

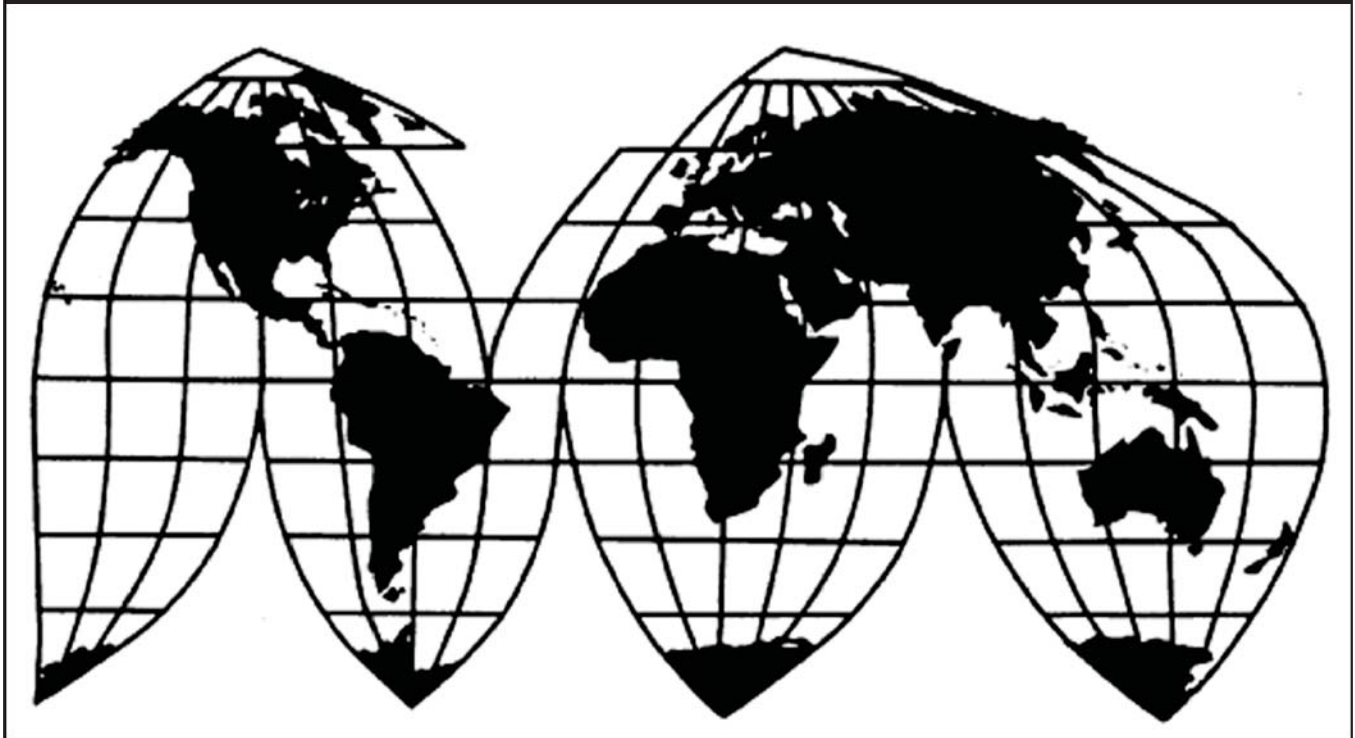
# **Certain Steel Nails from the United Arab Emirates**

Investigation No. 731-TA-1185 (Final)

**Publication 4321**

**May 2012**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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# **U.S. International Trade Commission**

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1185 (Final)

## CERTAIN STEEL NAILS FROM THE UNITED ARAB EMIRATES

### DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from the United Arab Emirates of certain steel nails, provided for in subheadings 7317.00.55, 7317.00.65, and 7317.00.75 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

### BACKGROUND

The Commission instituted this investigation effective March 31, 2011, following receipt of a petition filed with the Commission and Commerce by Mid Continent Nail Corporation, Poplar Bluff, MO. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain steel nails from the United Arab Emirates were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of November 23, 2011 (76 FR 72438). The hearing was held in Washington, DC, on March 20, 2012, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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





## VIEWS OF THE COMMISSION

Based on the record in this investigation, we find that an industry in the United States is materially injured by reason of imports from the United Arab Emirates (the “UAE”) of certain steel nails that the U.S. Department of Commerce (“Commerce”) has determined are sold in the United States at less than fair value.

### I. BACKGROUND

On March 31, 2011, Mid Continent Nail Corporation (“Mid Continent” or “Petitioner”) filed an antidumping duty petition. Representatives from Mid Continent appeared at the hearing accompanied by counsel and submitted briefs in the final phase of this investigation.

Two respondent groups participated actively in this investigation. Representatives and counsel for UAE producer Dubai Wire FZE (“Dubai Wire”) and U.S. importer Itochu Building Products Company, Inc. (“Itochu”) appeared at the hearing and jointly submitted briefs in the final phase of this investigation.<sup>1</sup> Counsel for UAE producer Precision Fasteners LLC (“Precision”; together with Dubai Wire and Itochu, “Respondents”) appeared at the hearing and submitted briefs in the final phase of this investigation.

The data collected for this investigation reflect questionnaire responses from the following: nine domestic producers that accounted for nearly all U.S. steel nail production in 2011,<sup>2</sup> nine importers that accounted for nearly all subject imports from the UAE by quantity from 2009 to 2011 and 17 importers that accounted for 44.5 percent of 2011 U.S. imports from non-subject sources,<sup>3</sup> and two foreign producers that accounted for nearly all exports of subject merchandise to the United States from 2009 to 2011.<sup>4</sup>

### 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 subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>5</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>6</sup> In turn, the Tariff Act defines “domestic like product” as “a

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<sup>1</sup> Itochu reports that it imports steel nails from around the world which Itochu then sells to its affiliate, Prime Source Building Products, Inc. (“Prime Source”).

<sup>2</sup> Confidential Report (“CR”) at I-4, and the Public Report (“PR”) at I-3. As noted in the reports, certain sections of the reports rely on a different number of questionnaire responses. Id. The Commission also received a questionnaire response from a tenth firm that halted U.S. production before 2011, as well as limited information regarding an eleventh producer. See CR/PR at Table III-1.

<sup>3</sup> CR/PR at IV-1.

<sup>4</sup> CR/PR at VII-1, Table VII-1.

<sup>5</sup> 19 U.S.C. § 1677(4)(A).

<sup>6</sup> 19 U.S.C. § 1677(4)(A).

product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”<sup>7</sup>

The decision regarding the appropriate domestic like product in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.<sup>8</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>9</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>10</sup> Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,<sup>11</sup> the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>12</sup>

## **B. Product Description**

Commerce defined the imported merchandise within the scope of this investigation as:

The merchandise covered by this investigation includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-

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<sup>7</sup> 19 U.S.C. § 1677(10).

<sup>8</sup> See, e.g., Cleo Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors, including 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).

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

<sup>10</sup> 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.”).

<sup>11</sup> 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).

<sup>12</sup> 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).

threaded nails subject to this investigation are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Certain steel nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.<sup>13</sup>

Commerce's scope definitions also contains numerous exclusions.<sup>14</sup>

### **C. Analysis and Conclusion**

In the preliminary determination, the Commission defined a single domestic like product, namely all certain steel nails, that was coextensive with the scope of the investigation defined by Commerce, and advocated by Mid Continent.<sup>15</sup> No Respondent submitted a contrary argument.<sup>16</sup> In the final phase of this investigation, Mid Continent again argues that the Commission should define a single domestic like product, encompassing all steel nails, that is coextensive with the scope of the investigation defined by

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<sup>13</sup> 77 Fed. Reg. 17029, 17029-30 (Mar. 23, 2012).

<sup>14</sup> Commerce excluded from the scope of this investigation "steel nails specifically enumerated and identified in ASTM Standard F 1667 (2011 revision) as Type I, Style 20 nails, whether collated or in bulk, and whether or not galvanized." It also excluded the following products:

- Non-collated (*i.e.*, hand-drive or bulk), two-piece steel nails having plastic or steel washers ("caps") already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500" to 8", inclusive; an actual shank diameter of 0.1015" to 0.166", inclusive; and an actual washer or cap diameter of 0.900" to 1.10", inclusive;
- Non-collated (*i.e.*, hand-drive or bulk), steel nails having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500" to 4", inclusive; an actual shank diameter of 0.1015" to 0.166", inclusive; and an actual head diameter of 0.3375" to 0.500", inclusive;
- Wire collated steel nails, in coils, having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500" to 1.75", inclusive; an actual shank diameter of 0.116" to 0.166", inclusive; and an actual head diameter of 0.3375" to 0.500", inclusive;
- Non-collated (*i.e.*, hand-drive or bulk), steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75" to 3", inclusive; an actual shank diameter of 0.131" to 0.152", inclusive; and an actual head diameter of 0.450" to 0.813", inclusive;
- Corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side;
- Thumb tacks, which are currently classified under HTSUS 7317.00.10.00;
- Fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30;
- Certain steel nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive; and
- Fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

77 Fed. Reg. at 17030.

<sup>15</sup> Certain Steel Nails from the UAE, Inv. No. 731-TA-1185 (Prelim), USITC Pub. 4235 at 9 (May 2011) (hereinafter "Preliminary Views").

<sup>16</sup> Conference Tr. at 72 (Marshak).

Commerce.<sup>17</sup> Respondents Itochu and Dubai Wire agree with Mid Continent's proposed definition of the domestic like product.<sup>18</sup> Precision has expressed no position on the matter.

In the preliminary determination, the Commission emphasized that all steel nails share the same basic characteristics, consisting of a head, shaft, and point, and are produced to the same industry-wide standards.<sup>19</sup> Most steel nails are produced from low-carbon steel, but steel nails are also produced from hardenable medium- to high-carbon steel and stainless steel. Although most steel nails are produced from a single piece of steel, some steel nails are produced from two or more pieces. Steel nails are shipped either in bulk or collated forms and are employed for similar uses, *i.e.*, the building of houses and other structures, decks and fences, cabinets and furniture, and crates and pallets for shipping. Cut nails are made from high-carbon plate rather than from wire, and are used primarily for joining to masonry and or concrete.<sup>20</sup> The Commission further found that steel nails of the same type, size, and finish are generally interchangeable so long as they meet industry standards.<sup>21</sup> Additionally, steel nails are produced using the same manufacturing facilities, production processes, and production employees.<sup>22</sup>

The record in the final phase investigation indicates that steel nails are also sold through similar channels of distribution, *i.e.*, through distributors and to end users.<sup>23</sup> With respect to producer and customer perceptions, the parties agree that steel nails are commodity products.<sup>24</sup>

Because the record in the final phase investigation indicates that considerations that supported treating all steel nails as a single like product in the preliminary determination have not changed,<sup>25</sup> we once again define a single domestic like product, steel nails, that is coextensive with the scope of the investigation.

### III. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."<sup>26</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

The only remaining domestic industry issue in this final phase investigation is whether it is appropriate to exclude any producer of the domestic like product from the domestic industry as a related party pursuant to 19 U.S.C. § 1677(4)(B). This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or

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<sup>17</sup> Mid Continent Prehearing Brief at 3-4.

<sup>18</sup> Dubai Wire/Itochu Prehearing Brief at 10.

<sup>19</sup> Preliminary Views, USITC Pub. 4235 at 7.

<sup>20</sup> Preliminary Views, USITC Pub. 4235 at 7.

<sup>21</sup> Preliminary Views, USITC Pub. 4235 at 7-9.

<sup>22</sup> Preliminary Views, USITC Pub. 4235 at 8.

<sup>23</sup> See CR/PR at Table II-1.

<sup>24</sup> Dubai Wire/Itochu Posthearing Brief, Answers to Comm'n Questions at 34; Precision Posthearing Brief at 13; Hearing Tr. at 35 (DeFrancesco).

<sup>25</sup> See generally CR at I-12-15; PR at I-9-11.

<sup>26</sup> 19 U.S.C. § 1677(4)(A).

importer of subject merchandise or which are themselves importers.<sup>27</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>28</sup>

The record indicates that three U.S. producers, \*\*\*, are subject to possible exclusion under the related parties provision because each imported subject merchandise during the period of investigation.<sup>29</sup> Precision argues that \*\*\* should be excluded from the domestic industry as a related party.<sup>30</sup> No other party advocates excluding any producer from the domestic industry as a related party.<sup>31</sup>

On balance, we conclude that appropriate circumstances do not exist for the exclusion of any of the related party producers. \*\*\* subject imports were extremely low in both absolute terms and relative to its domestic production, and its operating performance indicates that it did not derive any financial benefit from the subject merchandise it imported.<sup>32 33 34</sup> \*\*\* subject imports declined \*\*\* in 2011, and in 2011 were \*\*\* low relative to its domestic production. Moreover, \*\*\* financial results also do not show any correlation with the fluctuations in its volumes of subject imports.<sup>35</sup>

While \*\*\* proportion of subject imports to domestic production increased during the period of investigation, its domestic production was \*\*\* throughout the period. Moreover, \*\*\* financial results also do not show any correlation with the fluctuations in its volumes of subject imports.<sup>36</sup>

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<sup>27</sup> 19 U.S.C. § 1677(4)(B).

<sup>28</sup> See Torrington Co. v. United States, 790 F. Supp. at 1168; Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd mem., 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>29</sup> CR/PR at Table III-8.

<sup>30</sup> Precision Posthearing Brief at 4.

<sup>31</sup> Mid Continent advocates that all domestic producers should be included in the domestic industry. Hearing Tr. at 101-02 (Gordon). Dubai Wire/Itochu have advocated inclusion of \*\*\* in the domestic industry, but have expressed no explicit position regarding \*\*\*. Dubai Wire/Itochu Prehearing Brief at 11-12.

<sup>32</sup> \*\*\* imported \*\*\* short tons of subject merchandise in 2009, \*\*\* short tons in 2010, and \*\*\* short tons in 2011. \*\*\* ratio of subject imports to domestic production decreased from \*\*\* percent in 2009 to \*\*\* percent in 2010 and was \*\*\* percent in 2011. \*\*\* U.S. production, as a share of the overall domestic production of the domestic like product, was \*\*\* percent in 2011. \*\*\*'s operating income margins during the period of investigation were \*\*\* than the industry average. \*\*\* the petition. CR/PR at Tables III-1, III-8, and VI-2.

<sup>33</sup> 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.

<sup>34</sup> Commissioner Dean A. Pinkert does not rely upon companies' financial performance as a factor in determining whether there are appropriate circumstances to exclude them from the domestic industry in this investigation. The record is not sufficient to infer from their profitability on U.S. operations whether they have derived a specific benefit from importing. See Allied Mineral Products v. United States, 28 CIT 1861, 1865-67 (2004).

<sup>35</sup> \*\*\* imported \*\*\* short tons of subject merchandise in 2009, \*\*\* short tons in 2010, and \*\*\* short tons in 2011. \*\*\* ratio of subject imports to domestic production increased from \*\*\* percent in 2009 to \*\*\* percent in 2010 before falling to \*\*\* percent in 2011. \*\*\* U.S. production, as a share of the overall domestic production of the domestic like product, was \*\*\* percent in 2011. \*\*\* operating income margin was above the industry averages for 2010 and 2011, but was below the industry average for 2009. \*\*\* the petition. CR/PR at Tables III-1, III-8, and VI-2.

<sup>36</sup> \*\*\* imported no subject merchandise in 2009, \*\*\* short tons in 2010, and \*\*\* short tons in 2011. The ratio of \*\*\* subject imports to its domestic production was \*\*\* percent in 2009, \*\*\* percent in 2010, and \*\*\* percent in 2011. \*\*\* U.S. production, as a share of the overall domestic production of the domestic like product was \*\*\* percent in 2011. \*\*\*'s financial results were \*\*\* of the industry throughout the period of investigation. \*\*\* the

(continued...)

Consequently, based on our definition of the domestic like product and our analysis of related party issues, we define the domestic industry as all U.S. producers of steel nails.

#### IV. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

##### 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.<sup>37</sup> In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>38</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>39</sup> In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>40</sup> No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>41</sup>

Although the statute requires the Commission to determine whether the domestic industry is “materially injured by reason of” unfairly traded imports,<sup>42</sup> 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.<sup>43</sup> 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 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.<sup>44</sup>

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<sup>36</sup> (...continued)

petition in this investigation. CR/PR at Tables III-1, III-8, and VI-2.

Precision, in arguing for \*\*\* exclusion from the domestic industry, does not contest that the firm’s domestic production is \*\*\* than its levels of subject imports, nor does it argue that its importation of subject merchandise shields it from the effects of dumped imports. Instead, Precision argues that appropriate circumstances exist to exclude \*\*\* from the domestic industry as a related party because it \*\*\*. Precision Posthearing Brief at 4. We reject this argument because there is no basis in the statute or Commission practice for excluding a related party based on its importation of non-subject merchandise, the apparent focus of Precision’s argument.

<sup>37</sup> 19 U.S.C. §§ 1671d(b), 1673d(b).

<sup>38</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each {such} factor . . . and explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

<sup>39</sup> 19 U.S.C. § 1677(7)(A).

<sup>40</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>41</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>42</sup> 19 U.S.C. §§ 1671d(a), 1673d(a).

<sup>43</sup> 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).

<sup>44</sup> 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 (continued...)”

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.<sup>45</sup> In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.<sup>46</sup> 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 imports, which may be contributing to overall injury to an industry.<sup>47</sup> It is clear that the existence of injury caused by other factors does not compel a negative determination.<sup>48</sup>

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

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<sup>44</sup> (...continued)

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).

<sup>45</sup> 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.

<sup>46</sup> 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.”).

<sup>47</sup> S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

<sup>48</sup> 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.”).

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.”<sup>49 50</sup> Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”<sup>51</sup>

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.<sup>52</sup> 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 injury from non-subject imports or other factors to subject imports.<sup>53</sup> 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.

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<sup>49</sup> 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.

<sup>50</sup> Commissioner Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal Steel, held that the Commission is required, in certain circumstances when considering 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.

<sup>51</sup> 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.”).

<sup>52</sup> Mittal Steel, 542 F.3d at 875-79.

<sup>53</sup> 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).



market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.<sup>54</sup>

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.<sup>55</sup> Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.<sup>56</sup>

### **C. Conditions of Competition and Business Cycle**<sup>57</sup>

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

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

Steel nails are used in the construction of houses and other structures, and are also used to make furniture and cabinets, as well as crates and pallets for shipping. Since construction is the single largest end use for steel nails, the parties agree that demand for steel nails is strongly influenced by activity in the construction market, particularly the market for residential housing.<sup>58</sup> According to data from the U.S. Census Bureau, seasonally adjusted monthly new housing starts rose gradually from 2009 to 2011 but have remained within a narrow range that is well below historic averages.<sup>59</sup> Questionnaire respondents disagreed about the extent to which the steel nails market followed general business cycles, but a majority of questionnaire respondents reported that business conditions had changed since 2009, with most citing the negative effects of the recession and the severe slump in housing construction as the causes.<sup>60</sup>

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<sup>54</sup> 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.

<sup>55</sup> 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.

<sup>56</sup> 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.").

<sup>57</sup> In this investigation, steel nail imports from subject producers in the UAE accounted for more than three percent of the volume of steel nails 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 petitions. CR at IV-9; PR at IV-8. Thus, we find that U.S. imports of steel nails from subject producers in the UAE are not negligible under 19 U.S.C. § 1677(24).

<sup>58</sup> CR/PR at II-1; Mid Continent Prehearing Brief at 4-5; Dubai Wire/Itochu Prehearing Brief at 12; Precision Prehearing Brief at 1.

<sup>59</sup> CR at II-5; PR at II-3-4; CR/PR at Figure II-1. The average number of housing starts (seasonally adjusted annual rate) for January 2009-December 2011 was 582,000. Between 1959 and 2008 the United States had never experienced 12 consecutive months with seasonally adjusted housing starts of less than 1 million units. Through December 2011, the U.S. market had gone 42 consecutive months with seasonally adjusted housing starts of less than 1 million units. CR at II-5 n.5; PR at II-4 n.5.

<sup>60</sup> Eight of 10 responding U.S. producers, 14 of 22 responding importers, and 13 of 31 responding purchasers reported that the steel nails market is subject to business cycles or distinctive conditions of competition. Numerous  
(continued...)

Apparent U.S. consumption of steel nails increased by 21.5 percent from 2009 to 2011, the period for which data were collected in the final phase of this investigation, with most of the increase occurring from 2009 to 2010.<sup>61</sup> Apparent U.S. consumption, by quantity, increased from 445,543 short tons in 2009 to 530,671 short tons in 2010 to 541,138 short tons in 2011.<sup>62</sup>

## 2. Supply Conditions

The domestic industry had a larger share of the U.S. market than subject imports in 2009, but a smaller share in 2010 and 2011.<sup>63</sup> From 2009 to 2010, \*\*\* exited the industry.<sup>64</sup> Further, \*\*\* closed domestic producer \*\*\* in 2012.<sup>65</sup>

Several significant domestic industry acquisitions and consolidations occurred during the period of investigation. \*\*\*, the \*\*\* domestic producer, acquired certain steel-nail production assets from former domestic producer \*\*\* in 2011. Mid Continent's parent company itself was bought by Deacero USA, a unit of Deacero SA de CV, a Mexican company, in 2012.<sup>66</sup> Finally, \*\*\* consolidated a significant portion of its domestic production capacity in 2009 and 2010, and moved a portion of that consolidated production capacity to third countries in 2010.<sup>67</sup>

Subject imports increased from supplying 14.3 percent of the U.S. market in 2009 to 20.4 percent in 2011.<sup>68</sup> The largest producers of subject steel nails in the UAE are Dubai Wire and Precision.<sup>69</sup> The leading U.S. importers of subject steel nails from the UAE are Itochu and Precision, which collectively accounted for \*\*\* percent of imports of subject imports by quantity in 2011.<sup>70</sup>

Non-subject imports had the largest share of the market in each year from 2009 to 2011. The dominant source of non-subject steel nails throughout the period of investigation was China, which exported more steel nails to the United States than any other country for each year from 2009 to 2011.<sup>71</sup> In 2008, antidumping duty orders entered into effect for steel nails from certain Chinese producers.<sup>72</sup> Itochu reported that the imposition of such duties caused it to switch its primary source of steel nails from China to the UAE.<sup>73</sup>

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<sup>60</sup> (...continued)

companies reported that demand is softer during winter than at other times of the year. CR at II-8; PR at II-5.

<sup>61</sup> CR/PR at Table C-1.

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

<sup>63</sup> CR/PR at Table C-1.

<sup>64</sup> CR/PR at Table III-2 and VI-1.

<sup>65</sup> \*\*\* moved at least a portion of its domestic production capacity to the \*\*\*, whereas \*\*\* completely shuttered its operations. \*\*\* cited \*\*\* as its reason for closing \*\*\*. CR/PR at Table III-2.

<sup>66</sup> See, e.g., Hearing Tr. at 23 (Libla), 130-31 (Zinman); CR/PR at Table III-2.

<sup>67</sup> CR/PR at Table III-2.

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

<sup>69</sup> CR at I-3, VII-1-2, Table VII-1; PR at I-2, VII-1-2, Table VII-1.

<sup>70</sup> CR at I-3; CR/PR at Table IV-1; PR at I-2-3.

<sup>71</sup> CR/PR at Table IV-3.

<sup>72</sup> CR at I-8-9; PR at I-6; Certain Steel Nails from China, Investigation No. 731-TA-1114 (Final), USITC Pub. 4022 (July 2008); Notice of Antidumping Duty Order: Certain Steel Nails from the People's Republic of China, 73 Fed. Reg. 44961 (Aug. 1, 2008).

<sup>73</sup> Dubai Wire/Itochu Posthearing Brief at 3-4. No party has contested this explanation.

### 3. Substitutability and Other Conditions of Competition

The parties agree that steel nails are a commodity product with no close substitutes.<sup>74</sup> The parties also agree that certain steel nails are produced to industry specifications and are generally interchangeable within type, size, and finish, no matter where they are produced.<sup>75</sup>

Steel nails can be differentiated by characteristics including, but not limited to length; head, shanks, and point styles; and finish (e.g., bright (no finish), galvanized). Steel nails can be packaged in bulk (i.e., loose in a carton) or in collated forms. Bulk nails come in packages ranging from one- to five-pound boxes (“small packs”) to 50-pound cartons.<sup>76</sup> There are thousands of stock keeping units (“SKUs”), each of which represents a distinct combination of size, style, finish, and packaging, present in the U.S. marketplace.<sup>77</sup> Moreover, many companies sell steel nails they either produce or distribute under their respective brand or private label.<sup>78</sup>

Majorities of U.S. producers, U.S. importers, and purchasers all reported that subject imports and the domestic like product are “always” interchangeable.<sup>79</sup> Purchasers identified quality, price, and availability as the three most important factors involved in purchasing decisions.<sup>80</sup> Most purchasers reported that the domestic like product was comparable to subject imports with respect to quality,<sup>81</sup> and either comparable or superior to subject imports with respect to availability.<sup>82</sup> By contrast, a majority of purchasers reported that the domestic like product was inferior to subject imports with respect to price.<sup>83</sup> In fact, with the notable exception of price, a majority or plurality of purchasers reported that the domestic like product was comparable to subject imports with respect to nearly every factor that the

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<sup>74</sup> Dubai Wire/Itochu Prehearing Brief at 17-18; Mid Continent Prehearing Brief at 5, 14-16; Precision Posthearing Brief at 3, 13; CR at II-5; PR at II-3.

<sup>75</sup> Dubai Wire/Itochu Postconference Brief at 22; Dubai Wire/Itochu Prehearing Brief at 17; Mid Continent Prehearing Brief at 15; Mid Continent Posthearing Brief at 2-4; Conference Tr. at 80 (Zinman) (Prime Source commingles nails from multiple sources before resale); Hearing Tr. at 30 (Skarich) (“Any two nails that are produced to the same standards and that have the same dimensions are physically interchangeable . . .”), 142-43 (Zinman) (explaining that “the vast majority of our customers do not specify the origin of nails we deliver . . . . We charge the identical price for identical products regardless [of where they are made].”), 194 (Leffler) (explaining that Hitachi’s practice is identical to Itochu/Prime Source’s in this context); CR/PR at Table II-6.

<sup>76</sup> CR at I-9-10, I-12, I-14-15; PR at I-6-7, I-9, I-11.

<sup>77</sup> Hearing Tr. at 252 (Ved).

<sup>78</sup> Branding appears to be a common practice in this industry. See, e.g., Hearing Tr. at 80 (Skarich). Companies that have their own brands include Itochu/Prime Source (Grip-Rite brand), Stanley (Stanley Bostitch brand), Senco (Senco brand), ITW (Paslode brand), Hitachi (Hitachi brand), and Mid Continent (Magnum brand). Hearing Tr. at 63 (Libla), 132 (Zinman), 150 (Leffler), 155 and 201 (Doody). Brands can sometimes command higher prices in the marketplace because, for example, customers may feel more comfortable buying a brand of steel nails that matches the brand of a tool that uses steel nails. CR at VI-5 n.7; PR at VI-3 n.7 (discussing \*\*\* reported ability to charge a higher price for its brand of nails in the marketplace); Hearing Tr. at 178 and 210 (Leffler), 255 (Doody). However, brands do not limit physical interchangeability of types of steel nails. For example, nail manufacturers such as Mid Continent manufacture steel nails in a variety of collation forms to meet the requirements of various tools. Hearing Tr. at 30 (Skarich), 177-79 (Leffler) (discussing interchangeability and brands).

<sup>79</sup> CR/PR at Table II-6.

<sup>80</sup> CR at II-9; CR/PR at Table II-2; PR at II-6.

<sup>81</sup> This is true for both “quality meets industry standards” and “quality exceeds industry standards”. CR/PR at Table II-4.

<sup>82</sup> CR/PR at Table II-4.

<sup>83</sup> CR/PR at Table II-4.

Commission asked them to evaluate.<sup>84</sup> We therefore conclude that there is a high degree of substitutability between the subject merchandise and the domestic like product.

Distributors were the single largest channel for both the domestic like product and subject imports during the period of investigation, with the remaining portion going to end users.<sup>85</sup> Most sales of steel nails by U.S. producers and importers are on a spot basis.<sup>86</sup>

Raw materials account for a substantial share of the cost of steel nails. Because steel wire rod is the main raw material used to produce steel nails, its cost affects the prices of steel nails.<sup>87</sup> Steel wire rod prices fluctuated over the period of investigation, ending higher overall at the end of the period.<sup>88</sup>

#### **D. Volume of Subject Imports**

Section 771(7)(C)(I) of the Tariff Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”<sup>89</sup>

U.S. imports of subject merchandise experienced significant gains over the period of investigation, increasing from 63,494 short tons in 2009 to 118,558 short tons in 2010, before decreasing slightly to 110,395 short tons in 2011.<sup>90</sup> Subject import volume gains far outpaced the recovery in U.S.

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<sup>84</sup> CR/PR at Table II-4. The only exception besides price was delivery time, for which a majority found U.S.-produced steel nails to be superior.

<sup>85</sup> See CR/PR at Table II-1. However, U.S. shipments of UAE imports \*\*\* in 2010 and 2011, becoming \*\*\* between end users and distributors. Id.; see also CR/PR at II-1 n.1.

<sup>86</sup> CR at V-3; PR at V-2.

<sup>87</sup> See CR/PR at V-1; Conference Tr. at 48 (Ved) (explaining that Dubai Wire’s price mechanisms are tied to steel prices); Hearing Tr. at 188 (explaining that Itochu’s price index is linked to steel wire rod costs). The representative from Dubai Wire, Mr. Ved, explained at the hearing that steel wire rod prices are “very similar” worldwide. Hearing Tr. at 166-67 (Ved); see also id. at 79 (Libla) (discussing how steel worldwide is “really comparable priced now.”).

<sup>88</sup> CR/PR at Figure V-1.

<sup>89</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>90</sup> CR/PR at Table C-1. The data suggest that the drop in subject import volume from 2010 to 2011 was, at least in part, due to the pendency of this investigation, particularly with respect to the filing of the petition on March 31, 2011, and Commerce’s decision to impose provisional duties on subject imports on November 3, 2011. See CR/PR at I-1. Subject import volumes almost doubled from February to March 2011, when they reached their highest monthly level of the entire period of investigation. CR/PR at Figure IV-2; Nails (REV): U.S. Imports by Source and by month, 2008-2011, EDIS Doc. No. 477142. Subject import volumes in March 2011 were also substantially higher than subject import volumes in March 2010, and subject import volumes rose faster from February to March 2011 than they did from February to March 2010, both in absolute terms and in terms of the percent increase. Id. However, subject import volumes fell sharply in April 2011 while non-subject import volumes were experiencing steady increases. Id. Subject import levels again fell sharply from November to December 2011. Id.

Respondents have provided various explanations for the 2011 decline in subject import volume that they contend is unrelated to the pendency of this investigation. Dubai Wire/Itochu Posthearing Brief at 45-49; Hearing Tr. at 215 (Ved). These reasons, however, do not explain the sudden drop in subject import volumes that immediately followed filing of the petition. Moreover, several of their comments confirm that Commerce’s imposition of provisional duties did indeed cause some decrease in the volumes of subject imports. Itochu explained that it began placing \*\*\*. Dubai Wire/Itochu Posthearing Brief at 45, 48-49. Additionally, the witness for importer Continental Materials testified at the hearing that his company started to shift supply away from the UAE producers in response to Commerce’s provisional duties. Hearing Tr. at 161 (Fischer).

Accordingly, we have accorded limited weight to the decline in subject import volume from 2010 to 2011, because this appears to be largely a result of the pendency of this proceeding. See 19 U.S.C. § 1677(7)(I).

(continued...)

demand. Indeed, from 2009 to 2010, subject imports volumes increased by 86.7 percent while U.S. demand grew by only 19.1 percent. Moreover, over the entire period of investigation, subject import volumes increased by 73.9 percent, while U.S. demand grew by only 21.5 percent.<sup>91</sup>

As a result, the subject imports increased their U.S. market penetration during the period of investigation from 14.3 percent in 2009 to 22.3 percent in 2010 before decreasing slightly to 20.4 percent in 2011.<sup>92</sup> This 6.1 percentage point net gain in market share came predominantly at the expense of the domestic industry, which lost 4.8 percentage points of market share during the same period.<sup>93</sup> The gains made by subject imports also came at the expense of non-subject imports, which lost 1.3 percentage points of market share from 2009 to 2011.<sup>94</sup>

The large and increasing presence of subject imports in the U.S. market is also apparent when subject imports are considered relative to U.S. production. The ratio of subject imports to domestic production was 68.2 percent in 2009, 122.9 percent in 2010, and 113.6 percent in 2011.<sup>95</sup>

Contrary to Respondents' arguments, we do not find that attenuated competition between subject imports and the like domestic product diminishes the significance of the volume and increase in volume of the subject imports.<sup>96</sup> Rather, we find that subject imports compete with the domestic like product with respect to a wide range of products, in the same channels of distribution, and with respect to private labels.<sup>97</sup> With respect to product range, the record reflects that the domestic industry's product range is

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<sup>90</sup> (...continued)

However, even taking the 2011 subject import volume data fully into account, we still conclude that the volume and increase in volume of subject imports, both in absolute terms and relative to domestic consumption and production, are significant.

<sup>91</sup> CR/PR at Table C-1.

<sup>92</sup> CR/PR at Table C-1.

<sup>93</sup> CR/PR at Table C-1.

<sup>94</sup> CR/PR at Table C-1.

<sup>95</sup> CR/PR at Table IV-7.

<sup>96</sup> See, e.g., Precision Prehearing Brief at 9-16; Dubai Wire/Itochu Prehearing Brief at 35-36.

<sup>97</sup> Chairman Okun and Commissioner Pearson made a negative determination in the preliminary phase of this investigation, finding limited overlap in the customer base for the domestic like product and subject imports, as well as differences in product offerings and business models. USITC Pub. 4235 at 25-31 (Dissenting Views of Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson). In this final phase, the record shows significant overlap in the volume of product offerings, customer base, and business models, as described in this opinion.

comparable to that of the subject imports,<sup>98</sup> including with respect to production processes<sup>99</sup> and, at least to some extent, the ability to produce small packs of steel nails.<sup>100</sup>

The record also indicates that subject imports and the domestic like product are sold through similar channels of distribution. Indeed, the majority of purchasers that bought subject merchandise also bought the domestic like product.<sup>101</sup> Distributors were the single largest channel for both the domestic like product and the subject imports during the period of investigation.<sup>102</sup> Distributors to which the domestic industry sells, including firms such as Prime Source and Carlson Systems Holdings, Inc. (“Carlson”),<sup>103</sup> sell their steel nails to “big box” retailers such as \*\*\*, that comprised a substantial but

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<sup>98</sup> A majority of purchasers reported that the product range of subject imports was comparable to the domestic like product’s. CR/PR at Table II-4. Moreover, a majority of responding purchasers indicated that they could obtain a full line of SKUs from the domestic industry. CR/PR at Table II-5. Further, we note that the domestic industry has a large amount of idle capacity, CR/PR at Table III-3, and there is evidence on the record suggesting that steel nails machines can be relatively easily changed to produce different types of steel nails. See, e.g., Hearing Tr. at 47 (Yost).

Moreover, any superiority of the subject imports over the domestic industry in product range is of limited relevance because the final-phase record reflects that U.S. purchasers place relatively little weight on this factor in their purchasing decisions. Indeed, majorities of purchasers ranked all factors used in purchasing decisions listed in their purchaser questionnaires as “very important” except for product range, extension of credit, minimum quantity requirements, quality exceeds industry standards, discounts and rebates, and U.S. transportation costs. CR/PR at Table II-3.

<sup>99</sup> CR/PR at Table III-4; CR at VII-4-5; PR at VII-2. The only process among those investigated that the domestic industry does not perform is electro-plating. CR/PR at Table III-4. It is unclear from the record how much of domestic demand is satisfied by such steel nails, but we note that this is of limited relevance considering that the large majority of the domestic industry’s U.S. shipments of steel nails, the UAE producers’ exports of steel nails to the United States, and U.S. importers’ U.S. shipments of steel nails are bright (no finish) steel nails, which are not electroplated. CR/PR at Tables III-6, III-7, IV-4, and VII-2.

<sup>100</sup> \*\*\* U.S. producers reported that they had the ability to and did produce small packs of nails during the period examined. CR/PR at Table III-4. \*\*\* domestic producers reported shipments of small packs of steel nails in 2011. \*\*\* reported that such small packs comprised \*\*\* of their U.S. shipments in 2011, respectively. CR at III-10-11; PR at III-7. Small packs accounted for \*\*\* percent of the domestic industry’s 2011 U.S. shipments, and \*\*\* percent of importers’ 2011 U.S. commercial shipments of subject merchandise. CR at III-11, IV-8; PR at III-7, IV-8. Thus, although small packs appear in different concentrations in the subject imports and domestic like products, they also appear to be satisfying a relatively small portion of U.S. demand. Additionally, the record also contains evidence that the domestic industry could increase production of such steel nails relatively easily if the opportunity arose. Hearing Tr. at 45 (Libla) (“[T]he packaging equipment required for packing one- and five-pound is not significantly different than packing a 25- or a 50-pound. So -- and currently Mid Continent does not sell one- and five-pound packs. We could.”).

<sup>101</sup> Mid Continent Posthearing Brief at Exh. 1.

<sup>102</sup> CR/PR at Table II-1. However, U.S. shipments of UAE imports \*\*\* in 2010 and 2011, becoming \*\*\* between end users and distributors. Id.

<sup>103</sup> Hearing Tr. at 153-54 and 200-01 (Doody). Itochu stated during this investigation that Prime Source has and still does source steel nails from the domestic industry, and would like to source more from the domestic industry if possible. Conference Tr. at 81-82 (Zinman); see also Hearing Tr. at 143 (Zinman).

Additionally, Itochu imported \*\*\* steel nails from non-subject sources than from the UAE during \*\*\*, and imported \*\*\* of subject merchandise in 2010. \*\*\* Questionnaire (Final) at II-5 and II-7. Thus, it is apparent that Itochu does not, as it has claimed, use Dubai Wire as a “one-stop shop” for its steel nails needs. Dubai Wire/Itochu Prehearing Brief at 14-16, 28; Hearing Tr. at 253-54 (Zinman); Dubai Wire/Itochu Posthearing Brief at 7.

declining share of apparent U.S. consumption during the period of investigation.<sup>104</sup> The domestic industry also sells steel nails to original equipment manufacturers (“OEMs”), such as Hitachi, that, in turn, sell steel nails to big box retailers.<sup>105</sup> Moreover, the domestic industry has demonstrated the ability to sell directly to big box stores.<sup>106</sup> Thus, the record reflects that the channels of distribution that lead to the big box stores are not only open to the domestic like product, but the domestic like product already has a presence in them. The record also reflects that there is competition between the domestic like product and subject merchandise in the so-called specialty tool and fastener distributors (“STAFDA”) market that caters to professional contractors.<sup>107</sup>

Furthermore, the record shows that Mid Continent, the largest domestic producer, makes a substantial amount of products under other companies’ private labels.<sup>108</sup> At least one other domestic producer, Tree Island, also makes products under other companies’ private labels, and has expressed the desire to produce more if presented with the opportunity.<sup>109</sup>

Thus, we conclude that the volume and increase in volume of steel nails imported into the United States from subject producers in the UAE are significant, both in absolute terms and relative to consumption and production in the United States.

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

Section 771(7)(C)(ii) of the Tariff 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

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<sup>104</sup> Big box stores’ purchases of steel nails accounted for \*\*\* percent of apparent U.S. consumption in 2009, \*\*\* percent in 2010, and \*\*\* percent in 2011. CR at II-7-8; PR at II-5.

<sup>105</sup> See, e.g., Hearing Tr. at 62 (Libla), 149 (Leffler); \*\*\* U.S. Producer Questionnaire (Final) at IV-20.

<sup>106</sup> At least \*\*\* domestic producers sell directly to big box stores. These include \*\*\*. \*\*\* U.S. Producer Questionnaire (Final) at IV-20; \*\*\* U.S. Producer Questionnaire (Final) at IV-20; \*\*\* U.S. Producer Questionnaire (Final) at IV-20; \*\*\* U.S. Producer Questionnaire (Final) at IV-20.

<sup>107</sup> Dubai Wire/Itochu have conceded that there is competition between the domestic like product and subject imports in the STAFDA market. See, e.g., Dubai Wire/Itochu Postconference Brief at 24-25; Hearing Tr. at 251 (Zinman). The STAFDA market consists almost exclusively of collated nails. Hearing Tr. at 251 (Zinman). Further, there is evidence that the majority of collated nails are sold in the professional construction market, which includes STAFDA purchasers. See Hearing Tr. at 43 (Skarich). Moreover, in 2011 the majority of the domestic industry’s U.S. shipments of steel nails, the UAE producers’ exports of steel nails to the United States, and U.S. importers’ U.S. shipments of steel nails were collated nails. CR/PR at Tables III-6, III-7, IV-4, and VII-2. This evidence suggests that competition between subject imports and the domestic like product is significant in this market.

<sup>108</sup> Hearing Tr. at 30-31 and 81-82 (Skarich) (indicating that 23.6 percent of Mid Continent’s production consists of private label steel nails). At the hearing in this investigation, the representative for U.S. purchaser Carlson claimed that Mid Continent had refused to increase its supply of private label nails to Carlson in 2011. Hearing Tr. at 154-55 (Doody). Mid Continent explained that this refusal was due to reasons unrelated to any lack of interest in producing private label nails. Mid Continent Posthearing Brief, Answers to Comm’n Questions at 28-35. Precision also alleged that Mid Continent refused to sell private label nails to \*\*\* in 2010. The relevance of this assertion is dubious, because Mid Continent apparently \*\*\* its sales of Mid Continent brand nails to \*\*\* from 2010 to 2011. Mid Continent Posthearing Brief, Answers to Comm’n Questions at 34.

<sup>109</sup> Hearing Tr. at 24, 27 (Yost).

prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>110</sup>

As we explained in section IV.C.3 above, the record shows a high degree of substitutability between subject imports and the domestic like product. Purchasers identified price as one of the three most important factors involved in purchasing decisions, and a large majority of purchasers ranked price as a “very important” factor in purchasing decisions.<sup>111</sup> Further, we found in section IV.D above that most subject imports directly compete for sales with the domestic like product. Thus, we conclude that price is an important factor in purchasing decisions for steel nails.

In this investigation, nine U.S. producers and nine importers of subject steel nails from the UAE provided usable quarterly net U.S. f.o.b. selling price data for ten products for the period January 2009 through December 2011.<sup>112</sup> Pricing data reported by these firms accounted for approximately 21.5 percent of the value of the domestic industry’s U.S. shipments of steel nails and 33.1 percent of the value of U.S. shipments of subject imports during 2009 to 2011.<sup>113</sup>

Per our usual practice, in this investigation we compared prices charged by U.S. producers and importers of subject merchandise for the first arm’s length transaction in the U.S. market.<sup>114</sup> Prices reported for subject imports are based primarily on data from \*\*\* and, to a lesser extent, \*\*\*. Prices reported by \*\*\* used by the Commission are based on their commercial shipments to unrelated U.S. customers of subject imports for which they acted as importer of record.<sup>115</sup> \*\*\*. Thus, prices reported for \*\*\* imports of steel nails from the UAE are based on \*\*\* sales to customers.<sup>116</sup>

We reject Respondents’ argument that our use of Precision data is improper and that we should use pricing data submitted by \*\*\* in lieu of Precision’s pricing data.<sup>117</sup> As stated above, consistent with our usual practice, the pricing data used in the Confidential Report from importer Precision reflect prices that it charged for its first arm’s length transactions in the U.S. market. We compared those prices to the prices that the domestic industry charged for its own first arm’s length transactions in the U.S. market. Because both Precision and domestic producers sell steel nails to \*\*\*,<sup>118</sup> such pricing data address a relevant and comparable level of trade.<sup>119</sup> Respondents’ suggested approach would result in our comparing \*\*\* input costs (in the case of prices reported by domestic producers for their sales to \*\*\*) to \*\*\* output prices (on its sales of imported nails, including Precision’s). This is not an equivalent comparison.

Consequently, we have relied on the pricing data provided in the Commission report. These data indicate that the subject imports undersold the domestic like product in 77 of 103 quarterly comparisons,

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<sup>110</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>111</sup> CR at II-9; PR at II-6; CR/PR at Tables II-2 and II-3.

<sup>112</sup> CR at V-4; PR at V-3.

<sup>113</sup> CR at V-4; PR at V-3. This represents significant coverage of the market given the large number of products and SKUs.

<sup>114</sup> See Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Final), USITC Pub. 3984 (March 2008) at 13, n. 91; Kosher Chicken from Canada, Inv. No. 731-TA-1062 (Preliminary), USITC Pub. 1062 (January 2004) at 15, n. 120.

<sup>115</sup> \*\*\* acted as importer of record for all of its U.S. imports, whereas \*\*\* acted as importer of record for only a portion of its U.S. imports. CR at V-5; PR at V-3.

<sup>116</sup> CR at V-5; PR at V-3.

<sup>117</sup> Dubai Wire/Itochu Prehearing Brief at 40-42; Precision Prehearing Brief at 18-20; Precision Posthearing Brief at 11-12; Dubai Wire/Itochu Posthearing Brief at 14.

<sup>118</sup> CR at V-22 n.5; PR at V-7 n.5.

<sup>119</sup> See CR at V-22; PR at V-7.



or 75 percent of the time, at margins ranging from 0.4 to 45.2 percent.<sup>120</sup> Because the domestic like product and the subject imports are close substitutes and price is an important factor in purchasing decisions, we find this underselling to be significant.

We do not find that subject imports depressed prices for the domestic like product to a significant degree during the period of investigation. Prices for the domestic like product rose from the first quarter of 2009 to the fourth quarter of 2011 for four of the nine pricing products for which data were reported, and fell for the remaining five.<sup>121</sup> Many of the fluctuations in U.S. prices during the period for which data were collected appear to correlate with fluctuations in steel wire rod prices. Many of the prices of the pricing products experienced general upward trends during the latter part of 2009 through 2010 and into 2011 as wire rod prices increased.<sup>122</sup>

We do find evidence that subject imports suppressed prices for the domestic like product to a significant degree. The COGS-to-net sales ratio of the domestic industry increased from 80.7 percent to 84.1 percent from 2009 to 2011.<sup>123</sup> This trend indicates that the domestic industry suffered a “cost/price” squeeze despite a 21.5 percent increase in apparent U.S. consumption. Moreover, the COGS-to-net-sales ratio increased by 3.5 percentage points from 2009 to 2010, the period during which subject imports realized their most rapid gains, and fell by 0.1 percentage points from 2010 to 2011, when subject imports decreased slightly.<sup>124</sup> Thus, the domestic industry’s ability to raise prices to cover cost increases at a time of rising demand was limited by the presence of low-priced subject imports.

Additionally, seven of ten responding U.S. producers indicated that they lost sales or had to reduce prices or roll back announced price increases during 2009-11.<sup>125</sup> A number of purchasers also confirmed instances of lost sales and revenue reported by the domestic producers. Responding purchasers agreed or partly agreed with 169 allegations of lost sales and revenue accounting for 18,520 tons and nearly \$19.4 million.<sup>126</sup> Moreover, seven of 21 responding purchasers reported that they had switched from the domestic like product to subject imports since 2008, five of whom cited price as the reason for the switch. Also, nine of twelve responding purchasers reported that U.S. producers had reduced prices because of competition from subject imports.<sup>127</sup>

In summary, we find that the significant underselling by subject imports enabled them to take sales away from the domestic industry and suppressed the domestic industry’s prices.<sup>128</sup>

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<sup>120</sup> CR at V-22; CR/PR at Tables V-1 to V-10; PR at V-7.

<sup>121</sup> CR/PR at Table V-11. The domestic industry reported no sales of Product 10. CR at V-4; PR at V-3.

<sup>122</sup> See CR/PR at Figures V-1-2, Tables V-1-10.

<sup>123</sup> CR/PR at Table C-1.

<sup>124</sup> CR/PR at Table C-1.

<sup>125</sup> CR at V-23; PR at V-8.

<sup>126</sup> CR at V-24; CR/PR at Tables V-13-14; PR at V-8.

<sup>127</sup> CR at V-49; PR at V-8.

<sup>128</sup> Commissioner Pinkert finds significant underselling, which enabled subject imports to take sales away from the domestic industry, but he does not find price depression or price suppression.

## **F. Impact of the Subject Imports**<sup>129</sup>

Section 771(7)(C)(iii) of the Tariff Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”<sup>130</sup> 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.”<sup>131</sup>

We find that imports of steel nails from subject producers in the UAE had a significant adverse impact on the domestic industry during the investigation period.<sup>132</sup> Indeed, most of the domestic industry’s performance indicators declined from 2009 to 2011.

As increasing volumes of subject imports entered the U.S. market, the domestic industry’s share of apparent U.S. consumption by quantity declined from 22.8 percent in 2009 to 18.4 percent in 2010, and fell even further to 17.9 percent in 2011.<sup>133</sup> Consequently, the domestic industry received little benefit from the improving U.S. demand. While apparent U.S. consumption increased by 21.5 percent

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<sup>129</sup> As required by the statute, we have considered the magnitude of the dumping margins Commerce most recently published prior to the closing of our record. See 19 U.S.C. § 1677(35)(C). These were in the final antidumping duty determination, in which Commerce found weighted-average antidumping duty margins of 6.29 percent for products manufactured and exported by Dubai Wire, 2.80 percent for Precision, 184.41 percent for Tech Fast International Ltd., and 4.55 percent for all others. Certain Steel Nails from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value, 77 Fed. Reg. 17029, 17032 (Mar. 23, 2012). Respondents contend that the margins for the principal exporters of subject merchandise to the United States are low and, given the domestic industry’s healthy condition and “questionable” claims of lost sales and revenues, such margins cannot causally connect subject imports to any injury the domestic industry has suffered. Dubai Wire Posthearing Brief at 13, 49; Precision Posthearing Brief at 15. However, even if the dumping margins can accurately be characterized as low, that does not outweigh the other factors that we have examined supporting our conclusion that subject imports had a significant impact on the domestic industry, especially in light of our conclusions that there is a high degree of substitutability between subject imports and the domestic like product, and that price is an important factor in purchasing decisions.

<sup>130</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”)

<sup>131</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Prelim.), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

<sup>132</sup> We reject Itochu and Dubai Wire’s argument that we should divide the domestic industry into three different segments based on a combination of producer size and the extent to which the producers import non-subject merchandise. We do not find that such segmentation will aid our analysis of the condition of the industry as a whole. The record does not indicate that the segmentation proposed by Itochu and Dubai Wire is in any way pertinent to competition between the domestic industry and the subject imports. As explained above, there is competition in each of the so-called “segments” that Itochu and Dubai Wire identify. See 19 U.S.C. § 1677(4)(A); see also Copperweld Corp. v. United States, 682 F. Supp. 552, 165-66 (Ct. Int’l Trade 1988); Shandong TTCA Biochemistry Co. v. United States, 774 F. Supp. 2d 1317, 1325 n.12 (Ct. Int’l Trade 2011).

<sup>133</sup> CR/PR at Table C-1.

during 2009-11,<sup>134</sup> the domestic industry's production increased by only 4.4 percent.<sup>135</sup> Moreover, although the domestic industry's capacity utilization increased slightly, U.S. production capacity declined during the period examined, and its utilization levels remained very low.<sup>136</sup> Furthermore, the domestic industry's U.S. shipments decreased over the period examined even as apparent U.S. consumption increased.<sup>137</sup>

Almost all of the domestic industry's employment-related indicators decreased substantially during the period examined, including the number of production workers, hours worked, wages paid, and hourly wages.<sup>138</sup> The only two favorable trends in this context were rises in productivity levels and decreases in unit labor costs,<sup>139</sup> both of which are consistent with of the downsizing of the labor force and the decreases in wages.

Declining shipments, in conjunction with the cost/price squeeze caused by the low-priced subject imports, led to drops in sales revenues and operating performance.<sup>140</sup> The industry's net sales value declined by 7.2 percent from 2009 to 2011, falling from \$188.9 million in 2009 to \$161.7 million in 2010 before increasing to \$175.3 million in 2011.<sup>141</sup> The domestic industry's operating income also fell by 35.5 percent during the period of investigation, falling from \$9.6 million in 2009 to \$5.0 million in 2010 before increasing to \$6.2 million in 2011.<sup>142</sup> The domestic industry's operating income margin decreased from 5.1 percent in 2009 to 3.1 percent in 2010, before rising to 3.5 percent in 2011.<sup>143</sup> Thus, the domestic industry's financial performance indicators generally declined in a climate of increasing demand.<sup>144</sup>

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<sup>134</sup> CR/PR at Table C-1.

<sup>135</sup> The domestic industry's production increased from 93,062 short tons in 2009 to 96,446 short tons in 2010 and then to 97,182 short tons in 2011. CR/PR at Table C-1.

<sup>136</sup> The domestic industry's capacity increased from 359,461 short tons in 2009 to 365,271 short tons in 2010, but fell to 335,364 short tons in 2011. CR/PR at Table C-1. Its capacity utilization increased from 25.9 percent in 2009 to 26.4 percent in 2010 and then to 29.0 percent in 2011. CR/PR at Table C-1.

<sup>137</sup> The domestic industry's U.S. shipments were 101,512 short tons in 2009, 97,817 short tons in 2010, and 97,063 short tons in 2011. Total shipments also declined from 2009 to 2011. CR/PR at Table III-5. Domestic industry end-of-period inventories decreased from 15,970 short tons in 2009 to 14,055 short tons in 2010 and then to 12,101 short tons in 2011. CR/PR at Table III-10.

<sup>138</sup> The average number of PRWs declined 16.8 percent between 2009 and 2011, from 608 to 506. Hours worked declined 17.9 percent from 2009 to 2011, from 1,311 to 1,076. Wages paid declined 34.6 percent from 2009 to 2011, from \$22.8 million to \$14.9 million. Hourly wages declined 20.3 percent from 2009 to 2011, from \$17.38 to \$13.85. CR/PR at Table C-1.

<sup>139</sup> The industry's labor productivity increased over the period, rising from 71.0 short tons per 1,000 hours in 2009 to 90.3 short tons per 1,000 hours in 2011. Unit labor costs declined 37.3 percent from 2009 to 2011, from \$244.80 per short ton to \$153.40 per short ton. CR/PR at Table C-1.

<sup>140</sup> Commissioner Pinkert finds that declining shipments caused by sales lost to low-priced subject imports led to decreases in sales volume and operating performance.

<sup>141</sup> CR/PR at Table C-1.

<sup>142</sup> CR/PR at Table C-1.

<sup>143</sup> CR/PR at Table C-1. The domestic industry's return on investment fell from 12.5 percent in 2009 to 7.1 percent in 2010 before increasing to 9.5 percent in 2011. CR/PR at Table VI-5. The domestic industry's capital expenditures increased from \$\*\*\* in 2009 to \$\*\*\* in 2010, before falling to \$\*\*\* in 2011. CR/PR at Table C-1. R&D expenditures \*\*\*. CR/PR at Table VI-4.

<sup>144</sup> The financial data of \*\*\* were not included in the final Commission Report because \*\*\* failed to provide its 2011 financial data. CR at VI-5 n.8; PR at VI-3 n.8. The investigative staff made multiple attempts to obtain this data from \*\*\*, \*\*\*, EDIS Doc. No. 477488. \*\*\* reported profit margins in this investigation were higher than those  
(continued...)

We have considered whether there are factors other than subject imports that have had an impact on the domestic industry. The contraction in steel nail demand that occurred due to the recent recession concluded by 2009, and thus is not an issue in this final phase investigation.<sup>145</sup> Although residential construction activity is still below historic levels, apparent U.S. consumption of steel nails increased steadily from 2009 to 2011. Thus, depressed demand levels cannot explain why the domestic industry's U.S. shipments and employment declined during the period examined. Moreover, the domestic industry's loss of market share to subject imports is not a function of demand.

As explained in section IV.C.2, above, the domestic industry experienced several major structural changes during 2009 to 2011. Among these, \*\*\* consolidated its domestic steel-nail production operations in 2009 and 2010, and moved a portion of that consolidated production capacity to \*\*\* in 2010.<sup>146</sup> Respondents argue that \*\*\* curtailment of domestic production is unrelated to subject imports, and that any domestic industry declines are simply the result of the \*\*\*.<sup>147</sup>

We do not agree with Respondents. First, the Commission lacks a clear statement from \*\*\* regarding the reason(s) behind its consolidations and transfer of domestic production capacity abroad.<sup>148</sup> Second, we are cognizant of our duty to examine the domestic industry as a whole; for the reasons stated in section III above, appropriate circumstances do not exist to exclude \*\*\* from the domestic industry. Finally, even if \*\*\* reorganized production structure was the result of a merger as Respondents contend, it would still not explain significant trends in certain performance factors of the domestic industry, such as the sharp decline in hourly wages, continued low capacity utilization that has recovered at a fraction of the pace of demand despite a drop in overall capacity, the significant drop in unit labor costs, or, most significantly, the loss of almost 5 percentage points of market share to subject imports.<sup>149</sup>

We have also examined the impact of non-subject imports.<sup>150</sup> The primary source of non-subject imports was China, which exported more steel nails to the United States than any other country for each

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<sup>144</sup> (...continued)

reported by any other domestic producer. If \*\*\* 2009 and 2010 financial data were included, the industry operating margins would be \*\*\* percent, respectively. CR at VI-5 n.8; PR at VI-3 n.8. However, there were also outstanding questions surrounding the accuracy of \*\*\* financial data that the investigative staff was unable to resolve despite its best efforts to do so. See id.; \*\*\*, EDIS Doc. No. 477488.

<sup>145</sup> See Preliminary Views, USITC Pub. 4235 at 16.

<sup>146</sup> CR/PR at Table III-2.

<sup>147</sup> CR/PR at Table III-1 n.5; Precision Prehearing Brief at 3; Dubai Wire/Itochu Prehearing Brief at 32.

<sup>148</sup> By contrast, \*\*\* (CR/PR at Table III-2) but explicitly stated that subject imports were a factor in its decision to \*\*\*. \*\*\* U.S. Producers' Questionnaire (Final) at II-2.

<sup>149</sup> \*\*\* its levels of steel nail imports (from both subject and non-subject sources) by \*\*\* short tons from 2009 to 2011 while it was simultaneously decreasing its domestic production operations. CR/PR at Table III-8. We note that even if \*\*\* had produced this amount in the United States instead of importing it from abroad, that increased domestic output would still not have come close to the amount the domestic industry would have needed to ship in order to maintain its market share over the period examined. See CR/PR at Table C-1.

<sup>150</sup> For purposes of the analysis required by Bratsk and Mittal Steel, Commissioner Pinkert finds that steel nails are a commodity product and that price-competitive non-subject imports were a significant factor in the U.S. market during the period under examination. He finds, however, that non-subject imports would not have replaced the subject imports without benefit to the domestic industry had the subject imports exited the market during the period. Non-subject imports were at higher prices than subject imports in approximately 75 percent of the available quarterly price comparisons (265 out of 354 comparisons). CR/PR at Table D-1. These data indicate that any replacement of subject imports by non-subject imports would have been to the advantage of the domestic industry by virtue of more favorable pricing.

year from 2009 to 2011.<sup>151</sup> Non-subject imports increased their presence in the United States over the period examined, but did so at a slower rate than the rise in apparent U.S. consumption.<sup>152</sup> Also, non-subject imports lost 1.3 percentage points of market share to subject imports during the period examined.<sup>153</sup> Moreover, non-subject imports oversold both subject imports and the domestic like product in a majority of comparisons.<sup>154</sup> Consequently, non-subject imports cannot explain the domestic industry's observed declines in output, market share, and financial performance.

For the foregoing reasons, we find that there is a causal nexus between subject imports and the performance declines of the domestic industry and that the domestic industry is materially injured by reason of subject imports. Significant volumes of subject imports pervasively undersold the domestic like product, and caused the domestic industry to lose sales and market share to the subject imports. Employment and wages also fell. Causes other than subject imports do not explain these trends. Despite operating in a climate of substantially increased demand, the subject imports impeded the domestic industry's ability to take advantage of that demand increase.

### **CONCLUSION**

For the foregoing reasons, we determine that the domestic industry producing steel nails is materially injured by reason of subject imports from the UAE that Commerce found were sold in the U.S. market at less-than-fair value.

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<sup>151</sup> CR/PR at Table IV-3. As discussed in section IV.C.2, above, certain Chinese producers of steel nails are currently subject to antidumping duty orders.

<sup>152</sup> CR/PR at Table C-1.

<sup>153</sup> CR/PR at Table C-1.

<sup>154</sup> Non-subject imports from China, for example (some of which were subject to antidumping duty orders during the period examined, as noted above), oversold the domestic like product in 62 of 91 available comparisons, and oversold subject imports from the UAE in 50 of 89 available comparisons. CR/PR at D-3 and Table D-1.



## PART I: INTRODUCTION

### BACKGROUND

This investigation results from a petition filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by Mid Continent Nail Corporation, Poplar Bluff, MO, on March 31, 2011, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of certain steel nails (“steel nails”)<sup>1</sup> from the United Arab Emirates (“UAE”). Information relating to the background of the investigation is provided below.<sup>2</sup>

Effective date	Action
March 31, 2011	Petition filed with Commerce and the Commission; institution of Commission investigation (76 FR 19124, April 6, 2011)
April 27, 2011	Commerce’s notice of initiation (76 FR 23559)
May 16, 2011	Commission’s preliminary determination (76 FR 29266, May 20, 2011)
November 3, 2011	Commerce’s preliminary determination (76 FR 68129); scheduling of final phase of Commission investigation (76 FR 72438, November 23, 2011)
March 20, 2012	Commission’s hearing <sup>1</sup>
March 23, 2012	Commerce’s final determination (77 FR 17029)
April 19, 2012	Commission’s vote
May 2, 2012	Commission’s determination transmitted to Commerce

<sup>1</sup> A list of witnesses that appeared at the hearing is presented in app. B.

### STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

#### Statutory Criteria

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

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

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<sup>1</sup> See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject to this investigation.

<sup>2</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

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

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

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

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

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

### **Organization of the Report**

*Part I* of this report presents information on the subject merchandise, 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 of subject imports and pricing of domestic and imported products, 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**

Steel nails generally are used in residential and commercial construction to join objects together. The leading U.S. producer of steel nails is petitioner Mid Continent; other large producers include Illinois Tool Works ("ITW"), Pneu-Fast, Senco Products, Inc. ("Senco"), and Stanley Black & Decker ("Stanley"). Major responding UAE producers of subject steel nails include Dubai Wire FZE ("Dubai Wire") and Precision Fasteners LLC ("Precision Fasteners"). The leading U.S. importers of subject steel



nails from UAE are \*\*\*. Leading U.S. importers of steel nails from nonsubject sources (primarily Canada, China, Korea, Malaysia, Mexico, Poland, and Taiwan) include \*\*\*.

Apparent U.S. consumption of steel nails totaled approximately 541,138 short tons (\$776.4 million) in 2011. Currently, 12 firms are believed to produce steel nails in the United States.<sup>3</sup> The ten responding U.S. producers' U.S. shipments of steel nails totaled 97,063 short tons (\$183.8 million) in 2011, and accounted for 17.9 percent of apparent U.S. consumption by quantity and 23.7 percent by value. U.S. imports from the UAE totaled 110,395 short tons (\$130.4 million) in 2011 and accounted for 20.4 percent of apparent U.S. consumption by quantity and 16.8 percent by value. U.S. imports from nonsubject sources totaled 333,680 short tons (\$462.2 million) in 2011 and accounted for 61.7 percent of apparent U.S. consumption by quantity and 59.5 percent by value.

## SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of nine firms that accounted for nearly all of U.S. production of steel nails during 2011.<sup>4</sup> U.S. imports are based on official statistics from Commerce except where noted.

## PREVIOUS AND RELATED INVESTIGATIONS

On November 21, 1977, a complaint was filed by Armco Steel Corp.; Atlantic Steel Co.; Bethlehem Steel Corp.; CF & I Steel Corp.; Keystone Steel & Wire Division of Keystone Consolidated Industries, Inc.; Northwestern Steel & Wire Co.; and the Penn-Dixie Steel Corp., alleging that certain steel wire nails from Canada were being sold at LTFV.<sup>5</sup> In November 1978, the Department of the Treasury ("Treasury") determined that certain steel wire nails from Canada, except those produced by Tree Island Steel Co., Ltd. and the Steel Co. of Canada, Ltd., were being, or were likely to be, sold in the United States at LTFV.<sup>6</sup> In February 1979, the Commission determined that the domestic steel wire nails industry was not being, and was not likely to be, injured and was not prevented from being established, by reason of the importation of certain steel wire nails from Canada that were being, or were likely to be, sold at LTFV.<sup>7</sup>

On April 20, 1979, Treasury, in conjunction with its administration of a "Trigger Price Mechanism," self-initiated an investigation to determine whether certain steel wire nails from Korea were being sold at LTFV. The investigation was subsequently terminated under the Antidumping Act, but was continued under section 731 of the Tariff Act of 1930, as amended. Commerce found that certain steel wire nails from Korea were being sold at LTFV.<sup>8</sup> However, the Commission determined that the domestic steel wire nails industry was not materially injured and was not threatened with material injury, and that the establishment of an industry in the United States was not materially retarded, by reason of imports of certain steel wire nails from Korea.<sup>9</sup>

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<sup>3</sup> Wheeling-LaBelle Nail ceased nail production in June 2010 and its entire operation closed in September 2010.

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

<sup>5</sup> 42 FR 64942, December 29, 1977.

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

<sup>7</sup> *Steel Wire Nails From Canada, Investigation No. AA1921-189*, USITC Publication 937, February 1979.

<sup>8</sup> 45 FR 34941, May 23, 1980.

<sup>9</sup> *Certain Steel Wire Nails From The Republic of Korea, Investigation No. 731-TA-26 (Final)*, USITC Publication 1088, August 1980.

On July 2, 1981, Commerce self-initiated antidumping investigations concerning imports of certain steel wire nails from Japan, Korea, and Yugoslavia pursuant to additional information developed under the trigger price mechanism.<sup>10</sup> Specifically, Commerce found that subject imports from these countries were likely being sold below trigger prices and, therefore, possibly at LTFV. Although the Commission made a negative determination with respect to certain steel wire nails from Korea in the previous year, the Commission found new evidence indicating that sales of Korean nails may be having an injurious effect on the domestic industry.<sup>11</sup> The investigation of imports from Japan was subsequently terminated, while the investigation of imports from Yugoslavia resulted in a negative determination by the Commission.<sup>12</sup> After a final affirmative material injury determination by the Commission, an antidumping duty order was issued against steel wire nails from Korea.<sup>13</sup> The order against Korea was revoked effective October 1, 1984, following a Voluntary Restraint Agreement<sup>14</sup> concerning imports of nails from Korea.<sup>15</sup>

On January 19, 1982, Armco Inc.; Tree Island Steel, Inc.; Atlantic Steel Co.; Florida Wire and Nails; New York Wire Mills; and Virginia Wire and Fabric filed a petition alleging that certain steel wire nails from Korea were being subsidized.<sup>16</sup> In September 1982, however, the countervailing duty investigation was terminated following a determination by Commerce that Korean producers and exporters of nails were not receiving benefits that constituted subsidies.<sup>17</sup>

On January 24, 1984, the United Steelworkers of America, AFL-CIO/CLC, and Bethlehem Steel Corp. filed a petition under section 201 of the Trade Act of 1974 alleging that carbon and certain alloy steel products, including steel wire nails, were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported articles.<sup>18</sup> Following the Commission's affirmative determinations in July 1984 for several of the products, including steel wire nails, the United States negotiated various agreements to limit the importation of steel products into the United States, such as the VRAs.<sup>19</sup>

On June 5, 1985, petitions were filed alleging that certain steel wire nails from China, Poland, and Yugoslavia were being, or were likely to be, sold in the United States at LTFV.<sup>20</sup> The petitions concerning imports from Poland and Yugoslavia were subsequently withdrawn following VRAs with Poland and Yugoslavia with respect to exports of steel wire nails to the United States. As a result,

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<sup>10</sup> 46 FR 34613, July 2, 1981.

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

<sup>12</sup> 46 FR 41122, August 14, 1981; and *Certain Steel Wire Nails From Japan, The Republic of Korea, and Yugoslavia, Investigation Nos. 731-TA-45, 46, and 47 (Preliminary)*, USITC Publication 1175, August 1981.

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

<sup>14</sup> On September 18, 1984, the President established a national policy for the steel industry that led to the creation of the Voluntary Restraint Agreements ("VRAs"). These VRAs established new measures limiting steel exports into the United States from certain steel-supplying countries. 49 FR 36813, September 20, 1984. The VRAs expired on March 31, 1992.

<sup>15</sup> 50 FR 40045, October 1, 1985.

<sup>16</sup> 47 FR 6458, February 8, 1982.

<sup>17</sup> 47 FR 39549, September 8, 1982.

<sup>18</sup> *Carbon and Alloy Steel Products, Investigation No. TA-201-51*, USITC Publication 1553, July 1984, p. 7.

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

<sup>20</sup> The petitions were filed by Atlantic Steel Co.; Atlas Steel & Wire Corp.; Continental Steel Corp.; Dickson Weatherproof Nail Co.; Florida Wire & Nail Co.; Keystone Steel & Wire Co.; Northwestern Steel & Wire Co.; Virginia Wire & Fabric Co.; and Wire Products Co. 50 FR 27479, July 3, 1985.

Commerce terminated the investigations with respect to Poland and Yugoslavia.<sup>21</sup> The investigation with respect to China led to a finding that the domestic steel wire nails industry was materially injured by reason of LTFV imports of certain steel wire nails from China.<sup>22</sup>

On April 20, 1987, a petition was filed alleging that certain steel wire nails from New Zealand and Thailand were receiving bounties or grants.<sup>23</sup> Commerce conducted a section 303 investigation and made affirmative findings with respect to both countries and issued countervailing duty orders against steel wire nails from Thailand and New Zealand in October 1987.<sup>24</sup> On August 9, 1995, the orders were revoked by Commerce as no domestic interested party requested a review.<sup>25</sup>

On March 22, 1989, a petition was filed alleging that certain steel wire nails from Malaysia were receiving bounties or grants.<sup>26</sup> Commerce, however, determined that no benefits which constitute bounties or grants were being provided to Malaysian producers or exporters.<sup>27</sup>

On November 26, 1996, a petition was filed alleging that collated roofing nails imported from China, Korea, and Taiwan were being sold at LTFV.<sup>28</sup> These investigations led to a finding that the domestic collated roofing nails industry was threatened with material injury by reason of LTFV imports of collated roofing nails from China and Taiwan.<sup>29</sup> The investigation with respect to collated roofing nails from Korea was terminated by the Commission following a negative determination by Commerce.<sup>30</sup> On November 19, 1997, Commerce issued antidumping duty orders against collated roofing nails from China and Taiwan.<sup>31</sup> These orders were revoked effective November 19, 2002, because no domestic interested party responded to Commerce's notice of initiation of five-year reviews.<sup>32</sup>

On July 3, 2001, following a request from the United States Trade Representative ("USTR") and subsequently a request from the Senate Finance Committee, a section 201 investigation was initiated by the Commission to determine whether certain steel products were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry. The Commission, however, made a negative determination with respect to carbon and alloy steel nails.<sup>33</sup>

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<sup>21</sup> 51 FR 4205, February 3, 1986, and 50 FR 35281, August 30, 1985.

<sup>22</sup> *Certain Steel Wire Nails From The People's Republic of China, Investigation No. 731-TA-266 (Final)*, USITC Publication 1842, April 1986; 51 FR 10247, March 25, 1986. An antidumping duty order was imposed on certain steel wire nails from China on May 21, 1986 (51 FR 18640), but because of changed circumstances ("petitioners' affirmative statement of no interest in continuation of the antidumping duty order"), the order was revoked on September 3, 1987, retroactive to January 1, 1986 (52 FR 33463).

<sup>23</sup> The petition was filed by Air Nail Co.; Atlas Steel & Wire Corp.; CF&I Steel Corp.; Davis-Walker Corp.; Dickson Weatherproof Nail Co.; Exposaic Industries, Inc.; Keystone Steel and Wire Co.; and Northwestern Steel & Wire Co. 52 FR 18590, May 18, 1987; 52 FR 18591, May 18, 1987.

<sup>24</sup> 52 FR 36987, October 2, 1987, and 52 FR 37196, October 5, 1987.

<sup>25</sup> 60 FR 40568, August 9, 1995.

<sup>26</sup> The petition was filed by members of the Nail Committee of the American Wire Producers Association. 54 FR 15534, April 18, 1989.

<sup>27</sup> 54 FR 36841, September 5, 1989.

<sup>28</sup> The petition was filed by Paslode Division of Illinois Tool Works Inc. 61 FR 67306, December 20, 1996.

<sup>29</sup> *Collated Roofing Nails From China and Taiwan, Investigation Nos. 731-TA-757 and 759 (Final)*, USITC Publication 3070, November 1997.

<sup>30</sup> 62 FR 51420, October 1, 1997, and 62 FR 53799, October 16, 1997.

<sup>31</sup> 62 FR 61729, November 19, 1997, and 62 FR 61730, November 19, 1997.

<sup>32</sup> 67 FR 70578, November 25, 2002.

<sup>33</sup> *Steel, Investigation No. TA-201-73*, USITC Publication 3479, December 2001.

On May 29, 2007, following receipt of a petition filed with the Commission and Commerce by Davis Wire Corp. (Irwindale, CA), Gerdau Ameristeel Corp. (Tampa, FL), Maze Nails (Peru, IL), Mid Continent Nail Corp. (Poplar Bluff, MO), and Treasure Coast Fasteners, Inc. (Fort Pierce, FL),<sup>34</sup> the Commission instituted antidumping duty investigations on steel nails from the UAE and China. The Commission determined that an industry in the United States was materially injured by reason of imports from China of steel nails, found by Commerce to be sold in the United States at LTFV.<sup>35 36 37</sup> On August 1, 2008, Commerce issued an antidumping order on steel nails from China with margins from 0.0 percent (Paslode) to 21.24 percent for “named firms,” and 118.04 percent for all others.<sup>38</sup> Commerce issued a determination in its second review on March 1, 2012,<sup>39</sup> following its April 26, 2011, amended final administrative review margins for 23 Chinese exporters of 10.63 percent.<sup>40</sup>

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

On March 23, 2012, Commerce published a notice in the *Federal Register* of its final determination concerning the antidumping duty investigation on steel nails from the UAE. The final dumping margins for the subject producers were 2.80 percent for Precision Fasteners LLC, 6.29 percent for Dubai Wire FZE, 184.41 percent for Tech Fast International Ltd., and 4.55 percent for all others.<sup>41</sup>

### **THE SUBJECT MERCHANDISE**

The imported products subject to these investigations are steel nails.<sup>42</sup> A nail is “a slender, typically rod-shaped rigid piece of metal, usually in any of numerous standard lengths from a fraction of an inch to several inches and having one end pointed and the other enlarged and flattened, for hammering into or through wood, other building materials, etc., as used in building, in fastening, or in holding

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<sup>34</sup> On June 22, 2007, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union was added as a co-petitioner.

<sup>35</sup> The petition alleged that an industry in the United States was materially injured or threatened with material injury by reason of LTFV imports of certain steel nails from the UAE. On June 16, 2008, Commerce found that certain steel nails from the UAE are not being, or are not likely to be, sold in the United States at LTFV. 73 Fed. Reg. 33985 (June 16, 2008). Accordingly, the Commission terminated its final phase of the investigation regarding the UAE. 73 FR 39041 (July 8, 2008).

<sup>36</sup> *Certain Steel Nails From China: Determination*, 73 FR 43474, July 25, 2008.

<sup>37</sup> Commerce conducted a changed-circumstances review concerning the antidumping duty order on certain steel nails from China that addresses the exclusion of roofing nails. See *Certain Steel Nails from the People’s Republic of China: Final Results of Antidumping Duty Changed Circumstances Review*, 76 FR 30101, May 24, 2011.

<sup>38</sup> *Notice of Antidumping Duty Order: Certain Steel Nails From the People’s Republic of China*, 73 FR 44961, August 1, 2008.

<sup>39</sup> *Certain Steel Nails From the People’s Republic of China: Final Results and Final Partial Rescission of the Second Antidumping Duty Administrative Review*, 77 FR 12556, March 1, 2012.

<sup>40</sup> *Certain Steel Nails From the People’s Republic of China: Amended Final Results of the First Antidumping Duty Administrative Review*, 76 FR 23279, April 26, 2011.

<sup>41</sup> *Certain Steel Nails From the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 77 FR 17029, March 23, 2012.

<sup>42</sup> On March 7, 2012, the U.S. Court of International Trade remanded the Commerce Department’s conclusion that steel nails imported in tool kits were outside the scope of an antidumping duty order on Chinese steel nails (*Mid Continent Nail Corp. v. United States*, Ct. Int’l Trade, No. 10-00247 (Slip Op. 12-31), 3/7/12), stating “The nails in question here are unambiguously subject to the Final Order, and there is no support in the law or the record for concluding otherwise.”

separate pieces together.<sup>43</sup> Nails are produced in many different lengths, and with many different styles of heads, shanks, and points, depending upon the intended use. Nails are produced uncoated (bright) or with any of several different coatings such as zinc (to retard corrosion), cement (to provide better adherence in the wood or other material into which the nail is to be driven), and paint (for improved appearance).

### Commerce's Scope

Commerce has defined the imported product subject to this investigation as:<sup>44</sup>

*The merchandise covered by this investigation includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hotdipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this investigation are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Certain steel nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to this investigation are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65, and 7317.00.75.*

*Excluded from the scope of this investigation are steel nails specifically enumerated and identified in ASTM Standard F 1667 (2011 revision) as Type I, Style 20 nails, whether collated or in bulk, and whether or not galvanized.*

*Also excluded from the scope of this investigation are the following products:*

- *non-collated (i.e., hand-drive or bulk), two-piece steel nails having plastic or steel washers ("caps") already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500" to 8", inclusive; an actual shank diameter of 0.1015" to 0.166", inclusive; and an actual washer or cap diameter of 0.900" to 1.10", inclusive;*

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<sup>43</sup> Dictionary.com. <http://dictionary.reference.com/browse/Nail> (accessed February 27, 2012).

<sup>44</sup> *Certain Steel Nails From the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 77 FR 17029, March 23, 2012.

- *non-collated (i.e., hand-drive or bulk), steel nails having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500" to 4", inclusive; an actual shank diameter of 0.1015" to 0.166", inclusive; and an actual head diameter of 0.3375" to 0.500", inclusive;*
- *wire collated steel nails, in coils, having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500" to 1.75", inclusive; an actual shank diameter of 0.116" to 0.166", inclusive; and an actual head diameter of 0.3375" to 0.500", inclusive;*
- *non-collated (i.e., hand-drive or bulk), steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75" to 3", inclusive; an actual shank diameter of 0.131" to 0.152", inclusive; and an actual head diameter of 0.450" to 0.813", inclusive;*
- *corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side;*
- *thumb tacks, which are currently classified under HTSUS 7317.00.10.00;*
- *fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30;*
- *certain steel nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive; and*
- *fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.*

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

### **Tariff Treatment**

Based upon the scope set forth by Commerce, information available to the Commission indicates that the subject goods currently are classifiable in subheadings 7317.00.55, 7317.00.65, and 7317.00.75 of the Harmonized Tariff Schedule of the United States ("HTS"). The current general rate of duty for the subject steel nails is free.

## THE PRODUCT<sup>45</sup>

### Description and Applications

Although most steel nails are produced of low-carbon steel, nails are also produced of stainless steel (to resist corrosion) and of hardenable medium- to high-carbon steel.<sup>46</sup> Nails are packaged for shipment in bulk, that is, loose in a carton or other container, or collated, that is, joined with wire, paper strips, plastic strips, or glue into coils or straight strips for use in pneumatic nailing tools. Although most nails are produced from a single piece of steel, some nails are produced from two or more pieces. Examples include a nail with a decorative head, such as an upholstery nail; a masonry anchor that comprises a zinc anchor and a steel wire nail; a nail with a large thin attached head (for nailing roofing felt, for example); and a nail with a rubber or neoprene washer assembled over its shaft (to seal the nail-hole in metal or fiberglass roofing or siding).

### Manufacturing Processes

Most steel nails are produced from steel wire, although a small proportion of steel nails are produced from steel plate and referred to as “cut nails.” Non-integrated producers of wire nails use purchased steel wire as a starting raw material, whereas integrated producers utilize their own facilities to produce wire for nails, using steel wire rod as their starting material. Some producers are further integrated through the steelmaking process, and produce steel wire rod from raw materials such as scrap, pig iron, and ferroalloys.<sup>47</sup> Figure I-1 shows the general process for producing steel wire nails.

To produce nails, wire is fed from a large coil into a nail machine that automatically straightens the wire, forms the head of the nail, and cuts the nail from the wire, simultaneously forming the point and ejecting the finished nail. Nail machines are of two general types: one, known as a “cold-heading machine,” holds the wire near its end in gripper dies and forms the head by striking the leading end of the wire, forcing the end of the wire to fill a die cavity of the desired shape. The wire is fed through the grippers, and shape cutters form the point and cut the nail free from the wire coming off of the coil. The process is repeated for each individual nail produced by the cold-heading process. In the second type of nail machine, known as a “rotary heading machine,” the wire is fed continuously and cutting rollers cut individual nail blanks, simultaneously forming the point. The nail blanks are then inserted into a die ring and the heads are formed by compression of the end of the nail between the rotating ring and a heading roller. The completed nail is then ejected from the machine. Both types of nail machines are used to produce all styles of nails, and some manufacturers have both types in their facilities. These automatic machines are capable of producing a range of nail sizes and head and point styles by changing tooling and adjustment.<sup>48</sup>

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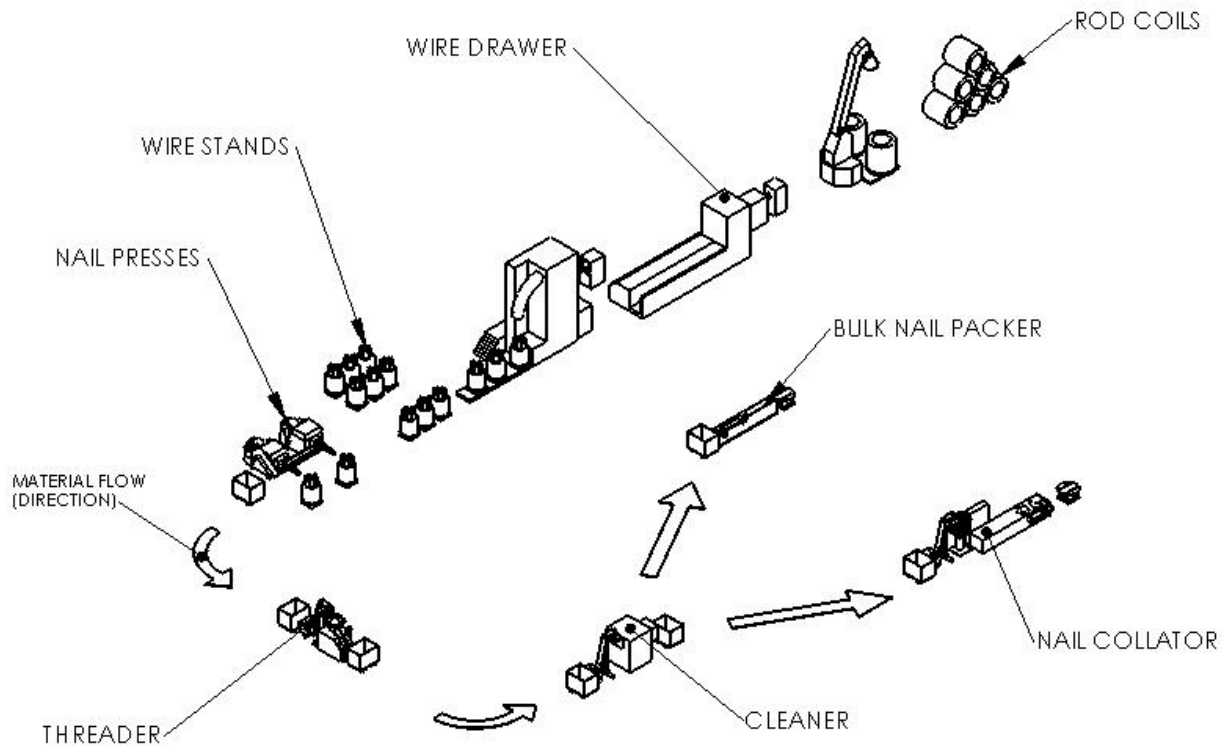
<sup>45</sup> Unless otherwise noted, the information in this section is drawn from *Certain Steel Nails from China, Investigation No. 731-TA-1114 (Final)*, USITC Publication 4022, July 2008.

<sup>46</sup> According to petitioner, all steel nails share the same basic physical characteristics, consisting of a head, shaft, and point; are produced to the same industry-wide standards; and although woodworking nails may have smaller heads and may differ in length and diameter, the differences are minor and do not delineate separate domestic like products.

<sup>47</sup> All current producers in the United States and in the UAE use either purchased rod or purchased wire as starting material.

<sup>48</sup> For the U.S. market, the vast majority of nails are produced to comply with ASTM F 1667 *Standard Specification for Driven Fasteners: Nails, Spikes, and Staples*. Hearing transcript, pp. 69, 87 (Skarich). For other markets, other specifications apply, including DIN specifications for Europe, but the same nail-making equipment (continued...)

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



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

Source: USITC Pub. 4022, *Certain Steel Nails from China, Investigation No. 731-TA-1114 (Final)*, July 2008, p. I-13.

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

After forming, nails are tumbled on themselves in rotating drums to remove particles of head flash and the whiskers, which often remain on the cut and pointed ends. The same drum may contain a medium (such as sawdust) which effects cleaning and polishing of the nails during tumbling, otherwise the tumbled nails can be transferred to units that clean the nails with solvents or vapor degreasers.

Nails are produced with a number of finishes, depending upon the intended use: uncoated,<sup>49</sup> zinc-coated (galvanized), and resin or cement coated are the most common finishes. Nails with galvanized

<sup>48</sup> (...continued)  
 may be used for any specification. Hearing transcript, p. 185 (Ved).

<sup>49</sup> Uncoated nails are also called “bright,” a term that refers to nails that have not undergone treatments affecting finish, such as hardening, bluing, coating, plating, etching, painting, etc. ASTM F 547: *Standard Terminology of Nails for Use with Wood and Wood-Base Materials*.



coatings are intended for uses where corrosion and staining resistance are important.<sup>50</sup> Cement coating is used to increase the resistance of the nail to withdrawal by increasing the friction between the nail and the wood into which it has been driven.<sup>51</sup> Zinc-coated, or galvanized, nails are produced by several methods: they may be produced using zinc-coated (galvanized) wire; alternatively, they may be produced by a process of dipping formed nails in molten zinc then spinning them in a centrifuge-like apparatus to throw off excess molten zinc; finally, nails may be electroplated with zinc after forming. Nails for driving into concrete or other hard substances may be hardened by heat treatment. Nails for use in pneumatic nailing tools are processed through automatic equipment to collate the nails using paper strips, plastic strips, fine steel wire, or adhesive. Nails for hand-driving are packaged in bulk (loose) in cartons or in smaller count boxes, including one- and five-pound boxes for mass merchandise retail repair and remodeling customers.<sup>52</sup> <sup>53</sup> <sup>54</sup> Special packaging equipment may be used in order to pack small (one- and five-pound) boxes at high speed and lowest possible cost.<sup>55</sup>

Cut nails are produced from plate rather than from wire and are rectangular rather than round. Cut nails are used primarily for joining to masonry or concrete. Although cut nails may be made for any carpentry use, the main use other than masonry is for flooring in applications where an antique appearance is required. Cut nails are made from high-carbon steel plate that is sheared into strips. The strips are fed into specially designed nail machines, which shape the nails and form the heads. The cut nails are then case-hardened in a furnace and packed in 50-pound cartons (also known as large-count industry standard boxes) on pallets for the construction trades or either 1-pound or 5-pound boxes for mass merchandise retail repair and remodeling customers.

### **DOMESTIC LIKE PRODUCT ISSUES**

Petitioners contend that there is a single domestic like product that is coextensive with the scope of the case, and further argue that the minor variations in nail features do not justify segmenting various types of nails into separate domestic like products.<sup>56</sup> No party requested that the Commission collect information regarding like product issues in the comments on the draft questionnaires and no party has proposed an alternative like product.

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<sup>50</sup> Forest Products Society, *Wood Handbook 2010 Edition*, p. 8-3.

<sup>51</sup> Forest Products Society, *Wood Handbook 2010 Edition*, p. 8-3.

<sup>52</sup> Conference transcript, pp. 57-58 and 96-97 (Zinman).

<sup>53</sup> As discussed in greater detail in Part II, most domestic producers are capable of packaging nails in one- and/or five-pound boxes. Seven of the nine domestic producers reported that they had packed small cartons (1 lb./5 lb boxes) during 2009-11. \*\*\* can produce nails in all container sizes (from one-pound boxes to 2,000-pound gaylords). USITC Staff \*\*\* February 29, 2012. Mid Continent has not packed nails in one- or five-pound boxes since the mid 2000's. Hearing transcript, p. 93 (Libla).

<sup>54</sup> Maze Nails, Specialty Nail, and ITW Paslode advertise boxes of steel nails as small as 1- and 5-pounds. Pneu Fast advertises boxes of steel nails as small as 7-pounds. E-mail from Adam Gordon of Wiley Rein LLP, May 9, 2011.

<sup>55</sup> Dubai Wire can pack one-pound boxes at the rate of 40 boxes per minute. Hearing transcript, p. 162 (Ved).

<sup>56</sup> Petition, p. 15, and postconference brief of petitioner, p. 3.



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

### INTRODUCTION

Steel nails are used to build houses and other structures, to make furniture and cabinets, and to assemble crates and pallets for shipping. Since construction is the single largest end use for steel nails, demand for steel nails is strongly influenced by activity in the construction market.

### CHANNELS OF DISTRIBUTION

U.S. producers shipped the majority of U.S.-produced steel nails to distributors during 2009-11 (table II-1). The \*\*\* of U.S. shipments of steel nails imported from the UAE also were to distributors in 2009. During 2010-11, U.S. shipments of steel nails imported from the UAE shifted toward end users and were \*\*\* between distributors and end users in both years. This trend reflects the growing presence of U.S. importer \*\*\*, a company which \*\*\*. \*\*\*'s shipments, in turn, were directed to end users. Similarly, the majority of U.S. shipments of steel nails imported from nonsubject sources were to end users during 2009-11.<sup>1</sup>

**Table II-1**

**Steel nails: Channels of distribution for domestic product and imports sold in the U.S. market, by source, 2009-11**

Item	Year		
	2009	2010	2011
	Share of reported shipment quantity (percent)		
<b>U.S. producers' U.S. shipments:</b>			
Distributors	61.4	64.0	67.4
End users	38.6	36.0	32.6
<b>U.S. shipments of imports from the UAE:</b>			
Distributors	***	***	***
End users	***	***	***
<b>U.S. shipments of imports from all other sources:</b>			
Distributors	28.1	31.9	35.2
End users	71.9	68.1	64.8
Source: Compiled from data submitted in response to Commission questionnaires.			

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

## **GEOGRAPHIC DISTRIBUTION**

U.S.-produced and imported steel nails are sold throughout the United States. Among ten responding producers, seven firms reported selling throughout the continental United States,<sup>2</sup> while the other three producers sold only in certain regions (including the Pacific Coast, Mountains, Midwest, Central Southwest, and Southeast). Among 21 responding importers, 9 reported selling throughout the continental United States,<sup>3</sup> and the other 12 reported selling in specific regions (including the Northeast, Midwest, Pacific Coast, Southeast, Central Southwest, and Mountains).

## **SUPPLY AND DEMAND CONSIDERATIONS**

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

#### **Domestic Production**

Based on available information, U.S. producers of steel nails have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of U.S.-produced steel nails to the U.S. market. The main contributing factors to this degree of responsiveness of supply are substantial excess capacity and moderate inventory levels.

#### *Industry capacity*

U.S. producers' capacity decreased from 359,461 short tons in 2009 to 335,364 short tons in 2011. The industry capacity utilization rate increased from 25.9 percent in 2009 to 29.0 percent in 2011.

#### *Alternative markets*

U.S. producers' exports of steel nails increased from less than \*\*\* percent of their total shipments during 2009-10 to \*\*\* percent in 2011.

#### *Inventory levels*

U.S. producers' ratio of inventories to total shipments declined throughout the period from \*\*\* percent in 2009 to \*\*\* percent in 2010 and further to \*\*\* percent in 2011.

#### *Production alternatives*

None of the U.S. producers have produced other products on the machinery and equipment used to produce steel nails since 2009.

#### **Subject Imports**

Based on available information, the two responding UAE producers<sup>4</sup> are likely to respond to changes in demand with moderate changes in the quantity of shipments of steel nails to the U.S. market.

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<sup>2</sup> Five of these seven producers also sold to Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

<sup>3</sup> Six of these nine importers, including \*\*\*, also sold to Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

<sup>4</sup> These two producers, Dubai Wire and Precision Fasteners, accounted for \*\*\*.

The main contributing factors to this degree of responsiveness of supply are the availability of a moderate amount of unused capacity, existing inventory levels, and the limited amount of non-U.S. market destined production.

### ***Industry capacity***

Reported capacity for the responding UAE producers increased from \*\*\* short tons in 2009 to \*\*\* short tons in 2010 before declining to \*\*\* short tons in 2011. Firms estimated that capacity would continue to decline to \*\*\* short tons in 2012 and to \*\*\* short tons in 2013. The UAE industry capacity utilization rate was \*\*\* percent in 2009, \*\*\* percent in 2010, and \*\*\* percent in 2011.

### ***Alternative markets***

Most steel nails produced in the UAE \*\*\*. Exports to the United States increased from \*\*\* percent of shipments in 2009 to \*\*\* percent in 2010 before returning to \*\*\* percent in 2011. UAE producers projected a decline in total shipments in 2012-13 as well as in the share of UAE exports to the U.S. market, down to \*\*\* percent of total shipments in 2012 and to \*\*\* percent in 2013. UAE producers anticipate an increase in shipments to their home market and third markets in 2012-13.

### ***Inventory levels***

The ratio of inventories to total shipments for steel nails in the UAE declined from \*\*\* percent in 2009 to \*\*\* percent in 2010 but rose to \*\*\* percent in 2011. Inventory levels rose in each year from 2009 to 2011. The ratio is projected to be \*\*\* percent in 2012 and \*\*\* percent in 2013 as inventory levels decline.

### ***Production alternatives***

\*\*\*.

### **Nonsubject Imports**

Based on official Commerce statistics, U.S. imports of certain steel nails from nonsubject sources accounted for 75.1 percent of the quantity of total U.S. imports in 2011. As discussed in greater detail in Part IV, the leading nonsubject sources of steel nails include China (subject to an antidumping order since 2008), Taiwan, and Korea.

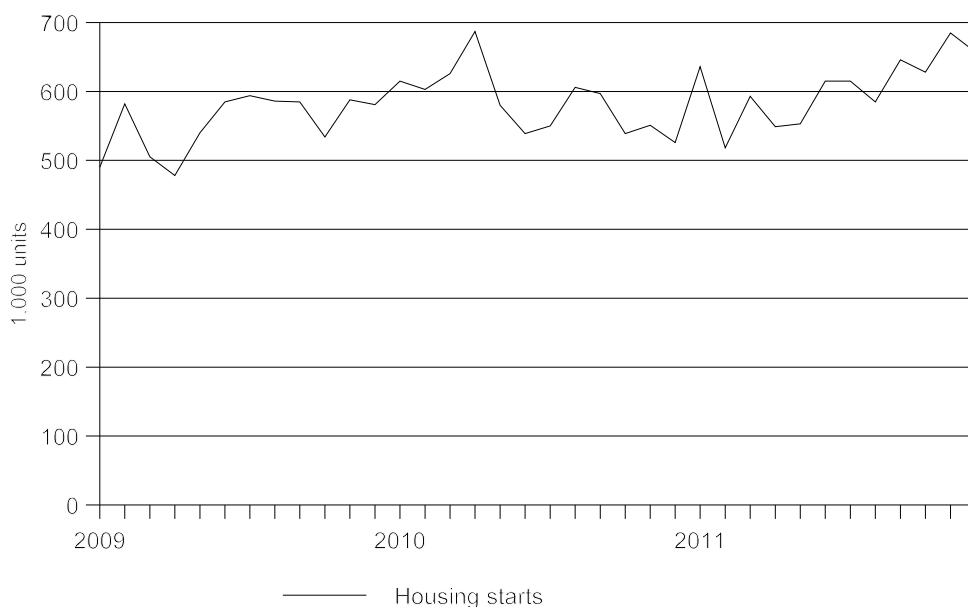
## **U.S. Demand**

### **Demand Characteristics**

Overall U.S. demand for steel nails is likely to be relatively insensitive to price changes since there are no close substitute products, and since steel nails account for a very small cost of the final products in which they are used. New housing starts in the United States are the major factor influencing the overall demand for this product. While rising gradually during 2009-11 (figure II-1), new housing

starts have remained within a narrow range that is well below historic averages.<sup>5</sup> McGraw-Hill Construction reported that the Dodge Index averaged 91 for all of 2011 (100=2000 levels) but fell to 85 in January and 80 in February 2012.<sup>6</sup> Ed Sullivan, chief economist for Portland Cement Association, projected a three percent increase in new single-family housing starts in 2012 from 2011 and that “even with significant gains following in 2013 and 2014, it will take until 2016 for the housing industry to be back to 2002 levels.”<sup>7</sup> Apparent U.S. consumption of steel nails increased from 445,543 short tons in 2009 to 530,671 short tons in 2010 and to 541,138 short tons in 2011.

**Figure II-1**  
**Housing starts: Annualized rate of monthly housing starts, seasonally adjusted, January 2009-December 2011**



Source: U.S. Census Bureau, [http://www.census.gov/construction/nrc/historical\\_data/](http://www.census.gov/construction/nrc/historical_data/).

<sup>5</sup> The average number of housing starts (seasonally adjusted annual rate) for January 2009-December 2011 was 582,000. Between 1959 and 2008 the United States had never experienced 12 consecutive months with seasonally adjusted housing starts of less than 1 million units. Through December 2011, the U.S. market had gone 42 consecutive months with seasonally adjusted housing starts of less than 1 million units (U.S. Census Bureau, [http://www.census.gov/construction/nrc/historical\\_data/](http://www.census.gov/construction/nrc/historical_data/)). According to the U.S. Census Bureau of the Department of Commerce, the value of residential construction put in place in the United States was 1.2 percent lower in 2011 than in 2010. However, the value of residential construction in January 2012 was 1.6 percent higher than in December 2011 and 5.4 percent higher than in December 2010. U.S. Census Bureau, release CB12-36, March 1, 2012, found at <http://www.census.gov/construction/c30/pdf/release.pdf>, retrieved on March 5, 2012. The U.S. Census Bureau reported that residential construction value remained at the same level in February 2012 as in January 2012. U.S. Census Bureau, release CB12-54, April 2, 2012, found at <http://www.census.gov/construction/c30/pdf/release.pdf>, retrieved on April 2, 2012.

<sup>6</sup> The Dodge Index includes nonbuilding construction (e.g., infrastructure), nonresidential building, and residential building. Residential building increased by 3 percent in February 2012. “February Construction Falls 7 Percent,” McGraw-Hill Construction, press release, March 20, 2012, <http://construction.com/about-us/press/february-construction-falls-7-percent.asp>.

<sup>7</sup> “Despite Improvement to Economy, Foreclosures Continue to Drag Down Housing Starts, Prices,” Press release, Portland Cement Association, February 8, 2012, [http://www.cement.org/newsroom/IBS\\_Rel\\_2012.asp](http://www.cement.org/newsroom/IBS_Rel_2012.asp).

When asked how U.S. demand for steel nails had changed since January 2009, 7 responding U.S. producers, 11 of 21 responding importers, and 9 of 31 responding purchasers reported that demand had decreased; no U.S. producers or importers but 6 purchasers reported that demand had increased; 2 U.S. producers, 7 importers, and 6 purchasers reported that demand had fluctuated; and the other U.S. producer, 3 importers, and 10 purchasers reported that demand had not changed. Firms attributed the decrease to declines in housing construction and/or the weak general economy. Some firms also reported a decline in pallet and crate production and reduced expenditures on home improvements. Firms that reported that demand had fluctuated since 2009 reported that demand had improved slightly in 2010 and 2011.

### **Mass Merchandise Demand**

Four mass merchandise retailers provided data for this investigation.<sup>8</sup> The three main national or regional home improvement chains (\*\*\*) have all identified \*\*\* as a significant source for their steel nails purchases in 2011.<sup>9</sup> Their reported shares of total steel nails purchases from \*\*\* in 2011 were \*\*\* - \*\*\* percent, \*\*\* - \*\*\* percent, and \*\*\* - \*\*\* percent. \*\*\* home improvement chains listed \*\*\* as one of their five largest suppliers in 2011: \*\*\*.

While \*\*\* reported that they could not track the country of origin because they buy from companies located in the United States, \*\*\* was able to break out its purchases of steel nails from U.S. producers, UAE producers, and producers in nonsubject countries. The \*\*\* in each year originated from nonsubject countries. Its purchases of steel nails from \*\*\*.

The fourth mass merchandise retailer is more localized. \*\*\*. The company was unable to provide a breakout of its nails purchases by country of origin and only provided an estimate (\*\*\*) of its annual nails purchases. Only one of its four largest suppliers submitted a questionnaire. \*\*\*, from whom \*\*\* purchased \*\*\* percent of its nails in 2011, reported that it in turn bought \*\*\* percent of its nails from \*\*\* in 2011.

These four mass merchandise retail chains purchased \*\*\* of steel nails in both 2009 and 2010 and \*\*\* in 2011. These reported purchases accounted for a substantial but declining share of apparent U.S. consumption during 2009-11: \*\*\* percent in 2009, \*\*\* percent in 2010, and \*\*\* percent in 2011.

### **Business Cycles**

When asked whether the demand for steel nails is subject to business cycles or distinctive conditions of competition, 8 of 10 responding U.S. producers, 14 of 22 responding importers, and 13 of 31 responding purchasers answered “yes.” While responses varied, numerous companies reported that seasonality is influenced by construction activity, which is in turn influenced by weather conditions. These firms reported that demand is softer during November through February than at other times of the year. When asked if there have been any changes in business cycles since January 2009, a majority of firms (7 of 9 responding U.S. producers, 13 of 16 responding importers, and 17 of 32 responding purchasers) reported that conditions have changed with most of them citing the recession and the severe slump in housing construction as the causes.

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<sup>8</sup> Additional DIY retail chains, such as Ace Hardware and True Value, were mentioned during the Commission’s hearing. Hearing transcript, p. 63 (Libla). However, these companies were not identified as major customers/purchasers by U.S. producers or U.S. importers.

<sup>9</sup> During 2009-11, \*\*\*.

## **Substitute Products**

The majority of producers, importers, and purchasers reported that no substitutes exist for steel nails. A few firms listed a number of possible substitutes including screws, staples, and anchors for certain applications. Respondents, however, did not consider these products as price competitive with steel nails.

## **Cost Share**

Estimates by producers, importers, and purchasers indicate that steel nails account for a small share of the total cost of the final products in which they are used. In residential framing, roofing, fencing, siding, home remodeling, and general construction, the share of the final cost was estimated at 1 percent or less. In pallet and crate manufacturing, the cost share was estimated to be somewhat higher, ranging from 1 percent to 8 percent. One purchaser reported that steel nails accounted for 9 percent of the cost of producing \*\*\*.

## **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported steel nails depends upon 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, lead times for delivery dates, payment terms, product services, etc.).

### **Factors Affecting Purchasing Decisions**

#### **Purchasers**

Thirty-seven purchasers submitted questionnaires. These firms included 22 distributors, 5 industrial end users, 1 construction end user, 4 mass merchandise retailers, 4 wholesalers, and a company that makes tools and fasteners to order.

Purchasers identified quality, price, and availability as the three most important factors involved in purchasing decisions (table II-2). Respondents noted that \*\*\* identified price among the top three purchasing considerations;<sup>10</sup> however, \*\*\* did list price under “other factors or comments” for that question. Among the \*\*\*, \*\*\* listed price as the number one factor and \*\*\* listed it as the number three factor.

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<sup>10</sup> Respondents Dubai Wire’s and Itochu’s prehearing brief, p. 17.



**Table II-2****Steel nails: 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
Quality	16	6	8
Price	7	11	11
Availability	4	5	7
Other <sup>1</sup>	9	14	10
<sup>1</sup> Other factors include traditional supplier, delivery time, reliability, consistency, support, and product mix.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Purchasers identified numerous factors as “very important” when making purchasing decisions, including availability, reliability of supply, product consistency, and quality meets industry standards (table II-3). Price and delivery time were also identified by a substantial share of purchasers. The factors that responses suggest are relatively less important in purchasing decisions are extension of credit, minimum quantity requirements, and U.S. transportation costs. Product range received varied responses as 15 firms reported that it was very important but 5 reported that it was not important.

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

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	35	1	0
Delivery terms	27	7	2
Delivery time	29	6	1
Discounts and rebates	18	13	5
Extension of credit	16	12	8
Minimum quantity requirements	9	20	7
Packaging	22	11	3
Price	30	6	0
Product consistency	34	2	0
Product range	15	16	5
Quality meets industry standards	34	2	0
Quality exceeds industry standards	17	15	4
Reliability of supply	35	1	0
Technical support/service	19	15	3
U.S. transportation costs	10	19	7
Source: Compiled from data submitted in response to Commission questionnaires.			

Purchasers were also asked to compare U.S.-produced steel nails and steel nails imported from the UAE with respect to the characteristics listed in table II-4, indicating whether the domestic product was superior, comparable, or inferior to the imported product.

Majorities or pluralities of purchasers reported that U.S.-produced and subject UAE steel nails were comparable with regard to most factors. However, a majority of purchasers reported the domestic product as superior regarding delivery time but inferior with respect to product price. U.S.-produced nails also received more inferior than superior responses regarding product range, although a majority found the products comparable. With regard to availability, one of the factors reported as most important in table II-3, the domestic product received 10 superior and 5 inferior responses.

**Table II-4**  
**Steel nails: Comparisons between U.S.-produced and subject UAE product as reported by U.S. purchasers**

Factor	Number of firms reporting		
	S	C	I
Availability	10	12	5
Delivery terms	11	14	2
Delivery time	20	6	1
Discounts offered	3	18	4
Extension of credit	6	18	3
Minimum quantity requirements	11	13	3
Packaging	3	19	4
Price <sup>1</sup>	2	10	14
Product consistency	9	16	3
Product range	5	15	8
Quality meets industry standards	3	24	1
Quality exceeds industry standards	7	18	3
Reliability of supply	8	19	1
Technical support/service	12	13	3
U.S. transportation costs <sup>1</sup>	11	14	0
<sup>1</sup> A rating of superior on price and transportation costs indicates that the first country generally has lower prices/U.S. transportation costs than the second country. Note.--S=U.S. product is superior, C=U.S. product is comparable, I=U.S. product is inferior. Source: Compiled from data submitted in response to Commission questionnaires.			

Respondents have argued that U.S. producers do not make a complete line of nails and that they do not provide the small packaging requested by some customers, including mass merchandise retailers. The majority of purchasers responded that a full line of steel nail SKUs is available from domestic, UAE, and other sources (table II-5). While a majority of purchasers reported that small packages are available from UAE and nonsubject sources, a majority responded that small packages are not available from U.S. producers. Among the mass merchandise retailers, \*\*\* responded that they \*\*\* able to purchase nails in

small packages from domestic producers. \*\*\* also replied that they \*\*\* able to purchase a full line of SKUs from domestic producers. \*\*\* did not respond to these questions, claiming that it \*\*\* of its nails. \*\*\* stated that it could not respond regarding the full line of SKUs because the term was not adequately defined.

**Table II-5**

**Steel nails: Perceived availability of product from U.S. producers, UAE producers, and nonsubject producers as reported by U.S. purchasers**

Able to purchase	From U.S. producers		From UAE producers		From nonsubject producers	
	Yes	No	Yes	No	Yes	No
Full line of SKUs	17	13	23	6	27	2
Small packages (1-5 lbs.)	13	15	15	11	21	6

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

### Lead Times

The majority of all sales of steel nails by U.S. producers and importers of product from the UAE are from inventories rather than produced to order. Seven of nine responding producers<sup>11</sup> reported that 80 to 100 percent of their 2011 sales were from inventory, one reported that 20 percent were from inventory, and one firm reported that all of its steel nails were produced to order. Producers' lead times from inventory ranged from 1 to 5 days, while lead times for items produced to order generally ranged from 10 to 28 days.<sup>12</sup>

Among 9 responding importers of steel nails from the UAE, the percentage of sales from U.S. inventories ranged from 50 percent to 100 percent, with 6 of the 9 firms reporting that 70 percent or more of their sales were from U.S. inventories. Reported lead times from U.S. inventories ranged from 1 to 7 days. For items produced to order, lead times ranged from 60 to 120 days.

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

To determine whether U.S.-produced steel nails can generally be used in the same applications as imports from the UAE and nonsubject countries, producers, importers, and purchasers were asked whether the products can "always," "frequently," "sometimes," or "never" be used interchangeably. A majority of firms reported that U.S.-produced products and imports from the UAE and nonsubject countries can always or frequently be used interchangeably (table II-6).

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

<sup>12</sup> One producer reported that its lead times ranged from 28 to 42 days.

**Table II-6**

**Steel nails: Perceived degree of interchangeability of product produced in the United States and in other countries, by country pairs**

Country pair	U.S. producers				U.S. importers				Purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. UAE	8	2	0	0	12	2	3	0	17	8	2	1
U.S. vs. nonsubject	8	2	0	0	11	4	3	0	16	9	3	0
UAE vs. nonsubject	8	2	0	0	10	3	4	0	16	7	2	0

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

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

Petitioner contends that steel nails are “commodity products” available in many different varieties from multiple suppliers, have common uses and specifications, and are available through all distribution channels.<sup>13</sup> Respondents, however, view the range of U.S.-produced nails differently and suggest several areas in which competition between U.S.-produced and UAE-produced steel nails might be limited. At the hearing and in their prehearing briefs, the respondents stated that U.S. producers do not offer a wide enough product range in sufficient quantities to effectively service the broad U.S. market for steel nails and compete with the wide range of imports available from the UAE.<sup>14</sup> Respondents also argued that U.S. producers do not offer nails in the widely varied packages, including private label, that are purchased by do-it-yourself customers.<sup>15</sup> Petitioner refuted this claim and displayed at the hearing domestically produced one-pound and five-pound boxes and a private label, one-pound box which had been purchased locally from do-it-yourself stores.<sup>16</sup> Production capability and sales of specific forms of nails are addressed in Parts III and IV of this report.

Importer \*\*\* reported that as long as the products are manufactured to the same specifications, they should always be interchangeable. Importer \*\*\* reported that the following factors limit the interchangeability of steel nails from the UAE with U.S.-produced products and imports from other countries: quality assurance; tool adaptability to match the exact tool tolerance of its customers; a superior coating from its galvanizing process; heat treatment of the nails; an in-house application test to

<sup>13</sup> Hearing transcript, pp. 30-31 (Skarich). “Steel nails are commodity products. We all produce the same nails, in bulk and collated, to the same industry standards and specifications...Both the domestic producers and the UAE producers produce and sell the full spectrum of steel nails through all distribution channels. We produce and sell private label nails for multiple customers, and other U.S. producers sell private label nails as well. We sell nails directly to industrial users and distributors. Distributors compete with each other, with importers, with us, and other domestic producers to sell retailers, construction and industrial users throughout the country. Our nails and the rest of the domestic industry’s nails compete in all channels of distribution with all types of nails sold by UAE producers in the U.S. market. In short, there is an enormous amount of direct competition between U.S. produced nails and imported nails from the UAE.”

<sup>14</sup> In response to a question focused on the petitioner, Ms. Zinman said, “they have never attempted to sell us anything. So what their capability is inside their factory or what their actual equipment is, to the best of my understanding, as an example, they do not have hot dip galvanizing facilities in the plant. ... But they’ve never come to us and made any sort of presentation and said hey, this is what we can do. We can do the whole range. ... which I can only assume because either they can’t or they don’t have interest, it’s not their market niche, or they can’t.” Hearing transcript, p. 233 (Zinman). Respondent Precision’s prehearing brief, pp. 14-15. Respondents Dubai Wire’s and Itochu’s prehearing brief, p. 6.

<sup>15</sup> Hearing transcript, p. 159 (Fischer).

<sup>16</sup> Hearing transcript, p. 15 (Gordon). Mr. Skarich stated that 23.6 percent of Mid Continent’s sales are private label. Hearing transcript pp. 81-82 (Skarich).

ensure that the product that is being dispatched is perfectly fitted for the application for which it is bought; and a wide product line that is superior to product from the United States or any other country.

Firms were also asked how often differences in factors other than price between the U.S.-produced products and imports from the UAE and other nonsubject sources were a factor in their sales of steel nails (table II-7). With respect to the UAE, a majority of producers reported that these differences are “sometimes” or “never” a factor, while importers and purchasers were more evenly divided between “always” or “frequently” a factor on the one hand and “sometimes” or “never” a factor on the other. Producer \*\*\* reported that the base steel used in many imported nails \*\*\*. Importer \*\*\* reported that it purchases special galvanized nails from UAE that are produced in an environmentally-conscious way and are not available from U.S. producers. Importer \*\*\* stated that its imports from the UAE are superior in technical support and packaging. Also, importer \*\*\* reported that the quality of the U.S.-produced product is inferior, the range of size/types is extremely limited, and customer service is nonexistent. With respect to nonsubject imports, responses followed the same pattern as for UAE nails: a majority of U.S. producers reported that factors other than price were “sometimes” or “never” a factor while importers and purchasers distributed their responses more evenly between “always”/“frequently” and “sometimes”/“never.”

**Table II-7**  
**Steel nails: Perceived importance of factors other than price between steel nails produced in the United States and in other countries, by country pairs**

Country pair	U.S. producers				U.S. importers				Purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. UAE	1	1	7	1	6	3	6	1	9	5	11	3
U.S. vs. nonsubject	1	1	7	1	4	4	7	1	11	4	10	3
UAE vs. nonsubject	1	1	7	1	5	2	5	1	8	3	9	3

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

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

## ELASTICITY ESTIMATES

This section discusses elasticity estimates. Although the parties were encouraged to comment on these estimates in their briefs, none did so.

### U.S. Supply Elasticity

The domestic supply elasticity measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of certain steel nails. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the ease with which producers can alter their capacity, producers’ ability to shift production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced certain steel nails. Analysis of these factors, particularly the existence of excess productive capacity, indicates that the elasticity is likely to be relatively high. A range of 5 to 10 is estimated.

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

The U.S. demand elasticity for certain steel nails measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of certain steel nails. This estimate depends on factors discussed above such as the existence, availability, and commercial viability of substitute products. Given the reported lack of close substitutes for this product in most applications, the demand elasticity for certain steel nails is likely to be in the range of -0.5 to -1.0.

### **Substitution Elasticity**

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.<sup>17</sup> Product differentiation, in turn, depends upon such factors as quality (e.g., strength, finish, galvanizing treatment, etc.) and conditions of sale (availability, sales terms/discounts, etc.). Based on available information, the elasticity of substitution between U.S.-produced certain steel nails and certain steel nails from the UAE is likely to be in the range of 3 to 5.

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

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

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 margin 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 10 firms<sup>1</sup> that accounted for nearly all of U.S. production of steel nails during 2011.

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

The Commission issued questionnaires in the final phase of this investigation to 19 companies believed to be current or former producers of nails in the United States.<sup>2</sup> These companies included the petitioner, twelve additional companies identified in the petition, and six companies identified in previous investigations.

Eleven companies responded to the Commission's questionnaires with data regarding their ongoing or historic production of nails in the United States. One of these companies - \*\*\*. Of the remaining ten companies, Petitioner Mid Continent is the largest responding U.S. nail producer, followed by \*\*\*; together these two companies accounted for nearly \*\*\* of U.S. nail production in 2011. \*\*\* accounted for most of the remaining \*\*\* of U.S. nail production in 2011, with additional production reported by \*\*\*. All of these U.S. producers support the petition except \*\*\*. Table III-1 presents U.S. producers' positions on the petition, ownership, plant locations, and shares of total reported U.S. production in 2011. Table III-2 presents important industry events during 2009-11.

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<sup>1</sup> Fox Valley is not included in the data presented in this section or elsewhere within the report. It manufactures direct drawn industrial wire, all hand driven nails (no collated), wire nails, upholstery nails, drive pins, brads, finishing nails, masonry nails, roofing nails, iron rods, and steel rods. Fox Valley produces approximately \*\*\*. Staff telephone interview with \*\*\*.

Wheeling La Belle data are not included because the company (which has ceased nail production in the United States) was unable to update its questionnaire response in the final phase of the investigation. U.S. producer data as a percentage of domestic production, if included, would be \*\*\*.

<sup>2</sup> Petition, pp. 2-5. Six other firms, identified during a previous investigation, were sent questionnaires although they are thought to be out-of-business; this was confirmed for five. \*\*\*.

**Table III-1**

**Steel nails: U.S. producers, positions on the petition, ownership, plant locations, and shares of total reported U.S. production, 2011**

Firm	Position on petition	Firm ownership	U.S. plant location(s)	2011 U.S. production	
				Quantity (short tons)	Share (percent)
Davis Wire Corp.	***	Heico Companies, Chicago, IL (100%)	Pueblo, CO	***	***
Independent Nail <sup>1</sup>	***	a division of WH Maze Co., Peru, IL (100%)	Taunton, MA	***	***
Illinois Tool Works <sup>2</sup>	***	Illinois Tool Works Glenview, IL (100%)	Vernon Hills, IL; Schaumburg, IL; Grand Prairie, TX	***	***
Maze Nails	***	None	Peru, IL	***	***
Mid Continent Nail Corp.	Support	Deacero Mexico	Poplar Bluff, MO	***	***
Pneu-Fast Co.	***	N/A	Evanston, IL	***	***
Senco Brands, Inc. <sup>3</sup>	***	Senco Holdings, Inc., Newport, KY (100%)	Cincinnati, OH	***	***
Specialty Fastening Systems, Inc. <sup>4</sup>	***	Falcon Enterprises Canada (***)	Prairie Grove, AR	***	***
Stanley Black & Decker <sup>5</sup>	***	None	North Kingstown, RI; Clinton, CT; East Greenwich, RI; Greenfield, IN	***	***
Treasure Coast Fasteners <sup>6</sup>	***	None	Fort Pierce, FL	***	***
Tree Island Wire USA, Inc.	***	Tree Island Industries, Ltd. Richmond, BC (100%)	Ontario, CA	***	***
Total				***	100.0
<sup>1</sup> *** Independent is not represented in the data presented hereafter in Part III. <sup>2</sup> ***. <sup>3</sup> ***. <sup>4</sup> ***. <sup>5</sup> ***. <sup>6</sup> ***.					
Source: Compiled from data submitted in response to Commission questionnaires and from public sources.					

**Table III-2**

**Steel nails: Important industry events, 2009-12**

\* \* \* \* \*



### U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION <sup>3</sup>

Table III-3 presents data on reported U.S. producers' capacity, production, and capacity utilization from 2009 to 2011. Figure III-1 graphically presents data on reported U.S. producers' capacity, production, and capacity utilization during the period for which data were collected in the investigation.

**Table III-3**  
**Steel nails: U.S. capacity, production, and capacity utilization, 2009-11**

Item	Calendar year		
	2009	2010	2011
Capacity ( <i>short tons</i> )	359,461	365,271	335,364
Production ( <i>short tons</i> )	93,062	96,446	97,182
Capacity utilization ( <i>percent</i> )	25.9	26.4	29.0
Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. capacity to produce steel nails decreased by 6.7 percent from 359,461 short tons in 2009 to 335,364 short tons in 2011.<sup>4</sup> Production increased by 4.4 percent over the period, with the average capacity utilization rate rising from 25.9 percent in 2009 to 29.0 percent in 2011. U.S. producers' capacity was well below apparent U.S. consumption in each year for which data were collected. Generally, U.S. producers of steel nails reported "prolonged shutdowns or production curtailment" as a result of reduction in demand (\*\*\*) . Reported constraints in the manufacturing process for U.S. producers of steel nails include the machinery used to produce the nails, as well as labor availability, maintenance of the machines, and consistent orders.<sup>5</sup>

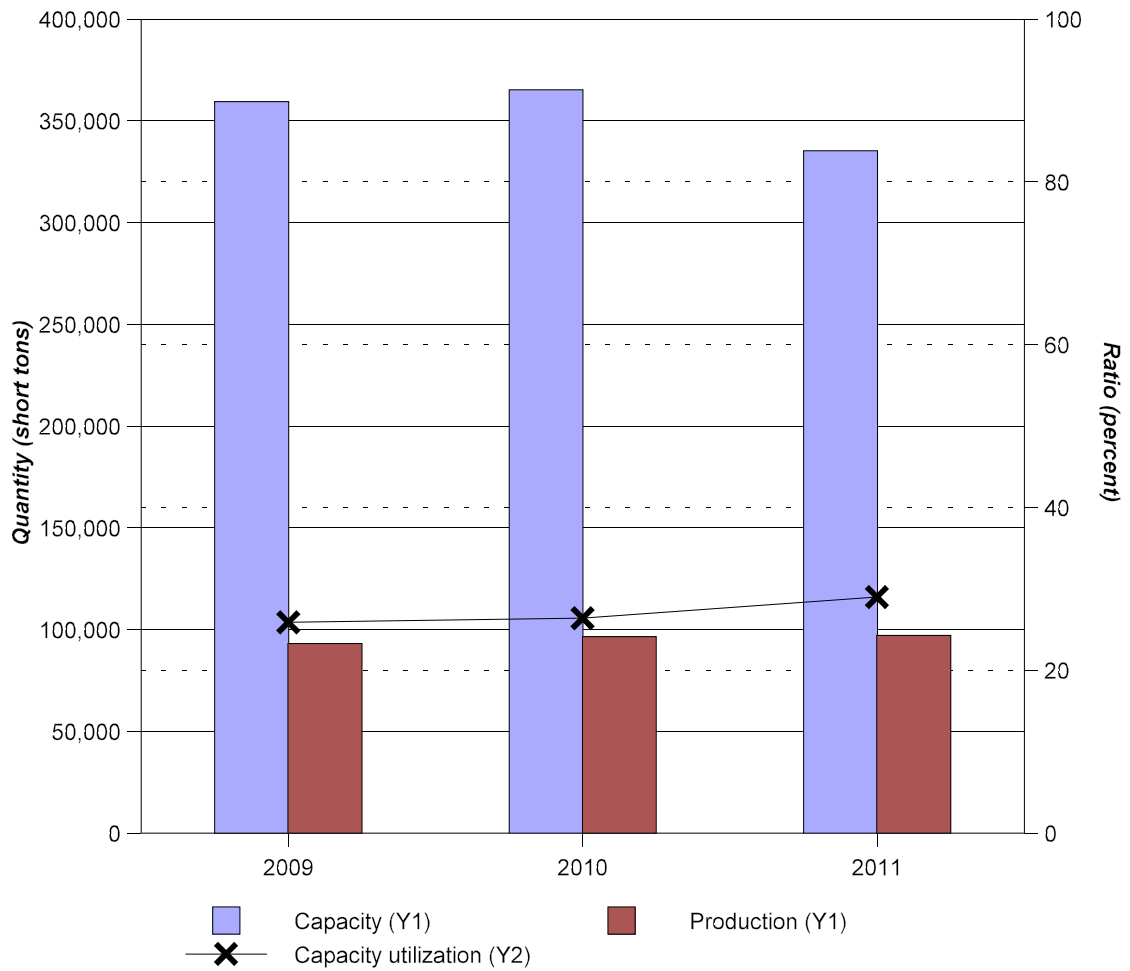
The Commission asked the U.S. nail producers the following: "During 2009- 11, did your firm have the in-house capability to perform the following production processes for manufacturing certain steel nails, did your firm actually perform these production processes in-house, and/or has your firm been involved in a toll agreement regarding the production of certain steel nails?" Table III-4 presents the U.S. producers' responses.

<sup>3</sup> \*\*\*.

<sup>4</sup> Capacity was calculated based on operating from 40 - 154 hours per week and 50 - 52 weeks per year.

<sup>5</sup> Based on responses to U.S. producers' questionnaires, question II-4.

**Figure III-1**  
**Steel nails: U.S. capacity, production, and capacity utilization, 2009-11**



Source: Table III-3.

**Table III-4**  
**Steel nails: U.S. firms' ability to perform various production processes**

\* \* \* \* \*

## U.S. PRODUCERS' SHIPMENTS

Table III-5 presents information on U.S. producers' shipments of steel nails between 2009 and 2011. Four U.S. producers reported exporting steel nails, which made up a minimal share of the quantity of U.S. producers' shipments of steel nails.<sup>6</sup>

\*\*\* U.S. producer reported any internal consumption of steel nails and intercompany transfers accounted for \*\*\* percent of total shipments during the period for which data were collected. U.S. producers' commercial shipments of steel nails decreased \*\*\* percent by quantity from 2009 to 2011, while overall U.S. shipments declined by 4.4 percent.

**Table III-5**  
**Steel nails: U.S. producers' shipments, by types and shares, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Quantity (short tons)</b>			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	101,512	97,817	97,063
Export shipments	***	***	***
Total shipments	***	***	***
<b>Value (1,000 dollars)<sup>1</sup></b>			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	202,852	177,352	183,789
Export shipments	***	***	***
Total shipments	***	***	***

Table continued on next page.

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<sup>6</sup> U.S. producers of steel nails reported exporting to Australia, Canada, "Europe," Japan, Korea, Kuwait, Mexico, the Netherlands, and New Zealand. \*\*\*.

**Table III-5--Continued**  
**Steel nails: U.S. producers' shipments, by types and shares, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Unit value (per short ton)<sup>1</sup></b>			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	\$1,998	\$1,813	\$1,894
Export shipments	***	***	***
Total shipments	***	***	***
<b>Share of quantity (percent)</b>			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	***	***	***
Export shipments	***	***	***
Total shipments	100.0	100.0	100.0
<b>Share of value (percent)</b>			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	***	***	***
Export shipments	***	***	***
Total shipments	100.0	100.0	100.0
<sup>1</sup> F.o.b. U.S. point of shipment. <sup>2</sup> ***			
Source: Compiled from data submitted in response to Commission questionnaires.			

The Commission asked the U.S. producers (table III-6) and importers (table IV-3) to provide the quantity and value of their firm's U.S. shipments of certain steel nails, by type, during 2011 and the UAE firms (table VII-2) their shipments to the United States during 2011. Table III-7 shows a comparison of U.S. producers' and importers', as well as UAE producers' U.S. shipments of bright, galvanized, and other nails.

**Table III-6**  
**Steel nails: U.S. producers' U.S. shipments, by types, 2011**

Type of nail/finish	Quantity (short tons)	Value (\$1,000)	Unit value (dollars per short ton)
<b>Collated:</b>			
Bright (no finish)	***	***	\$***
Galvanized	***	***	***
Other	***	***	***
Subtotal	***	***	***
<b>Uncollated:</b>			
Bright (no finish)	***	***	***
Galvanized	***	***	***
Other	***	***	***
Subtotal	***	***	***
<b>Total</b>	<b>99,050</b>	<b>191,793</b>	<b>1,936</b>

Note.--These data do not include transfers to related firms.

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

U.S. producers were asked what percentage of their 2011 U.S. shipments were sold in small packs (for purposes of this question, in packages of five pounds or less). Three firms reported U.S. shipments of such packs in percentages of \*\*\*. In addition U.S. producers were asked to report the share of 2011 U.S. shipments that consisted of the following types of nails: duplex, cut masonry, brite common, gutter spikes, pole bam, eg tile, vinyl coated barbed drywall, blued plasterboard, stub, cut flooring, neo wash roof, blued lath, furring, panelboard, green vinyl sinkers, a/t drywall, flooring, tension pins, EG joist hangar, EG finish, masonry, lead head, phosphate coated drywall, EG common, nursery, EG box, 28 degree stick framing nails plastic collated, 28 degree stick framing nails wire collated. Four firms (accounting for \*\*\* percent of 2011 U.S. production) reported shipments of such products: \*\*\*. These data are presented in the following tabulation:

Firm/item	Davis	ITW	Maze	Pneu-Fast	Specialty Fastening	U.S. shipments
<b>Percent of 2011 U.S. shipments</b>						
Small packs	***	***	***	***	***	***
Other nails	***	***	***	***	***	***

**Table III-7**  
**Steel nails: Comparison of shipments, by types, and by origin, 2011**

Type of nail/finish	U.S. producers	U.S. imports from UAE	U.S. imports from all other	Foreign producers
<b>Quantity (short tons)</b>				
<b>Collated:</b>				
Bright (no finish)	***	***	***	***
Galvanized	***	***	***	***
Other	***	***	***	***
Subtotal	***	***		***
<b>Uncollated:</b>				
Bright (no finish)	***	***	***	***
Galvanized	***	***	***	***
Other	***	***	***	***
Subtotal	***	***	***	***
<b>Total shipments</b>	99,050	***	142,478	***
<b>Share of quantity (percent)</b>				
<b>Collated:</b>				
Bright (no finish)	***	***	***	***
Galvanized	***	***	***	***
Other	***	***	***	***
Subtotal	***	***	***	***
<b>Uncollated:</b>				
Bright (no finish)	***	***	***	***
Galvanized	***	***	***	***
Other	***	***	***	***
Subtotal	***	***	***	***
<b>Total shipments</b>	100.0	100.0	100.0	100.0
Source: Compiled from data submitted in response to Commission questionnaires.				

## U.S. PRODUCERS' IMPORTS AND PURCHASES

During the period for which data were collected, three U.S. producers reported direct imports of steel nails from the UAE. Six U.S. producers imported steel nails from nonsubject countries.<sup>7</sup> Table III-8 presents data, by company, on domestic producers' direct imports, purchases of imported product, and purchases from other domestic producers.

**Table III-8**  
**Steel nails: U.S. producers' imports, purchases, and ratios to production, 2009-11**

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

Table III-9 presents combined data of seven domestic producers' direct imports, purchases of imported product, and purchases from other domestic producers. U.S. producers of steel nails made purchases of steel nails from other domestic producers and other countries as well as direct imports from subject and nonsubject sources. The reasons cited for making these imports and purchases were generally to be able to offer products at lower prices, to complement a firm's product line with a type of nail it does not produce, to fill out inventory, to supplement capacity, and as an alternative to producing low-volume products.

**Table III-9**  
**Steel nails: U.S. producers' imports, purchases, and ratios to production, 2009-11**

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

## U.S. PRODUCERS' INVENTORIES

Table III-10, which presents end-of-period inventories for steel nails from 2009 to 2011, shows that inventories were declining, both absolutely and relative to production and shipments over the period for which data were collected.

**Table III-10**  
**Steel nails: U.S. producers' end-of-period inventories, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Quantity (<i>short tons</i>)</b>			
Inventories ( <i>short tons</i> )	15,970	14,055	12,101
Ratio to production ( <i>percent</i> )	17.2	14.6	12.5
Ratio to U.S. shipments ( <i>percent</i> )	15.7	14.4	12.5
Ratio to total shipments ( <i>percent</i> )	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

<sup>7</sup> U.S. producers imported nonsubject steel nails from Austria, Canada, Colombia, Denmark, Dominican Republic, "Europe," Italy, Korea, Malaysia, Spain, and Taiwan.

## U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY <sup>8</sup>

Table III-11 presents data on U.S. producers' employment-related indicia. Employment of production-related workers ("PRWs") in the U.S. steel nail industry declined by 16.8 percent from 2009 to 2011, and total hours worked decreased by 17.9 percent. Wages paid and hourly wages paid to PRWs also declined from 2009 to 2011, while productivity increased modestly from 2009 to 2010, before rising by 17 percent in 2011, resulting in a substantial decrease in unit labor costs of 37.3 percent for the period.

**Table III-11**  
**Steel nails: U.S. producers' employment-related data, 2009-11**

Item	Calendar year		
	2009	2010	2011
Production and related workers (PRWs)	608	607	506
Hours worked by PRWs ( <i>1,000 hours</i> )	1,311	1,252	1,076
Hours worked per worker	2,156	2,063	2,127
Wages paid to PRWs ( <i>1,000 dollars</i> )	22,782	19,965	14,908
Hourly wages	\$17.38	\$15.95	\$13.85
Productivity ( <i>short tons produced per 1,000 hours</i> )	71.0	77.0	90.3
Unit labor costs ( <i>per short ton</i> )	\$244.80	\$207.01	\$153.40
Source: Compiled from data submitted in response to Commission questionnaires.			

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



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

### U.S. Importers

Table IV-1 presents information on U.S. importers. Nine of the twenty-four importers that submitted data in response to the Commission's U.S. importers' questionnaire indicated that they imported steel nails from the UAE in 2011.<sup>1</sup> These nine firms' imports of steel nails from the UAE appear to account for nearly all of the subject U.S. imports from the UAE by quantity in the period 2009 to 2011. The 17 reporting importers of nonsubject imports accounted for 44.5 percent of nonsubject imports in 2011, and reported imports from Austria, Canada, China, Colombia, Denmark, Dominican Republic, "Europe," Italy, Korea, Malaysia, Mexico, Poland, Spain, Taiwan, and Vietnam.

**Table IV-1**  
**Steel nails: U.S. importers and imports, by source, 2011**

Source/importer	UAE	All others	UAE	All others
	Quantity ( <i>short tons</i> )		Share by source ( <i>percent</i> ) <sup>1</sup>	
Active Sales Co.	***	***	***	***
Alamo Forest Products	***	***	***	***
ATL Ferrons, Inc.	***	***	***	***
Building Material Distributors	***	***	***	***
Crane Point Industrial LLC <sup>2</sup>	***	***	***	***
DC International	***	***	***	***
Dubai Wire FZE	***	***	***	***
Grabber Construction Products	***	***	***	***
Hickory Springs Manf. Co.	***	***	***	***
Hitachi Koki, USA	***	***	***	***
ITOCHU Building Products Co.	***	***	***	***
ITW	***	***	***	***
Jaaco Corp	***	***	***	***
Peace Industries <sup>3</sup>	***	***	***	***
Precision Fasteners <sup>4</sup>	***	***	***	***

Table continued on next page.

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<sup>1</sup> Throughout the period for which data were collected there were 11 firms that indicated that they imported from the UAE.

**Table IV-1--Continued**  
**Steel nails: U.S. importers and imports, by source, 2011**

Source/importer	UAE	All others	UAE	All others
	Quantity (short tons)		Share by source (percent) <sup>1</sup>	
Senco	***	***	***	***
Specialty Fastening Systems. <sup>5</sup>	***	***	***	***
Stanley Black & Decker	***	***	***	***
Steel Plus, Inc.	***	***	***	***
Treasure Coast Fasteners	***	***	***	***
Tree Island Wire USA	***	***	***	***
Trenco	***	***	***	***
Viking Engineering & Development	***	***	***	***
Youngwoo Fasteners USA, Inc.	***	***	***	***
Subtotal	113,759	148,606	103.0	44.5
Total <sup>6</sup>	110,395	333,680		

<sup>1</sup> Shares are based on official Commerce statistics.

<sup>2</sup> \*\*\*

<sup>3</sup> \*\*\*

<sup>4</sup> Precision Fasteners is a United Arab Emirates entity that produces subject nails; its production is reported in Part VII.

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

<sup>6</sup> Based on table IV-2.

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

Twelve firms reported the following changes in their operations: staff reductions, office/warehouse/store openings, office/warehouse/store closings, acquisitions, expansions into other regions and relocation.

## U.S. IMPORTS

Table IV-2 and figure IV-1 present and data regarding quantities and values of U.S. imports of steel nails from 2009 to 2011. U.S. import data are based on official Commerce statistics.<sup>2</sup> U.S. imports of subject steel nails from the UAE increased by 73.9 percent from 63,494 short tons in 2009 to 110,395 short tons in 2011. The UAE accounted for 24.9 percent of total U.S. imports of steel nails during 2011. Nonsubject imports increased 18.9 percent from 280,537 short tons in 2009 to 333,680 short tons in 2011. Based on the import data presented in tables IV-2 and IV-3, the average unit values of subject imports from the UAE were lower than those from each of the other major sources of imports, with the exception of Mexico (2010, 2011) and Malaysia (2011).

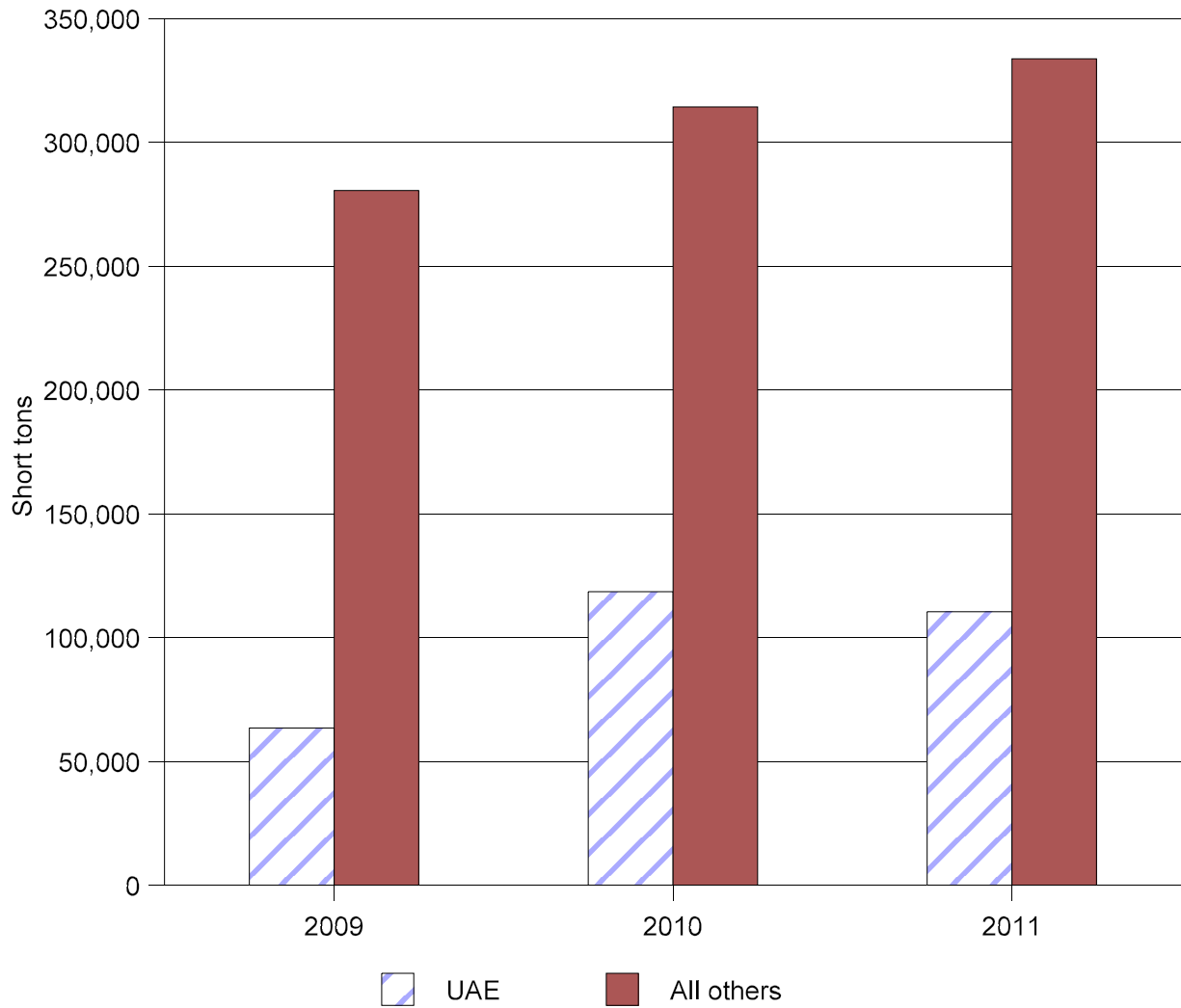
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<sup>2</sup> HTS subheadings 7317.00.55, excluding statistical reporting number 7317.00.5501 (roofing nails); 7317.00.65; and 7317.00.75.

**Table IV-2**  
**Steel nails: U.S. imports, by sources, 2009-11**

Source	Calendar year		
	2009	2010	2011
<b>Quantity (short tons)</b>			
UAE	63,494	118,558	110,395
Other sources	280,537	314,296	333,680
Total	344,031	432,854	444,075
<b>Value (1,000 dollars)<sup>1</sup></b>			
UAE	56,662	111,764	130,417
Other sources	336,747	395,266	462,217
Total	393,409	507,030	592,634
<b>Unit value (per short ton)<sup>1</sup></b>			
UAE	\$892	\$943	\$1,181
Other sources	1,200	1,258	1,385
Total	1,144	1,171	1,335
<b>Share of quantity (percent)</b>			
UAE	18.5	27.4	24.9
Other sources	81.5	72.6	75.1
Total	100.0	100.0	100.0
<b>Share of value (percent)</b>			
UAE	14.4	22.0	22.0
Other sources	85.6	78.0	78.0
Total	100.0	100.0	100.0
<sup>1</sup> Landed, duty-paid.			
Source: Compiled from official Commerce statistics.			

**Figure IV-1**  
**Steel nails: Quantity of subject and nonsubject U.S. imports, 2009-11**



Source: Table IV-2.

The leading nonsubject countries are China (accounting for 32.6 percent of total U.S. imports of steel nails during 2011), Taiwan (13.2 percent), Korea (8.9 percent), Malaysia (5.2 percent), Canada (4.3 percent), Mexico (3.2 percent), and Poland (2.0 percent), with 33 other countries ranging between less than 0.05 percent and 0.9 percent of 2011 imports (table IV-3).

**Table IV-3**  
**Steel nails: U.S. imports, by sources, 2009-11**

Source	Calendar year		
	2009	2010	2011
<b>Quantity (<i>short tons</i>)</b>			
UAE	63,494	118,558	110,395
China	137,975	150,730	144,675
Taiwan	61,438	57,166	58,754
Korea	25,245	34,163	39,598
Canada	17,898	17,673	19,118
Mexico	10,626	13,704	14,277
Poland	6,306	12,439	8,919
Malaysia	10,493	11,634	23,110
Other sources	10,557	16,787	25,228
Total	344,031	432,854	444,075
<b>Value (<i>1,000 dollars</i>)<sup>1</sup></b>			
UAE	56,662	111,764	130,417
China	147,976	173,257	188,383
Taiwan	69,499	74,550	87,222
Korea	30,019	43,528	52,354
Canada	26,723	29,276	33,837
Mexico	13,100	11,282	16,089
Poland	8,715	15,159	11,825
Malaysia	9,426	12,176	26,572
Other sources	31,289	36,036	45,935
Total	393,409	507,030	592,634

Table continued on next page.

**Table IV-3--Continued**  
**Steel nails: U.S. imports, by sources, 2009-11**

Source	Calendar year		
	2009	2010	2011
<b>Unit value (per short ton)<sup>1</sup></b>			
UAE	\$892	\$943	\$1,181
China	1,072	1,149	1,302
Taiwan	1,131	1,304	1,485
Korea	1,189	1,274	1,322
Canada	1,493	1,657	1,770
Mexico	1,233	823	1,127
Poland	1,382	1,219	1,326
Malaysia	898	1,047	1,150
Other sources	2,964	2,147	1,821
Average	1,144	1,171	1,335
<sup>1</sup> Landed, duty-paid.  Note.--As discussed in Part I of this report, imports of steel nails from China, other than those from Paslode, are currently subject to an antidumping duty order.  Source: Compiled from official Commerce statistics.			

Table IV-4 presents U.S. importers' U.S. commercial shipments of bright, galvanized, and all other collated and uncollated steel nails from the UAE and all other countries. The vast majority of the 2011 commercial sales were of collated nails and of these the majority were bright nails. Bright nails made up the bulk of all commercially shipped imported nails in 2011.

**Table IV-4**  
**Steel nails: U.S. importers' U.S. shipments, by source and type, 2011**

Type of Nail/Finish	Quantity ( <i>short tons</i> )	Value (\$1,000)	Unit value ( <i>per short ton</i> )
<b>From the UAE</b>			
<b>Collated:</b>			
Bright (no finish)	***	***	***
Galvanized	***	***	***
Other	***	***	***
Subtotal	***	***	***
<b>Uncollated:</b>			
Bright (no finish)	***	***	***
Galvanized	***	***	***
Other	***	***	***
Subtotal	***	***	***
<b>Total</b>	***	***	***
<b>From all other sources</b>			
<b>Collated:</b>			
Bright (no finish)	***	***	***
Galvanized	***	***	***
Other	***	***	***
Subtotal	***	***	***
<b>Uncollated:</b>			
Bright (no finish)	***	***	***
Galvanized	***	***	***
Other	***	***	***
Subtotal	***	***	***
<b>Total</b>	142,478	265,360	\$1,862
<b>All imports</b>			
<b>Collated:</b>			
Bright (no finish)	***	***	***
Galvanized	***	***	***
Other	***	***	***
Subtotal	***	***	***
<b>Uncollated:</b>			
Bright (no finish)	***	***	***
Galvanized	***	***	***
Other	***	***	***
Subtotal	***	***	***
<b>Total</b>	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. importers were asked what percentage of their 2011 U.S. shipments were sold in small packs (for purposes of this question, in packages of five pounds or less). Three firms reported shipments from the UAE of such packs in percentages of \*\*\* and four firms from all other sources \*\*\*. In addition U.S. importers were asked to report the share of 2011 U.S. shipments that consisted of the following types of nails: duplex, cut masonry, brite common, gutter spikes, pole bam, eg tile, vinyl coated barbed drywall, blued plasterboard, stub, cut flooring, neo wash roof, blued lath, furring, panelboard, green vinyl sinkers, a/t drywall, flooring, tension pins, EG joist hangar, EG finish, masonry, lead head, phosphate coated drywall, EG common, nursery, EG box, 28 degree stick framing nails plastic collated, 28 degree stick framing nails wire collated. Three firms (accounting for nearly all the UAE imports) reported U.S. shipments of such products in percentages of \*\*\* and six firms (accounting for \*\*\* percent of reported official nonsubject imports) from all other sources \*\*\*. The following tabulation presents these data.

Firm/item	Alamo	Building Materials	DC International	Dubai Wire	Itochu	Precision	Stanley Black & Decker	Tree Island	U.S. commercial shipments
<b>Percent of 2011 U.S. shipments of imports from the UAE</b>									
Small packs	***	***	***	***	***	***	***	***	***
Other nails	***	***	***	***	***	***	***	***	***
<b>Percent of 2011 U.S. shipments of imports from all other sources</b>									
Small packs	***	***	***	***	***	***	***	***	***
Other nails	***	***	***	***	***	***	***	***	***

### NEGLIGENCE

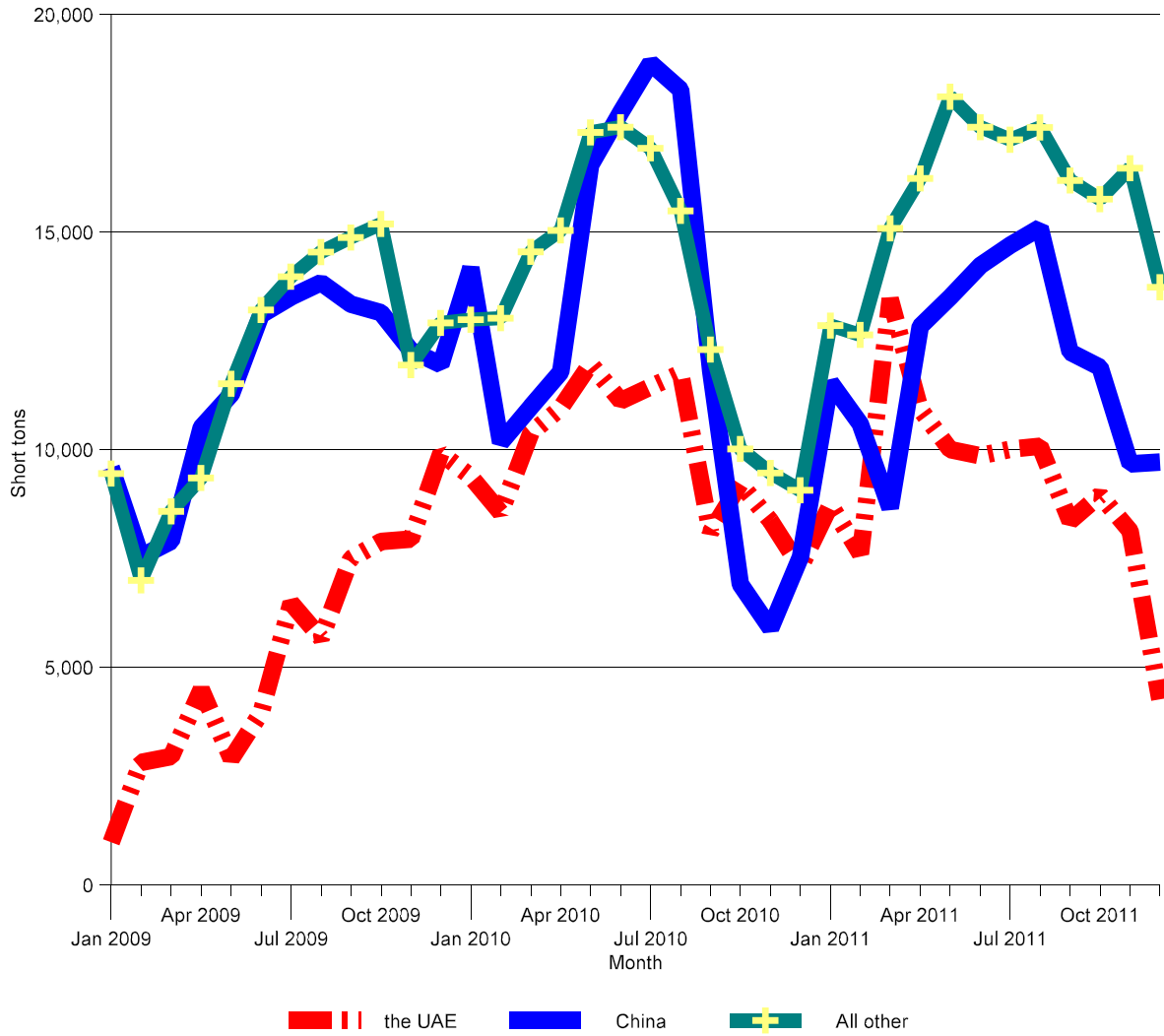
The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.<sup>3</sup> Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.<sup>4</sup> Imports from UAE accounted for 24.9 percent of total imports of steel nails by quantity during 2011 and 27.3 percent between March 2010 and February 2011. Such imports occurred in every month during January 2009 - February 2012. Figure IV-2 presents monthly imports by source for the period 2009-11.

<sup>3</sup> Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

<sup>4</sup> Section 771(24) of the Act (19 U.S.C. § 1677(24)).



**Figure IV-2**  
**Steel nails: Monthly U.S. imports, by sources, 2009-11**



Source: Compiled from official Commerce statistics.

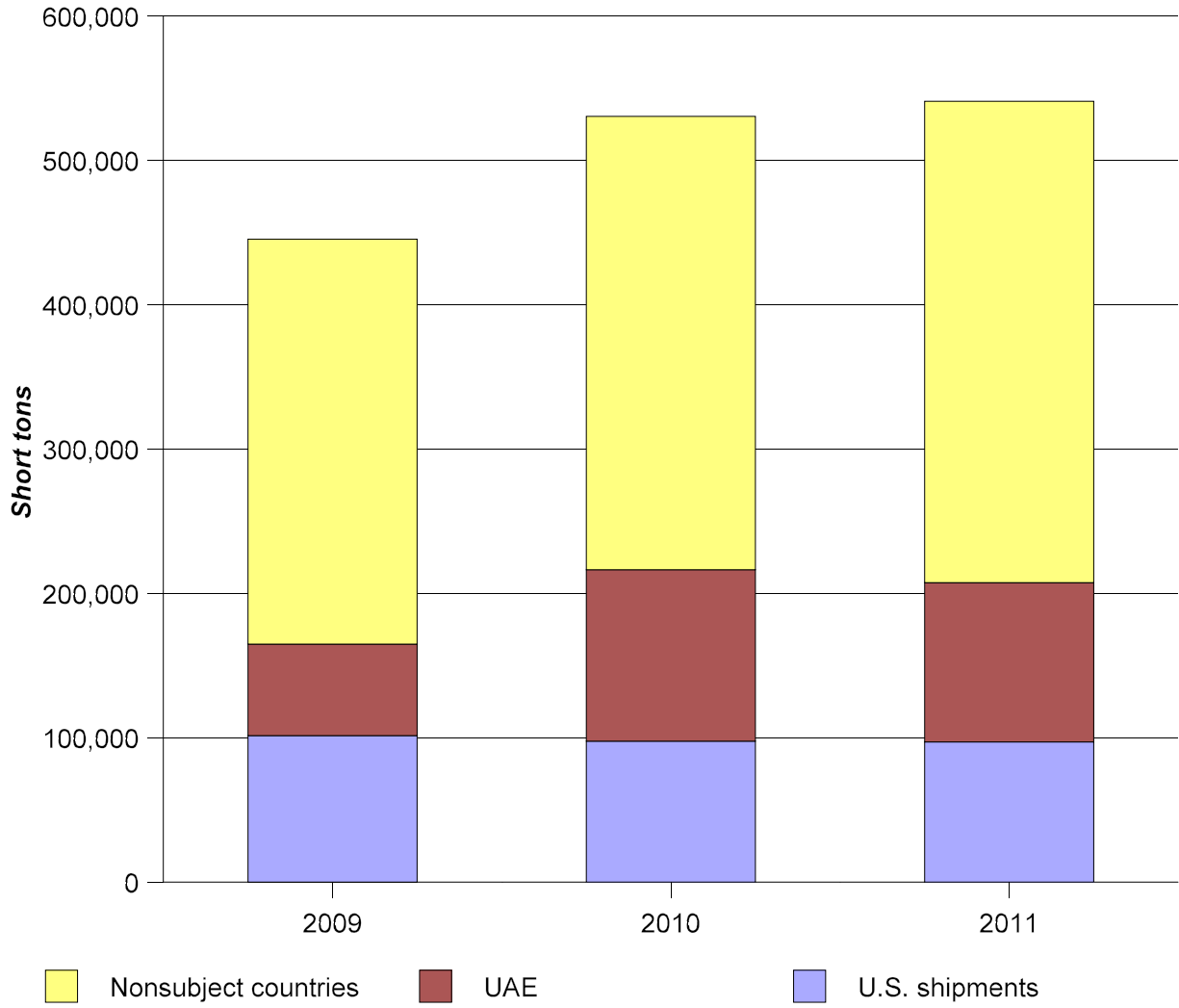
## APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of steel nails during the period for which data were collected are shown in table IV-5 and figure IV-3.

**Table IV-5**  
**Steel nails: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Quantity (<i>short tons</i>)</b>			
U.S. producers' U.S. shipments	101,512	97,817	97,063
U.S. imports from-- UAE	63,494	118,558	110,395
Nonsubject countries <sup>1</sup>	280,537	314,296	333,680
Total U.S. imports	344,031	432,854	444,075
Apparent U.S. consumption	445,543	530,671	541,138
<b>Value (<i>1,000 dollars</i>)</b>			
U.S. producers' U.S. shipments	202,852	177,352	183,789
U.S. imports from-- UAE	56,662	111,764	130,417
Nonsubject countries <sup>1</sup>	336,747	395,266	462,217
Total U.S. imports	393,409	507,030	592,634
Apparent U.S. consumption	596,261	684,382	776,423
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.			

**Figure IV-3**  
**Steel nails: Apparent U.S. consumption, by sources, 2009-11**



Source: Table IV-5.

## U.S. MARKET SHARES

U.S. market share data are presented in table IV-6.

**Table IV-6**  
**Steel nails: U.S. consumption and market shares, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Quantity (<i>short tons</i>)</b>			
Apparent U.S. consumption	445,543	530,671	541,138
<b>Value (<i>1,000 dollars</i>)</b>			
Apparent U.S. consumption	596,261	684,382	776,423
<b>Share of quantity (<i>percent</i>)</b>			
U.S. producers' U.S. shipments	22.8	18.4	17.9
U.S. imports from-- UAE	14.3	22.3	20.4
Nonsubject countries	63.0	59.2	61.7
All countries	77.2	81.6	82.1
<b>Share of value (<i>percent</i>)</b>			
U.S. producers' U.S. shipments	34.0	25.9	23.7
U.S. imports from-- UAE	9.5	16.3	16.8
Nonsubject countries	56.5	57.8	59.5
All countries	66.0	74.1	76.3
Note.—Because of rounding, figures may not add to the totals shown.			
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.			

## RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of steel nails is presented in table IV-7.

**Table IV-7**  
**Steel nails: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Quantity (<i>short tons</i>)</b>			
U.S. production	93,062	96,446	97,182
Imports from:			
UAE	63,494	118,558	110,395
Nonsubject countries	280,537	314,296	333,680
Total imports	344,031	432,854	444,075
<b>Ratio of U.S. imports to production (<i>percent</i>)</b>			
Imports from:			
UAE	68.2	122.9	113.6
Nonsubject countries	301.5	325.9	343.4
Total imports	369.7	448.8	457.0
Note.—Because of rounding, figures may not add to the totals shown.			
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.			



## PART V: PRICING AND RELATED INFORMATION

### FACTORS AFFECTING PRICES

#### Raw Material Costs

Raw materials account for a substantial share of the cost of steel nails. They accounted for 65.6 percent of the cost of goods sold in 2009, 59.9 percent in 2010, and 65.9 percent in 2011. The main raw material used to produce certain steel nails is carbon steel wire rod. As shown in figure V-1, carbon steel wire rod prices fell sharply during the early part of 2009, but they increased irregularly into 2011, ending higher overall during the period.

**Figure V-1**  
**Carbon steel wire rod (mesh): North American prices, monthly, January 2009-December 2011**



Source: <http://www.meps.co.uk/world-price>, retrieved on April 4, 2012.

#### U.S. Inland Transportation Costs

U.S. producers and importers of steel nails from the UAE were asked to estimate the U.S. inland transportation costs' share of the total delivered cost of these nails. The majority of producers' estimates ranged from 2 to 8 percent. Among importers, estimates ranged from 1.5 to 6 percent. The majority of producers and importers reported that they arrange shipping for their customers.

U.S. producers and importers of steel nails were also asked to estimate the shares of their sales that were delivered within 100 miles, 101 to 1,000 miles, and more than 1,000 miles from their production or storage facilities. Nine of ten responding producers reported that 70 to 100 percent of their sales were shipped 1,000 miles or less from their production facilities, while one producer reported that 70 percent of its shipments were more than 1,000 miles. All but one of the responding importers of steel

nails from the UAE reported that between 85 and 100 percent of their U.S. shipments were for distances of 1,000 miles or less from their U.S. point of shipment.

## **PRICING PRACTICES**

### **Pricing Methods**

Prices of steel nails are determined in a variety of ways including set price lists, transaction-by-transaction negotiations, and contracts. Among ten responding U.S. producers, two reported that they use set price lists, two use transaction-by-transaction negotiations, three use both transaction-by-transaction negotiations and set price lists, and one uses a combination of transaction-by-transaction negotiations, contracts, and set price lists. Of the remaining producers, one begins with set price lists as a guide in negotiating prices, and the other uses set price lists with deviations made by specific geographic market or end user to meet competition.

Importers also reported using transaction-by-transaction negotiations, set price lists, contracts, and combinations of these methods. One importer reported that it used a multi-level pricing structure that takes into account factors such as the type of customer, the cost to service the customer, and reasonable margins. Another importer reported that its method of price setting varies by the market and by consumer demand.

Most sales of steel nails by U.S. producers and importers are on a spot basis. Eight of ten reporting producers reported that all of their sales are on a spot basis; one reported that \*\*\* percent of sales are on a spot basis; and one reported that \*\*\* percent are on a spot basis. Of the two producers reporting contract sales, one reported that its contracts are for \*\*\* with \*\*\* fixed and \*\*\* meet-or-release provisions, and the other reported that its contracts are for \*\*\* with \*\*\* fixed and \*\*\* meet-or-release provisions. Eight of eleven responding importers reported that all of their sales are on a spot basis, one reported that all sales are on a contract basis, and one reported a mixture of spot and contract sales. Importers' contracts range in duration from less than \*\*\* months to \*\*\* years, typically fix \*\*\*, and may or may not contain meet-or-release provisions.

### **Sales Terms and Discounts**

Quantity discounts and annual total volume discounts are commonly used by U.S. producers and importers. Three of ten responding producers reported using quantity discounts; one reported annual total volume discounts; three reported using a combination of quantity discounts and annual total volume discounts; one reported using quantity discounts, annual total volume discounts, and other specialized discounts broken out by different channels of distribution;<sup>1</sup> and two reported that they do not provide discounts. Twelve of 23 importers also reported using quantity and/or annual total volume discounts or negotiated rebates to large customers. Six producers and three importers reported providing early payment discounts of 1 to 2 percent. U.S. producers and importers quote on both an f.o.b. and on a delivered basis.

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



## PRICE DATA

The Commission requested U.S. producers and importers of steel nails to provide quarterly data for the total quantity and net f.o.b. value of the following products shipped to unrelated U.S. customers during January 2009-December 2011:

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

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

**Product 3.**– 2 3/8" by 0.113" bright screw and ring shank nails, plastic-strip collated

**Product 4.**– 3 1/4" by 0.148" 16D smooth vinyl-coated sinkers, bulk

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

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

**Product 7.**– 3 1/4" by 0.131" bright smooth, plastic-strip collated nails

**Product 8.**– 1 3/4" by 0.086" bright screw, wire coil collated

**Product 9.**– 2 3/8" by 0.113" hot-dip, ring shank, plastic-strip collated

**Product 10.**– 2" by 0.092" 6D bright smooth, 1lb. packaging, bulk

Nine U.S. producers and nine importers of steel nails from the UAE provided usable pricing data for sales of the requested products, although no firms reported pricing for all products for all quarters. Pricing data reported by these firms accounted for approximately 21.5 percent of the value of U.S. producers' shipments of steel nails and 33.1 percent of the value of U.S. shipments of U.S. imports from the UAE during 2009-11.

## Price Trends

Quarterly weighted-average prices and shipment quantities for the ten products are presented in tables V-1 through V-10 and figure V-2.<sup>2</sup> There were no sales of U.S.-produced product 10. A summary of price ranges and percentage changes in prices is presented in table V-11.

Over the period, prices for all 10 UAE products increased, ranging from 8.2 percent to 51.0 percent. U.S. prices exhibited greater variability with increases in 4 products (0.6-28.3 percent) and decreases in 5 products (1.0-10.1 percent). Both domestic and UAE prices increased for products 1, 2, 4, and 5, but UAE price increases were larger than U.S. price increases in percentage terms.

Prices reported for UAE imports are based primarily on data from \*\*\*. Although \*\*\* and \*\*\* manufacture nails in the UAE and export these nails to the United States, they are also U.S. importers of record. \*\*\* acts as the importer of record for \*\*\* of its exports to the United States. \*\*\* acts as the importer of record \*\*\* of its nails exported to the U.S. market. Accordingly, the price data reported by \*\*\* and \*\*\* and presented in this report are based on their commercial shipments, to unrelated U.S. customers, of imports for which they acted as the importer of record. \*\*\*. Prices reported for \*\*\* are based on \*\*\*.

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<sup>2</sup> Price data for nonsubject imports are presented in appendix D. Prices of products 4, 5, and 10, which are sold on a bulk basis, were requested and reported in short tons rather than in thousands of nails, since this is how these steel nails are commonly sold.

**Table V-1**  
**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-2**  
**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-3**  
**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-4**  
**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-5**  
**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-6**  
**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 6 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-7**  
**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 7 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-8**  
**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 8 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-9**

**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 9 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Table V-10**

**Steel nails: Weighted-average f.o.b. prices and quantities of domestic and imported product 10 and margins of underselling/(overselling), by quarters, 2009-11**

\* \* \* \* \*

**Figure V-2**

**Steel nails: Weighted-average prices and quantities of domestic and imported product, by quarters, January 2009- December 2011**

\* \* \* \* \*

**Table V-11**  
**Steel nails: Summary of weighted-average f.o.b. prices for products 1-10 from the United States and the UAE, January 2009-December 2011**

Item	Number of quarters	Low price (per 1,000 nails) <sup>1</sup>	High price (per 1,000 nails) <sup>1</sup>	Change in price <sup>2</sup> (percent)
<b>Product 1</b>				
United States	12	\$***	***	***
UAE	12	***	***	***
<b>Product 2</b>				
United States	12	***	***	***
UAE	12	***	***	***
<b>Product 3</b>				
United States	12	***	***	***
UAE	12	***	***	***
<b>Product 4<sup>1</sup></b>				
United States	11	***	***	***
UAE	12	***	***	***
<b>Product 5<sup>1</sup></b>				
United States	12	***	***	***
UAE	9	***	***	***
<b>Product 6</b>				
United States	12	***	***	***
UAE	12	***	***	***
<b>Product 7</b>				
United States	12	***	***	***
UAE	12	***	***	***
<b>Product 8</b>				
United States	12	***	***	***
UAE	11	***	***	***
<b>Product 9</b>				
United States	12	***	***	***
UAE	12	***	***	***
<b>Product 10<sup>1</sup></b>				
United States <sup>3</sup>	0	-	-	***
UAE	8	***	***	***

<sup>1</sup> Prices of products 4, 5, and 10 are in dollars per short tons because they were sold in bulk quantities.

<sup>2</sup> Percentage change from the first quarter in which price data were available to the last quarter in which price data were available, based on unrounded data. Thus, the percentage changes are not necessarily counted from the high and low prices shown in this table.

<sup>3</sup> There were no reported sales of U.S.-produced product 10.

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

## Price Comparisons

Margins of underselling and overselling by product are presented in table V-12.<sup>3</sup> Prices for nails from the UAE were lower than prices for comparable domestic products in a majority of comparisons for all products except pricing product 4 (consistent overselling) and product 10 (no comparisons). Prices for steel nails imported from the UAE were below those for U.S.-produced product in 77 of 103 quarterly comparisons; margins of underselling ranged from 0.4 to 45.2 percent. In 26 instances, prices of product from the UAE were higher; margins of overselling ranged from 0.1 to 52.5 percent.

\*\*\* submitted price data in an effort to “provide the ITC with a more complete record for analysis in this investigation, and will ensure that the Commission has pricing data for sales of UAE-origin nails at a level of trade more comparable to the level of trade of sales by US nails producers.”<sup>4</sup> These data have not been incorporated into the Commission’s pricing data for a number of reasons. First, \*\*\*.<sup>5</sup> Alternatively, \*\*\*. Further, the Commission gathered no pricing data from other purchasers, such as distributors, further limiting the relevance of \*\*\*’s data. Moreover, because the domestic industry \*\*\*, it thus competes with subject imports at the level of trade already examined in the pricing data—i.e., the first arm’s length transactions within the United States.

**Table V-12**  
**Steel nails: Instances of underselling (overselling) of imports from the UAE and the range of margins, by product, January 2009-December 2011**

Item	Underselling		Overselling	
	Number of instances	Range (percent)	Number of instances	Range (percent)
Product 1	11	4.4-21.7	1	8.5
Product 2	9	3.2-15.0	3	0.1-1.1
Product 3	10	7.0-27.2	2	1.3-7.4
Product 4	-	-	11	2.0-52.5
Product 5	6	0.4-14.4	3	7.5-10.2
Product 6	12	15.4-43.5	-	-
Product 7	9	0.7-35.7	3	1.1-9.0
Product 8	11	18.0-45.2	-	-
Product 9	9	3.7-34.1	3	1.4-11.6
Product 10	-	-	-	-
<b>Total</b>	<b>77</b>	<b>0.4-45.2</b>	<b>26</b>	<b>0.1-52.5</b>

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

<sup>3</sup> Staff separated price data submitted by Itochu for sales by its related distributor Prime Source from price data submitted by all other importers of nails from the UAE. \*\*\* undersold U.S.-produced steel nails in \*\*\* of \*\*\* quarterly comparisons. \*\*\* undersold U.S.-produced steel nails in \*\*\* of \*\*\* quarterly comparisons.

<sup>4</sup> E-mail correspondence from \*\*\* of \*\*\*, March 12, 2012.

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

## LOST SALES AND LOST REVENUES

The Commission requested U.S. producers to report any instances of lost sales or revenues they experienced due to competition from imports from the UAE during 2009-11. Of the ten responding U.S. producers, seven reported that they had lost sales or that they had to either reduce prices or roll back announced price increases.<sup>6</sup> Four producers provided specific allegations of lost sales and lost revenues.<sup>7</sup> The 317 lost sales allegations totaled \$46 million and involved 42,010 short tons of steel nails and the 366 lost revenues allegations totaled \$508,965 and involved 6,044 tons. Staff attempted to contact all of the purchasers listed in tables V-13 and V-14. Nineteen purchasers accounting for 290 of the allegations responded and a summary of the information obtained follows.

Responding purchasers agreed or partly agreed with 110 allegations of lost sales accounting for 17,730 tons and \$19.3 million but disagreed with 32 allegations accounting for 2,675 tons and \$3.1 million. Regarding lost revenues, purchasers agreed or partly agreed with 59 allegations representing 790 tons and \$78,913 but disagreed with 45 allegations representing another 587 tons and \$56,566.

**Table V-13**  
**Steel nails: U.S. producers' lost sales allegations**

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

**Table V-14**  
**Steel nails: U.S. producers' lost revenue allegations**

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

\*\*\*.

Purchasers responding to the lost sales and lost revenues allegations were also asked if they had switched from purchasing from U.S. producers to suppliers of UAE product. Seven of 21 responding purchasers reported that they had switched since 2008, and 5 of these purchasers reported that price was the reason.<sup>8</sup> One purchaser reported that its supplier shifted production overseas, that the mill in the UAE seemed cheapest, and that in order to be competitive it has sourced about \*\*\* of its nails from UAE during 2009 and 2010. One purchaser reported that it had not switched purchases to the UAE since 2008 because it was already purchasing from them in 2008.

Nine of 12 responding purchasers reported that U.S. producers had reduced prices because of competition from imported product from the UAE. One purchaser stated that in addition to import price competition, raw material costs declines also contributed to price decreases while another purchaser stated that Mid-Continental has kept it competitive in the last several years by working at little or no margins at both the manufacturer and distributor levels. Another purchaser reported that price changes were not caused by import competition from UAE product, but by changes in material and shipping costs. One purchaser reported that U.S. producers have lowered their prices, but their prices are never low enough to compete.

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<sup>6</sup> \*\*\* alleged that they had lost sales and lost revenues. \*\*\* alleged that it had lost revenues. \*\*\* made no allegations of lost sales or lost revenues.

<sup>7</sup> \*\*\* provided specific allegations of lost sales and lost revenues.

<sup>8</sup> One firm reported indicated both “yes” and “no,” reporting “Price is not the only reason for the switch. Because of the volume of nails we sell, one supplier cannot meet our demands for product. We never buy from just one supplier.”

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

### **BACKGROUND**

Nine U.S. firms provided financial data on their operations on steel nails.<sup>1</sup> These data are believed to account for the great majority of U.S. operations on steel nails since January 2009. No firms reported internal consumption, although three firms reported transfers to related firms. Because these intercompany transfers accounted for \*\*\* percent of total net sales during the period for which data were collected, they are not shown separately in this section of the report. All firms reported a fiscal year end of December 31 except \*\*\*.

The U.S. steel nail industry experienced notable consolidation during the past several years. Prior to 2009, Keystone Steel & Wire and Atlas Steel & Wire exited the industry, \*\*\*. From 2009-10, \*\*\* exited the industry, \*\*\*.<sup>2 3</sup>

### **OPERATIONS ON STEEL NAILS**

Income-and-loss data for U.S. firms on their operations on steel nails are presented in table VI-1, while selected financial data, by firm, are presented in table VI-2. The domestic industry experienced an overall decline in operating income from 2009 to 2011, with both total net sales quantity and value reflecting a net decline. Operating income and net sales (quantity and value) decreased in 2010 but partially recovered in 2011. Net sales value declined to a greater extent than net sales quantity, thus the per-unit net sales value decreased from 2009 to 2011. The per-unit cost of goods sold (“COGS”) declined by just \$7 per short ton from 2009 to 2011, while per-unit revenue declined by \$86 per short ton during this time. Thus, per-unit gross and operating income declined from 2009 to 2011.

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<sup>1</sup> The U.S. firms are \*\*\*.

<sup>2</sup> Conference transcript, pp. 12-13 (Gordon), and petitioner’s posthearing brief, exh. 1, pp. 8-12.

<sup>3</sup> Mid Continent’s U.S. producer questionnaire, response to question II-2. \*\*\*.

**Table VI-1**  
**Steel nails: Results of operations of U.S. producers, 2009-11**

Item	Fiscal year		
	2009	2010	2011
<b>Quantity (short tons)</b>			
Total net sales	97,892	93,091	95,080
<b>Value (\$1,000)</b>			
Total net sales	188,898	161,650	175,329
COGS	152,485	136,158	147,498
Gross profit/(loss)	36,413	25,492	27,831
SG&A expenses	26,833	20,460	21,655
Operating income/(loss)	9,580	5,032	6,176
Interest expense	351	347	331
Other income/(expense)	267	1,948	1,961
Net income/(loss)	9,496	6,633	7,806
Depreciation	6,436	6,471	4,003
Cash flow	15,932	13,104	11,809
<b>Ratio to net sales (percent)</b>			
COGS:			
Raw materials	53.0	50.5	55.4
Direct labor	6.0	6.3	5.7
Other factory costs	21.7	27.5	23.0
Total COGS	80.7	84.2	84.1
Gross profit/(loss)	19.3	15.8	15.9
SG&A expenses	14.2	12.7	12.4
Operating income/(loss)	5.1	3.1	3.5
Net income/(loss)	5.0	4.1	4.5
<b>Unit value (per short ton)</b>			
Total net sales	\$1,930	\$1,736	\$1,844
COGS:			
Raw materials	1,022	877	1,022
Direct labor	116	109	105
Other factory costs	419	477	424
Total COGS	1,558	1,463	1,551
Gross profit/(loss)	372	274	293
SG&A expenses	274	220	228
Operating income/(loss)	98	54	65
Net income/(loss)	97	71	82
<b>Number of firms reporting</b>			
Operating losses	4	4	4
Data	9	8	8

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



**Table VI-2**  
**Steel nails: Results of operations of U.S. producers, by firm, 2009-11**

\* \* \* \* \*

Although per-unit revenue, costs, gross income, and operating income were lower in 2011 as compared to 2009, from 2010 to 2011, per-unit gross and operating income improved as per-unit revenue increased more than per-unit COGS.<sup>4</sup>

While the aforementioned trends reflect the overall results for the U.S. producers that provided useable questionnaire responses, there was some variation among the reporting firms. Six of the eight firms that operated continuously during this time<sup>5</sup> reported higher net sales quantities and values in 2011 as compared to 2009; however, two firms (\*\*\*) reported decreases in net sales from 2009 to 2011.<sup>6</sup>

In terms of trends in per-unit revenue, the eight firms operating continuously from 2009 to 2011 were split, with four firms (\*\*\*) reporting lower per-unit revenue in 2011 as compared to 2009, and four firms reporting an increase in per-unit revenue during this time.<sup>7</sup>

In terms of operating income, five of the eight firms reported improved operating income or reduced losses in 2011 as compared to 2009, while the other three firms (\*\*\*) reported a decline in operating income or deepening losses during this time.<sup>8</sup>

### Variance Analysis

A variance analysis for steel nails is presented in table VI-3.<sup>9</sup> The information for the variance analysis is derived from table VI-1. The analysis shows that the decrease in operating income from 2009 to 2011 is primarily attributable to an unfavorable price variance that more than offset a favorable net cost/expense variance (that is, prices declined to a greater extent than costs/expenses).

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<sup>4</sup> Per-unit direct labor and other factory costs declined from 2010 to 2011; however, per-unit raw material costs markedly increased and caused an overall increase in per-unit COGS.

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

<sup>6</sup> The overall trends in net sales and operating income are impacted by \*\*\*.

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

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

<sup>9</sup> 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 variance (in the case of the cost of sales and SG&A expense variance) and a volume variance. The sales or cost variance is calculated as the change in unit price times the new volume, while the volume variance is calculated as the change in volume times the old unit price. 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 variance lines under price and cost/expense variance.

**Table VI-3**  
**Steel nails: Variance analysis on operations of U.S. producers, 2009-11**

Item	Between fiscal years		
	2009-11	2009-10	2010-11
<b>Value (\$1,000)</b>			
Total net sales:			
Price variance	(8,143)	(17,984)	10,225
Volume variance	(5,426)	(9,264)	3,454
Total net sales variance	(13,569)	(27,248)	13,679
Cost of sales:			
Cost variance	607	8,849	(8,431)
Volume variance	4,380	7,478	(2,909)
Total cost variance	4,987	16,327	(11,340)
Gross profit variance	(8,582)	(10,921)	2,339
SG&A expenses:			
Expense variance	4,407	5,057	(758)
Volume variance	771	1,316	(437)
Total SG&A variance	5,178	6,373	(1,195)
Operating income variance	(3,404)	(4,548)	1,144
Summarized as:			
Price variance	(8,143)	(17,984)	10,225
Net cost/expense variance	5,014	13,906	(9,189)
Net volume variance	(275)	(470)	108
Note.-- Unfavorable variances are shown in parentheses; all others are favorable.			
Source: Compiled from data submitted in response to Commission questionnaires.			

### **Capital Expenditures and Research and Development Expenses**

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are shown in table VI-4. Four firms provided capital expenditure data, while \*\*\* provided data on R&D expenses. Capital expenditures for steel nails increased from 2009 to 2010, then declined in 2011 to a level somewhat lower than 2009. Mid Continent accounted for \*\*\* percent of total capital expenditures during the period for which data were requested, which was the highest percentage of any reporting firm, while \*\*\*. According to Mid Continent, capital expenditures primarily reflect \*\*\*.<sup>10</sup> According to \*\*\*.<sup>11</sup>

<sup>10</sup> Petitioner's postconference brief, exhibit 1, p. 9.

<sup>11</sup> E-mail correspondence from \*\*\*, April 29, 2011.

**Table VI-4**  
**Steel nails: Capital expenditures and research and development expenses of U.S. producers, 2009-11**

Item	Fiscal year		
	2009	2010	2011
<b>Value (\$1,000)</b>			
<b>Capital expenditures:</b>			
Total	***	***	***
<b>R&amp;D expenses:</b>			
Total	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

### Assets and Return on Investment

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of steel nails to compute return on investment ("ROI"). Data on the U.S. producers' total assets and their ROI are presented in table VI-5. From 2009 to 2011, the total assets for certain steel nails declined from \$76.4 million in 2009 to \$65.3 million in 2011, and the ROI declined irregularly by 3.0 percentage points during this time.

**Table VI-5**  
**Steel nails: Asset values and return on investment of U.S. producers, 2009-11**

Item	Fiscal year		
	2009	2010	2011
<b>Value (\$1,000)</b>			
<b>Assets:</b>			
Total assets, net	76,446	70,497	65,305
<b>Share (percent)</b>			
Operating income or (loss)	9,580	5,032	6,176
Return on investment	12.5	7.1	9.5
Source: Compiled from data submitted in response to Commission questionnaires.			

### CAPITAL AND INVESTMENT

The Commission requested U.S. producers of steel nails to describe any actual or potential negative effects of imports of steel nails from the UAE on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Of the nine usable responses,<sup>12</sup> all firms except \*\*\* reported actual negative effects attributed to subject imports, while all firms except \*\*\* reported anticipated negative effects.

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

**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 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.

### THE INDUSTRY IN THE UNITED ARAB EMIRATES<sup>1</sup>

The petition identified four companies believed to produce steel nails in the UAE: Dubai Wire,<sup>2</sup> Dubai, UAE; Millennium Steel & Wire LLC ("Millennium"),<sup>3</sup> Dubai, UAE; Samrat Wire Industry, LLC ("Samrat Wire"),<sup>4</sup> Dubai, UAE; and Steel Racks Factory ("Steel Racks"),<sup>5</sup> Ajman, UAE. In addition, Precision Fasteners<sup>6</sup> was identified and supplied data on its operations in UAE.

Dubai Wire's capacity \*\*\* in 2013. Production followed a similar trend and is projected to \*\*\*.<sup>7</sup> The company also indicated that \*\*\* other products on the same equipment and machinery used in the

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<sup>1</sup> Samrat Wire Industry, LLC and Steel Racks Factory did not respond to the Commission's questionnaire request. According to Dubai Wire, . . . "they are small companies which produce only for the local market and do not export." Dubai Wire contacted these companies in the 2007 - 2008 investigations and they said "they were not interested in participating." Conference transcript, p. 75 (Ved).

<sup>2</sup> Dubai Wire estimates that it accounts for \*\*\* percent of total steel nails produced in the UAE in 2011 as well as \*\*\* percent of total exports to the United States in 2011. It is the importer of record for some of its exports and its importer questionnaire response is included in Part IV.

<sup>3</sup> Millennium ceased production of nails in 2009 and according to its questionnaire response (question II-5) in the preliminary phase of this investigation, ". . . we no longer produce certain steel nails and have no intention to produce in future."

<sup>4</sup> Samrat Wire was established in 1999 as the successor to Wire & Wire Products Industries; the parent company is M/s Samrat Group of Companies. Samrat Wire "has planned to produce 12,000 metric tons of wire and wire products per year. The range of wire products to be manufactured includes the following: wire nails (sinker nails, common box, finish, casting, panel pin, roofing nails, tile nails, blued nails, wire collated nails, E.G. nails, spike & hot dip galvanized nails); cable armored wire; black annealed wire; galvanized binding wire; A.C.S.R. wire; fish cage wire; and spring wire." <http://www.mesteel.com/swil/>, retrieved February 3, 2012.

<sup>5</sup> Steel Racks' web site shows that it produces "all sizes of mild steel wire nails" (common nails, roofing nails, twisted nails (brand "super nails"), screws and bolts, and accessories for shop display fittings. <http://www.showracksdubai.com/Steelracks/html/products.htm>, retrieved February 3, 2012.

<sup>6</sup> Precision Fasteners LLC was incorporated in 2008 and started commercial operations and shipment of certain steel nails into the United States in 2008. It produces roofing nails using the same machinery and equipment as well as production employees. In 2011, its sales of subject steel nails accounted for \*\*\* percent of total sales, with \*\*\* percent of sales accounted for by nonsubject nails with the remaining \*\*\* percent related to trading activities unrelated to nails. Precision estimates in 2011 it accounted for \*\*\* percent of total production in the UAE and \*\*\* percent of total exports to the United States of certain steel nails.

<sup>7</sup> Dubai Wire estimates that the subject steel nails account for \*\*\* percent of its total sales.

production of steel nails.<sup>8</sup> Dubai Wire indicated in its questionnaire response that \*\*\*.<sup>9</sup> Dubai Wire's home market sales \*\*\*.<sup>10</sup> Shipments to the United States \*\*\*. Additionally, in 2011 exports to all other markets (\*\*\*) comprised approximately \*\*\* percent of the company's total shipments. Information for Dubai Wire and Precision Fasteners (the only responding firms) is presented in table VII-1.

Precision Fasteners' capacity \*\*\* through 2013.<sup>11</sup> Production \*\*\*. Shipments to the United States \*\*\*. Precision Fasteners' home market sales \*\*\* and exports<sup>12</sup> to countries other than the United States \*\*\*.

**Table VII-1**  
**Steel nails: Reported operations in the UAE, 2009-11, and projected 2012-13**

\* \* \* \* \*

The Commission asked the UAE producers of subject nails the following: "During 2009-11, did your firm have the in-house capability to perform the following production processes for manufacturing certain steel nails, did your firm actually perform these production processes in-house, and/or has your firm been involved in a toll agreement regarding the production of certain steel nails?" Dubai Wire stated that it \*\*\*. Precision Wire stated that it \*\*\*.

Both Dubai Wire and Precision Wire provided information about their 2011 shipments of subject nails to the United States; these data are presented in table VII-2.

**Table VII-2**  
**Steel nails: UAE producers' exports to the United States, by types, 2011**

\* \* \* \* \*

**U.S. IMPORTERS' INVENTORIES**

Inventories of U.S. imports as reported are presented in table VII-3. Inventories of UAE origin steel nails increased during 2009 to 2011, as did the ratios of inventories to imports and U.S. shipments of imports; inventories from all other sources had similar trends.

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<sup>8</sup> In its questionnaire response to question II-4 (Same equipment, machinery, and workers) Dubai Wire provided the following statement:

“\*\*\*.”

<sup>9</sup> In its questionnaire response to question II-2 (Changes in operations) and question II-3 (Anticipated changes in operations) Dubai Wire provided the following statement:

“\*\*\*.”

“\*\*\*.”

<sup>10</sup> Mr. Ved (Dubai Wire) stated at the Commission's conference: "There's no wooden construction, so it's very limited on the nail business. So we have a substantial -- the share is there, but the volumes do not exist." Conference transcript, p. 90 (Ved).

<sup>11</sup> “\*\*\*.”

<sup>12</sup> \*\*\* are Precision's principal other export markets.

**Table VII-3**  
**Steel nails: U.S. importers' end-of-period inventories of imports, by source, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>UAE:</b>			
Inventories ( <i>short tons</i> )	***	***	***
Ratio of inventories to imports ( <i>percent</i> )	***	***	***
Ratio to U.S. shipments of imports ( <i>percent</i> )	***	***	***
<b>All other sources:</b>			
Inventories ( <i>short tons</i> )	***	***	***
Ratio of inventories to imports ( <i>percent</i> )	***	***	***
Ratio to U.S. shipments of imports ( <i>percent</i> )	***	***	***
<b>All sources:</b>			
Inventories ( <i>short tons</i> )	47,432	52,361	59,993
Ratio of inventories to imports ( <i>percent</i> )	23.1	19.8	22.9
Ratio to U.S. shipments of imports ( <i>percent</i> )	21.5	20.0	23.5
Note.—Ratios were calculated using data from firms providing information on both inventories and imports or U.S. shipments of imports.			
Source: Compiled from data submitted in response to the Commission's questionnaire.			

### U.S. IMPORTERS' CURRENT ORDERS

Five U.S. importers reported that they had placed orders for steel nails from the UAE (\*\*\*) scheduled for entry into the United States after 2011.

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

No producer, importer, or foreign producer reported any countervailing or antidumping duty orders on steel nails from the UAE in third-country markets.

### INFORMATION ON NONSUBJECT COUNTRIES

Steel nails are produced in a number of countries. Table VII-4 presents global export data for the world for HTS heading 7317, which includes all steel nails and staples, including nonsubject roofing nails and other nonsubject products. Except for roofing nails, nonsubject product in the data is believed to be minimal. In the cases of the UAE and of Canada, for which export quantity data are not available, partner country import data (called "mirror exports") are included. Including the UAE, the top fifteen 2011 exporting countries are listed. In 2011, the UAE was the second-leading exporting nation and accounted

for 6.2 percent of world exports of steel nails and staples. In total, the fifteen largest exporting countries accounted for 87.8 percent of world exports in 2011; China alone accounted for 54.7 percent.<sup>13</sup>

**Table VII-4**  
**Steel nails and staples: Reporting countries' export statistics 2009-11**

Source	Calendar year		
	2009	2010	2011
<b>Quantity (short tons)</b>			
United Arab Emirates <sup>1</sup>	70,128	128,965	116,401
China	891,712	944,907	1,021,691
Taiwan	81,196	74,108	75,537
Poland	52,924	68,838	66,735
Belarus	58,754	58,051	58,051 <sup>2</sup>
Korea	30,451	41,051	47,431
Germany	30,642	31,130	31,183
Lithuania	23,586	27,021	31,001
Malaysia	25,304	23,671	30,870
United States	26,935	31,068	29,789
Belgium	24,492	27,389	29,112
Czech Republic	24,848	29,468	28,413
Netherlands	19,077	20,779	26,581
Turkey	18,191	24,942	25,412
Russia	24,905	23,879	19,549
Subtotal	1,403,145	1,555,267	1,637,760
Other sources	236,442	238,939	227,083 <sup>3</sup>
Total	1,639,587	1,794,206	1,864,843
<sup>1</sup> Mirror exports. <sup>2</sup> Estimated equal to 2010 data. <sup>3</sup> Estimated, based in part on 2010 data.			
Source: Compiled from <i>Global Trade Atlas</i> .			

<sup>13</sup> Public data on nail production are limited; the last published data for Chinese firms responding to Commission queries appears in 2007. See *Certain Steel Nails from China and the United Arab Emirates, Investigation Nos. 731-TA-1114 and 1115 (Preliminary)*, USITC Publication 3939, August 2007.



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



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:* November 3, 2011.

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

**SUPPLEMENTARY INFORMATION:**

**Background.**—The final phase of this investigation is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain steel nails from the United Arab Emirates are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on March 31, 2011, by Mid Continent Nail Corporation, Poplar Bluff, MO.

**Participation in the investigation 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 this investigation 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 investigation 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 investigation.

**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 this investigation available to authorized applicants under the APO issued in the investigation, 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 investigation. A party granted access to BPI in the preliminary phase of the investigation 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 this investigation will be placed in the nonpublic record on March 6, 2012, 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 this investigation beginning at 9:30 a.m. on March 20, 2012, 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 March 15, 2012. 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 March 15, 2012, 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 March 13, 2012. 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 March 27, 2012; witness testimony must be filed

**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 731–TA–1185 (Final)]

**Certain Steel Nails From the United Arab Emirates; Scheduling of the Final Phase of Antidumping Investigation**

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

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1185 (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 material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from The United Arab Emirates of certain steel nails, provided for in subheadings 7317.00.55, 7317.00.65, and 7317.00.75 of the Harmonized Tariff Schedule of the United States.<sup>1</sup>

For further information concerning the conduct of this phase of the investigation, hearing procedures, and

<sup>1</sup> For purposes of this investigation, the Department of Commerce has defined the subject merchandise as certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this investigation are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Certain steel nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.

no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before March 27, 2012. On April 12, 2012, 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 April 16, 2012, 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. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at <http://edis.usitc.gov>.

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 investigation must be served on all other parties to the investigation (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:** This investigation is 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: November 17, 2011.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2011-30183 Filed 11-22-11; 8:45 am]

**BILLING CODE 7020-02-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-520-804]

**Certain Steel Nails From the United Arab Emirates: Final Determination of Sales at Less Than Fair Value**

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

**SUMMARY:** The Department of Commerce (the Department) has determined that imports of certain steel nails (nails) from the United Arab Emirates are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Continuation of Suspension of Liquidation" section of this notice.

**DATES:** *Effective Date:* March 23, 2012.

**FOR FURTHER INFORMATION CONTACT:** Dmitry Vladimirov or Mino Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-0665 or (202) 482-1690, respectively.

**SUPPLEMENTARY INFORMATION:**

**Case History**

On November 3, 2011, the Department published in the **Federal Register** its preliminary determination in the antidumping duty investigation of nails from the United Arab Emirates. *See Certain Steel Nails from the United Arab Emirates: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 76 FR 68129 (November 3, 2011) (*Preliminary Determination*).

As provided in section 782(i) of the Act, we conducted sales and cost verifications of the questionnaire responses submitted by the participating respondents, Dubai Wire FZE (Dubai Wire) and Precision Fasteners LLC (Precision). We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by both companies.<sup>1</sup>

<sup>1</sup> See Memorandum to the File entitled "Verification of the Export-Price Sales Responses of Dubai Wire FZE in the Antidumping Investigation of Certain Steel Nails from the United Arab Emirates," dated January 3, 2012, Memorandum to the File entitled "Verification of the Export-Price Sales Responses of Precision Fasteners, LLC in the Antidumping Investigation of Certain Steel Nails from the United Arab Emirates," dated January 3,

We received case briefs from Mid Continent Nail Corporation (hereinafter, the petitioner), Dubai Wire, and Precision on January 27, 2012. These parties submitted rebuttal comments on February 1, 2012. No hearing was requested.

Subsequent to the *Preliminary Determination*, the Department revised the SAS program to ensure that it accurately reflected the methodological choices made in that determination. These revisions to the programming, had they been included in the preliminary determination, would not have altered the weighted average dumping margins calculated there. *See* company-specific analysis memoranda, dated concurrently with this notice (company-specific analysis memoranda) (containing the revised preliminary AD margin program, output, and the weighted-average dumping margins).

**Period of Investigation**

The period of investigation is January 1, 2010, through December 31, 2010.

**Scope of Investigation**

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

2012, Memorandum to the File entitled "Verification of the Cost Response of Dubai Wire FZE in the Antidumping Investigation of Certain Steel Nails from the United Arab Emirates," dated January 17, 2012, and Memorandum to the File entitled "Verification of the Cost Response of Precision Fasteners, LLC in the Antidumping Duty Investigation of Certain Steel Nails from the United Arab Emirates," dated January 17, 2012.

or coils using materials such as plastic, paper, or wire.

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

Excluded from the scope of this investigation are steel nails specifically enumerated and identified in ASTM Standard F 1667 (2011 revision) as Type I, Style 20 nails, whether collated or in bulk, and whether or not galvanized.

Also excluded from the scope of this investigation are the following products:

- Non-collated (*i.e.*, hand-drive or bulk), two-piece steel nails having plastic or steel washers (“caps”) already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500” to 8”, inclusive; an actual shank diameter of 0.1015” to 0.166”, inclusive; and an actual washer or cap diameter of 0.900” to 1.10”, inclusive;

- Non-collated (*i.e.*, hand-drive or bulk), steel nails having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500” to 4”, inclusive; an actual shank diameter of 0.1015” to 0.166”, inclusive; and an actual head diameter of 0.3375” to 0.500”, inclusive;

- Wire collated steel nails, in coils, having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500” to 1.75”, inclusive; an actual shank diameter of 0.116” to 0.166”, inclusive; and an actual head diameter of 0.3375” to 0.500”, inclusive;

- Non-collated (*i.e.*, hand-drive or bulk), steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75” to 3”, inclusive; an actual shank diameter of 0.131” to 0.152”, inclusive; and an actual head diameter of 0.450” to 0.813”, inclusive;

- Corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side;

- Thumb tacks, which are currently classified under HTSUS 7317.00.10.00;

- Fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30;

- Certain steel nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive; and

- Fasteners having a case hardness greater than or equal to 50 HRC, a

carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### Changes to the Scope of Investigation

In the *Preliminary Determination* we stated that we are revising the scope of this investigation, as set forth in the *Initiation Notice*,<sup>2</sup> by removing the language referring to the packaging characteristics of certain nails excluded from the scope. *See Preliminary Determination*, 76 FR at 68130. Further, we also stated that we are modifying the scope of the investigation to reflect the ASTM Standard F 1667 (2011 revision) instead of the 2005 revision. *Id.* We invited interested parties to comment on these proposed changes to the scope of this investigation. We received no comments. Accordingly, for the final determination we adopted the revisions to the scope of this investigation discussed in the *Preliminary Determination*.

#### Adverse Facts Available

For the final determination, we continue to find that, by failing to provide information we requested, Tech Fast International Ltd. (Tech Fast), a respondent selected for individual examination in this investigation, did not act to the best of its ability. Thus, we continue to find that the use of adverse facts available (AFA) is warranted for this company under sections 776(a)(2) and (b) of the Act. *See Preliminary Determination*, 76 FR at 68130–32.

In the *Preliminary Determination*, we selected the lowest rate alleged in the petition, 61.54 percent, as the AFA rate for Tech Fast.<sup>3</sup> *See Preliminary Determination*, 76 FR at 68131. In this final determination, however, we are relying on the average-to-transaction comparison methodology for both Dubai Wire and Precision, pursuant to section 777A(d)(1)(B) of the Act, as explained below. Therefore, we reexamined the appropriate AFA rate for Tech Fast for the final determination and corroborated such rate pursuant to

<sup>2</sup> See *Certain Steel Nails From the United Arab Emirates: Initiation of Antidumping Duty Investigation*, 76 FR 23559 (April 27, 2011) (*Initiation Notice*).

<sup>3</sup> See the Petition for the Imposition of Antidumping Duties on Certain Steel Nails from the United Arab Emirates, dated March 31, 2011. *See also Initiation Notice*, 76 FR at 23653.

section 776(c) of the Act. It is the Department’s practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information.<sup>4</sup> Consistent with our practice, for the final determination we find that the highest rate in the petition of 184.41 percent is appropriate for Tech Fast. *See Initiation Notice*, 76 FR at 23563.

In the *Preliminary Determination*, we explained our rationale for finding that the rates in the petition have probative value and, thus, are both reliable and relevant to Tech Fast. *See Preliminary Determination*, 76 FR at 68131–32. Further for the final determination, we compared the normal values and net U.S. prices we calculated for Dubai Wire and Precision Fasteners in the final determination to the normal value and net U.S. price underlying the calculation of 184.41 percent rate in the petition. We found that certain normal values we calculated for Dubai Wire and Precision Fasteners in this investigation were higher than or within the range of the normal value in the petition; we found that certain net U.S. prices we calculated for Dubai Wire and Precision Fasteners in this investigation were lower than or within the range of the U.S. price in the petition. *See company-specific analysis memoranda.*

Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and determining it to be relevant for the uncooperative respondent in this investigation, we have corroborated the AFA rate of 184.41 percent “to the extent practicable” as provided in section 776(c) of the Act.<sup>5</sup> Therefore, with respect to Tech Fast, for the final determination we have used, as AFA, the margin in the petition of 184.41 percent, as set forth in the notice of initiation. *See Initiation Notice*, 76 FR at 23563.

<sup>4</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005)).

<sup>5</sup> See also 19 CFR 351.308(d). *See, e.g.*, Chapter 6 of the Department’s 2009 Antidumping Manual at 17, and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Bar from the United Kingdom*, 66 FR 40192 (August 2, 2001) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from the United Kingdom*, 67 FR 3146 (January 23, 2002)).

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the Issues and Decision Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration (Issues and Decision Memorandum), which is dated concurrently with and hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

### Targeted Dumping

Pursuant to section 777A(d)(1)(B) of the Act, the Department may employ the average-to-transaction margin-calculation methodology when: (1) There is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; (2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. See section 777A(d)(1)(B) of the Act.

In the *Preliminary Determination*, based on the methodology adopted in *Nails*,<sup>6</sup> as modified in *Bags*<sup>7</sup> and *Wood Flooring*<sup>8</sup> to correct certain ministerial errors, for both Dubai Wire and Precision we found a pattern of export prices for comparable merchandise that

<sup>6</sup> See *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008) (*Nails*).

<sup>7</sup> See *Polyethylene Retail Carrier Bags From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 55183 (October 27, 2009) (unchanged in *Polyethylene Retail Carrier Bags from Taiwan: Final Determination of Sales at Less Than Fair Value*, 75 FR 14569 (March 26, 2010)) (*Bags*).

<sup>8</sup> See *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) (*Wood Flooring*) and accompanying Issues and Decision Memorandum at Comment 4.

differs significantly among certain customers, regions, and time periods. See *Preliminary Determination*, 76 FR at 68133. We determined preliminarily, however, that these price differences could be taken into account using the standard average-to-average methodology because the alternative average-to-transaction methodology yielded a difference in the margin that was not meaningful relative to the size of the resulting margin. *Id.* Accordingly, in the *Preliminary Determination* we applied the standard average-to-average methodology to all U.S. sales reported by Dubai Wire and Precision. *Id.*

For the final determination, for both Dubai Wire and Precision we continue to find a pattern of export prices for comparable merchandise that differs significantly among customers, regions, or by time period. See company-specific analysis memoranda. As a result of certain changes to the margin calculations for Dubai Wire and Precision, for the final determination we find that the standard average-to-average methodology does not take into account the price differences because the alternative average-to-transaction methodology yields a difference in the margin that is significant relative to the size of the resulting margin. See company-specific analysis memoranda. Accordingly, for the final determination we find that the average-to-average methodology masks differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group. See section 777A(d)(1) of the Act. Therefore, consistent with our practice, for this final determination we have applied the average-to-transaction methodology to all U.S. sales reported by Dubai Wire and Precision in this investigation.<sup>9</sup>

### Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verifications, we have made certain changes to the margin calculations for Dubai Wire and Precision. For a discussion of these changes, see Memorandum to Neal Halper from Gary Urso (Dubai Wire) or from James Balog (Precision Fasteners), entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final

<sup>9</sup> See, e.g., *Polyethylene Retail Carrier Bags from Taiwan: Final Determination of Sales at Less Than Fair Value*, 75 FR 14569 (March 26, 2010) and accompanying Issues and Decision Memorandum at Comment 1. See Comment 4 of accompanying Issues and Decision Memorandum to this final determination.

Determination" dated concurrently with this notice (Final Determination Cost Calculation Memos) and company-specific analysis memoranda.

### Affiliation and Collapsing

As explained in the *Preliminary Determination*, we found that Dubai Wire and its affiliate, Global Fasteners Limited (GFL), a producer of screws, are not a single entity pursuant to 19 CFR 351.401(f) and, thus, should not be collapsed for purposes of calculating a dumping margin for Dubai Wire. See *Preliminary Determination*, 76 FR at 68132. Because no party presented new arguments on the issues and we have no new information that challenges our finding in the *Preliminary Determination*, we continue to find that Dubai Wire and GFL are not a single entity. Further, as explained in the *Preliminary Determination*, we found that, pursuant to section 771(33)(F) of the Act, Precision is not affiliated with Millennium Steel and Wire LLC (MSW). For the final determination, we continue to find that Precision and MSW are not affiliated. See Comment 12 of accompanying Issues and Decision Memorandum to this final determination.

### Cost of Production

As explained in the *Preliminary Determination*, in accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value for Dubai Wire and Precision because neither company had a viable comparison market. See *Preliminary Determination*, 76 FR at 68134–35. We calculated constructed value in accordance with section 773(e) of the Act. Because Dubai Wire and Precision did not have a viable comparison market, we determined selling expenses and profit under section 773(e)(2)(B) of the Act. In the *Preliminary Determination*, for both Dubai Wire and Precision, we used the profit rate derived from the publicly available financial statements for the fiscal year most contemporaneous with the POI for a company in the United Arab Emirates, Arab Heavy Industries (AHI). Based on record evidence provided since the *Preliminary Determination* and parties' comments, we find that for the final determination it is more appropriate to use a different source of information to derive the constructed value profit. See Comment 6 of accompanying Issues and Decision Memorandum to this final determination. Specifically, we find that the publicly available financial statements for Abu Dhabi National Company for Building Materials best

meet the requirements of section 773(e)(2)(B) of the Act because it is predominately a trading company in building materials, while AHI is predominately a provider of services and products to a customer base of marine, offshore, and engineering industries which is substantially divergent from that of Precision and Dubai Wire. Further, because this source of information did not provide enough detail to calculate selling expenses for Dubai Wire and Precision Fasteners, we used the companies' respective company-wide selling-expense rates. See company-specific analysis memoranda. With respect to Precision, see also Comment 7 of accompanying Issues and Decision Memorandum to this final determination. We find that this approach satisfies sufficiently the criteria of section 773(e) because the selling expenses were derived for subject merchandise as well as for products in the same general category as subject merchandise.

**Continuation of Suspension of Liquidation**

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of nails from the United Arab Emirates which were entered, or withdrawn from warehouse, for consumption on or after November 3, 2011, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margins, as indicated below, as follows: (1) The rates for Dubai Wire, Precision, and Tech Fast will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 4.55 percent, as discussed in the "All-Others Rate" section, below. These suspension-of-liquidation instructions will remain in effect until further notice.

Manufacturer/exporter	Weighted-average margin (percent)
Dubai Wire FZE .....	6.29
Precision Fasteners LLC .....	2.80
Tech Fast International Ltd .....	184.41

**All-Others Rate**

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the

weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. Dubai Wire and Precision Fasteners are the only respondents in this investigation for which we calculated a company-specific rate that is not zero or *de minimis* or determined entirely under section 776 of the Act. Therefore, because there are only two relevant weighted-average dumping margins for this final determination and because using a weighted-average calculation risks disclosure of business proprietary information of Dubai Wire and Precision Fasteners, the "all-others" rate is a simple-average of these two values, which is 4.55 percent. See *Seamless Refined Copper Pipe and Tube From Mexico: Final Determination of Sales at Less Than Fair Value*, 75 FR 60723, 60724 (October 1, 2010).

**Disclosure**

We intend to disclose to parties in this proceeding the calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, 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 such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

**Notification Regarding APO**

This notice also serves as a final reminder to 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 the 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 pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 19, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

**Appendix I**

**Issues and Decision Memorandum**

1. Targeting Dumping Allegations
2. Methodologies Underlying Targeted Dumping Test
3. *De Minimis* Standard in the Targeted Dumping Test
4. Application of the Average-to-Transaction Comparison Methodology
5. Zeroing under the Average-to-Transaction Comparison Methodology in Investigations
6. Constructed Value Profit
7. Constructed Value Selling Expenses
8. Affiliated Loans
9. Cost Differences Unrelated to Differences in Physical Characteristics
10. General and Administrative Expenses
11. Quarterly Cost Methodology
12. Affiliation
13. Adverse Facts Available

[FR Doc. 2012-7067 Filed 3-22-12; 8:45 am]

**BILLING CODE 3510-DS-P**



**APPENDIX B**  
**HEARING WITNESSES**



## CALENDAR OF PUBLIC HEARING

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

**Subject:** Certain Steel Nails from the United Arab Emirates

**Inv. No.:** 731-TA-1185 (Final)

**Date and Time:** March 20, 2012 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

### **In Support of the Imposition of Antidumping Duty Order:**

Wiley Rein LLP  
Washington, D.C.  
on behalf of

Mid Continent Nail Corporation

**David W. Libla**, President, Mid Continent Nail Corporation

**George J. Skarich**, Executive Vice President of Sales, Mid Continent Nail Corporation

**Bruce Yost**, Director of Global Procurement, Tree Island Wire USA, Inc.

**Adam H. Gordon** )  
**Robert E. DeFrancesco** ) – OF COUNSEL  
**Laura A. El-Sabaawi** )

**In Opposition to the Imposition of  
Antidumping Duty Order:**

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP  
Washington, D.C.  
on behalf of

Dubai Wire FZE  
Itochu Building Products Co., Inc.

**Rupak Ved**, President, Dubai Wire FZE

**Mona Zinman**, President, Itochu Building Products  
Co., Inc.; *and* Co-CEO, Prime Source Building  
Products, Inc.

**Ned H. Marshak** )  
 ) – OF COUNSEL  
**Brandon M. Petelin** )

Perkins Coie  
Washington, D.C.  
on behalf of

Precision Fasteners L.L.C.

**Peter J. Fischer**, President, Continental Materials, Inc.

**Aaron Joseph Leffler**, Vice President, Sales and Marketing,  
Hitachi Power Tools

**Michael James Doody**, Executive Vice President of Operations,  
Carlson Systems Holdings, Inc.

**Michael P. House** )  
 ) – OF COUNSEL  
**Sabahat Chaudhary** )

**APPENDIX C**  
**SUMMARY DATA**



**Table C-1**  
**Steel nails: Summary data concerning the U.S. market, 2009-11**

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

Item	Reported data			Period changes		
	2009	2010	2011	2009-11	2009-10	2010-11
U.S. consumption quantity:						
Amount . . . . .	445,543	530,671	541,138	21.5	19.1	2.0
Producers' share (1) . . . . .	22.8	18.4	17.9	-4.8	-4.4	-0.5
Importers' share (1):						
UAE . . . . .	14.3	22.3	20.4	6.1	8.1	-1.9
All other sources . . . . .	63.0	59.2	61.7	-1.3	-3.7	2.4
Total imports . . . . .	77.2	81.6	82.1	4.8	4.4	0.5
U.S. consumption value:						
Amount . . . . .	596,261	684,382	776,423	30.2	14.8	13.4
Producers' share (1) . . . . .	34.0	25.9	23.7	-10.3	-8.1	-2.2
Importers' share (1):						
UAE . . . . .	9.5	16.3	16.8	7.3	6.8	0.5
All other sources . . . . .	56.5	57.8	59.5	3.1	1.3	1.8
Total imports . . . . .	66.0	74.1	76.3	10.3	8.1	2.2
U.S. imports from:						
UAE:						
Quantity . . . . .	63,494	118,558	110,395	73.9	86.7	-6.9
Value . . . . .	56,662	111,764	130,417	130.2	97.2	16.7
Unit value . . . . .	\$892	\$943	\$1,181	32.4	5.6	25.3
Ending inventory quantity . . . .	***	***	***	***	***	***
All other sources:						
Quantity . . . . .	280,537	314,296	333,680	18.9	12.0	6.2
Value . . . . .	336,747	395,266	462,217	37.3	17.4	16.9
Unit value . . . . .	\$1,200	\$1,258	\$1,385	15.4	4.8	10.1
Ending inventory quantity . . . .	***	***	***	***	***	***
All sources:						
Quantity . . . . .	344,031	432,854	444,075	29.1	25.8	2.6
Value . . . . .	393,409	507,030	592,634	50.6	28.9	16.9
Unit value . . . . .	\$1,144	\$1,171	\$1,335	16.7	2.4	13.9
Ending inventory quantity . . . .	47,432	52,361	59,993	26.5	10.4	14.6

Table continued on next page.

**Table C-1--Continued**  
**Steel nails: Summary data concerning the U.S. market, 2009-11**

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

Item	Reported data			Period changes		
	2009	2010	2011	2009-11	2009-10	2010-11
U.S. producers':						
Average capacity quantity . . . . .	359,461	365,271	335,364	-6.7	1.6	-8.2
Production quantity . . . . .	93,062	96,446	97,182	4.4	3.6	0.8
Capacity utilization (1) . . . . .	25.9	26.4	29.0	3.1	0.5	2.6
U.S. shipments:						
Quantity . . . . .	101,512	97,817	97,063	-4.4	-3.6	-0.8
Value . . . . .	202,852	177,352	183,789	-9.4	-12.6	3.6
Unit value . . . . .	\$1,998	\$1,813	\$1,894	-5.2	-9.3	4.4
Export shipments:						
Quantity . . . . .	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***
Ending inventory quantity . . . . .	15,970	14,055	12,101	-24.2	-12.0	-13.9
Inventories/total shipments (1) . . . . .	***	***	***	***	***	***
Production workers . . . . .	608	607	506	-16.8	-0.2	-16.6
Hours worked (1,000s) . . . . .	1,311	1,252	1,076	-17.9	-4.5	-14.1
Wages paid (\$1,000s) . . . . .	22,782	19,965	14,908	-34.6	-12.4	-25.3
Hourly wages . . . . .	\$17.38	\$15.95	\$13.85	-20.3	-8.2	-13.1
Productivity (tons/1,000 hours) . . . . .	71.0	77.0	90.3	27.2	8.5	17.2
Unit labor costs . . . . .	\$244.80	\$207.01	\$153.40	-37.3	-15.4	-25.9
Net sales:						
Quantity . . . . .	97,892	93,091	95,080	-2.9	-4.9	2.1
Value . . . . .	188,898	161,650	175,329	-7.2	-14.4	8.5
Unit value . . . . .	\$1,930	\$1,736	\$1,844	-4.4	-10.0	6.2
Cost of goods sold (COGS) . . . . .	152,485	136,158	147,498	-3.3	-10.7	8.3
Gross profit or (loss) . . . . .	36,413	25,492	27,831	-23.6	-30.0	9.2
SG&A expenses . . . . .	26,833	20,460	21,655	-19.3	-23.8	5.8
Operating income or (loss) . . . . .	9,580	5,032	6,176	-35.5	-47.5	22.7
Capital expenditures . . . . .	***	***	***	***	***	***
Unit COGS . . . . .	\$1,558	\$1,463	\$1,551	-0.4	-6.1	6.1
Unit SG&A expenses . . . . .	\$274	\$220	\$228	-16.9	-19.8	3.6
Unit operating income or (loss) . . . . .	\$98	\$54	\$65	-33.6	-44.8	20.2
COGS/sales (1) . . . . .	80.7	84.2	84.1	3.4	3.5	-0.1
Operating income or (loss)/ sales (1) . . . . .	5.1	3.1	3.5	-1.5	-2.0	0.4

(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.



**APPENDIX D**  
**NONSUBJECT COUNTRY PRICE DATA**



## Nonsubject Price Comparisons

Table D-1 compares quarterly weighted-average prices of nonsubject imports with U.S. producers' prices and prices of subject imports from the UAE for products 1-10 during 2009-11. Prices of imports from individual nonsubject countries were generally higher than U.S. producer prices in slightly more than half of the comparisons. The notable exception was Taiwan, whose prices were lower than the U.S. producer prices in about 75 percent of the comparisons. Prices of imports from individual nonsubject countries were higher than prices of imports from the UAE in approximately three quarters of the comparisons.

### Table D-1

**Steel nails: Number of quarterly price comparisons of imported nonsubject and U.S. products 1-10 and imported nonsubject and UAE products 1-10**

\* \* \* \* \*

