rely Upon Documents Obtained From CBP in the Final Determination
 Comment 5: Whether the Department Should Apply Adverse Facts Available to Ningbo Jiulong Based Upon the Failure To Report the Correct Customer
 Comment 6: Whether the Department Should Apply Adverse Facts Available to Ningbo Jiulong Based Upon Unreported Sales
 Comment 7: Whether the Department Should Apply Partial Adverse Facts Available to Ningbo Jiulong's Packing Inputs
 Comment 8: Whether the Department Should Revise Ningbo Jiulong's Steel Scrap Offset

Surrogate Value Issues for Specific Factors of Production

- Comment 9: Whether the Department Should Revise the Surrogate Value for the Steel Coil Input
 Comment 10: Whether the Department Should Revise the Surrogate Value for the Wire Rod Input
 Comment 11: Whether the Department Should Revise the Surrogate Value for Galvanizing Services

Surrogate Financial Ratio Calculation Issues

- Comment 12: Whether the Department Should Use the Financial Statement of Greatweld Steel Grating Private Limited to Calculate Surrogate Financial Ratios
 Comment 13: Whether the Department Should Use the Financial Statements of Comparable Merchandise Producers to Calculate Surrogate Financial Ratios

Separate Rate Applicant Rate Issues

- Comment 14: Whether the Department Should Revise the Rate Assigned to Separate Rate Applicants

[FR Doc. 2010-13778 Filed 6-7-10; 8:45 am]

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APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission’s hearing:

Subject: Certain Steel Grating from China
Inv. Nos.: 701-TA-465 and 731-TA-1161 (Final)
Date and Time: May 25, 2010 - 9:30 a.m.

A session was held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, DC.

CONGRESSIONAL APPEARANCE:

The Honorable Jason Altmire, U.S. Representative, 4th District, Pennsylvania
The Honorable Deborah Halvorson, U.S. Representative, 11th District, Illinois

In Support of the Imposition of
Antidumping and Countervailing Duty Orders:

Wiley Rein LLP
Washington, DC
on behalf of

Alabama Metal Industries Corporation (“AMICO”)

Fisher & Ludlow Inc.

Joseph D. Smith, President, AMICO

Brian Rutter, President, Fisher & Ludlow Inc.

Michael J. Scott, Vice President of Sales, AMICO

Linda Andros, Legislative Counsel, United Steel Workers

Dr. Seth Kaplan, Principal, The Brattle Group

Alan H. Price)
Timothy C. Brightbill) – OF COUNSEL
Robert E. DeFrancesco)

APPENDIX C
SUMMARY DATA

Table C-1

CSG: Summary data concerning the U.S. market, 2007-09, January-June 2009, and July-December 2009

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

Item	Reported data					Period changes			
	2007	2008	2009	January-June 2009	July-December 2009	2007-09	2007-08	2008-09	Jan.-June- July-Dec. 2009
	U.S. consumption quantity:								
Amount	176,769	***	***	***	***	***	***	***	***
Producers' share (1)	81.2	***	***	***	***	***	***	***	***
Importers' share (1):									
China	8.2	***	***	***	***	***	***	***	***
All other sources	10.7	***	***	***	***	***	***	***	***
Total imports	18.8	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	268,217	***	***	***	***	***	***	***	***
Producers' share (1)	81.8	***	***	***	***	***	***	***	***
Importers' share (1):									
China	6.0	***	***	***	***	***	***	***	***
All other sources	12.2	***	***	***	***	***	***	***	***
Total imports	18.2	***	***	***	***	***	***	***	***
U.S. imports from:									
China:									
Quantity	14,450	***	***	***	***	***	***	***	***
Value	16,026	***	***	***	***	***	***	***	***
Unit value	\$1.11	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	18,826	***	***	***	***	***	***	***	***
Value	32,795	***	***	***	***	***	***	***	***
Unit value	\$1.74	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	33,276	***	***	***	***	***	***	***	***
Value	48,820	***	***	***	***	***	***	***	***
Unit value	\$1.47	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
U.S. producers:									
Average capacity quantity	277,153	332,185	315,447	161,167	154,280	13.8	19.9	-5.0	-4.3
Production quantity	155,678	155,506	117,738	59,002	58,736	-24.4	-0.1	-24.3	-0.5
Capacity utilization (1)	56.2	46.8	37.3	36.6	38.1	-18.8	-9.4	-9.5	1.5
U.S. shipments:									
Quantity	143,493	146,790	108,443	55,539	52,904	-24.4	2.3	-26.1	-4.7
Value	219,397	262,939	162,263	85,832	76,430	-26.0	19.8	-38.3	-11.0
Unit value	\$1.53	\$1.79	\$1.50	\$1.55	\$1.44	-2.1	17.2	-16.5	-6.5
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	17,539	15,653	16,923	14,643	16,923	-3.5	-10.8	8.1	15.6
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	598	626	518	533	503	-13.4	4.7	-17.3	-5.6
Hours worked (1,000s)	1,276	1,336	1,085	538	547	-15.0	4.7	-18.8	1.7
Wages paid (\$1,000s)	25,591	27,534	21,314	10,367	10,947	-16.7	7.6	-22.6	5.6
Hourly wages	\$20.06	\$20.61	\$19.64	\$19.27	\$20.01	-2.1	2.8	-4.7	3.9
Productivity (kilograms per hour)	122.0	116.4	108.5	109.6	107.4	-11.1	-4.6	-6.8	-2.0
Unit labor costs	\$0.16	\$0.18	\$0.18	\$0.18	\$0.19	10.2	7.7	2.3	6.0
Net sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	7,580	3,071	6,320	5,390	930	-16.6	-59.5	105.8	-82.7
Unit COGS	\$1.18	\$1.39	\$1.27	\$1.35	\$1.17	7.2	17.5	-8.8	-13.2
Unit SG&A expenses	\$0.15	\$0.16	\$0.18	\$0.18	\$0.19	21.5	6.7	13.9	6.3
Unit operating income or (loss)	\$0.19	\$0.24	\$0.04	\$0.02	\$0.07	-76.6	28.6	-81.8	182.5
COGS/sales (1)	77.9	77.7	84.9	87.1	82.3	7.0	-0.2	7.2	-4.9
Operating income or (loss)/ sales (1)	12.2	13.4	2.9	1.5	4.6	-9.3	1.1	-10.4	3.1

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

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table C-2
CSG: Summary data concerning the U.S. market (excluding **), 2007-09, January-June 2009, July-December 2009

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Table C-3
CSG: U.S. producer/fabricator data, 2007-09, January-June 2009, and July-December 2009

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Table C-4
CSG: Combined operations of U.S. producers' subject imports and domestic production, 2007-09, January-June 2009, and July-December 2009

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APPENDIX D

NONSUBJECT-COUNTRY AND AGGREGATED PRICE DATA

Nonsubject Price Comparisons

Reported prices for imported Canadian products 1 through 5 were higher than prices for U.S.-produced CSG in 14 instances and lower in 44 instances, and higher than Chinese CSG prices in 31 instances and lower in 18 instances. Prices for the four products from India were generally lower than prices for the corresponding domestic products but generally higher than prices for the corresponding Chinese products. Imported Korean products 2 and 3 were priced lower than both the domestic and imported Chinese product 2 in the three of the four comparisons. The only price for product 2 from Taiwan was lower than the prices of the corresponding domestic and Chinese products (table D-1). Price data for U.S.-produced, imported Chinese, and imported nonsubject-country products 1 through 5 are shown in figure D-1.¹

Table D-1

CSG: Number of quarterly price comparisons of imported nonsubject and U.S. products 1 through 5, and of imported nonsubject and Chinese products 1 through 5

Nonsubject countries	United States		China	
	Higher ¹	Lower ²	Higher ¹	Lower ²
Canada	14	44	31	18
India	2	15	8	5
Korea	1	3	1	3
Taiwan	0	1	0	1
Total	17	63	40	27

¹ "Higher" signifies that the price of the nonsubject country's product was higher than the U.S. or Chinese price.

² "Lower" signifies that the price of the nonsubject country's product was lower than the U.S. or Chinese price.

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

Figure D-1

CSG: Weighted-average prices and quantities of domestic and imported products 1, 2, 3, 4, and 5, by quarters, 2007-09

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¹ Figure D-1 only includes price data for country data series that include three or more data points.

