Certain Standard Steel Fasteners from China and Taiwan

Investigation Nos. 701-TA-472 and 731-TA-1171-1172 (Preliminary)

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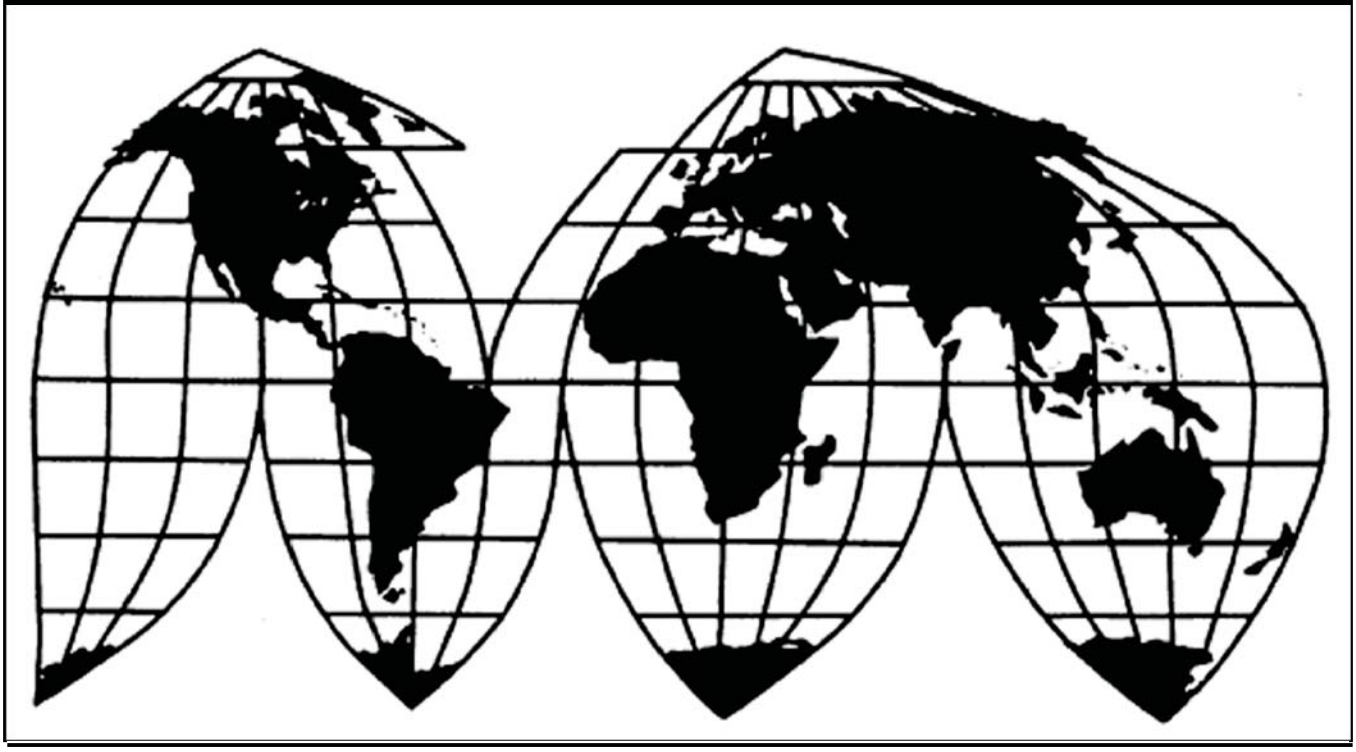
U.S. International Trade Commission



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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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 Nos. 701-TA-472 and 731-TA-1171-1172 (Preliminary)

CERTAIN STANDARD STEEL FASTENERS FROM CHINA AND TAIWAN

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from China and Taiwan of certain standard steel fasteners ("CSSF"), provided for in subheadings 7318.15.20, 7318.15.80, and 7318.16.00 of the Harmonized Tariff Schedule of the United States. CSSF imported from China are alleged to be subsidized and sold in the United States at less than fair value (LTFV). CSSF imported from Taiwan are alleged to be sold in the United States at LTFV.

BACKGROUND

On September 23, 2009, petitions were filed with the Commission and Commerce by Nucor Fastener Division, St. Joe, Indiana, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV and subsidized imports of CSSF from China and LTFV imports of CSSF from Taiwan. Accordingly, effective September 23, 2009, the Commission instituted countervailing duty investigation No. 701-TA-472 and antidumping duty investigations Nos. 731-TA-1171-1172 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of September 29, 2009 (74 FR 49889). The conference was held in Washington, DC, on October 14, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain standard steel fasteners ("CSSF") from China and Taiwan that are allegedly sold in the United States at less than fair value and imports of subject merchandise from China that are allegedly subsidized by the Government of China.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

The U.S. Court of Appeals for the Federal Circuit ("Federal Circuit") has stated that the purpose of preliminary determinations is to avoid the cost and disruption to trade caused by unnecessary investigations and that the "reasonable indication" standard requires more than a finding that there is a "possibility" of material injury.[3] It also has noted that, in a preliminary investigation, the "statute calls for a reasonable indication of injury, not a reasonable indication of need for further inquiry."[4] Moreover, the U.S. Court of International Trade ("CIT") has reaffirmed that, in applying the reasonable indication "standard for making a preliminary determination regarding material injury or threat of material injury, the Commission may weigh all evidence before it and resolve conflicts in the evidence."[5]

Unlike some industries that the Commission has previously investigated, publicly available information regarding the U.S. and global fasteners industries and markets is not readily available.[6] Moreover, the scope of these investigations as defined by the U.S. Department of Commerce ("Commerce") in its notices of initiation corresponds to only a subset of fasteners, thereby limiting the utility of any data that might otherwise be tracked regularly by any of the various industry participants or

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[1] 19 U.S.C. §§ 1671b(a), 1673b(a); see also, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); Sensient Technologies Corp. v. United States, 28 CIT 1513 (2004); Committee for Fair Coke Trade v. United States, 28 CIT 1140 (2004); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int'l Trade 1999); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

[3] American Lamb, 785 F.2d at 1004.

[4] Texas Crushed Stone, 35 F.3d at 1543.

[5] Ranchers-Cattlemen, 74 F. Supp. 2d at 1368.

[6] See, e.g., Confer. Tr. at 34 (Pickard).

associations.[7] Notwithstanding these considerations and the short 45-day timetable prescribed by Congress for the conduct of preliminary investigations,[8] the Commission was able to collect comprehensive data on CSSF in these investigations.

Data on the domestic industry are based on the questionnaire responses of nine firms that accounted for the large majority of U.S. production of the product in 2008.[9] They include the leading domestic producers (i.e., Nucor, the petitioning company, which accounted for *** percent of U.S. production in 2008, and ***).[10]

Although the Commission obtained official statistics from Commerce concerning U.S. imports from subject and non-subject countries corresponding to the six Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers identified in the scope of these investigations,[11] Nucor argued against relying on these data to measure imports and instead urged the Commission to collect data on imports using importer questionnaires.[12] We agree with Nucor that, in these investigations, importer questionnaire data yield a more accurate measurement of imports than official import statistics. For example, as Nucor correctly argues, five of the six HTSUS reporting numbers (7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085) correspond to "basket" categories containing large amounts of fasteners not subject to these investigations.[13] Moreover, using only the sixth reporting number (7318.15.2030) would underestimate the volume of subject imports.[14] Due to these limitations in the official import statistics data, we relied instead on data from importer questionnaire responses to measure imports from both subject and non-subject countries.[15]

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[7] See, e.g., Confer. Tr. at 34 (Pickard), 154-57 (Chen, Lee, McGrath, Schoenholtz).

[8] See, e.g., 19 U.S.C. §§ 1671b(a)(1) to (2), 1671b(f), 1673b(a)(1) to (2), 1673b(f) (giving the Commission 45 days in which to conduct preliminary investigations, directing the Commission to make its determinations "based on the information available to it at the time of the determination," and giving the Commission 5 days from the date of its determinations in which to transmit its opinion to Commerce that explains "the facts and conclusions on which its determination is based").

[9] See, e.g., Confidential Staff Report, Memorandum INV-GG-106 (Nov. 2, 2009) ("CR") at I-4, as supplemented by Memorandum INV-GG-108 (Nov. 5, 2009); Certain Standard Steel Fasteners from China and Taiwan, Invs. Nos. 701-TA-472 and 731-TA-1171 to 1172, USITC Pub. 4109 (Nov. 2009) ("PR") at I-3. In addition to Nucor Fastener Division ("Nucor"), these firms are 3V Fastener Co. ("3V"); Brunner Manufacturing Co. ("Brunner"); Copper State Bolt & Nut Co. ("Copper State"); Hill Fastener Corp. ("Hill"); MNP Corp. ("MNP"); Quality Bolt & Screw Co. ("Quality Bolt"); Telefast Industries, Inc. ("Telefast"); and Unytite, Inc. ("Unytite"). See, e.g., CR/PR at Table III-1.

[10] See, e.g., CR at III-1 to III-2; PR at III-1; CR/PR at Table III-1.

[11] See, e.g., EDIS document number 414220.

[12] See, e.g., Petitions, Vol. I at 9-10, 15-17 (arguing, inter alia, that using the "very broad basket categories" that comprise the majority of the relevant categories "may distort the actual volume trends and market share information" and explaining that, as a consequence, "the Commission may need to rely on the importer questionnaires more so than usual to accurately evaluate subject import trends in the market.")

[13] See, e.g., Petitions, Vol. I at 9-10 (identifying a number of non-subject products that are also classifiable in the five "basket" categories).

[14] Compare, e.g., Petitions, Vol. I at Exh. I-6 at 1 (showing official import statistics in kilograms for subheading 7318.15.2030) with, e.g., CR/PR at Table IV-2 (showing imports reported in importer questionnaire responses).

[15] See, e.g., CR at I-4 at n.4; PR at I-3 at n.4.

To identify those firms that may have imported more than 1 percent of total imports from China or Taiwan during the period examined under either the aggregated data for the five "basket" categories or statistical reporting number 7318.15.2030,[16] Commission staff reviewed data provided by U.S. Customs and Border Protection ("Customs").[17] Commission staff then sent importer questionnaires to each of the 78 firms meeting these criteria.[18] Importer questionnaire responses ultimately received from 30 of these firms represented the large majority of known CSSF imports from China and Taiwan between January 2006 and June 2009, as discussed below.[19] As these importer questionnaire responses show, a small number of firms accounted for a large portion of CSSF imports into the United States, with numerous other firms each importing significantly smaller amounts.[20]

In addition to these comprehensive import data, the Commission received more than 60 questionnaire responses from firms in the subject countries; these firms either provided information on their foreign production operations and shipments of the subject merchandise or certified that they did not produce or export the subject merchandise. For example, Commission staff initially identified 23 possible producers of subject merchandise in Taiwan; 39 firms remitted usable foreign producer questionnaire responses,[21] and 11 other firms certified that they do not produce subject merchandise in or export subject merchandise from Taiwan.[22] Likewise, the Commission sent questionnaires to 34 firms believed to be possible producers of subject merchandise in China. Of these firms, 11 provided questionnaire responses containing usable data,[23] and 2 certified that they had not produced CSSF or exported CSSF to the United

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[16] In these investigations, the "period examined" corresponds to the full years 2006, 2007, and 2008, as well as the first six months of 2009.

[17] See, e.g., CR at IV-1 at n.1; PR at IV-1 at n.1.

[18] See, e.g., CR at IV-1 & n.1; PR at IV-1 at n.1. Nucor expressed concern that the data reported to the Commission in these investigations were somehow compromised by the apparent circulation of communications within the importing community. See, e.g., Petitioner's Postconf. Br. at 2, 49, Exh. 24; Confer. Tr. at 6-7, 59-61 (Price); Petitioner's Oct. 15, 2009 Submission. More than three dozen firms did submit letters to the Commission protesting these investigations in one manner or another. Nevertheless, the Commission received responsive and credible submissions from major market participants, as explained herein. We find no indication that any outside efforts adversely affected the response rate or the caliber of the questionnaire data reported to the Commission in these investigations and find no indication of any adverse effect on the probative value of the information obtained by the Commission.

[19] See, e.g., CR at IV-1; PR at IV-1.

[20] For example, the 10 largest responding U.S. importers collectively accounted for 90.2 percent of reported imports in 2008, and the top 5 firms collectively accounted for 70.3 percent. See, e.g., CR/PR at Table IV-1.

[21] Commission staff believes that more questionnaires were received than sent because the Taiwan industry association circulated the Commission's questionnaire among its members to increase participation in these investigations. See, e.g., CR at VII-3 at n.1; PR at VII-1 at n.1.

[22] See, e.g., CR at VII-3; PR at VII-1. The largest responding foreign producer in terms of production, ***, estimated that it accounted for *** percent of total production of CSSF in Taiwan in 2008 and *** percent of all exports of subject merchandise from Taiwan to the United States in 2008. Id. All other producers in Taiwan that responded to the Commission's questionnaires were *** smaller (based on production) than ***. See, e.g., CR at VII-3; PR at VII-1 to VII-2.

[23] The largest of these firms in terms of reported production in China, ***, estimated that it accounted for *** percent of production of CSSF in China and *** percent of exports from China to the United States. See, e.g., CR at VII-1; PR at VII-1.

States since January 1, 2006.[24] Finally, although the Commission did not receive questionnaire responses from all producers in the subject countries, producers in China and Taiwan reported exports of subject merchandise to the United States in collective quantities that are relatively similar to the quantities of subject merchandise imports collectively reported by U.S. importers for the period examined.[25]

In addition to supplying information on their respective production, shipments, and/or imports/exports of the subject merchandise, domestic producers, producers in the subject countries, and importers provided extensive narrative and/or numerical data concerning conditions of competition in the U.S. and global markets, information concerning the interchangeability of subject imports, non-subject imports, and the domestic like product, and information concerning pricing practices in the U.S. market. In line with its established practice in preliminary investigations, the Commission did not send questionnaires to purchasers. Nevertheless, a number of important purchasers participated in the staff conference, submitted information and/or briefs, and/or were contacted regarding lost sales and lost revenue allegations.

In addition to the identities of questionnaire respondents and the breadth of their reported information, we also considered the quality of the data they reported, particularly in light of the fact that the language describing the scope of these investigations proposed in the petitions (and primarily used in the Commission's questionnaires in these investigations) differed from the language actually used by Commerce in its initiation notices to define the scope of these investigations.[26] Although there are some differences in the language, we concur with Nucor that the only substantive difference is that otherwise covered fasteners with a shank or thread of greater than 32 mm are not included in the scope of these investigations, whereas the proposed scope (and the Commission's questionnaires) imposed no such size ceiling.[27] Record evidence shows that the effect of the inclusion of fasteners larger than 32 mm in any of the questionnaire data was minimal.[28] We further find that any other language differences between the proposed scope and the scope defined by Commerce in its notices of institution are semantic rather than

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[24] See, e.g., CR at VII-1; PR at VII-1. Although a smaller percentage of producers/exporters in China supplied foreign producer questionnaire responses than producers/exporters in Taiwan, we note that U.S. shipments of subject imports from Taiwan consistently held a larger share of the U.S. market, by quantity, than U.S. shipments of subject imports from China, and the absolute volume of subject imports from China shipped to the U.S. market, by quantity, declined throughout the period examined. See, e.g., CR/PR at Table IV-3 and Table IV-4.

[25] (Derived from CR/PR at Table VII-3 and Table IV-2). We note that U.S. imports reported in importer questionnaire responses are somewhat more inclusive than U.S. exports reported in foreign producer questionnaire responses for subject merchandise produced in China and that the converse is true with respect to subject imports from Taiwan. Regardless of which combination of data sets we examine, however, we arrive at the same conclusion. (Derived from CR/PR at Tables VII-1, VII-2, VII-3, IV-2, and IV-3).

[26] Compare, e.g., Petitions, Vol. I at 3-10 with, e.g., CR at I-6; PR at I-4 to I-5; Petitioner's Oct. 9, 2009, Amendment to the Petitions at Att. 1.

[27] See, e.g., Confer. Tr. at 57 (Gordon) ("We filed last Friday after a lot of collaboration and direction from the Department of Commerce what is really the final scope, so that's been on the record since Friday, and, you know, that really does speak to – and as far as, you know, the sort of suggestion of, you know, multiple iterations of the scope, what was eventually settled between with the Department of Commerce and is on the record is not materially different from what was in the petition, maybe with the addition of the upper limit.")

[28] See, e.g., Memorandum INV-GG-108 at 1, 2 (Nov. 5, 2009); CR at I-6 at n.8; PR at I-4 to I-5 at n.8.

substantive.[29] Moreover, questionnaire respondents whose information accounted for meaningful shares of our data revised their questionnaire responses prior to submission or modified their reported information to reflect the scope ultimately defined by Commerce.[30] Furthermore, Commission staff extensively reviewed the reported data and undertook necessary measures to ensure the integrity and conformity to the products under investigation of the data on which we have relied.[31]

In sum, we find no likelihood that any evidence we would have obtained in any final phase of these investigations would change our determinations that there is no reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of subject imports from China and Taiwan.

II. BACKGROUND

The petitions in these investigations were filed on September 23, 2009, by domestic producer Nucor. Nucor appeared at the staff conference and filed a postconference brief.[32] Witnesses for several respondent firms appeared at the staff conference, including importers Porteous Fastener Company ("Porteous"), the Hillman Group ("Hillman"), Bossard North America ("Bossard"), and Indent Metals ("IM"); the Taiwan International Fastener Institute; and Chun Yu Works (USA), Inc., the U.S. subsidiary of a firm that has production facilities in China and Taiwan. Several of these respondent importers filed a joint postconference brief ("Respondents' Postconf. Br.").[33] The Fasteners Association of China also filed a postconference brief.

III. DOMESTIC LIKE PRODUCT

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[34] 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."[35] In turn, the Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation ... ."[36]

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[29] See, e.g., Memorandum INV-GG-108 at 1-2.

[30] See, e.g., Memorandum INV-GG-108 at 2-3.

[31] See, e.g., Memorandum INV-GG-108 at 1-4.

[32] A witness for Sems and Specials, Inc. testified at the staff conference as part of petitioner's panel, but he reported that his company does not produce standard products, just made-to-order products that only occasionally overlap with the product under investigation. See, e.g., Confer. Tr. at 25-29, 45, 74 (Aman).

[33] These importers/respondents are: Porteous; Hillman; Bossard; IM; Heads & Threads International LLC; Soule, Blake & Wechsler, Inc; Stelfast, Inc.; XL Screw; Earnest Machine Products Co.; Fastenal Co.; and Fasteners and Automotive Products LLC.

[34] 19 U.S.C. § 1677(4)(A).

[35] 19 U.S.C. § 1677(4)(A).

[36] 19 U.S.C. § 1677(10).

A. Product Description

Commerce's notices of initiation define the imported merchandise within the scope of these investigations as follows:

> certain standard nuts, standard bolts, and standard cap screws, of steel other than stainless steel. Standard nuts, standard bolts, and standard cap screws covered by the investigations may have a variety of finishes, including but not limited to coating in paint, phosphates, and zinc. Standard bolts and standard cap screws covered by the investigations have a shank or thread with an actual and/or nominal diameter between 6 millimeters and 32 millimeters (inclusive). Standard bolts and standard cap screws covered by the investigations also possess a circular or hexagonal head, the surface of which may be flat or rounded (also known as "dome-shaped" or "button-headed"). Standard bolts covered by the investigations may have an attached washer face or the equivalent (e.g., a flanged head or chamfered corners on the underside of a fastener with a hexagonal-shaped head). Standard cap screws covered by the investigations have a permanently-attached washer face. Standard nuts are covered by the investigations if they are suitable for attachment to bolts and/or cap screws covered by the investigations.[37]

Commerce further explained that standard bolts, standard cap screws, and standard nuts are covered by the investigations

> whether imported alone, attached to other subject and/or non-subject merchandise (e.g., tension control assemblies), or unattached and in combination with other subject merchandise and/or non-subject merchandise. Standard nuts, standard bolts, and standard cap screws meet the requirements of one or more nationally recognized consensus industry standard specifications (including but not limited to those referenced below). Subject merchandise is typically certified to the specifications published by one or more consensus standards organizations such as the following: the American Society for Testing and Materials ("ASTM"); the Society of Automotive Engineers ("SAE"); the International Organization for Standardization ("ISO"), and the Industrial Fasteners Institute ("IFI"). Common specifications to which subject merchandise is certified include, but are not limited to: ASTM A914, ASTM A307, ASTM A325, ASTM A325M, ASTM A354, ASTM A449, ASTM A490, ASTM A563, ASTM F568M, ASTM F1852, ASTM F2280, SAE J429, SAE J1199, ISO 898-1, ISO 898-2, ISO 4759-1, ISO 8992, and comparable foreign and domestic specifications (including, but not limited to, metric versions of specifications such as those listed above).[38]

Commerce expressly excluded from the scope certain fasteners made for use by aerospace or automotive original equipment manufacturers ("OEMs"),[39] as well as track bolts, carriage bolts, and socket screws.[40]

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[37] See, e.g., 74 Fed. Reg. 54537, 54542-43.

[38] 74 Fed. Reg. 54543.

[39] As Commerce explained, the scope excludes "bolts, cap screws, and nuts produced for an {OEM} part number specific to any 'automobile' as defined in 49 U.S.C. Section 32901(a)(3), any 'work truck' as defined in 49 U.S.C. Section 32901(a)(19), or any 'medium-duty passenger vehicle' as defined in 40 CFR (continued...)

At the same time, Commerce clarified that unless "explicitly excluded from the scope of the investigations, bolts, cap screws, and nuts meeting the description of subject merchandise are covered by the investigations."[41]

Bolts and cap screws are similar, often indistinguishable products. Cap screws and bolts are typically externally threaded. Bolts are intended to be used with nuts and tightened by torquing on the nut, whereas cap screws are intended to be inserted into preformed threaded holes and tightened from the head (the cap), although cap screws may be used with nuts.[42] Internally threaded structural steel nuts are designed to hold the corresponding bolt in place, and the nuts within the scope of these investigations are hex-shaped.[43] Bolts and cap screws are sometimes sold with and sometimes without nuts.[44] The scope includes twist-off type tension-control bolt-nut-washer assemblies ("TC assemblies"), which are special fasteners used in structural applications to simplify and control the tightening of nuts to the proper tension.[45]

The fasteners under investigation are used to hold, join, couple, assemble, or maintain the equilibrium of single or multiple components.[46] Producers manufacture varying head styles, dimensions, weights, finishes, and grades of fasteners.[47] Industry standards establish strength and hardness levels of the grades.[48] The nuts covered by the scope of these investigations are also produced in a range of grades

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[39] (...continued)
Section 86.1803-01 (2009). Also excluded from the scope of the investigations are bolts, cap screws, and nuts produced for an OEM part number specific to any 'aircraft" as defined in 14 CFR Section 1.1 (2009)." 74 Fed. Reg. at 54543.

[40] Track bolts "have a circular, rounded head and a shank which, immediately beneath the head, possesses an oval or elliptical shape, such that the non-round shape would restrict rotational movement of the bolt." Carriage bolts "have a circular, rounded head and a shank which, immediately beneath the head, possesses a non-round shape (e.g., square, finned), such that the non-round shape would restrict rotational movement of the bolt." Socket screws "have a head with a recessed cavity into which a shaped bit may be inserted to turn and drive the fastener." 74 Fed. Reg. at 54543.

[41] See, e.g., 74 Fed. Reg. at 54543. Commerce also explained that the merchandise under investigation is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") under statistical categories 7318.15.2030, 7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085, but that the written description of the merchandise under investigation is dispositive. See, e.g., 74 Fed. Reg. at 54543.

[42] See, e.g., CR at I-8; PR at I-6; Petitions, Vol. I at 4-5.

[43] See, e.g., CR at I-8; PR at I-6; Petitions, Vol. I at 5.

[44] See, e.g., CR at I-8; PR at I-6; Petitions, Vol. I at 4-5.

[45] The bolt in a TC assembly has a specially shaped splined extension on its end. In use, the spline and the nut are separately engaged by a special tightening tool. When the nut is tightened to the correct torque, the spline end breaks off, leaving the bolt and the nut properly assembled. The bolts in TC assemblies may have either a hex or a round (dome) head, but the round head is, by far, the more common. See, e.g., CR at I-8; PR at I-7; Petitions, Vol. I at 5.

[46] See, e.g., Petitions, Vol. I at 4.

[47] See, e.g., Petitions, Vol. I at 16.

[48] For example, SAE grade 2, which corresponds to ASTM A 307, is a low- or medium-carbon steel, non-heat-treated grade. SAE grade 5, corresponding to ASTM A 325, is a low- or medium-carbon steel, heat-treated grade. SAE grade 8, corresponding to ASTM A 490, is a medium-carbon alloy steel, heat-
(continued...)

and strength levels similar to those of the bolts and cap screws that they are designed to hold in place, although nuts generally are designed to be stronger than their corresponding bolts. Consequently, petitioner contends, higher-strength nuts can always be substituted for lower-rated strength applications but should always possess the same finish as the bolts with which they are assembled.[49]

To manufacture cap screws and bolts in a cold-formed process, producers take irregularly wound coils of hot-rolled carbon or alloy steel rod or bar of the desired grade and heat them in annealing furnaces for 24 to 48 hours in order to soften the steel.[50] They pickle and clean the softened steel in an acid bath to remove any oxide scales, dirt, oil, or other impurities and then coat the cleaned steel with a lubricant to increase the efficiency of the forming and threading machinery as the steel is processed.[51] In the forming and threading stage, manufacturers pass the steel through a series of dies in cold-forming equipment to form the fastener and then mechanically transfer the steel to threading machinery to cold roll (for externally threaded products) or tap (for internally threaded nuts) the threads.[52] After forming, grade 5 and higher products are heat treated in quench and temper furnaces by heating to a high temperature, quenching in oil, reheating to a lower temperature, then slow cooling; this serves to reintroduce hardness into the steel, which is reduced in the annealing stage.[53] After heat treatment, the fasteners are coated with a special oil to inhibit corrosion. The entire process is commonly done on a continuous heat-treating line, with the fasteners being placed into a hopper at the entry end of the line and heat-treated, oiled fasteners being discharged from the line.[54] Some fasteners undergo further processing such as zinc coating, yellow chromate finish coating, phosphate and oil coating, or other operations that are performed by the domestic producers themselves or by outside firms to provide corrosion-resistance.[55] TC assemblies, comprised of a bolt, a washer, and a nut, are assembled either by automatic machinery or by hand.[56]

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[48] (...continued)
treated grade. ASTM F 568 M, Class 12.9, is used only for metric fasteners and is an alloy steel, heat-treated grade. Other grades such as SAE grades 5.2 and 8.2 have similar physical properties to grades 5 and 8 but are produced from low-carbon boron steel, rather than from medium-carbon or alloy steel. Grade 1, however, is relatively uncommon. See, e.g., CR at I-8 to I-9; PR at I-7.

[49] See, e.g., CR at I-9; PR at I-7; Petitions, Vol. I at 6, 8.

[50] See, e.g., CR at I-9 to I-10; PR at I-7; Petitions, Vol. I at 7. Grade 2 fasteners, however, may not require this annealing stage. See, e.g., CR at I-9; PR at I-7.

[51] See, e.g., CR at I-10; PR at I-7; Petitions, Vol. I at 7.

[52] See, e.g., CR at I-10; PR at I-7 to I-8; Petitions, Vol. I at 7. Larger diameter CSSF, particularly nuts and fasteners with a nominal diameter greater than 32 mm that are not within the scope of these investigations, require a larger diameter starting material than bolts or cap screws of the same nominal size and are produced by hot rather than cold forming. Hot-formed products are produced from straight-length bars, rather than from coiled bars or rods. Annealing, pickling, and coating of the bars prior to the forming process are not required. The bars are fed into a hot forming line that incorporates a continuous electric-induction heating section, followed by forming equipment similar to that used for cold forming, except designed for processing at forging temperature. Fully formed fasteners (except for threading in the case of nuts) are discharged from the line. See, e.g., CR at I-10; PR at I-8.

[53] See, e.g., CR at I-10; PR at I-8; Petitions, Vol. I at 8.

[54] See, e.g., CR at I-10; PR at I-8.

[55] See, e.g., CR at I-10 to I-11; PR at I-8; Petitions, Vol. I at 8.

[56] See, e.g., CR at I-11; PR at I-8.

All fasteners are then inspected for quality assurance purposes such as metallurgical inspection and dimensional and destructive testing.[57] After inspection, fasteners are packaged into boxes (usually 40-pound boxes for non-structural bolts and nuts) or into steel cans or kegs (usually 200 pounds of subject goods per can).[58] Manufacturers often put the packaged goods onto pallets and secure them for shipment to the customer.[59]

B. Parties' Arguments

Petitioner Nucor requests that the Commission define the domestic like product as standard structural fasteners, coextensive with the scope of these investigations.[60] Nucor argues that fasteners made for automotive and aerospace OEMs (such as Boeing, Ford, General Motors, and Chrysler) are different from other fasteners and asks the Commission not to define a domestic like product broader than the scope of these investigations that would include them.[61]

Respondents ask the Commission to define three domestic like products.[62] Respondents agree that fasteners made for aerospace and automotive OEMs are different from what they refer to as off-the-shelf "commercial fasteners" made to consensus standards. They assert, however, that fasteners manufactured to "additional specifications and requirements" for use by OEMs other than aerospace and automotive OEMs, such as farm equipment (John Deere), non-automobile engines (Briggs and Stratton), chemical and fuel processing equipment (Emerson), and electrical power distribution (Siemens) are also different from "commercial fasteners." Thus, respondents ask the Commission to draw a different dividing line – between all fasteners made to an OEM part number (and not just those made for aerospace and automotive OEMs) and all off-the-shelf "commercial fasteners."[63]

As for off-the-shelf "commercial fasteners," respondents ask the Commission to define low-carbon and higher-carbon fasteners as separate domestic like products.[64] Petitioner Nucor disagrees that low-carbon fasteners are a separate domestic like product.[65]

C. Analysis

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in

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[57] See, e.g., Petitions, Vol. I at 8.

[58] See, e.g., Petitions, Vol. I at 8-9.

[59] See, e.g., Petitions, Vol. I at 9.

[60] See, e.g., Nucor's Postconf. Br. at 5-30; Nucor's Oct. 6, 2009, Supplement to the Petitions at 6-15; Petitions, Vol. I at 4-6, 10-13.

[61] See, e.g., Nucor's Oct. 6, 2009, Supplement to the Petitions at 6-15.

[62] Alternatively, respondents argue for a single domestic like product that includes all products identified in the scope as well as fasteners made as part numbers for aerospace/automotive OEMs. See, e.g., Respondents' Postconf. Br. at 4.

[63] See, e.g., Respondents' Postconf. Br. at 3-12. At the staff conference, witnesses for Chun Yu agreed with respondents' proposal. See, e.g., Confer. Tr. at 141-42 (Lee), 173-75, 192 (Levinson).

[64] See, e.g., Respondents' Postconf. Br. at 12-16. The Fasteners Association of China agrees with respondents that low-carbon fasteners are a separate domestic like product from medium to high-carbon fasteners and asserts that there is no or little domestic production of low-carbon fasteners. See, e.g., Fasteners Association of China's Postconf. Br. at 5-10.

[65] See, e.g., Petitioner's Postconf. Br. at 3-29.

characteristics and uses" on a case-by-case basis.[66] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[67] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[68] 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,[69] the Commission determines what domestic product is like the imported articles Commerce has identified.[70] The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent domestic like product issues.[71]

In these investigations, we analyzed the parties' arguments concerning possible domestic like product(s) by considering the record data in terms of the six factors identified below.

Physical characteristics and uses. Although fasteners for aerospace/automotive OEMs may meet a consensus standard like other fasteners, Nucor asserts that they have distinct physical characteristics, being manufactured to proprietary or patented specifications, an OEM part number, or a modified set of

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[66] 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).

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

[68] See, e.g., 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.").

[69] 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).

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

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

specifications not identified in a nationally recognized industry standard.[72] Furthermore, Nucor contends, aerospace/automotive OEM fasteners have distinct end uses; although an automotive OEM might need a specialty automotive OEM fastener for a particular heavy truck, standard fasteners used elsewhere in the vehicle could not be used in that application.[73] Respondents agree that fasteners used by aerospace/automotive OEMs have different physical characteristics and uses, but they contend that these differences also extend to fasteners made for other OEMs.[74] In response, Nucor asserts that ***; Nucor explains that the OEM's specification might require one of several options within a given standard, such as a particular finish.[75] Because these other-OEM fasteners meet the requirements of one or more nationally recognized consensus industry standards, Nucor argues that, by definition, their general physical characteristics are the same as other standard fasteners and they have the same use as other standard fasteners – "to fasten."[76]

Respondents assert that low-carbon fasteners do not have the strength requirements of higher carbon products, cannot be used in the same high-end applications, such as construction, and are instead found in hardware stores and used for do-it-yourself applications.[77] Nucor disagrees, arguing that fasteners are produced in a continuum of grades yielding products with a continuum of physical characteristics. It asserts that fasteners of various grades are used in a given end use (such as on a heavy truck), but that each provides necessary mechanical and physical properties for its particular application.[78]

The record indicates that, whether made for OEMs or other end users and whether made of low-carbon or higher-carbon steel, fasteners of each type – bolts, cap screws, and nuts – have similar physical characteristics; a hex or round head; metallurgical properties of strength, hardness, and ductility as prescribed in consensus standards; and a nominal diameter between 6 and 32 millimeters. Fasteners are used for similar purposes – to fasten assembled parts with preformed threads or by use of a nut. They can be used for joining components or otherwise in the manufacture of a product.[79]

Interchangeability. Nucor argues that aerospace/automotive fasteners are not interchangeable with other fasteners because they are produced with unique characteristics to proprietary or patented specifications, to meet a specific OEM part number, and/or are produced to specifications not included in

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[72] See, e.g., Nucor's Oct. 6, 2009, Supplement to the Petitions at 8-9.

[73] See, e.g., Confer. Tr. at 53-54 (Witucki, Miller); Nucor's Oct. 6, 2009, Supplement to the Petitions at 8-9.

[74] For example, respondents refer to a John Deere part made to a consensus standard but that also has to meet additional performance and special supplier qualification requirements identified by John Deere. Moreover, they point out that an Arvin Meritor fastener for a heavy truck is the same in all material respects as a GM fastener used in an automotive application because both reference a consensus standard and specify additional requirements and specifications. Nevertheless, respondents claim, the Arvin Meritor heavy truck fastener is within the scope of these investigations but the GM automotive fastener is not. See, e.g., Respondents' Postconf. Br. at 5-6.

[75] See, e.g., Petitioner's Postconf. Br. at 10-12.

[76] See, e.g., Petitioner's Postconf. Br. at 10-12.

[77] See, e.g., Respondents' Postconf. Br. at 12-13. Low-carbon fasteners comprise the lowest-strength level of these fasteners, that of SAE grade 2 or ASTM A 307. The guaranteed minimum-tensile strength of an ASTM A 307 fastener is 60,000 pounds per square inch (psi). By comparison, the guaranteed minimum tensile strength of an SAE grade 5 or an ASTM A 325 fastener is 105,000 or 120,000 psi, depending upon the nominal size, whereas that of an SAE grade 8 or ASTM A 490 fastener is 150,000 psi. See, e.g., CR at I-15 to I-16; PR at I-11.

[78] See, e.g., Petitioner's Postconf. Br. at 12-13.

[79] See, e.g., CR at I-12 to I-13, I-15 to I-16; PR at I-9, I-11.

nationally recognized industry consensus standards.[80] Respondents contend that fasteners manufactured to other OEM part numbers are no more interchangeable with off-the-shelf commercial fasteners than automotive/aerospace fasteners.[81] Nucor disagrees, contending that ***.[82]

Respondents argue that low-carbon fasteners cannot be used interchangeably with higher-carbon fasteners because they lack the necessary strength, break under stress, and otherwise engender fears of product liability and tort suits when used in more demanding applications.[83] They further assert that it would not be economically rational to use higher-carbon fasteners in low-carbon fastener applications.[84] Moreover, they contend, in certain applications (such as a low-carbon cap screw used as a shear pin in a gear box), end users want fasteners to break under stress and would never substitute a higher-strength fastener.[85] Nucor contends that low-carbon grade 2 products are perfectly interchangeable with other fasteners and questions why respondents did not argue that grade 5 fasteners are separate domestic like products from grade 8 fasteners.[86]

Channels of distribution. Nucor asserts that aerospace/automotive fasteners are not sold for general distribution whereas other fasteners are sold to master distributors (distributors that sell primarily to other distributors) and distributors for general distribution.[87] Respondents assert that off-the-shelf commercial fasteners are sold for general distribution whereas fasteners used by other OEMs, like those used by aerospace/automotive OEMs, are not.[88] Nucor disagrees, contending that the web site of Bossard, one of the participants at the staff conference, shows that the company distributes not only standard fasteners but also fasteners made to specific part numbers for non-aerospace/non-automotive OEMs.[89]

Respondents assert that low-carbon fasteners are generally sold to consumers at the retail level through hardware stores.[90] Nucor disagrees, arguing that low-carbon and higher-carbon fasteners are both sold for general distribution.[91]

The record in these investigations indicates that fasteners are sold primarily to master distributors, who resell to distributors, who in turn resell to end users.[92]

Customer and producer perceptions. Because aerospace/automotive fasteners are made to specific OEM part numbers, involve proprietary or patented specifications, or have a significantly higher

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[80] See, e.g., Nucor's Oct. 6, 2009, Supplement to the Petitions at 9-10.

[81] See, e.g., Respondents' Postconf. Br. at 6-7.

[82] See, e.g., Petitioner's Postconf. Br. at 14-16.

[83] See, e.g., Respondents' Postconf. Br. at 13.

[84] See, e.g., Respondents' Postconf. Br. at 13.

[85] See, e.g., Respondents' Postconf. Br. at 13-14.

[86] See, e.g., Petitioner's Postconf. Br. at 16-17.

[87] See, e.g., Nucor's Oct. 6, 2009, Supplement to the Petitions at 10; Petitioner's Postconf. Br. at Exh. 1 at 31.

[88] See, e.g., Respondents' Postconf. Br. at 7.

[89] See, e.g., Petitioner's Postconf. Br. at 18-19.

[90] Although large retailers like Home Depot and rural hardware stores that serve both consumers and construction and agricultural industry purchasers may sell both low-carbon and higher-carbon fasteners, respondents contend that many hardware stores will not even carry the higher-carbon products. See, e.g., Respondents' Postconf. Br. at 14.

[91] See, e.g., Petitioner's Postconf. Br. at 19.

[92] See, e.g., CR at I-14, I-17 to I-18; PR at I-10, I-12.

quality, Nucor asserts that customers and producers perceive them differently than other fasteners.[93] Respondents concur and argue that the same is true of fasteners made to other OEM part numbers.[94] Nucor disagrees.[95] It asserts that the vast majority of other OEM fasteners are readily substitutable for other fastener products, having modifications "typically too slight to significantly affect costs or substitutability."[96] Indeed, it contends, the distinction between an OEM part numbered fastener and other products is "very often literally nothing more than a difference in the SKU {(stock-keeping unit)} assigned to the alternative products."[97]

As further evidence of differences in customer and producer perceptions of aerospace/automotive fasteners, Nucor relies on the fact that a U.S. trade association, the IFI, has a separate division for aerospace and automotive fasteners.[98] Respondents assert that a trade association's organizational structure does not override the Commission's six domestic like product factors.[99]

Respondents assert that customers and producers perceive low-carbon and higher-carbon fasteners differently, as evidenced by petitioner's witnesses' own testimony, and will not choose a low-carbon product when the strength of a higher-carbon product is needed.[100] Nucor disagrees, asserting that *** and contending that some of the same distributors and customers handle both low-carbon and higher-carbon fasteners.[101]

Common Manufacturing Facilities, Production Processes, and Employees. Nucor asserts that additional production equipment and processes are needed to manufacture aerospace/automotive OEMs, such as high-quality laser-sorting devices used to meet near-zero-defect quality standards and, in the case of aerospace fasteners, requirements of the FAA or foreign airworthiness authorities.[102] Respondents agree and argue that the same applies to fasteners made to part numbers for other OEMs.[103] They contend that extensive qualification is required, commencing with a Part Submission Warrant, and that not every manufacturer can produce fasteners to an OEM part number meeting the requirements of a Production

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[93] See, e.g., Nucor's Oct. 6, 2009, Supplement to the Petitions at 10-11.

[94] See, e.g., Respondents' Postconf. Br. at 8.

[95] See, e.g., Petitioner's Postconf. Br. at 21-23.

[96] See, e.g., Petitioner's Postconf. Br. at Exh. 5 at 9.

[97] See, e.g., Petitioner's Postconf. Br. at Exh. 5 at 9-10.

[98] See, e.g., Nucor's Oct. 6, 2009, Supplement to the Petitions at 10-11.

[99] Moreover, respondents disagree with Nucor that the other division of the IFI, the "Industrial Division" is a synonym for "standard fastener division," instead contending that members of all divisions of IFI produce "standard fasteners" covered by these investigations. Respondents note that a number of companies are members of two or all three IFI divisions. Indeed, they argue, "all OEMs – automotive, heavy equipment, aerospace, and others – purchase some commercial fasteners off the shelf, and some made to their OEM part specifications." Furthermore, the IFI's annual report on developments in global markets does not maintain the divisional distinction, "instead breaking down end-use demand between 'motor vehicles,' 'construction,' electrical products,' and, in aggregate, 'aerospace, MRO, industrial machinery, and other.'" See, e.g., Respondents' Postconf. Br. at 8-9.

[100] See, e.g., Respondents' Postconf. Br. at 14-15 (citing Confer. Tr. at 52 (Miller)).

[101] See, e.g., Petitioner's Postconf. Br. at 23-24.

[102] See, e.g., Nucor's Oct. 6, 2009, Supplement to the Petitions at 12.

[103] They assert that fasteners made for part numbers for other OEMs also necessitate laser-sorting machinery, high-quality, specially trained labor, and machinery run at lower speeds with specialized tools to limit friction and narrow the tolerances of the resulting products. See, e.g., Respondents' Postconf. Br. at 10-11; Confer. Tr. at 127-28, 168 (Hansen).

Part Approval Process ("PPAP").[104] Nucor asserts that PPAP paperwork is a routine process used for all types of fasteners that involves minimal time (2-4 hours) and minimal financial investment (Nucor charges *** to fill out the forms).[105] Moreover, Nucor asserts that it uses the same machinery to produce both non-aerospace/non-automotive OEM fasteners and standard fasteners.[106]

Respondents assert that low-carbon products do not undergo distinct production steps that are required for higher-carbon fasteners, such as annealing of the material before forming and quenching and tempering the material after forming. They argue that these additional steps require significant additional investment in equipment and plant space. Respondents contend that it is not economical for manufacturers that invest in the additional equipment to use the equipment to manufacture low-carbon products, which is why, they claim, U.S. producers have not produced low-carbon products in decades.[107] Nucor asserts that ***.[108]

The record shows that in the United States, there is at least some overlap in the manufacturing facilities, production processes, and employees used to produce OEM and non-OEM fasteners, although the extent of overlap is not clear on the current record.[109] The record also reflects some overlap in manufacturing facilities, production processes, and employees used to manufacture low-carbon and higher-carbon fasteners, ***.[110]

Price. Nucor asserts that aerospace/automotive fasteners sell at a premium over standard steel fasteners but that there is a continuum of prices for standard fasteners.[111] Respondents concur and assert that the same distinction applies between fasteners made to part numbers for other OEMs and standard fasteners.[112] Nucor disagrees, asserting that ***.[113]

Respondents argue that higher-carbon fasteners command higher prices than low-carbon fasteners due to the additional production steps and the higher and more expensive grade of steel used to produce them.[114] Nucor disagrees, instead arguing that there is a continuum of fastener prices.[115]

Conclusion. Petitioner asks the Commission to draw a line between aerospace/automotive OEM fasteners and other fasteners, but respondents have raised arguments that may call into question the line suggested by petitioner.[116] The record does reflect some similarities in physical characteristics and uses,

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[104] See, e.g., Respondents' Postconf. Br. at 10-11; Confer. Tr. at 126-27 (Hansen). Respondents provided a list of manufacturers of other OEM product parts, many of whom, they assert, do not produce off-the-shelf commercial fasteners. See, e.g., Respondents' Postconf. Br. at Exh. 1 at 3; Confer. Tr. at 170-73.

[105] See, e.g., Petitioner's Postconf. Br. at 20-23.

[106] See, e.g., Petitioner's Postconf. Br. at 25-26.

[107] See, e.g., Respondents' Postconf. Br. at 15-16; see also, e.g., CR at I-10; PR at I-7, I-8 ("annealing may not be required for grade 2 fasteners"; "{a}fter forming, CSSF of Grade 5 and higher are heat-treated").

[108] See, e.g., Petitioner's Postconf. Br. at 26-28; ***.

[109] See, e.g., CR at I-13; PR at I-9.

[110] See, e.g., CR at I-16; PR at I-11 to I-12.

[111] See, e.g., Nucor's Oct. 6, 2009, Supplement to the Petitions at 12.

[112] See, e.g., Respondents' Postconf. Br. at 11-12; Confer. Tr. at 128 (Hansen).

[113] See, e.g., Petitioner's Postconf. Br. at 28.

[114] See, e.g., Respondents' Postconf. Br. at 16-17.

[115] See, e.g., Petitioner's Postconf. Br. at 28. ***. See, e.g., Memorandum INV-GG-108 at 3-4.

[116] As discussed above, they allege that some of the same differences in physical characteristics and (continued...)

channels of distribution, customer/producer perceptions, and manufacturing facilities, processes, and employees among fasteners, whether produced for aerospace/automotive, other OEM, or non-OEM applications, although the record on the whole appears to reflect certain meaningful differences between aerospace/automotive fasteners and the products corresponding to the scope of these investigations. In addition, although respondents have raised arguments that suggest differences between low-carbon and higher-carbon fasteners, the record reflects some similarities in physical characteristics and uses, interchangeability, channels of distribution, customer/producer perceptions, and manufacturing facilities, processes, and employees among all types of fasteners within the scope of these investigations. Thus, for purposes of our analysis in these determinations, based on the record in these investigations, and consistent with Nucor's request, we define a single domestic like product that is coextensive with the scope of these investigations (which we refer to herein as "CSSF").

IV. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[117] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. Based on our definition of the domestic like product, we define the domestic industry as producers of the domestic like product, i.e., all U.S. manufacturers of CSSF.[118]

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[116] (...continued)
end uses, interchangeability, channels of distribution, producer/customer perceptions, manufacturing processes/equipment/personnel, and prices that petitioner argues distinguish aerospace/automotive fasteners from other fasteners apply equally to fasteners made to product part numbers for non-aerospace/automotive OEMs.

[117] 19 U.S.C. § 1677(4)(A).

[118] We must also determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers. 19 U.S.C. § 1677(4)(B). Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd mem., 991 F.2d 809 (Fed. Cir. 1993); Allied Mineral Products, Inc. v. United States, 28 CIT 1861, 1864 (2004); USEC, Inc. v. United States, 132 F. Supp. 2d 1, 12 (Ct. Int'l Trade 2001), aff'd, 34 Fed. Appx. 725 (Fed. Cir. April 22, 2002); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979).

Nucor argued that there was no reason to exclude any producer from the domestic industry based on the statutory related-party provision. See, e.g., Petitioner's Postconf. Br. at Exh. 1 at 23. Respondents did not make any arguments concerning related party issues. According to questionnaire data, no U.S. producer directly imported subject merchandise from China or Taiwan during the period examined. Two companies (***) purchased subject merchandise from importers, and *** U.S. producers have corporate relationships with importers and/or exporters of the subject merchandise (***). See, e.g., CR at III-3; PR at III-2; CR/PR at Table III-1. No party argued, and no evidence on the record in these investigations indicates, that any of these firms have a control relationship with an exporter or importer of subject merchandise that would qualify them as related parties. Consequently, we do not find any of the domestic producers to be related parties.

V. CUMULATION[119]

A. Legal Framework

For purposes of evaluating the volume and price effects for determining whether there is a reasonable indication of material injury by reason of the subject imports, section 771(7)(G)(i) of the Tariff Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and the domestic like product in the U.S. market.[120] In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered the following four factors:

(1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
(4) whether the subject imports are simultaneously present in the market.[121]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[122] Only a "reasonable overlap" of competition is required.[123]

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[119] Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations, and no party made any arguments concerning this issue. Based on importer questionnaire responses, subject imports from China accounted for 34.2 percent and subject imports from Taiwan accounted for 39.7 percent of total U.S. imports of subject merchandise, by value, for the period July 2008 to June 2009, the most recent 12-month period preceding the filing of the petition for which data are available. See, e.g., CR at IV-5; PR at IV-3. Thus, subject imports of CSSF from China and Taiwan as a share of total imports of CSSF into the United States each clearly exceeded the statute's three percent negligibility level.

[120] 19 U.S.C. § 1677(7)(G)(i).

[121] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278 to 280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[122] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

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

B. Parties' Arguments

Petitioner Nucor argues that all of the requirements for mandatory cumulation are met and asks the Commission to cumulate subject imports from China with subject imports from Taiwan for purposes of its present material injury analysis.[124] Respondents argue against cumulation, contending there is a lack of competition between subject imports from China and the domestic like product and only limited competition between the domestic like product and subject imports from Taiwan. They argue that the vast majority of subject imports from China consist of low-carbon products, whereas the vast majority of subject imports from Taiwan are medium/high-carbon products, and that the domestic industry neither produces nor sells low-carbon products.[125]

C. Analysis and Conclusion

The statutory threshold for cumulation is satisfied in these investigations of CSSF from China and Taiwan, which were all instituted on the same day that the antidumping and countervailing duty petitions were filed, September 23, 2009.[126] None of the statutory exceptions to cumulation applies.

Fungibility.[127] According to questionnaire responses, market participants perceive CSSF from various sources to be interchangeable. Six of seven responding U.S. producers and 20 of the 26 importers that compared subject merchandise from China and/or Taiwan with CSSF from the United States reported that they are always or frequently interchangeable.[128] When asked to compare imports of subject merchandise from China with subject imports from Taiwan, six of seven responding U.S. producers and 14 of 20 responding importers reported that they are always or frequently interchangeable with one another.[129]

Channels of Distribution. During the period examined, the domestic like product and imports from each subject country were sold in overlapping channels of distribution, primarily to distributors and to a lesser degree to end users.[130]

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[124] See, e.g., Petitioner's Postconf. Br. at 30, Exh. 1 at 6-12; Petitions, Vol. I at 19-22.

[125] See, e.g., Respondents' Postconf. Br. at 19. The Fasteners Association of China makes no arguments concerning cumulation.

[126] See, e.g., CR at I-1; PR at I-1.

[127] Commissioner Lane notes that, with respect to fungibility, her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required, and she notes that this factor would be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Invs. Nos. 701-TA-451 and 731-TA-1126 to 1128 (Prelim.), USITC Pub. 3964 (Nov. 2007).

[128] See, e.g., CR/PR at Table II-1.

[129] See, e.g., CR/PR at Table II-1. Indeed, *** show that low-carbon products were imported from both China and Taiwan. These data also show imports of fasteners for non-aerospace/non-automotive OEMs from both China and Taiwan. See, e.g., ***.

[130] See, e.g., CR at II-1; PR at II-1 (showing that sales to distributors as a share of U.S. commercial shipments in 2008 were 93.3 percent for the domestic like product, 95.2 percent for subject imports from China, and 90.9 percent for subject imports from Taiwan).

Geographic Overlap. When asked to list the geographic regions where they sell the products covered by these investigations, questionnaire respondents reported selling the domestic like product and imports of subject merchandise from both China and Taiwan throughout the United States.[131]

Simultaneous Presence in Market. Importer questionnaire responses and pricing data submitted to the Commission in the preliminary phase of these investigations show that subject imports from China and Taiwan, like the domestic like product, were sold in the U.S. market throughout the period examined.[132]

Conclusion. The record indicates that the domestic like product and imports from each subject source are at least moderately interchangeable, are sold in overlapping channels of distribution, and were sold in overlapping geographic markets throughout the period examined. The record consequently indicates that there is a reasonable overlap of competition between the domestic like products and imports from each subject country and between subject imports from China and Taiwan. We therefore cumulate subject imports from China and Taiwan for purposes of our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

VI. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF CUMULATED SUBJECT IMPORTS FROM CHINA AND TAIWAN

A. Legal Standards

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[133] 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.[134] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[135] In assessing whether there is a reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[136] 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."[137]

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is materially injured or threatened with material injury "by reason of" unfairly traded imports,[138] it does not define the phrase "by reason of," indicating that this aspect of

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[131] See, e.g., CR at V-4 to V-5; PR at V-3 to V-4.

[132] See, e.g., CR at IV-4; PR at IV-3; CR/PR at Tables V-1 to V-4.

[133] 19 U.S.C. §§ 1671b(a), 1673b(a).

[134] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... {a}nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[135] 19 U.S.C. § 1677(7)(A).

[136] 19 U.S.C. § 1677(7)(C)(iii).

[137] 19 U.S.C. § 1677(7)(C)(iii).

[138] 19 U.S.C. §§ 1671b(a), 1673b(a).

the injury analysis is left to the Commission's reasonable exercise of its discretion.[139] 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.[140]

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.[141] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[142] Nor does the

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[139] See, e.g., 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'g 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

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

[141] 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.

[142] 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

(continued...)

"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.[143] It is clear that the existence of injury caused by other factors does not compel a negative determination.[144]

Assessment of whether material injury or threat of material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports" and the Commission "ensure{s} that it is not attributing injury from other sources to the subject imports."[145] [146] Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[147]

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-

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[142] (...continued)
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.").

[143] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

[144] 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.").

[145] 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.

[146] Commissioner Pinkert does not join this paragraph or the following four paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal, held that the Commission is required, when considering present material injury in certain circumstances, to undertake a particular kind of analysis of non-subject imports. Mittal explains as follows:

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

542 F.3d at 878.

[147] 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.").

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.[148] 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.[149] Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive non-subject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.[150] [151]

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard. Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[152] [153]

B. Conditions of Competition and the Business Cycle

We considered the business cycle and also took into account several conditions of competition in our analysis in these investigations.

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[148] Mittal Steel, 542 F.3d at 875-79.

[149] 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).

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

[151] 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.

[152] 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.").

[153] We provide in the discussion of impact in section VI.E. below a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

Demand Conditions. CSSF are sold to master distributors and distributors and then resold to end users.[154] The record reflects that the characteristics of CSSF products enable them to be used in a broad variety of fastener applications, including in motor vehicles, farm vehicles and equipment, machinery, bridges, and commercial construction.[155] Demand for CSSF is largely derived from demand for the varied downstream products that use CSSF as an input.[156]

Nucor argues that the U.S. and global economies are in the midst of a severe recession, which has reduced demand, although at different rates depending on the end-use application, and has increased the importance of price in purchasing decisions. According to Nucor, these conditions exacerbate the negative effects of dumped and subsidized subject imports.[157] Respondents argue that demand dropped temporarily due to the recession.[158] The majority of all questionnaire respondents reported that U.S. demand for CSSF fluctuated but decreased overall since January 2006. Reported factors that led to any increases in demand included increased output of OEM products and domestic manufacturing. Reported factors that led to fluctuating but decreasing demand included a downturn in general economic conditions/recession (cited most frequently), the relocation of U.S. OEM production and related operations to lower-cost countries, a decline in auto production, a slowdown in commercial construction and U.S. manufacturing, and the cost of steel and transportation.[159] Some questionnaire respondents reported that demand for CSSF was subject to business cycles and seasonality during the period examined.[160]

Based on the record in these investigations, apparent U.S. consumption, by quantity, declined from 661.3 million pounds in 2006 to 642.4 million pounds in 2007 and 641.6 million pounds in 2008 and was 343.5 million pounds in interim 2008 and 225.0 million pounds in interim 2009.[161]

Supply Conditions. During the period examined, the U.S. market was supplied by the domestic industry, subject imports from Taiwan, subject imports from China, and imports from non-subject countries.[162] Canada, Italy, Japan, and Thailand are among the larger non-subject suppliers to the U.S. market.[163]

Raw Material Costs. Nucor contends that the cost of steel, the single largest cost component in manufacturing fasteners, rose significantly between 2006 and 2008, as evidenced by the prices of low-carbon steel wire rod and steel scrap.[164] The principal raw material input used to produce domestic CSSF is steel rod, cold-heading quality; some producers also purchase the downstream cold-drawn steel wire

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[154] See, e.g., Petitioner's Postconf. Br. at Exh. 1 at 31.

[155] See, e.g., CR at II-1, II-8; PR at II-1, II-6. Nucor contends that the fasteners under investigation are used in machinery manufacturing/OEM applications (50 percent); maintenance and repair (30 percent); construction (15 percent); and retail (about 5 percent). See, e.g., Petitioner's Postconf. Br. at Exh. 1 at 14 (citing Confer. Tr. at 114 (Porteous)).

[156] See, e.g., CR at II-1, II-8; PR at II-1, II-6.

[157] See, e.g., Petitioner's Postconf. Br. at 32-33, Exh. 1 at 12-13, 14-17; Petitions, Vol. I at 22.

[158] See, e.g., Respondents' Postconf. Br. at 1.

[159] See, e.g., CR at II-10; PR at II-7 to II-8.

[160] See, e.g., CR at II-10 to II-11; PR at II-8.

[161] See, e.g., CR/PR at Table IV-3.

[162] See, e.g., CR/PR at Table IV-3.

[163] See, e.g., CR at VII-10; PR at VII-6.

[164] See, e.g., Petitioner's Postconf. Br. at Exh. 1 at 20.

rod/bar.[165] Total raw material costs averaged 53.0 percent of the responding U.S. producers' total costs of good sold ("COGS") to produce CSSF during the period examined.[166] U.S. spot market quarterly prices of steel rod fluctuated sharply during April 2007 - September 2009, as did spot prices of steel scrap during January 2006 - September 2009.[167]

Interchangeability. Six of the seven responding U.S. producers reported that differences other than price between subject imports and the domestic like product are only sometimes or never a significant factor.[168] Responses from importers were more mixed, with more than half of responding importers reporting that differences other than price between U.S.-produced CSSF and subject imports are sometimes or never a significant factor.[169]

C. Volume of Cumulated Subject Imports from China and Taiwan

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[170]

Demand, as measured by the quantity of apparent U.S. consumption, decreased only about 3.0 percent between 2006 and 2008, and was considerably lower in interim 2009 than in interim 2008.[171] During this period, the absolute volume of cumulated subject merchandise imported from China and Taiwan into the United States increased only slightly from 354.8 million pounds in 2006 to 359.5 million pounds in 2007 and 360.9 million pounds in 2008, but was lower in interim 2009 (112.8 million pounds)

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[165] See, e.g., CR at V-1; PR at V-1.

[166] See, e.g., CR at V-1; PR at V-1.

[167] See, e.g., CR at V-1; PR at V-1; CR/PR at Figure V-1.

[168] See, e.g., CR/PR at Table II-2.

[169] See, e.g., CR/PR at Table II-2. U.S. importers that asserted that subject imports were "sometimes" or "never" interchangeable with the domestic like product or that reported "always" or "frequently" finding non-price differences between subject imports and the domestic like product cited availability most often, followed by qualifying requirements of some suppliers, quality, range of products, technical support, "Buy-America" laws/policies/preferences, and customer preference for specific suppliers. See, e.g., CR at II-18; PR at II-13 to II-14.

[170] 19 U.S.C. § 1677(7)(C)(i).

[171] Apparent U.S. consumption, by quantity, declined from 661.3 million pounds in 2006 to 642.4 million pounds in 2007 and 641.6 million pounds in 2008 and was 343.5 million pounds in interim 2008 and 225.0 million pounds in interim 2009. See, e.g., CR/PR at Table C-1. In the petitions, Nucor repeatedly emphasized value-based rather than quantity-based measurements of volume. See, e.g., Petitions, Vol. I at 16, 18, 23, 29, 33, 35. Our normal practice, however, is to consider volume in terms of weight or units rather than value except in unusual circumstances. See, e.g., Narrow Woven Ribbons with Woven Selvedge from China and Taiwan, Invs. Nos. 701-TA-467 and 731-TA-1164 to 1165 (Prelim.), USITC Pub. 4099 at 23-24 (Aug. 2009); Certain Off-the-Road Tires from China, Invs. Nos. 701-TA-448 and 731-TA-1117 (Final), USITC Pub. 4031 at 15 (Aug. 2008); Coated Free Sheet Paper from China, Indonesia, and Korea, Invs. Nos. 701-TA-444 to 446 and 731-TA-1136 to 1137 (Final), USITC Pub. 3965 at 8 (Dec. 2007) ("the Commission generally avoids measuring import volume on the basis of value."); and Certain Lined Paper School Supplies from China, India, and Indonesia, Invs. Nos. 701-TA-442 to 443 and 731-TA-1095 to 1097(Final), USITC Pub. 3884 at 19 (Sept. 2006), aff'd on this point in Navneet Publications (India), Ltd. v, United States, 30 Int'l Trade Rep. 1430 (Ct. Int'l Trade Feb. 26, 2008). Nucor has not demonstrated any reason for us to depart from our usual practice.

than in interim 2008 (172.7 million pounds).[172] Cumulated subject imports' share of apparent U.S. consumption, by quantity, increased slightly, from 51.3 percent in 2006 to 53.0 percent in 2007, but then decreased to 51.8 percent in 2008; their market share in interim 2009 (56.8 percent) was higher than in interim 2008 (51.7 percent).[173] At the same time, the domestic industry's U.S. shipments of CSSF decreased from 155.3 million pounds in 2006 to 150.1 million pounds in 2007 and then increased to 155.6 million pounds in 2008; its U.S. shipments in interim 2009 (52.3 million pounds) were lower than in interim 2008 (84.2 million pounds).[174] The domestic industry's market share, by quantity, was essentially steady in the full years of the period examined, at 23.5 percent in 2006, 23.4 percent in 2007, and 24.2 percent in 2008; its market share in interim 2009 (23.3 percent) was slightly lower than in interim 2008 (24.5 percent).[175] Non-subject imports into the United States decreased from 167.0 million pounds in 2006 to 141.8 million pounds in 2007 and then increased to 165.0 million pounds in 2008; non-subject imports were lower in interim 2009 (31.5 million pounds) than in interim 2008 (90.1 million pounds).[176] Non-subject imports' market share, by quantity, decreased from 25.2 percent in 2006 to 23.7 percent in 2007 and increased slightly to 23.9 percent in 2008, and their market share in interim 2009 (20.0 percent) was lower than in interim 2008 (23.8 percent).[177]

Thus, during a period of somewhat decreasing demand (2006 to 2008), the volume of cumulated subject imports, the volume of non-subject imports, and the domestic industry's volume of CSSF, as well as their respective market shares, were all relatively stable.[178] Downturns in U.S. demand in the principal sectors using CSSF, such as non-residential construction and machinery shipments, from the fourth quarter of 2008 through the second quarter of 2009 were accompanied by substantial declines in CSSF shipments.[179] Although cumulated subject imports had a higher market share in interim 2009 than in interim 2008 as demand declined considerably due to the economic recession, their higher market share came almost entirely at the expense of non-subject imports rather than the domestic industry.[180]

Viewed in isolation, the absolute volume of cumulated subject imports is significant. Nevertheless, we do not find that the volume of cumulated subject imports or any increase in that volume, either absolutely or relative to U.S. production or consumption, warrants an affirmative determination in light of the conditions of competition in this market and our findings concerning a lack of significant price effects and impact, discussed herein.

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[172] See, e.g., CR/PR at Table IV-2. U.S. shipments of cumulated subject imports from China and Taiwan increased from 339.4 million pounds in 2006 to 340.2 million pounds in 2007, but then decreased to 332.5 million pounds in 2008, and were lower in interim 2009 (127.7 million pounds) than in interim 2008 (177.6 million pounds). See, e.g., CR/PR at Table C-1.

[173] See, e.g., CR/PR at Table C-1.

[174] See, e.g., CR/PR at Table C-1.

[175] See, e.g., CR/PR at Table C-1.

[176] See, e.g., CR/PR at Table IV-2. U.S. shipments of CSSF imported from non-subject countries decreased from 166.6 million pounds in 2006 to 152.0 million pounds in 2007, but then increased to 153.6 million pounds in 2008, and were lower in interim 2009 (45.0 million pounds) than in interim 2008 (81.7 million pounds). See, e.g., CR/PR at Table C-1.

[177] See, e.g., CR/PR at Table C-1.

[178] Increasing prices of raw materials, energy, and other inputs during 2007 and much of 2008 were accompanied by higher selling prices of CSSF, but somewhat decreasing shipments. See, e.g., U.S. producer questionnaire responses, sections V-13 & V-14 and U.S. importer questionnaire responses, section IV-16a.

[179] See, e.g., CR at II-8 to II-11, III-5; PR at II-6 to II-8; CR/PR at Figure II-1; CR/PR at Table III-3.

[180] See, e.g., CR/PR at Table C-1.

D. Price Effects of Cumulated Subject Imports from China and Taiwan

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

> the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[181]

Record data reflect a relatively high degree of interchangeability between the domestic like product and subject imports from China and Taiwan, when produced to the same specifications and in the same dimensions.[182] Although price is important, non-price factors also play a role in purchases in this industry.[183] Few substitutes exist for CSSF, and CSSF accounts for a relatively low share of the total cost of the products in which it is used, although its cost share varies by application.[184]

Questionnaire respondents generally reported using spot sales and short-term contracts to sell CSSF in the U.S. market, although the domestic industry reported that 21.2 percent of its 2008 sales were made through long-term contracts.[185] The vast majority of sales of CSSF imported from China and Taiwan were made from existing inventories in the United States, whereas only 40 percent of reported U.S. sales of the domestic like product were from inventories. Subject imports had an advantage in lead times when supplied from existing U.S. inventories compared to U.S.-produced CSSF.[186]

The Commission obtained usable pricing data on quarterly net U.S. delivered selling prices for shipments of four products to unrelated U.S. distributors for the period January 2006 to June 2009[187] from three domestic CSSF producers, six U.S. importers of subject merchandise from China, and nine importers of subject merchandise from Taiwan.[188] These pricing data show pervasive underselling by

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[181] 19 U.S.C. § 1677(7)(C)(ii).

[182] See, e.g., CR at II-14 to II-18; PR at II-11 to II-14; CR/PR at Table II-1.

[183] See, e.g., CR/PR at Table II-2.

[184] See, e.g., CR at II-11 to II-13; PR at II-8 to II-9.

[185] See, e.g., CR at V-5 to V-6; PR at V-4 to V-5.

[186] See, e.g., CR at V-7; PR at V-5 to V-6.

[187] These four pricing products, which were suggested by Nucor in its petitions and during telephone conversations with Commission staff, are as follows: (1) heavy hex nut, A563, type 1 steel, Grade C, 3/4 inch diameter and 10 threads per inch; (2) heavy hex structural bolt, A325, type 1 steel, 3/4inch diameter by 2 inches long, 10 threads per inch, and not fully threaded; (3) hex cap screw, Grade 5, type 1 steel, ½ inch diameter by 1-1/2 inches long, 13 threads per inch, fully threaded, and zinc-blue electroplated; (4) hex cap screw, Grade 8, type 1 steel, 5/8 inch diameter by 2 inches long, 18 threads per inch, fully threaded, and zinc phosphate and oil coating. See, e.g., CR at V-8 & n.24; PR at V-6 & n.24.

[188] Pricing data reported by these firms accounted for approximately 3.6 percent of the reporting domestic producers' U.S. shipments of CSSF, 1.1 percent of the reporting importers' U.S. shipments of subject imports from China, and 2.4 percent of the reporting importers' U.S. shipments of subject imports from Taiwan. See, e.g., CR at V-8 to V-9; PR at V-6. Higher coverage levels would be difficult to obtain in an industry such as this involving so many product permutations and thus at least tens of thousands of SKUs. See, e.g., Confer. Tr. at 56 (Witucki), 124 (Hansen).

subject imports from China and Taiwan at relatively high margins throughout the period examined.[189] While the data show significant underselling of the domestic like product by subject imports from China and Taiwan, we do not find, as discussed herein, that cumulated subject imports had any significant adverse price effects.[190] The underselling did not lead to significant price depression or suppression or to a significant gain in market share by the subject imports at the expense of the domestic industry, and we do not find that cumulated subject imports had a significant adverse impact on the domestic industry's condition.

More specifically, we considered movements in the prices of CSSF during the period examined. Based on the questionnaire data submitted in these investigations, quarterly delivered selling prices of pricing products 1 to 4 produced domestically were generally at or above their initial period prices by the end of the period examined, including for the two pricing products that accounted for the highest volume of sales by the domestic industry (pricing products ***).[191] Given these trends in the domestic industry's prices, we do not find that cumulated subject imports from China and Taiwan depressed prices of the domestic like product in the U.S. market to a significant degree.

Regarding possible suppression of prices, price trends of CSSF produced by the domestic industry appear to be substantially influenced by price fluctuations of raw materials, especially steel. Quarterly prices of the domestic products increased to period highs between July and September 2008, as steel prices also reached their peak, and then decreased as steel prices fell.[192] Notwithstanding the slight decline in apparent U.S. consumption, fluctuating costs, and widespread underselling by cumulated subject imports, the domestic industry's COGS to net sales ratio was essentially stable between 2006 and 2008, at 75.8 percent in 2006, 76.0 percent in 2007, and 76.1 percent in 2008. Although it was higher in interim 2009 (81.2 percent) than in interim 2008 (74.7 percent), this occurred as prices declined in response to the severe economic recession and the 34.5 percent decline in the quantity of apparent U.S. consumption.[193] Underselling by cumulated subject imports was no more prevalent in interim 2009 than it was in the full years of the period examined.[194] Thus, we do not find that cumulated subject imports prevented price increases that otherwise would have occurred to any significant degree.

For all of these reasons, despite underselling of the domestic like product by subject imports during the period examined, we do not find that domestic prices were depressed to a significant degree, or that there has been significant price suppression by reason of the subject imports.

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[189] See, e.g., CR/PR at Tables V-1 to V-4.

[190] Although Nucor alleged losing sales and revenues to subject merchandise imported from China and Taiwan, it failed to provide adequate details to support these allegations. Nucor at times claimed that it does not keep detailed information on lost sales/lost revenues or does not receive detailed reasons for its lost sales/lost revenues from the distributors to whom it sells. See, e.g., Petitions, Vol. I at 27-28; Petitioner's Postconf. Br. at Exh. 1 at 28. At other times, however, Nucor reported that it could supply the Commission with more detailed information concerning its losses, but then submitted only incomplete or untimely data. See, e.g., CR at V-24 & nn.32-33 & 35; PR at V-10 & nn.32-33 & 35; Confer. Tr. at 19-20, 36-37, 62-63. Other domestic producers provided limited information about lost sales and lost revenue allegations. Staff investigated these claims, but generally was unable to substantiate them. See, e.g., CR at V-24 to V-27; PR at V-10 to V-11; CR/PR at Tables V-7 and V-8. We consequently find that information gathered regarding potential lost sales/lost revenue allegations does not detract from other evidence indicating that the subject imports did not have significant adverse price effects during the period examined.

[191] See, e.g., CR/PR at Tables V-1 to V-4; CR at V-10, V-19; PR at V-7, V-9.

[192] See, e.g., CR at V-19; PR at V-9; CR/PR at Figure V-1, Tables V-1 to V-4.

[193] See, e.g., CR/PR at Table C-1.

[194] See, e.g., CR/PR at Tables V-1 to V-4.

E. Impact of the Cumulated Subject Imports from China and Taiwan[195]

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[196] 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."[197]

We have examined the performance indicia for the domestic industry producing CSSF and do not find that there is a reasonable indication that subject imports have had an adverse impact on the domestic industry during the period examined. Overall, the record in the preliminary phase of these investigations reflects favorable or even improving performance indicators for the domestic industry. The domestic industry maintained substantial and increasing operating profits from 2006 to 2008, despite slightly declining demand conditions, significant subject import market share, and significant underselling by subject imports from China and Taiwan. In interim 2009, when the domestic industry faced a severe and sharp decline in apparent U.S. consumption, it continued to post a positive operating income. We find no significant correlation between subject imports and any declines in the industry's profitability.

The domestic industry's production of CSSF decreased from 162.3 million pounds in 2006 to 157.1 million pounds in 2007, but then increased to 170.3 million pounds in 2008; its production in interim 2009 (45.9 million pounds) was lower than in interim 2008 (90.8 million pounds).[198] Its total U.S. shipments of CSSF followed similar trends,[199] declining somewhat at the end of the period examined consistent with declines in apparent U.S. consumption.[200] The domestic industry's share of the U.S.

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[195] Commerce initiated its antidumping duty investigations based on estimated dumping margins ranging from 66.87 percent to 205.97 percent for subject imports from China and based on estimated dumping margins ranging from 51.39 percent to 114.14 percent for subject imports from Taiwan. See, e.g., CR at I-5; PR at I-4. Commerce initiated its countervailing duty investigation on subject imports from China and indicated its intention to investigate four preferential loan and interest-rate programs, four programs of government provision of goods or services for less than adequate remuneration, three income and other direct tax programs, two indirect tax and tariff exemption programs, six preferential income tax subsidies for foreign-invested enterprises, and seven direct grant programs. See, e.g., CR at I-4 to I-5; PR at I-3 to I-4.

[196] 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.")

[197] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386, 731-TA-812-813 (Prelim.), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

[198] See, e.g., CR/PR at Table III-2.

[199] Exports did not account for an appreciable share of the domestic industry's total shipments at any time during the period examined. U.S. export shipments of CSSF declined from 5.6 million pounds in 2006 to 4.8 million pounds in 2007 and then increased to 7.5 million pounds in 2008; exports in interim 2009 (2.3 million pounds) were lower than in interim 2008 (3.8 million pounds). See, e.g., CR/PR at Table III-3.

[200] The domestic industry's U.S. shipments of CSSF decreased from 155.3 million pounds in 2006 to (continued...)

market, by quantity, rose slightly from 2006 to 2008; it was 23.5 percent in 2006, 23.4 percent in 2007, and 24.2 percent in 2008. The industry's market share was only 1.2 percentage points lower in interim 2009 (23.3 percent) than in interim 2008 (24.5 percent).[201] Its end-of-period inventories were relatively stable between 2006 and 2008 relative to both U.S. production and shipments.[202]

Although the domestic industry reported relatively low capacity utilization throughout the period examined,[203] it increased its average production capacity from 316.2 million pounds in 2006 to 317.8 million pounds in 2007 and 335.4 million pounds in 2008; average production capacity in interim 2009 (175.5 million pounds) was higher than in interim 2008 (163.4 million pounds).[204] This increase is largely attributable to production equipment additions made ***.[205]

The domestic industry's net sales, by quantity, declined from 163.2 million pounds in 2006 to 157.2 million pounds in 2007 and then increased to 166.0 million pounds in 2008; its net sales, by quantity, were 89.2 million pounds in interim 2008 and 55.6 million pounds in interim 2009.[206] By value, the domestic industry's net sales declined from $158.2 million in 2006 to $156.7 million in 2007 and then increased to $192.5 million in 2008; its net sales, by value, were $93.7 million in interim 2008 and $65.2 million in interim 2009.[207] As discussed previously, the domestic industry's COGS as a share of net sales was essentially stable between 2006 and 2008.[208] Steadily improving unit sales values between 2006 and 2008 offset (in 2007) and then augmented (in 2008) fluctuations in sales quantities, resulting in a 22 percent increase in the absolute value of sales.[209]

Operating income more than followed suit, as the domestic industry was able to increase its unit sales values by several cents per pound more than the $0.14 per-pound increase in unit operating costs (which was largely attributable to raw materials).[210] The domestic industry's $12.6 million operating income in 2006 improved to $17.1 million in 2007 and $21.7 million in 2008.[211] The industry's operating income margin improved from 8.0 percent in 2006 to 10.9 percent in 2007 and 11.3 percent in 2008, and

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[200] (...continued)
150.1 million pounds in 2007 and then increased to 155.6 million pounds in 2008; its U.S. shipments in interim 2009 (52.3 million pounds) were lower than in interim 2008 (84.2 million pounds). The 37.8 percent decline in shipments between the interim periods was similar to the 34.5 percent decline in apparent U.S. consumption. See, e.g., CR/PR at Table III-3.

[201] See, e.g., CR/PR at Table C-1.

[202] The domestic industry's end-of-period inventories of CSSF increased from *** pounds in 2006 to *** pounds in 2007 and *** pounds in 2008 and were *** pounds in interim 2008 and *** pounds in interim 2009. See, e.g., CR/PR at Table III-4.

[203] The domestic industry's capacity utilization declined from 51.3 percent in 2006 to 49.4 percent in 2007 and then increased to 50.8 percent in 2008; capacity utilization was 55.6 percent in interim 2008 and 26.2 percent in interim 2009. See, e.g., CR/PR at Table III-2.

[204] See, e.g., CR/PR at Table III-2.

[205] See, e.g., CR at III-3; PR at III-2.

[206] See, e.g., CR/PR at Table VI-1.

[207] See, e.g., CR/PR at Table VI-1.

[208] See, e.g., CR/PR at Table C-1.

[209] See, e.g., CR at VI-1; PR at VI-1.

[210] See, e.g., CR at VI-1; PR at VI-1.

[211] See, e.g., CR/PR at Table VI-1.

was 12.2 percent in interim 2008 and 5.8 percent in interim 2009.[212] The improvement in financial results between 2006 and 2008 was widespread, as eight of the nine domestic producers reported increases in the absolute value of operating profits and the unit value of sales, and seven reported increases in the absolute value of sales and in their operating margin.[213] In interim 2009, when apparent U.S. consumption by quantity fell by 34.5 percent, the domestic industry saw lower sales quantities and lower levels of all measures of profitability; unit sales values were $0.12 per pound higher in interim 2009 than in interim 2008, but unit operating costs were $0.18 per pound higher.[214] Nonetheless, the domestic industry continued to post a 5.8 percent operating income to net sales ratio, despite the severe economic recession.[215]

We find a general lack of correlation over the period examined between the large and relatively steady volume of low-priced subject imports and either prices of the domestic like product, which improved during the period examined, or the domestic industry's condition. We therefore do not find that there is a reasonable indication that cumulated subject imports from China and Taiwan are having an adverse impact on the domestic industry. We find that the record as a whole contains clear and convincing evidence that there is no reasonable indication of material injury by reason of cumulated subject imports of CSSF from China and Taiwan and that no likelihood exists that contrary evidence would arise in any final-phase investigations.

VII. NO REASONABLE INDICATION OF A THREAT OF MATERIAL INJURY BY REASON OF CUMULATED SUBJECT IMPORTS FROM CHINA AND TAIWAN

A. Cumulation for Purposes of These Threat Determinations

Section 771(7)(H) of the Act provides as follows:

(H) Cumulation for determining threat of material injury – To the extent practicable and subject to subparagraph (G)(ii), for purposes of clause (i)(III) and (IV) of subparagraph (F), the Commission may cumulatively assess the volume and price effects of imports of the subject merchandise from all countries with respect to which –

(i) petitions were filed under section 1671a(b) or 1673a(b) of this title on the same day,
(ii) investigations were initiated under section 1671a(a) or 1673a(a) of this title on the same day, or

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[212] See, e.g., CR/PR at Table VI-1.

[213] See, e.g., CR at VI-1; PR at VI-1; CR/PR at Table VI-2. The domestic industry continued to make capital expenditures throughout the period examined and incurred research and development expenses ("R&D") throughout. See, e.g., CR/PR at Table VI-4 (showing capital expenditures increased from $2.7 million in 2006 to $3.2 million in 2007 and $6.4 million in 2008 and were *** in interim 2008 and *** in interim 2009, whereas R&D declined from $*** in 2006 to $*** in 2007 and $*** in 2008 and was $*** in interim 2008 and $*** in interim 2009). The domestic industry's return on investment increased from 18.9 percent in 2006 to 23.9 percent in 2007 and 26.1 percent in 2008. See, e.g., CR/PR at Table VI-5.

[214] See, e.g., CR at VI-7; PR at VI-1. In interim 2009, seven firms reported decreases in the absolute quantity and value of sales, the absolute value of operating profits, and their operating margins. Five firms reported operating losses in interim 2009. See, e.g., CR at VI-7; PR at VI-1; CR/PR at Table VI-1.

[215] The ratio was 12.2 percent in interim 2008. The absolute level of operating income was $11.4 million in interim 2008 and $3.8 million in interim 2009. See, e.g., CR/PR at Table VI-1.

(iii) petitions were filed under section 1671a(b) or 1673a(b) of this title and investigations were initiated under section 1671a(a) or 1673a(a) of this title on the same day,

if such imports compete with each other and with domestic like products in the United States market.[216]

This provision leaves to the Commission's discretion the cumulation of imports in analyzing threat of material injury. Based on an evaluation of the relevant criteria as well as our analysis supporting cumulation in the context of our assessment of whether there was a reasonable indication of present material injury, we exercise our discretion to cumulate subject imports from China and Taiwan for purposes of assessing whether there is a reasonable indication of a threat of material injury.

B. No Reasonable Indication of a Threat of Material Injury

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[217] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[218] In making our determination, we consider all statutory threat factors that are relevant to these investigations.[219]

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[216] 19 U.S.C. 1677(7)(H) (emphasis added).

[217] 19 U.S.C. § 1677(7)(F)(ii).

[218] 19 U.S.C. § 1677(7)(F)(ii).

[219] These factors are as follows:

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

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

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

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

(V) inventories of the subject merchandise,

(continued...)

Likely Subject Import Volume. We find that the volume of cumulated subject imports from China and Taiwan is not likely to increase significantly in the imminent future. At the outset, we acknowledge that producers of subject merchandise in China and Taiwan have some unused capacity and export the majority of their shipments.[220] They project operating at even lower capacity utilization levels in 2009 and 2010 than during the period examined.[221] Nevertheless, despite subject producers' excess capacity and export orientation and despite subject imports underselling the domestic like product at large margins, as discussed above, cumulated subject imports maintained an essentially steady presence in the U.S. market during the period examined.[222] Thus, we do not find likely substantially increased cumulated subject imports from China and Taiwan in the imminent future, and there is no indication on the record that the foreign industries' behavior will change significantly in the imminent future in a fashion that would lead to such an increase.[223]

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[219] (...continued)

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

* * *

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

19 U.S.C. § 1677(7)(F)(i). To organize our analysis, we discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to our material injury analysis. Statutory threat factors (I), (II), (III), (V), and (VI) are discussed in the analysis of subject import volume. Statutory threat factor (IV) is discussed in the price effects analysis, and statutory threat factor (IX) is discussed in the impact analysis. Statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved in these investigations. No argument was made that the domestic industry is currently engaging or will imminently engage in any efforts to develop a derivative or more advanced version of the domestic like product, which would implicate statutory threat factor (VIII).

[220] Combined capacity utilization increased from 83.6 percent in 2006 to 85.8 percent in 2007 and decreased to 81.2 percent in 2008 and was 86.8 percent in interim 2008 and 55.2 percent in interim 2008. See, e.g., CR/PR at Table VII-3 (also showing exports accounted for 74.7 percent of subject producers' shipments in 2006, 73.8 percent in 2007, 77.0 percent in 2008, 74.3 percent in interim 2008, and 67.1 percent in interim 2009).

[221] See, e.g., CR/PR at Table VII-3 (projecting 60.4 percent in 2009 and 63.6 percent in 2010).

[222] We also note that subject producers collectively project a decreased volume of exports to the United States. While we place limited weight on these projections, they are credible in light of subject import trends during the period examined. For example, the subject producers intend to direct a relatively similar portion of their total shipments to the U.S. market in 2009 and 2010 as in earlier periods. See, e.g., CR/PR at Table VII-3. The Taiwan Industrial Fasteners Institute provided data on exports from Taiwan showing that exports of all fasteners to the United States have declined since 2006 and U.S. exports of CSSF, which accounted for less than *** percent of Taiwan's total exports since 2006, have also declined since 2006. See, e.g., Respondents' Postconf. Br. at Response to Staff Questions at 1, Exh. 6.

[223] While we recognize that data coverage of the subject producers in China and Taiwan is not complete, we find no reasonable indication that additional data would lead to a different conclusion. The (continued...)

We have also examined several other statutory factors pertaining to likely cumulated subject import volume. Producers of subject merchandise in both China and Taiwan and U.S. importers of subject merchandise both reported end-of-period inventories of CSSF.[224] The record, however, demonstrates that inventories are relatively common in this industry; domestic producers themselves keep inventories on hand to meet the needs of their customers.[225] We also acknowledge that investigating authorities in the European Union (2007-09), Canada (2004-05), and South Africa (1999 investigation followed by a 2005 affirmative five-year review) have conducted investigations of imports of fasteners from China and/or Taiwan and imposed antidumping duties, and authorities in Mexico initiated an antidumping duty investigation on carbon steel nuts from China in February 2009.[226] The existence of these investigations and orders, however, has not resulted in a change in the otherwise steady pattern of cumulated subject imports into the United States. Indeed, record data show that, by quantity, U.S. shipments of subject imports from China declined during the period examined.[227] Accordingly, these additional factors do not affect our conclusion that significant additional quantities of subject imports are not likely.[228]

Likely Price Effects. We found above that cumulated subject imports do not currently have significant price effects, notwithstanding that subject imports undersold the domestic like product at large margins throughout the period examined. Significant underselling did not lead to significantly increased imports during the period examined. Nor does the record indicate that any continued underselling would increase demand for subject imports from China and Taiwan. In light of our prior finding that cumulated subject import volume is not likely to increase significantly, and the fact that subject import pricing did not stimulate demand for additional subject import volumes during the period examined, we do not find that subject imports will enter the U.S. market at prices that are likely to have significant depressing or suppressing effect on domestic prices in the imminent future.

Likely Impact. In light of the current economic conditions, the domestic industry is unlikely to perform as well in the near term as it did during the period examined. Nonetheless, based on our examination of the domestic industry's performance indicators during the period examined, we do not find the domestic industry to be vulnerable. Moreover, contrary to its claims otherwise,[229] we do not find that the declines in the domestic industry's performance that occurred during the period examined were attributable to cumulated subject imports to any significant degree, as also discussed above. Nothing in the record indicates further substantial deterioration in likely demand for CSSF. Based on these considerations and because there is no likelihood in the imminent future of a significant increase in import volume or significant price effects from the subject imports, we find that the subject imports will not

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[223] (...continued)
data on the record already indicate excess capacity and export orientation, and yet essentially steady import market share, despite significant underselling. Thus, even if some additional subject producers also showed excess capacity and export orientation, it would not affect our conclusion.

[224] See, e.g., CR/PR at Table VII-3, Table VII-4.

[225] See, e.g., Confer. Tr. at 82-84 (Gialamas, Witucki).

[226] See, e.g., CR at VII-8 to VII-9; PR at VII-5 to VII-6.

[227] See, e.g., CR/PR at Table C-1. Nor is there any indication on this record that any of the subsidies allegedly conferred by the Government of China on producers of subject merchandise would cause us to reach a different conclusion.

[228] There is no indication on this record that foreign producers of subject merchandise are likely to shift production from other products to subject CSSF, although there is some overlap in the equipment and machinery used to produce CSSF and other products. See, e.g., CR at II-5, II-7; PR at II-4, II-5.

[229] See, e.g., CR at VI-12 to VI-14; PR at VI-7 to VI-8.

likely have a significant impact. We accordingly conclude that the record as a whole contains clear and convincing evidence that there is no reasonable indication of a threat of material injury by reason of cumulated imports of subject CSSF from China and Taiwan and that no likelihood exists that contrary evidence would arise in any final-phase investigations.

CONCLUSION

For the foregoing reasons, we conclude that there is no reasonable indication that the domestic CSSF industry is materially injured or threatened with material injury by reason of imports of CSSF from China and Taiwan that are allegedly sold in the United States at less than fair value and imports of subject merchandise from China that are allegedly subsidized by the Government of China.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by Nucor Fastener Division, St. Joe, Indiana, on September 23, 2009, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of certain standard steel fasteners ("CSSF")[1] from China and LTFV imports of CSSF from Taiwan. Information relating to the background of the investigations is provided below.[2]

Effective date	Action
September 23, 2009	Petition filed with Commerce and the Commission; institution of Commission investigations (74 FR 49889, September 29, 2009)
October 14, 2009	Commission's conference[1]
October 22, 2009	Commerce's notices of initiation (74 FR 54537 (AD); 74 FR 54543 (CVD))
November 6, 2009	Date of the Commission's vote
November 9, 2009	Commission's determinations transmitted to Commerce
November 17, 2009	Commission's views transmitted to Commerce

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

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

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

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

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*

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

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

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, alleged subsidy rates and dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Part IV* presents the volume of imports of the subject merchandise. *Part V* presents the pricing of U.S. and imported subject products. 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

CSSF generally are used to hold, join, couple, assemble, or maintain equilibrium of single or multiple components.[3] According to questionnaire data collected in these investigations, the leading U.S. producers of CSSF are Nucor Fastener ("Nucor") and ***, while leading subject producers of CSSF outside the United States include *** of China and *** of Taiwan. The leading U.S. importers of CSSF from China are ***, while the leading importers of CSSF from Taiwan are ***. Leading importers of CSSF from nonsubject countries (primarily Canada, Italy, and Japan) include ***.

[3] Petition, p. 4.

Apparent U.S. consumption of CSSF totaled approximately 642 million pounds ($674 million) in 2008. Currently, at least nine firms are known to produce CSSF in the United States. U.S. producers' U.S. shipments of CSSF totaled 156 million pounds ($183 million) in 2008, and accounted for 24.2 percent of apparent U.S. consumption by quantity and 27.1 percent by value. U.S. shipments of imports from subject sources totaled 332 million pounds ($303 million) in 2008, and accounted for 51.8 percent of apparent U.S. consumption by quantity and 45.0 percent by value. U.S. shipments of imports from nonsubject sources totaled 154 million pounds ($188 million) in 2008, and accounted for 23.9 percent of apparent U.S. consumption by quantity and 27.9 percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigations 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 almost all U.S. production of CSSF during 2008. U.S. imports are based on questionnaire response data.[4]

PREVIOUS AND RELATED INVESTIGATIONS

CSSF have been not been the subject of prior countervailing/antidumping duty investigations in the United States.

NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

Alleged Subsidies

On October 22, 2009, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on CSSF from China.[5] Commerce identified the following government programs in China:

A. Preferential Loans and Interest Rates
   1. Policy Loans to Chinese Fasteners Producers
   2. Export Loans
   3. Preferential Lending to Fasteners Producers and Exporters Classified as "Honorable Enterprises"
   4. Preferential Loans as Part of the Northeast Revitalization Program

B. Government Provision of Goods or Services for Less Than Adequate Remuneration ("LTAR")
   1. Wire Rod for LTAR
   2. Hot-Rolled Steel for LTAR
   3. Zinc for LTAR
   4. Land-Use Rights for LTAR

C. Income and Other Direct Taxes
   1. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment

[4] Using official import statistics would not provide accurate CSSF import data, as five of the six Harmonized Tariff Schedule statistical reporting numbers identified in the petition as containing CSSF imports are "basket" categories containing large amounts of nonsubject fasteners.

[5] *Certain Standard Steel Fasteners From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 54543, October 22, 2009.

2. Preferential Income Tax Policy for Enterprises in the Northeast Region
3. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China

D. Indirect Tax and Tariff Exemption Programs
1. Export Incentive Payments Characterized as "VAT Rebates"
2. Import Tariff and VAT Exemptions for Foreign Invested Enterprises ("FIEs") and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

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

F. Direct Grants
1. "Five Points, One Line" Program
2. Export Interest Subsidies
3. The State Key Technology Renovation Project Fund
4. Export Assistance Grants in Zhejiang Province
5. Subsidies for Development of Famous Export Brands and China World Top Brands
6. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
7. Programs to Rebate Antidumping Legal Fees in Zhejiang and Shenzhen Province

Alleged Sales at LTFV

On October 22, 2009, Commerce published a notice in the *Federal Register* of the initiation of its antidumping duty investigations on CSSF from China and Taiwan.[6] Commerce initiated antidumping duty investigations based on estimated dumping margins of 66.87-205.97 percent for CSSF from China and 51.39-114.14 percent for CSSF from Taiwan.

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the scope of these investigations as follows:[7] [8]

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[6] *Certain Standard Steel Fasteners From the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations*, 74 FR 54537, October 22, 2009.

[7] Ibid.

[8] The scope of the investigations in the petition was broader than the scope defined by the Department of Commerce. While the original scope did not place an upper bound on size, the final scope limited subject fasteners to those with a shank or thread of 32 mm or smaller in diameter. U.S. producer *** is known to produce fasteners in sizes larger than 32 mm but in volumes that are much lower than subject CSSF. E-mail from *** October 29, 2009. The effect of these data on the overall questionnaire data set is thus believed to be minimal. Also, the effect on

(continued...)

The merchandise covered by the investigations consists of certain standard nuts, standard bolts, and standard cap screws, of steel other than stainless steel. Standard nuts, standard bolts, and standard cap screws covered by the investigations may have a variety of finishes, including but not limited to coating in paint, phosphates, and zinc. Standard bolts and standard cap screws covered by the investigations have a shank or thread with an actual and/or nominal diameter between 6 millimeters and 32 millimeters (inclusive). Standard bolts and standard cap screws covered by the investigations also possess a circular or hexagonal head, the surface of which may be flat or rounded (also known as "dome-shaped" or "button-headed"). Standard bolts covered by the investigations may have an attached washer face or the equivalent (e.g., a flanged head or chamfered corners on the underside of a fastener with a hexagonal-shaped head). Standard cap screws covered by the investigations have a permanently-attached washer face. Standard nuts are covered by the investigations if they are suitable for attachment to bolts and/or cap screws covered by the investigations.

Standard bolts, standard cap screws, and standard nuts are covered by the investigations whether imported alone, attached to other subject and/or non-subject merchandise (e.g., tension control assemblies), or unattached and in combination with other subject merchandise and/or non-subject merchandise.

Unless explicitly excluded from the scope of the investigations, bolts, cap screws, and nuts meeting the description of subject merchandise are covered by the investigations.[9] [10]

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[8] (...continued)
import statistics of the scope changing to exclude fasteners greater than 32 mm is believed to be small as imports of these sizes were not high in volume. Conference transcript, p. 162. (Porteous).

[9] Standard nuts, standard bolts, and standard cap screws meet the requirements of one or more nationally recognized consensus industry standard specifications (including but not limited to those referenced below). Subject merchandise is typically certified to the specifications published by one or more consensus standards organizations such as the following: the American Society for Testing and Materials ("ASTM"), the Society of Automotive Engineers ("SAE"), the International Organization for Standardization ("ISO"), and the Industrial Fasteners Institute. Common specifications to which subject merchandise is certified include, but are not limited to: ASTM A194, ASTM A307, ASTM A325, ASTM A325M, ASTM A354, ASTM A449, ASTM A490, ASTM A563, ASTM F568M, ASTM F1852, ASTM F2280, SAE J429, SAE J1199, ISO 898-1, ISO 898-2, ISO 4759-1, ISO 8992, and comparable foreign and domestic specifications (including, but not limited to, metric versions of specifications such as those listed above).

[10] Excluded from the scope of the investigations are bolts, cap screws, and nuts produced for an original equipment manufacturer ("OEM") part number specific to any "automobile" as defined in 49 U.S.C. Section 32901(a)(3), any "work truck" as defined in 49 U.S.C. Section 32901(a) (19), or any "medium-duty passenger vehicle" as defined in 40 C.F.R. Section 86.1803-01 (2009).

Also excluded from the scope of the investigations are bolts, cap screws, and nuts produced for an OEM part number specific to any "aircraft" as defined in 14 C.F.R. Section 1.1 (2009).

Also excluded from the scope of the investigations are track bolts. Track bolts have a circular, rounded head and a shank which, immediately beneath the head, possesses an oval or elliptical shape, such that the non-round shape would restrict rotational movement of the bolt. Also excluded from the scope of the investigations are carriage bolts. Carriage bolts have a circular, rounded head and a shank which, immediately beneath the head, possesses a non-round shape (e.g., square, finned), such that the non-round shape would restrict rotational movement of the bolt. Also excluded from the scope of the investigations are socket screws. Socket screws have a head with a recessed cavity into which a shaped bit may be inserted to turn and drive the fastener.

Tariff Treatment

CSSF are classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under subheadings 7318.15.20, 7318.15.80, and 7318.16.00 and reported for statistical purposes under statistical reporting numbers 7318.15.2030, 7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085. Table I-1 presents current *ad valorem* tariff rates for CSSF.

Table I-1
CSSF: Tariff rates, 2009

HTS provision	Article description	General[1]	Special	Column 2[2]
		Rates *(percent ad valorem)*		
7318	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: Threaded articles:			
7318.15	Other screws and bolts, whether or not with their nuts or washers:			
7318.15.20	Bolts and bolts and their nuts or washers entered or exported in the same shipment	Free	([3])	3.5
7318.15.80	Having shanks or threads with a diameter of 6 mm or more	8.5	([4])	45.0
7318.16.00	Nuts	Free	([3])	0.5

[1] Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to both China and Taiwan.
[2] Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.
[3] Special rates not applicable when General rate is free.
[4] General note 3(c)(i) defines the special duty program symbols enumerated for this provision.

Source: Harmonized Tariff Schedule of the United States (2009, revision 1).

THE PRODUCT

Description and Applications

The subject products ("CSSF") covered by these investigations are threaded steel fasteners used to join components in construction, machinery, equipment, and other engineering applications. CSSF comprise bolts, cap screws, and nuts with nominal diameters of 6 mm (¼ inch) through 32 mm (1¼ inch). Subject bolts and cap screws have hexagonal (hex) shaped or round (also called "dome") shaped heads. Subject nuts are hex-shaped. Bolts and cap screws are similar, often indistinguishable, products. Bolts are intended to be used with nuts and tightened by torquing on the nut, whereas cap screws are intended to be inserted into a threaded hole and tightened from the head (the cap). However, cap screws may be used with nuts. Bolts are U.S.-duty-free whereas cap screws are subject to a column-1 duty of 8.5 percent *ad valorem*.

CSSF includes bolts assembled with their nuts; in particular, it includes twist-off type tension-control bolt-nut-washer assemblies (TC assemblies).[11] This is a special fastener used in structural

[11] TC assemblies are provided for in ASTM F1852 and ASTM F2280, which are among the specifications referenced in the scope as included product.

applications to simplify and control the tightening of nuts to the proper tension. The bolt in a TC assembly has a specially-shaped splined extension on its end. In use, the spline and the nut are separately engaged by a special tightening tool. When the nut is tightened to the correct torque, the spline end breaks off, leaving the bolt and the nut properly assembled. The bolts in TC assemblies may have either a hex or a round (dome) head, but the round head is, by far, the more common.

CSSF are processed to meet strength and hardness standards established by the American Society for Testing and Materials (ASTM) and the Society of Automotive Engineers (SAE). There are several levels of strength and hardness for bolts and cap screws, including the following:

- SAE grade 2, which is similar to ASTM A307. This is a low- or medium-carbon steel, non-heat-treated grade.

- SAE grade 5, similar to ASTM A325. This is a low- or medium-carbon steel, heat-treated grade.

- SAE grade 8, similar to ASTM A490. This is a medium-carbon alloy steel, heat-treated grade.

- One additional, even higher grade, ASTM F568M, Class 12.9, is used only for metric fasteners. This is an alloy steel, heat-treated grade.

There are other grades of bolts and cap screws. For example, SAE grades 5.2 and 8.2 have required physical properties similar to those of grades 5 and 8, but are produced from low-carbon boron steel, rather than from medium-carbon or alloy steel.[12] In addition, there is a grade 1, which is uncommon.[13] [14] Subject nuts have a range of grades and strength levels similar to those of bolts and cap screws.[15]

In addition to grades, CSSF come in two different types. Except for Grade 2, fasteners may be either of Type 1, regular steel, or of Type 3, weathering steel. Weathering steel contains a significant amount of copper and weathers by forming a protective oxide surface that resists further corrosion. Grade 2 fasteners and Type 1 fasteners of Grade 5 may be coated with zinc for corrosion resistance. Three different types of zinc coatings are used: mechanical galvanizing, hot-dip galvanizing, and electroplating.

Manufacturing Processes

CSSF are made from hot-rolled carbon or alloy steel rod or bar that is produced to meet the special quality requirements needed to allow production of cold-headed fasteners at very high speeds without the formation of bursts, cracks, or open seams. Rod or bar for cold headed fasteners is received in irregularly wound coils. The steel coils are annealed (heated and slowly cooled) to soften the steel prior to forming; however, annealing may not be required for grade 2 fasteners. Oxide scale is removed by dipping the coils in acid followed by rinsing in water and dipping in a coating solution to provide the necessary lubrication for forming operations. The forming operations consist of cold drawing, cold

[12] Conference transcript, p. 99 (Gialamas).

[13] Conference transcript, p. 99 (Gialamas).

[14] For specific mechanical and chemical properties of bolts and cap screws, see SAE J429, Tables 1and 2, excerpted in Industrial Fasteners Institute, *Inch Fastener Standards, 7th Edition,* pp. B-80-B-81.

[15] For specific mechanical and chemical properties of nuts, see ASTM A 563, Tables 1, 2, and 3, excerpted in Industrial Fasteners Institute, *Inch Fastener Standards, 7th Edition*, pp. B-169-B-171.

forming of the fastener, and cold rolling of the threads. Modern bolt-making lines perform all of these operations automatically, with coiled steel product being fed into the machines and fully-formed, threaded bolts or cap screws being discharged. Cold formed nuts are produced by similar processing, except that the internal threads must be made by tapping (cutting) in a separate operation.

Larger diameter nuts, which require a larger diameter starting material than bolts or cap screws of the same nominal size, are produced by hot, rather than cold forming.[16] Hot-formed CSSF are produced from straight-length bars, rather than from coiled bars or rods. Annealing, pickling, and coating of the bars prior to the forming process are not required. The bars are fed into a hot forming line that incorporates a continuous electric-induction heating section, followed by forming equipment similar to that used for cold-forming, except designed for processing at forging temperature. Fully formed fasteners (except for threading in the case of nuts) are discharged from the line.

After forming, CSSF of Grade 5 and higher are heat-treated by heating to a high temperature, quenching in oil, and reheating to a lower temperature, followed by slow cooling. The process is common for medium and high-carbon steel and alloy steels and is called “quench and temper” heat treatment. After heat treatment, the fasteners are coated with a special oil to inhibit corrosion. The entire process is commonly done on a continuous heat-treating line, with the fasteners being placed into a hopper at the entry end of the line and heat-treated, oiled fasteners being discharged from the line.

CSSF may be coated to resist corrosion. The most common coatings are of zinc and there are three different processes, each resulting in a different appearance and level of corrosion resistance. Hot-dip galvanizing is done by dipping the fasteners in cleaning solutions, followed by a fluxing solution (to prepare the surface for coating), and dipping into molten zinc. The fasteners are then spun, while still hot, in a centrifuge to remove excess zinc. Hot-dip galvanized nuts are rethreaded after galvanizing to provide the necessary clearance in the threads for the zinc coatings. A second coating method is mechanical galvanizing, which is accomplished by dipping the fasteners in a cleaning solution, then tumbling them in a rotating drum containing glass beads and zinc powder. The glass beads cause the zinc powder to adhere to the steel surface, forming a tight, bright coating. The third process used is electroplating, whereby zinc is plated electrolytically from a chemical solution. Zinc coating operations are commonly performed by independent outside processors rather than by the fastener manufacturer.

TC assemblies comprising a bolt, a washer, and a nut are assembled either by automatic machinery or by hand assembly.

DOMESTIC LIKE PRODUCT ISSUES

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

The petitioner contends that the Commission should find a single domestic like product, coextensive with the scope.[17] Respondents argue that the scope corresponds to three domestic like products consisting of (1) low carbon fasteners, (2) medium/high carbon and alloy fasteners, and (3) fasteners made to an OEM (Original Equipment Manufacturer) part number regardless of the type of OEM.[18] Fasteners produced for an OEM part number specific to any "automobile," "work truck," "medium-duty passenger vehicle," or "aircraft" are excluded from the scope of these investigations.

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[16] Bolts and cap screws in the size range of 6 mm (¼ inch) through 32 mm (1¼ inch) are generally produced by cold forming, whereas larger bolts and cap screws are hot-formed. It is possible that bolts or cap screws as small as 1¼ inch or smaller may be produced by hot forming.

[17] Petitioner’s postconference brief, p. 3.

[18] Barnes, Richardson, and Colburn (“Respondents”) postconference brief, p. 3.

Examples of uses that would be included in respondents' proposed OEM fasteners domestic like product include farm equipment, non-automobile engines, chemical and fuel processing equipment, and electrical power distribution.[19] It appears that respondents would include both low-carbon- and medium/high-carbon- and alloy-steel fasteners in their proposed like product ("OEM CSSF"), and define the domestic like products of "low carbon fasteners" and "medium/high carbon and alloy fasteners" as other than those made to an OEM part number (together, "non-OEM CSSF"). Respondents note that petitioners argue that automotive and aerospace OEM fasteners are different than other fasteners and insist that the same differences apply to OEM CSSF.[20]

OEM CSSF vs. non-OEM CSSF

The following discussion provides information regarding the differences between OEM CSSF and non-OEM CSSF with respect to each of the domestic like product factors.

Physical Characteristics and Uses

Both OEM CSSF and non-OEM CSSF have the physical characteristics defined in the scope; namely being a bolt, a cap screw, or a nut; having a hex or a round head; having metallurgical properties of strength, hardness, and ductility as prescribed in consensus standards; and having a nominal diameter between 6 and 32 millimeters. OEM CSSF and non-OEM CSSF are used for similar purposes: to fasten assembled parts with preformed threads or by use of a nut.[21] Both can be used for joining components or otherwise in the manufacture of any product. The distinction, according to respondents, is that OEM CSSF have a manufacturer's part number and requirements that are additional to or modified from those in consensus standards.[22] Examples of additional requirements cited by respondents include additional plating to make the fasteners more corrosion resistant, and tolerances that are more demanding to ensure high friction specific to their application.[23] According to the petitioner, however, OEMs often assign part numbers to standard fasteners for their own tracking and inventory management purposes that have nothing to do with the physical characteristics of the part.[24] ***.[25]

Manufacturing Facilities and Production Employees

In the United States, ***. Nucor ***.[26] Respondents state that OEM CSSF, like excluded automotive and aerospace fasteners, frequently have a near-zero-defect quality standard and that these extremely high quality requirements necessitate additional production processes and related equipment, including finishing equipment in the form of high-quality laser sorting devices.[27] It is not known whether OEM CSSF may also be produced in plants that specialize in automotive or aerospace fasteners and do not produce non-OEM CSSF.

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[19] Respondents' postconference brief, p. 5.

[20] Respondents' postconference brief, pp. 3-4.

[21] Petitioner's postconference brief, p. 8.

[22] Respondents' postconference brief, p. 5.

[23] Respondents' postconference brief, p. 5.

[24] Petitioner's postconference brief, pp. 10-11.

[25] Petitioner's postconference brief, pp. 15-16.

[26] Petitioner's postconference brief, pp. 25-26.

[27] Respondents' postconference brief, p. 10.

Interchangeability

According to respondents, OEM CSSF have different and unique physical characteristics that make them suitable for specific applications and therefore are not interchangeable with non-OEM CSSF any more than are excluded automotive or aerospace fasteners.[28] Respondents state that the "very difficult and time-consuming qualification process" for an OEM to change suppliers prevents its use of a substitute, non-OEM CSSF.[29]

Petitioner states that the nationally-recognized consensus standards create a degree of uniformity, and as a result, parts produced to the same standards and specifications are highly interchangeable. Further, the use of an OEM part number in connection with a standard part does not limit interchangeability. Petitioner ***.[30]

Customer and Producer Perceptions

Petitioner asserts that it does not perceive a distinction between OEM CSSF and non-OEM CSSF and states that it and other producers make all types of CSSF.[31] Moreover, according to Petitioner, OEM consumers buy CSSF both with and without OEM part numbers and do not perceive them as different products.[32]

Respondents argue that because OEM CSSF may involve proprietary or patented specifications, are made to OEM part numbers, or have significantly higher quality requirements, they are perceived by purchasers in the same manner as are automotive fasteners, that is, clearly not for general distribution.[33]

Channels of Distribution

Both domestically produced OEM-CSSF and non-OEM CSSF are sold by producers primarily through master distributors who resell to distributors, who in turn resell to end users. Petitioner ***.[34]

Respondents argue that OEM CSSF have different channels of distribution because they are not sold for general distribution.[35]

Price

Petitioner asserts that there is a continuum of prices for all CSSF with no "bright lines."[36] With respect to OEM CSSF, petitioner asserts that because ***.[37]

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[28] Respondents' postconference brief, p. 6.

[29] Respondents' postconference brief, p. 7.

[30] Petitioner's postconference brief, pp. 14-16.

[31] Petitioner's postconference brief, p. 21.

[32] Petitioner's postconference brief, p. 21.

[33] Respondents' postconference brief, p. 8.

[34] Petitioner's postconference brief, p. 18.

[35] Respondents' postconference brief, p. 7.

[36] Petitioner's postconference brief, p. 28.

[37] Petitioner's postconference brief, p. 28.

Respondents claim that like nonsubject automotive and aerospace fasteners, OEM CSSF are sold at a premium over standard steel fasteners.[38] The CEO of Bossard North America, a global fastener distribution company, testified that because of the additional requirements imposed by OEMs, all OEM parts are priced at higher levels than off-the-shelf standard parts.[39]

Low-carbon-steel CSSF vs. Medium/high-carbon- and alloy-steel CSSF[40]

The following discussion provides information regarding the differences between low-carbon-steel CSSF ("LC CSSF") and medium/high-carbon- and alloy-steel CSSF ("MC&A CSSF") with respect to each of the domestic like product factors.

Physical Characteristics and Uses

Both LC CSSF and MC&A CSSF have the physical characteristics defined in the scope, namely being a bolt, a cap screw, or a nut; having a hex or a round head; having metallurgical properties of strength, hardness, and ductility as prescribed in consensus standards; and having a nominal diameter between 6 and 32 millimeters. Both LC CSSF and MC&A CSSF are used for similar purposes: to fasten assembled parts with preformed threads or by use of a nut.[41] Both can be used for joining components or otherwise in the manufacture of any product. LC CSSF comprise the lowest strength level of these fasteners, that of SAE grade 2 or ASTM A307. The guaranteed minimum tensile strength of an ASTM A307 fastener is 60,000 pounds per square inch (psi). By comparison, the guaranteed minimum tensile strength of an SAE grade 5 or ASTM A325 fastener is 105,000 or 120,000 psi, depending upon the nominal size, and that of an SAE grade 8 or ASTM A490 fastener is 150,000 psi.[42]

The petitioner views LC CSSF as part of a spectrum of CSSF that includes grade 2, grade 5 and grade 8 fasteners. The vice president and general manager of Nucor Fastener testified, "It really comes down to for the end user the mechanical, physical properties that they need in that fastener as to which one they're going to buy."[43]

Respondents state that because LC CSSF do not have the same strength as MC&A CSSF, they cannot be used in the same applications, such as construction. They suggest do-it-yourself projects such as building a work bench or fixing a bookcase as applications for LC CSSF.[44]

Manufacturing Facilities and Production Employees

***. One difference in the processing of LC CSSF is that it may not be processed on all of the equipment used for MC&A CSSF. For example, LC CSSF may not be required to be annealed prior to

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[38] Respondents' postconference brief, p. 11.

[39] Respondents' postconference brief, p. 11, and conference transcript, p. 128 (Hansen).

[40] Please see brief filed by Squire Sanders on behalf of respondent Fasteners Association of China for additional information on the domestic like product discussion regarding low carbon and medium/high carbon steel fasteners.

[41] Petitioner's postconference brief, p. 8.

[42] ASTM Standards A307-07b, A325-07a, and A490-08a.

[43] Petitioner's postconference brief, p. 13, and conference transcript, p. 53 (Miller).

[44] Respondents' postconference brief, pp. 12-13.

cold forming and is not heat-treated after forming. However, the equipment used by Nucor for the production of LC CSSF is also used for the production of MC&A CSSF.[45] Nucor ***.[46]

Respondents argue that the domestic industry has not produced LC CSSF in decades, and that, even in Asia, manufacturers that produce MC&A CSSF do not produce LC CSSF because of the significant investment in additional equipment required to produce MC&A CSSF.[47]

Interchangeability

Because they are produced to the same dimensional and coating standards, there could be a limited amount of interchangeability between LC CSSF and MC&A CSSF, but only if the part possesses the necessary properties for the intended application.[48] A user would have to verify that the properties of the interchanged fastener were suitable for his application.

Respondents assert that substituting a MC&S CSSF for a LC CSSF would not be economically rational because the price of a MC&S CSSF would always be higher than that of the LC CSSF for which it was substituted. The buyer would be paying a higher price for a level of strength that he or she would not want or need.[49]

Customer and Producer Perceptions

Petitioner, ***, claims to perceive both as part of a single spectrum of CSSF having different properties, but being otherwise the same product. Petitioner also believes that customers perceive all CSSF as a single product.[50]

Respondents claim that customers and producers perceive the two proposed domestic like products differently because LC CSSF are used in applications where strength is not needed or not desired.[51]

Channels of Distribution

According to respondents, there are significant differences in the channels of distribution between those for LC CSSF and MC&A CSSF. LC CSSF are generally sold to consumers at the retail level whereas MC&A CSSF are generally sold to the construction industry or to manufacturers.[52]

Petitioner states that the same distributors and master distributors buy both LC CSSF and MC&A CSSF. The vice president and general manager of Nucor testified, "We sell through distribution and it's the same distribution network that buys grade 2s, grade 5s, and grade 8s."[53]

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[45] Conference transcript, pp. 50-51 (Gialamas).

[46] Petitioner's postconference brief, pp. 27-28.

[47] Respondents' postconference brief, p. 15.

[48] Petitioner's postconference brief, pp. 16-17.

[49] Respondents' postconference brief, p. 13.

[50] Petitioner's postconference brief, pp. 23-24.

[51] Respondents' postconference brief, p. 14.

[52] Respondents' postconference brief, p. 14.

[53] Petitioner's postconference brief, p. 19, and conference transcript, p. 52 (Miller).

Price

Petitioner states that LC CSSF is priced along a continuum, and that whereas the input steel for LC CSSF is generally less expensive than that for MC&A CSSF, "pricing is not so distinctive as to render the products clearly distinct."[54]

Respondents report that the pricing for LC CSSF is significantly lower than that for MC&A CSSF.[55]

[54] Petitioner's postconference brief, p. 29.

[55] Respondents' postconference brief, pp. 16-17.

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

CHANNELS OF DISTRIBUTION AND MARKET CHARACTERISTICS

The reporting U.S. producers of CSSF and U.S. importers of CSSF from China, Taiwan, and nonsubject countries shipped their products primarily to U.S. distributors during January 2006-June 2009, with the remainder of the domestic and imported CSSF shipped to end users. The shares of the reported quantity of U.S. commercial shipments of the domestic and imported CSSF shipped to distributors and to end users during January 2006-June 2009 are shown in the following tabulation.[1]

Type of customer	Shares of U.S. commercial shipments			
	U.S.-produced	Imported from China	Imported from Taiwan	Imported from nonsubject countries
Distributors	93.3	95.2	90.9	69.1
End users	6.7	4.8	9.1	30.9
Total	100.0	100.0	100.0	100.0

The wide applicability of the various characteristics of CSSF enables it to be used in a broad variety of fastener applications.[2] As a result, a large number of different CSSF products are produced to satisfy this varied demand and, accordingly, demand for CSSF is derived from demand for the downstream products that use CSSF as an input.

SUPPLY AND DEMAND CONSIDERATIONS[3]

U.S. Supply[4]

U.S. Production

Based on available information, U.S. producers had the ability to respond to changes in U.S. demand with relatively large changes in the quantity of shipments of U.S.-produced CSSF to the U.S.

[1] U.S. producer and importer questionnaire responses, sections II-9 and II-5-6, respectively.

[2] CSSF are used principally in manufacturing and industrial construction (petition, volume I, p. 22).

[3] Short-run effects discussed in the supply and demand sections refer to changes that could occur within 12 months, unless otherwise indicated.

[4] Data on U.S. CSSF production, production capacity, capacity utilization, inventories, and exports are shown in detail in Part III.

market during January 2006-June 2009.[5] Factors contributing to this degree of responsiveness of supply are discussed below.[6]

Industry capacity

Based on U.S. producers' reported capacity and production, the domestic industry's capacity utilization for CSSF was relatively stable during 2006-08, averaging 50.5 percent during this period, before decreasing to 26.2 percent during January-June 2009 from 55.6 percent during January-June 2008. These levels of capacity utilization indicate that U.S. producers of CSSF have a substantial amount of available capacity with which they could increase production of CSSF in the short run in the event of a price change.[7] As noted later in this section, U.S. producers produce other products on the same equipment that they produce CSSF. As a result, the measures of capacity and capacity utilization for CSSF may be subject to allocations and may change as relative prices and demand for the various types of products change.

Inventory levels

U.S. producers of CSSF reported combined end-of-period inventory quantities that increased during 2006-08 and then decreased during January-June 2009; U.S. producers' inventories accounted for 19.3-26.2 percent of their total shipments during January 2006-June 2009. These levels of inventories suggest that U.S. producers may have the ability to use inventories to respond to price changes in the short run. This flexibility may be restrained in the short run to the extent that U.S. producers' inventories consist of products that are not required by the increased demand, or consist of products already committed to customers in the U.S. and/or export markets.[8]

Alternate markets

Responding U.S. producers' total reported exports of their U.S.-produced CSSF fluctuated modestly during January 2006-June 2009 and averaged almost 4.0 percent of the quantity of their total shipments of U.S.-produced CSSF during this period. The low level of exports during the period indicates that domestic producers of CSSF may be constrained in their ability to shift shipments between the United States and other markets in the short run in response to price changes. This flexibility may be further restrained in the short run to the extent that U.S. producers' sales of CSSF exported to third-country markets were not used/acceptable in the U.S. market or vice-versa, or to the extent that U.S. producers have binding supply agreements longer than 12 months with customers in the U.S. and/or export markets.

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[5] Petitioner indicated that *** produce CSSF using low and medium carbon steel (petitioner's postconference brief, pp. 23-24 and exh. 7). On the other hand, Respondents asserted that domestic producers do not produce and sell low carbon CSSF in commercially significant quantities (respondents' (represented by Barnes/Richardson) postconference brief, p. 19).

[6] U.S. producers reported that the cyclical or seasonal factors affecting U.S. demand for CSSF (discussed later in Part II) led to associated fluctuations in the U.S. supply of CSSF (U.S. producer questionnaire responses, section V-15).

[7] This supply flexibility may be constrained to the extent that there is any limited capability of specific U.S. producers to produce the required types, sizes, and diameters of CSSF demanded.

[8] As indicated later in Part V, about 21.0 percent of U.S. producer's 2008 U.S. commercial shipments were based on long-term contracts that ranged from 2-3 years.

Production alternatives

*** responding U.S. producers reported producing several other products on the same equipment and with the same labor that they used to produce CSSF;[9] these other products accounted for less than *** percent to *** percent of sales in 2008 depending on the product and company. The ability of U.S. producers to shift production between CSSF and other products enhances their supply responsiveness in the short run in response to relative price changes between CSSF and alternative production products.

Supply of Imported CSSF from China to the U.S. Market

Based on available information, staff believes that Chinese producers of CSSF may have the ability to respond to changes in demand with medium to large changes in shipments of CSSF to the U.S. market.[10] Factors contributing to this degree of responsiveness of supply are discussed below.

Industry capacity

Responding Chinese producers reported total capacity utilization for CSSF that fluctuated but decreased during January 2006-June 2009, averaging *** percent during this period, as both capacity and production of CSSF fluctuated but decreased during January-June 2009 from the levels during January-June 2008. This level of capacity utilization indicates that Chinese producers of CSSF may have some available capacity with which they could increase production of CSSF in the short run in the event of a price change.[11]

Chinese producers reported producing several other products on the same equipment and machinery that they used to produce CSSF, such that measures of capacity and capacity utilization for each type of product, including CSSF, may be subject to allocations and may change as relative prices and demand for the various types of products change.

Inventory levels

Responding Chinese producers of CSSF reported combined end-of-period inventories in China that increased steadily during January 2006-June 2009, ranging from 13.0-23.9 percent of total shipments. These data indicate that Chinese producers may have an ability to use inventories as a means to increase shipments to the U.S. market in the short run. This flexibility may be restrained in the short run to the extent that Chinese producers' inventories consist of products not useable/acceptable in the U.S. market, or consist of products already committed to customers in home and/or third-country markets.

Alternate markets

Responding Chinese producers of CSSF reported that their products were shipped principally to third-country markets, secondarily to the home market, thirdly to the U.S. market, and the remainder was

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[9] U.S. producer questionnaire responses, sections II-3 and II-4.

[10] Respondents asserted that the majority of U.S. imports of CSSF from China is low carbon steel (respondents' (represented by Barnes/Richardson) postconference brief, p. 19).

[11] Data submitted by Chinese producers of CSSF included capacity and production projections for full-year 2009 and for 2010. Based on these projections, capacity utilization is estimated to be at about the same level in both years and somewhat lower than the average during January 2006-June 2009; annual capacity and production are estimated to be less in full-year 2009 and in 2010 than during 2006-08.

used for internal consumption/transfers during January 2006-June 2009.[12] This shipment pattern was projected to continue for full year 2009 and in 2010, with the exception that the home market would be the principal market and third countries the secondary markets. These data indicate that Chinese CSSF producers have large home and third-country markets from which they may be able to shift shipments of CSSF to the United States in the short run in the event of a price change in the U.S. market. This flexibility may be restrained in the short run to the extent that Chinese producers' sales of CSSF in their home market and/or exported to third-country markets were not used/acceptable in the U.S. market, or to the extent that Chinese producers have binding supply agreements longer than 12 months with customers in the home and/or third-country markets.[13]

Production alternates

A majority of responding Chinese producers reported producing several other products on the same equipment and machinery that they used to produce CSSF. The ability of Chinese producers to shift production between CSSF and other products enhances their supply responsiveness in the short run in response to relative price changes between CSSF and alternative production products.

Supply of Imported CSSF from Taiwan to the U.S. Market

Based on available information, staff believes that Taiwanese producers of CSSF may have the ability to respond to changes in demand with medium to large changes in shipments of CSSF to the U.S. market.[14] Factors contributing to this degree of responsiveness of supply are discussed below.

Industry capacity

Responding Taiwanese producers reported total capacity utilization for CSSF that fluctuated but decreased during January 2006-June 2009, averaging 75.8 percent during this period, as both capacity and production of CSSF decreased during this period. This level of capacity utilization indicates that Taiwanese producers of CSSF may have available capacity with which they could increase production of CSSF in the short run in the event of a price change.[15]

Taiwanese producers reported producing several other products on the same equipment and machinery that they used to produce CSSF, such that measures of capacity and capacity utilization for

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[12] During January 2006-June 2009, exports to third-country markets averaged 54.7 percent of Chinese producers' total CSSF shipment quantities; shipments to the home market averaged 32.5 percent of the total; exports to the U.S. market averaged 12.6 percent of the total; and internal consumption/transfers accounted for the remaining 0.2 percent.

[13] U.S. importers reported that it would be difficult to extremely difficult to shift sales of CSSF from subject countries between the U.S. and alternative country markets (U.S. importer questionnaire responses, section IV-13). Eighteen of 20 responding importers cited several reasons for difficulty in switching such sales, including long-term contracts; customers' approval process; warehouse leases; asserted inadequate world capacity to supply CSSF; and inadequate domestic capacity. The remaining two importers reported that they did not have contracts or sales arrangements that would prevent shifting.

[14] Respondents asserted that the majority of U.S. imports of CSSF from Taiwan is medium to high carbon steel (respondents' (represented by Barnes/Richardson) postconference brief, p. 19).

[15] Data submitted by Taiwanese producers of CSSF included capacity and production projections for full-year 2009 and for 2010. Based on these projections, capacity utilization is estimated to remain below the average during January 2006-June 2009; annual capacity and production are estimated to be less in full-year 2009 and in 2010 than during 2006-08.

each type of product, including CSSF, may be subject to allocations and may change as relative prices and demand for the various types of products change.

Inventory levels

Responding Taiwanese producers of CSSF reported combined end-of-period inventories in Taiwan that increased steadily during January 2006-June 2009, ranging from 11.8-24.4 percent of total shipments. These data indicate that Taiwanese producers may have an ability to use inventories as a means to increase shipments to the U.S. market in the short run. This flexibility may be restrained in the short run to the extent that Taiwanese producers' inventories consist of products not useable/acceptable in the U.S. market, or consist of products already committed to customers in home and/or third-country markets.

Alternate markets

The responding Taiwanese producers of CSSF reported that their products were shipped principally to the U.S. market, secondarily to third-country markets, thirdly to the home market, and the remainder was used for internal consumption/transfers during January 2006-June 2009.[16] This shipment pattern was projected to continue in full year 2009 and 2010. These data for alternate markets indicate that Taiwanese CSSF producers have large non-U.S. export markets from which they may be able to shift shipments of CSSF to the United States in the short run in the event of a price change in the U.S. market. This flexibility may be restrained in the short run to the extent that Taiwanese producers' sales of CSSF exported to third-country markets were not used/acceptable in the U.S. market, or to the extent that Taiwanese producers have binding supply agreements longer than 12 months with customers in third-country markets.[17]

Production alternates

A majority of responding Taiwanese producers reported producing several other products on the same equipment and machinery that they used to produce CSSF. The ability of Taiwanese producers to shift production between CSSF and other products enhances their supply responsiveness in the short run in response to relative price changes between CSSF and alternative production products.

Supply of Nonsubject Imports of CSSF to the U.S. Market

Based on import questionnaire data (presented in Part IV), U.S. imports of CSSF from nonsubject countries fluctuated but decreased during 2006-08 and decreased during January-June 2009 from the interim 2008 level and averaged almost 30.0 percent of total CSSF imports during the full period. The largest nonsubject country suppliers to the U.S. market included Canada, Korea, and Thailand.

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[16] During January 2006-June 2009, Taiwanese producers' shipments to the U.S. market averaged 54.0 percent of their total shipment quantities of CSSF; exports to third-country markets averaged 24.4 percent of the total; exports to the home market averaged 19.9 percent of the total; and internal consumption/transfers accounted for the remaining 1.7 percent.

[17] U.S. importers reported that it would be difficult to extremely difficult to shift sales of CSSF from subject countries between the U.S. and alternative country markets (U.S. importer questionnaire responses, section IV-13). Eighteen of 20 responding importers cited several reasons for difficulty in switching such sales, including long-term contracts; customers' approval process; warehouse leases; asserted inadequate world capacity to supply CSSF; and inadequate domestic capacity. The remaining two importers reported that they did not have contracts or sales arrangements that would prevent shifting.

U.S. Demand

Demand for CSSF, as measured by annual U.S. apparent consumption, decreased steadily during 2006-08, by almost 3.0 percent on a quantity basis during 2006-08; U.S. apparent consumption was 34.5 percent lower in January-March 2009 than in January-March 2008.

CSSF are used in a variety of applications including motor vehicles, farm vehicles and equipment, machinery, bridges, commercial construction, etc. Thus, U.S. demand for CSSF is largely derived from the level of demand for downstream products using CSSF. Overall U.S. demand for CSSF reportedly tends to move with general economic activity in the U.S. economy and with activity in the manufacturing and industrial construction sectors.[18] U.S. real gross domestic product (GDP) increased by 2.7 percent in 2006, 2.1 percent in 2007, and 0.4 percent in 2008; real GDP is forecast to decrease by 2.5 percent in 2009 but to increase by 2.5 percent in 2010.[19] Quarterly real GDP, at annualized rates, decreased by 6.4 percent during January-March 2009 and 0.7 percent during April-June 2009, increased by 3.5 percent during July-September 2009, and is forecast to increase by 2.4 percent in the fourth quarter of 2009.[20]

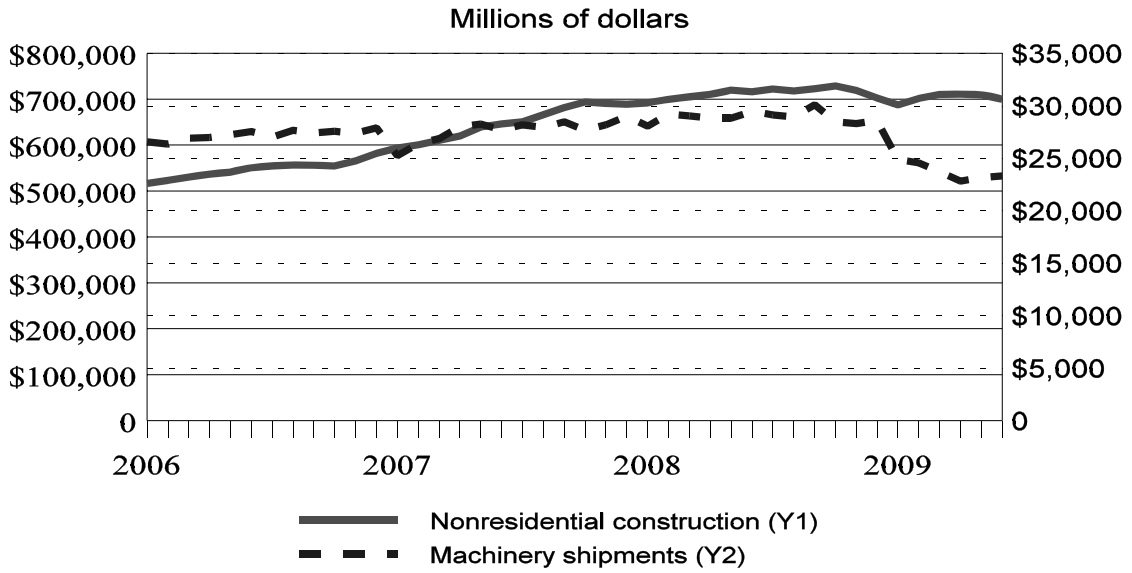
Nominal values of total U.S. nonresidential construction and machinery shipments during January 2006-June 2009 are shown on a monthly basis in figure II-I. Nonresidential construction spending increased almost steadily from an annual rate of $516.5 billion during January 2006 to a period high of $728.9 billion in October 2008, then fell to $687.9 billion by January 2009, before fluctuating but increasing somewhat to $699.9 billion by June 2009. Machinery shipments fluctuated but increased from $26.6 billion during January 2006 to a period high of $30.1 billion in September 2008, before decreasing to a period low of $22.8 billion during April 2009, and then increasing to $23.3 billion by June 2009.

[18] Petition, volume I, p. 22.

[19] *Blue Chip Economic Indicators*, Aspen Publishers, Inc., Vol. 34, No. 10, October 10, 2009, pp. 2-3.

[20] Ibid., p. 5; and for the advance estimate of third-quarter 2009 growth in real GDP, http://www.bea.gov/newsreleases/national/gdp/gdpnewsrelease.htm, retrieved October 20, 2009.

Figure II-1
Nominal values of total U.S. nonresidential construction spending and machinery shipments, by months, January 2006-June 2009



Note.--Monthly values are seasonally adjusted annual rates of construction spending and machinery shipments.

Source: U.S. Census Bureau, Manufacturing, Mining and Construction Statistics, Construction Spending, historical and current data available at http://www.census.gov, retrieved on October 18, 2009 and October 24, 2009.

Questionnaire Responses Concerning Changes in U.S. Demand

U.S. producers and importers of CSSF were requested to indicate whether U.S. demand for CSSF increased, decreased, fluctuated, or did not change since January 2006 and to identify the principal factors affecting any changes in demand.[21] Useable responses were mixed regarding U.S. demand and are summarized in the following tabulation.

U.S. demand changes for CSSF since January 2006				
	Number of firms responding			
Types of firms	Increase	Decrease	Fluctuate	No change
U.S. producers[1]	2	6	1	1
U.S. importers[2]	5	9	9	4
Total	7	15	10	5

[1] One other U.S. producer reported that it did not know how U.S. demand changed.
[2] One other U.S. importer reported that it did not know how U.S. demand changed.

[21] U.S. producer and importer questionnaire responses, sections V-17a and IV-16a, respectively.

The majority of all questionnaire responses indicate that U.S. demand for CSSF has fluctuated but decreased since January 2006. Reported factors that led to any increases included increased output of OEM products and domestic manufacturing. Reported factors that led to fluctuating but decreasing demand included the following: downturn in general economic conditions/recession (cited most frequently), U.S. OEM operations relocated entire production and associated requirements to lower-cost countries, decline in auto production, slowdown in commercial construction and U.S. manufacturing, and cost of steel and transportation.

Business Cycles

U.S. producers and importers of CSSF were asked whether U.S. demand for CSSF was subject to business cycles, seasonal/other demand fluctuations, or other U.S. competitive conditions of demand distinctive to CSSF during January 2006-June 2009.[22] A summary of the responses regarding the type of any such demand fluctuations or conditions is shown in the following tabulation.

Competitive U.S. demand conditions distinctive to CSSF

Types of firms	Cyclical[1]	Seasonal[2]	Product cycle		Other
			Within one year	More than one year	
U.S. producers[3]	1	2	-	-	-
U.S. importers[4]	4	6	-	-	-
Total	5	8	0	0	0

[1] Longer than one year.
[2] Within one year for a complete cycle.
[3] Seven other U.S. producers reported that there were no cyclical/seasonal U.S. demand conditions distinctive to CSSF.
[4] Nineteen other U.S. importers reported that there were no cyclical/seasonal U.S. demand conditions distinctive to CSSF.

Some firms also provided useable comments. The firms that indicated cyclical demand conditions cited overall U.S. economic conditions, particularly the 2008/09 recession. In addition, an importer that cited cyclical demand, ***, asserted that the nonresidential construction market is now in its lowest start rate in over 40 years, as measured by square footage; this low start rate reportedly is expected to continue through the rest of 2009 and for most of 2010. Another importer reporting cyclical demand, ***, indicated that, in early 2009, demand slowed with the recessive U.S. economy, although most of the first quarter 2009 shipments were fixed commitments based upon a much more robust domestic economy in 2008. Second quarter 2009 demand reportedly softened in response to first quarter 2009 U.S. economic conditions. An importer reporting seasonal demand, ***, indicated that construction markets tend to slow in the fourth quarter and to pick up in the second quarter of the year.

[22] U.S. producer and importer questionnaire responses, sections V-16 and IV-15, respectively.

Substitute Products

Based on available information, U.S. users of CSSF are likely to respond to changes in the prices of CSSF with small changes in their purchases of CSSF, such that U.S. demand is likely price inelastic.[23] The main contributing factors to this level of responsiveness of demand is the low cost share and the level of substitute products.

All 10 responding U.S. producers and 21 of 22 responding U.S. importers reported that no substitutes existed for CSSF, whereas the remaining U.S. importer identified substitutes for CSSF during January 2006-June 2009.[24] This latter importer, ***, indicated that Huck and similar blind fastening systems may substitute for tension control bolts in structural applications. This importer reported that such substitutes did not affect the price of the applicable CSSF fasteners during this period. All responding U.S. producers and importers reported that there were no changes in substitutes for CSSF during January 2006-June 2009.[25]

Cost Share

As noted earlier, CSSF are used in manufacturing and industrial construction applications. Based on useable responses of five U.S. producers and 10 U.S. importers, cost shares of CSSF were reported for a variety of uses; such cost shares ranged from less than 1 percent to 24 percent.[26] These uses and, when reported, the percentage share of CSSF costs included, heavy truck class 8 (< 1 percent to 24 percent), agricultural equipment (1-22 percent), recreational vehicles-all terrain vehicles and snowmobiles (18 percent), bridges (< 1 percent), commercial construction (< 1 percent), highway construction (1-2 percent), truck suspensions (3 percent), construction equipment (2 percent), airplanes and autos (< 1 percent), consumer products such as chairs, sofas, recliners, and appliances (1 percent each), *** (5.5 percent), commercial HVAC OEM equipment, commercial satellite communication equipment, truck and trailer OEM assembly, residential home construction, motor vehicle parts such as axles, wheels, and suspensions (all less than 1 percent each), OEM products (3-5 percent), military equipment, and steel structures (2 percent).

Foreign Demand

U.S. producers and importers of CSSF were asked whether foreign demand for CSSF increased, decreased, fluctuated, or did not change since January 2006, and some identified the principal factors affecting any changes in demand.[27] Useable responses were mixed regarding foreign demand and are summarized in the following tabulation.

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[23] Staff telephone interview with ***.

[24] U.S. producer and importer questionnaire responses, sections V-18 and IV-17, respectively. The producers and importers were requested to provide examples of the top five economic substitutes for CSSF and this request was preceded by the following explanation: "Substitution in demand refers to products that can, based on market price considerations and consumer/industrial user preferences/technical requirements, reasonably be expected to substitute for each other when the price of one product changes vis-a-vis the price of the other product–some consumers/ industrial users may require greater price changes than others before they switch among the alternative products."

[25] U.S. producer and importer questionnaire responses, sections V-19 and IV-18, respectively.

[26] U.S. producer and importer questionnaire responses, sections V-12 and IV-12, respectively.

[27] U.S. producer and importer questionnaire responses, sections V-17b and IV-16b, respectively.

Foreign demand changes for CSSF since January 2006				
	Number of firms responding			
Types of firms	Increase	Decrease	Fluctuate	No change
U.S. producers[1]	1	1	2	1
U.S. importers[2]	3	2	7	3
Total	4	3	9	4

[1] Five other U.S. producers reported that they did not know how foreign demand changed.
[2] Two other U.S. importers reported that they did not know how foreign demand changed.

The majority of all questionnaire responses indicate that foreign demand for CSSF has fluctuated since January 2006. The firms reporting an increase stated that U.S. manufacturing operations and associated CSSF demand relocated to low cost countries (China and Mexico were cited). The firms reporting a decrease cited the worldwide economic downturn and declines in nonresidential construction. The firms citing fluctuating demand cited fluctuations in the cost of steel and transportation and fluctuations in world economic conditions.

SUBSTITUTABILITY ISSUES

The degree of substitution in demand between CSSF produced in the United States and those imported from China and Taiwan depends upon such factors as conditions of sales (order lead times, payment terms, supplier qualification/preference, "Buy America" laws/policies/practices, etc.), purchaser supply requirements, and product differentiation. Product differentiation depends on factors such as the range of products, quality (grade standards, defect rates, etc.), availability, reliability of supply, product services, and the market perception of these factors. Based on the reported information in these investigations, there appears to be, for at least some products, a relatively high degree of substitution in demand between CSSF produced domestically and those imported from China and Taiwan during January 2006-June 2009.

U.S. producers and importers of the subject CSSF were requested in their questionnaire responses to describe any significant changes in the product range or marketing of CSSF in the United States since January 2006.[28] Five of 10 responding U.S. producers and 23 of 25 responding U.S. importers reported no changes, while 2 producers and the 2 remaining importers reported that changes had occurred.[29] One of the two U.S. producers, ***, indicated that the Chinese and Taiwanese suppliers have lowered their minimum order requirements for ocean freight shipments. The remaining U.S. producer, ***, indicated that there has been a general trend toward using TC (tension control assemblies) for non-bridge construction based on single-sided installation, reduced labor costs, and the improved quietness and ergonomics during installation. One of the two U.S. importers, ***, introduced web site sales in June 2008 and offers a 5-percent discount for on-line transactions. The remaining importer, ***, indicated that internet auctions have become the standard negotiating format for most of the larger OEM buyers. At the same time, auction frequency, ***, has increased as auction hosting services (like Arriba) have streamlined the cost and time to put a category of business out for bid. Additionally, *** indicated that larger OEMs are rationalizing their components and encouraging suppliers to assist them with product

[28] U.S. producer and importer questionnaire responses, sections V-11 and IV-11, respectively.

[29] The three remaining producers cited increased competition from reportedly low-priced imports from China and Taiwan.

standardization - both in terms of the number of products used and eliminating ”special” characteristics of products used - making the internet auction process more successful and reducing the component count in their manufacturing operation. *** also indicated that the expanded reach of this bidding process has increased competition and decreased selling prices.

Comparisons of the Domestic and Imported CSSF

U.S. producers and importers of CSSF were requested in their questionnaires to report on the extent of interchangeability (products from different countries physically capable of being used in the same applications) of CSSF produced domestically, imported from China and Taiwan, and imported from nonsubject (third) countries.[30] They were also asked to report the extent of any non-price factors that would affect sales in the U.S. market among these various sources of CSSF.[31] Responses of the U.S. producers and importers regarding the degree of interchangeability between domestic and imported CSSF are summarized in table II-1, and their responses regarding factors other than price affecting competition are summarized in table II-2. U.S. producers and importers were also requested in their questionnaires to provide any comments where products are sometimes or never interchangeable and where nonprice factors were always or frequently significant in competition between the domestic and imported CSSF. These comments are included in the text.

For responses regarding the degree of interchangeability, eight U.S. producers of CSSF and twenty-six U.S. importers reported the requested information (table II-1). Most responding U.S. producers asserted that CSSF produced in the United States and imported from China, Taiwan, and third countries was “always” or “frequently” interchangeable among each other, whereas U.S. importers asserted most often that CSSF from these sources was “always” or “frequently” interchangeable, but also noted that these sources of CSSF were “sometimes” interchangeable.

For responses regarding factors other than price affecting competition, seven U.S. producers of CSSF and 27 U.S. importers reported the requested information (table II-2). The responding U.S. producers and importers asserted most often that nonprice factors among CSSF produced in the United States and imported from China, Taiwan, and third countries were “sometimes” significant among sales of the domestic and imported products and, for the U.S. producers, the remaining responses indicated “never” significant. On the other hand, U.S. importers also asserted that nonprice factors were “always” or “frequently” significant and, less often, were “never” significant.

[30] U.S. producer and importer questionnaire responses, sections V-20 and IV-19, respectively.

[31] U.S. producer and importer questionnaire responses, sections V-21 and IV-20, respectively. Examples of nonprice factors referred to in the questionnaires included quality, availability, transportation network, product range, and technical support, but nonprice factors were not necessarily restricted to only these factors.

Table II-1
CSSF: Perceived degree of interchangeability among U.S.-produced CSSF and that imported from China, Taiwan, and nonsubject countries, based on sales in the U.S. market during January 2006-June 2009

Country pair	Number of U.S. producers' responses				Number of U.S. Importers' responses			
	A	F	S	N	A	F	S	N
United States vs.--								
China	4	2	1	-	10	10	5	1
Taiwan	4	2	1	-	11	9	4	-
Canada	4	2	1	-	12	6	2	-
Other countries[1]	3	2	1	-	10	5	5	-
China vs.--								
Taiwan	5	1	1	-	4	10	5	1
Canada	4	2	1	-	3	7	5	1
Other countries[1]	3	2	1	-	3	6	6	1
Taiwan vs.--								
Canada	4	2	1	-	7	6	4	1
Other countries[1]	3	2	1	-	5	5	5	1

[1] None of the responding firms identified specific other countries.

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

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

Table II-2
CSSF: Perceived degree of importance of differences in nonprice factors among U.S.-produced CSSF and that imported from China, Taiwan, and nonsubject countries, based on sales in the U.S. market during January 2006-June 2009

Country pair	Number of U.S. producers' responses				Number of U.S. importers' responses			
	A	F	S	N	A	F	S	N
United States vs.--								
China	1	-	4	2	4	6	10	4
Taiwan	-	-	5	2	2	6	9	3
Canada	-	-	3	3	1	3	9	4
Other countries[1]	-	-	4	2	3	4	8	4
China vs.--								
Taiwan	-	-	4	2	3	3	8	4
Canada	-	-	4	2	4	3	7	4
Other countries[1]	-	-	4	2	1	3	6	4
Taiwan vs.--								
Canada	-	-	4	2	2	5	4	5
Other countries[1]	-	-	4	2	1	3	5	4

[1] None of the responding firms identified specific other countries.

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

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

One U.S. producer and 15 U.S. importers provided comments on interchangeability and nonprice factors as requested. The lone responding U.S. producer, ***, reported "sometimes" for interchangeability and nonprice factors due to production and travel lead times. U.S. importers asserting "sometimes" or "never" for interchangeability and/or "always" or "frequently" for nonprice factors cited availability most often[32] followed by qualifying requirements of some suppliers,[33] quality, range of

[32] Those importers citing availability asserted that some CSSF products were not made in the United States, such as low carbon finished hex nuts, A307 bolts, and grade 2 products. On the other hand, *** reported shipments of these products during January 2006-June 2009 (petitioner's postconference brief, exh. 13).

[33] Respondents indicated that qualifying times for the Production Part Approval Process (PPAP) differ widely, depending on the OEM and product, ranging from a total of 3-12 months, which involves paperwork of 4-8 hours and up to several months for line trials (respondents' postconference brief, Response to Staff Questions, p. 8). On the other hand, the petitioner stated that the PPAP is routine and involves only paperwork of two to four hours, which Nucor charges $*** for filling out the forms, after which approvals are usually provided quickly (petitioner's postconference brief, pp. 21-22).

products, technical support, "Buy-America" laws/policies/preferences,[34] and customer preference for suppliers.

[34] Respondents indicated that some U.S. distributors maintain domestic-certified product lines to serve the "Buy America" market. They further indicated that this market was broadened by the "Buy America" requirements of the $787 billion American Recovery and Reconstruction Act (ARRA) of 2009, of which only $172 billion has been spent to date (respondents' postconference brief, p. 38 and Answers to Staff Questions, pp. 5-7). On the other hand, the petitioner indicated that "Buy America" provisions are relevant to only a tiny number of projects using CSSF, with the possible exception of projects under the ARRA of 2009 (petitioner's postconference brief, exh. 1, pp. 32-33).

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged subsidies and margins of dumping was presented earlier in this report and information on the volume of imports of CSSF is presented in *Part IV*. Information on the pricing of U.S. and imported subject products is presented in Part 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 nine firms that accounted for almost all U.S. production of CSSF in 2008.[1]

U.S. PRODUCERS

The Commission sent producer questionnaires to 36 U.S. companies identified in the petition and through independent staff research. Of these 36 companies, 9 provided useable data,[2] 7 certified that they had not produced CSSF since January 1, 2006,[3] 8 provided data for fasteners that were no longer considered CSSF once the scope of the investigations was finalized,[4] and 2 provided incomplete responses.[5] The remaining 10 provided no response.[6] Of the producers providing useable data, Nucor Fastener accounted for *** percent of U.S. production of CSSF in 2008. The remaining production was mainly by ***, which when combined with Nucor accounted for *** percent of U.S. production in 2008.

Presented in table III-1 is a list of domestic producers of CSSF, positions on the petition, U.S. production location(s), related and/or affiliated firms, and share of reported CSSF production in 2008.

[1] Two additional firms, *** and ***, certified that they produced CSSF, but did not provide useable questionnaire data. Based upon the limited questionnaire data received from these two firms, it is known that *** shipped approximately $*** worth of CSSF in 2007 and *** ships less than *** pounds of CSSF a year.

[2] Companies providing useable responses and reporting production of CSSF were ***.

[3] Companies certifying that they had not produced CSSF since January 1, 2006 were ***.

[4] These companies are ***.

[5] Companies producing subject CSSF but that provided incomplete responses were ***.

[6] One company, ***, did not provide questionnaire data but produces approximately *** pounds of CSSF a year. This is approximately *** percent of domestic CSSF production. Staff telephone interview with ***. Other possible producers *** and *** did not provide any information on CSSF despite the best efforts of Commission staff to obtain this information. These companies combined are believed by the petitioner to have made up *** percent of domestic CSSF production in 2008. Submission of Additional Information Related to the Calculation of Industry Standing, Declaration of ***, October 7, 2009.

Table III-1
CSSF: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and shares of 2008 reported U.S. production

Firm	Position on petition	U.S. production location(s)	Related and/or affiliated firms	Share of production (*percent*)
3V Fastener Co.	***	Corona, CA	***	***
Brunner Manufacturing Co., Inc.	***	Mauston, WI	None	***
Copper State Bolt & Nut Co.	***	Phoenix, AZ	None	***
Hill Fastener Corp.	***	Rock Falls, IL	None	***
MNP Corp.	***	Utica, MI Madison Heights, MI	***	***
Nucor Fastener	Support (petitioner)	St. Joe, IN	***	***
Quality Bolt & Screw Co.	***	Brecksville, OH	None	***
Telefast Industries Inc.	***	Berea, OH	None	***
Unytite, Inc.	***	Peru, IL	***	***

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

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

As indicated in table III-1, *** U.S. producers are related to foreign producers of the subject merchandise and are also related to U.S. importers of the subject merchandise. No U.S. producer directly imports the subject merchandise, and two companies (***) purchase the subject merchandise from U.S. importers.[7]

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Production capacity increased during the period for which data were collected. This increase is largely attributable to *** adding production equipment in 2008. In contrast, production and capacity utilization decreased substantially in the 2009 interim period compared with the same period in 2008, but remained relatively constant during 2006-08. U.S. producers' capacity was well below apparent U.S. consumption of CSSF in each year of the period for which data were collected.

[7] *** purchases of CSSF from U.S. companies importing from China and Taiwan totaled *** pounds in 2006, *** pounds in 2007, and *** pounds in 2008. These totals are *** CSSF produced by *** in the corresponding years, with the ratios of production to purchases of imports equaling *** percent, *** percent, and *** percent for 2006, 2007, and 2008 respectively. *** purchases from importers were *** relative to the company's production, with no more than *** pounds from China and Taiwan of CSSF purchased in a given year during the period for which data were collected. *** CSSF production exceeded *** in each of the three calendar years during this same period.

According to ***, the production declines in the 2009 interim period are attributable to increased competition with subject fasteners. *** producer of CSSF, ***, identified two factors, ***, as the reasons for the company's reduced production levels in 2009.[8]

Of the nine U.S. producers, *** reported production of other products using the same equipment and/or workers used to produce CSSFs.[9] U.S. producers' capacity, production, and capacity utilization data for CSSF are presented in table III-2 and figure III-1.

Table III-2
CSSF: U.S. capacity, production, and capacity utilization, 2006-08, January-June 2008, and January-June 2009

Item	Calendar year			January-June--	
	2006	2007	2008	2008	2009
Capacity (*1,000 pounds*)[1]	316,191	317,840	335,425	163,351	175,519
Production (*1,000 pounds*)	162,349	157,128	170,275	90,841	45,923
Capacity utilization (*percent*)	51.3	49.4	50.8	55.6	26.2

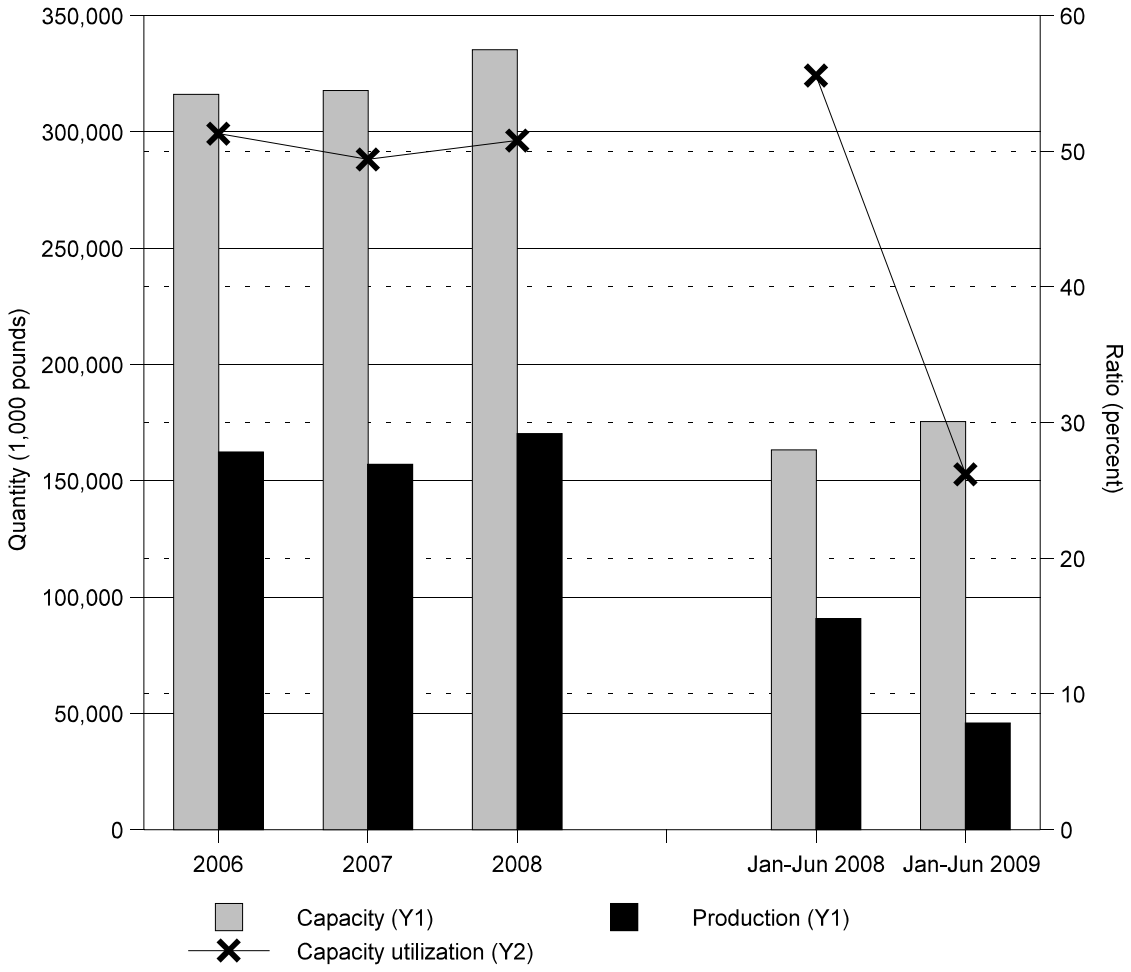
[1] *** reported capacity (production capability) based on operating 148 hours per week and 48 weeks per year. *** reported capacity (production capability) based on operating 80 hours per week and 48 weeks per year.

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

[8] E-mail from ***, October 22, 2009.

[9] *** reported that *** of its equipment and workers used in CSSF production were also used to produce other products in 2008, with the exception of the less than *** percent of these resources that was allocated to ***. *** producer of CSSF, ***, reported using *** percent of its production resources in the production of CSSF and the remaining *** percent in the production of fasteners for automotive applications.

Figure III-1
CSSF: U.S. producers' capacity, production, and capacity utilization, 2006-08, January-June 2008, and January-June 2009



Source: Table III-2.

U.S. PRODUCERS' SHIPMENTS

Data on U.S. producers' shipments of CSSF are presented in table III-3. Between 2006 and 2008 and during the 2009 interim period relative to the same period in 2008, total shipments declined on a quantity basis. On a value basis, total shipments increased from 2006 to 2008 but then decreased during the 2009 interim period relative to the 2008 interim period. Average unit values increased during each period for which data were collected.

Table III-3
CSSF: U.S. producers' shipments, by types, 2006-08, January-June 2008, and January-June 2009

Item	Calendar year			January-June--	
	2006	2007	2008	2008	2009
			Quantity (*1,000 pounds*)		
Commercial shipments	154,622	149,401	154,498	83,591	52,067
Internal consumption	0	0	0	0	0
Transfers to related firms	680	711	1,080	581	264
U.S. shipments	155,302	150,112	155,578	84,172	52,331
Export shipments	5,577	4,805	7,506	3,818	2,330
Total shipments	160,879	154,917	163,084	87,990	54,661
			Value (*1,000 dollars*)		
Commercial shipments	151,543	149,599	181,487	88,239	61,412
Internal consumption	0	0	0	0	0
Transfers to related firms	608	667	1,228	598	301
U.S. shipments	152,151	150,266	182,715	88,837	61,713
Export shipments	5,512	5,119	9,011	4,174	2,801
Total shipments	157,663	155,385	191,726	93,011	64,514
			Unit value (*per pound*)		
Commercial shipments	$0.98	$1.00	$1.17	$1.06	$1.18
Internal consumption	([1])	([1])	([1])	([1])	([1])
Transfers to related firms	0.89	0.94	1.14	1.03	1.14
U.S. shipments	0.98	1.00	1.17	1.06	1.18
Export shipments	0.99	1.07	1.20	1.09	1.20
Total shipments	0.98	1.00	1.18	1.06	1.18
			Share of quantity (*percent*)		
Commercial shipments	96.1	96.4	94.7	95.0	95.3
Internal consumption	0.0	0.0	0.0	0.0	0.0
Transfers to related firms	0.4	0.5	0.7	0.7	0.5
U.S. shipments	96.5	96.9	95.4	95.7	95.7
Export shipments	3.5	3.1	4.6	4.3	4.3
Total shipments	100.0	100.0	100.0	100.0	100.0

[1] Not applicable.

Note.–Because of rounding, figures may not add to the totals shown.

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

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of CSSF during the period for which data were collected are presented in table III-4.

Table III-4
CSSF: U.S. producers' end-of-period inventories, 2006-08, Jan.-June 2008, and Jan.-June 2009

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for CSSF are presented in table III-5. The number of production and related workers ("PRWs"), hours worked, wages paid, and unit labor costs all increased during the 2006-08 period, and then decreased during the 2009 interim period compared with the 2008 interim period. The decrease in the number of PRWs during the 2009 interim period reflects *** reductions in employment reported by ***. Additionally, unit labor costs increased substantially during the 2009 interim period compared with the 2008 interim period as a result of the decrease in production relative to employment at that time.

Table III-5
CSSF: U.S. producers' employment-related data, 2006-08, January-June 2008, and January-June 2009

Item	Calendar year			January-June--	
	2006	2007	2008	2008	2009
Production and related workers (PRWs)	458	461	468	472	446
Hours worked by PRWs (*1,000 hours*)	879	890	942	483	384
Hours worked per PRW	1,919	1,930	2,013	1,023	862
Wages paid to PRWs (*1,000 dollars*)	20,949	22,505	23,381	12,170	10,604
Hourly wages	$23.84	$25.29	$24.82	$25.21	$27.60
Productivity (*pounds produced per hour*)	184.7	176.6	180.8	188.2	119.5
Unit labor costs (*per pound*)	$0.13	$0.14	$0.14	$0.13	$0.23
Source: Compiled from data submitted in response to Commission questionnaires.					

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

U.S. IMPORTERS

Importer questionnaires were sent to 78 firms believed to be importers of subject CSSF, as well as to all U.S. producers of CSSF.[1] Usable questionnaire responses were received from 30 companies, representing the large majority of known CSSF imports from China and Taiwan between January 2006 and June 2009.[2] Table IV-1 lists the 10 largest responding U.S. importers of CSSF from China, Taiwan and other sources, their locations, and their shares of U.S. imports in 2008.

Table IV-1
CSSF: Ten largest reporting U.S. importers, U.S. headquarters, and shares of imports in 2008

* * * * * * *

U.S. IMPORTS

Table IV-2 presents data for U.S. imports of CSSF from China, Taiwan, and all other sources. U.S. imports of CSSF from China decreased on a quantity basis between 2006 and 2008 and between the interim periods of 2008 and 2009, but on a value basis imports from China increased from 2006 through 2008, and then decreased in the 2009 interim period relative to the same period in 2008. For Taiwan, CSSF imports increased on both a quantity and value basis in the 2006-08 period but then decreased in the 2009 interim period. Average unit values increased for imports of CSSF from both China and Taiwan during the 2006-08 period. While the average unit value of imports from China decreased in the 2009 interim period relative to the same period in 2008, for CSSF imports from Taiwan they increased. The import share of subject imports increased irregularly on both a quantity and value basis during the period for which data were collected.[3] [4] [5]

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[1] The Commission sent questionnaires to those firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs"), may have imported more than one percent of total imports from China or Taiwan under the aggregated data of HTS statistical reporting numbers 7318.15.2030, 7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085 in 2008 or in January-June 2009. Questionnaires were also sent to firms representing greater than one percent of total imports from China or Taiwan under statistical reporting number 7318.15.2030 during this period, as the petition identified this number as the only one that was entirely CSSF.

[2] Importer questionnaire responses were also submitted by six companies *** but were not received in useable form prior to the deadline for incorporation into the importer dataset. Two of these companies, *** and ***, reported CSSF imports in somewhat substantial quantities, but only ***'s imports were from a subject country (China). *** imports were all from Japan and were only used internally in the manufacture of motor vehicles.

[3] Four importers of CSSF from subject countries, ***, stated in their questionnaire responses that they import into foreign trade zones. None of these companies were large importers of CSSF during the period for which data were collected, with the largest of the four, ***, accounting for no more than *** percent of total CSSF imports in any given period.

[4] Three importers, ***, stated in their questionnaire responses that they import CSSF into bonded warehouses. The largest importer of the three, ***, was responsible for no more than *** percent of CSSF imports in any given period.

[5] Only limited data exist on imports of CSSF broken out by grade. Of the seven companies providing data on imports by grade, five reported imports of low-carbon CSSF in excess of 25 percent of the total value of their 2008 CSSF imports from China and/or Taiwan. Respondents' postconference brief, exh. 2.

Table IV-2
CSSF: U.S. imports, by sources, 2006-08, January-June 2008, and January-June 2009

Source	Calendar year			January-June	
	2006	2007	2008	2008	2009
			Quantity (*1,000 pounds*)		
China	167,934	157,618	158,457	78,076	58,784
Taiwan	186,889	201,916	202,437	94,658	54,011
Subject subtotal	354,823	359,534	360,895	172,734	112,795
Nonsubject	166,967	141,766	164,950	90,086	31,516
Total	521,790	501,300	525,845	262,820	144,311
			Value (*1,000 dollars*)[1]		
China	78,172	76,004	104,356	47,429	34,205
Taiwan	127,575	132,868	156,949	67,160	45,571
Subject subtotal	205,748	208,872	261,305	114,589	79,776
Nonsubject	165,986	145,608	179,842	91,676	38,647
Total	371,734	354,480	441,147	206,265	118,423
			Unit value (*per pound*)[1]		
China	$0.47	$0.48	$0.66	$0.61	$0.58
Taiwan	0.68	0.66	0.78	0.71	0.84
Subject subtotal	0.58	0.58	0.72	0.66	0.71
Nonsubject	0.99	1.03	1.09	1.02	1.23
Average	0.71	0.71	0.84	0.78	0.82
			Share of quantity (*percent*)		
China	32.2	31.4	30.1	29.7	40.7
Taiwan	35.8	40.3	38.5	36.0	37.4
Subject subtotal	68.0	71.7	68.6	65.7	78.2
Nonsubject	32.0	28.3	31.4	34.3	21.8
Total	100.0	100.0	100.0	100.0	100.0
			Share of value (*percent*)		
China	21.0	21.4	23.7	23.0	28.9
Taiwan	34.3	37.5	35.6	32.6	38.5
Subject subtotal	55.3	58.9	59.2	55.6	67.4
Nonsubject	44.7	41.1	40.8	44.4	32.6
Total	100.0	100.0	100.0	100.0	100.0

[1] Landed, U.S. port of entry, duty-paid.

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

CUMULATION CONSIDERATIONS

In assessing whether imports should be cumulated, the Commission determines whether U.S. imports from the subject countries compete with each other and with the domestic like product and has generally considered four factors: (1) fungibility; (2) presence of sales or offers to sell in the same geographic market; (3) common or similar channels of distribution; and (4) simultaneous presence in the market. Issues concerning channels of distribution and fungibility are addressed in *Part II* of this report. The remaining factors are addressed below.

Geographical Markets

Customs statistics showing imports of CSSF by port of entry into the United States are not available.[6] Additional information on geographic markets is provided in section V of this report. In its postconference brief, the petitioner argued that imports from the two subject countries are sold in the same geographic markets as each other and as the domestic like product.[7]

Simultaneous Presence in the Market

Pricing data submitted to the Commission show that imports of CSSF from China and Taiwan entered the United States in every quarter of the period for which data were collected.

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[8] 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.[9] Because reliable monthly import data from Customs statistics are not available for CSSF, July 2008-June 2009 questionnaire data are the best indicator of import volume for subject countries. Imports from China accounted for 34.2 percent of total reported imports of CSSF by quantity during that period, and imports from Taiwan accounted for 39.7 percent.

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[6] Using official import statistics does not provide accurate CSSF import data by port of entry, as five of the six Harmonized Tariff Schedule statistical reporting numbers identified in the petition as containing CSSF imports are "basket" categories containing large amounts of nonsubject fasteners.

[7] Petitioner's postconference brief, exh. 1, p. 9.

[8] 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)).

[9] Section 771(24) of the Act (19 U.S.C. § 1677(24)).

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of CSSF during the period for which data were collected are shown in table IV-3 and figure IV-1. Apparent U.S. consumption decreased during the period for which data were collected on a quantity basis. On a value basis, apparent consumption increased during the 2006-08 period but then decreased in the 2009 interim period relative to the same period in 2008.

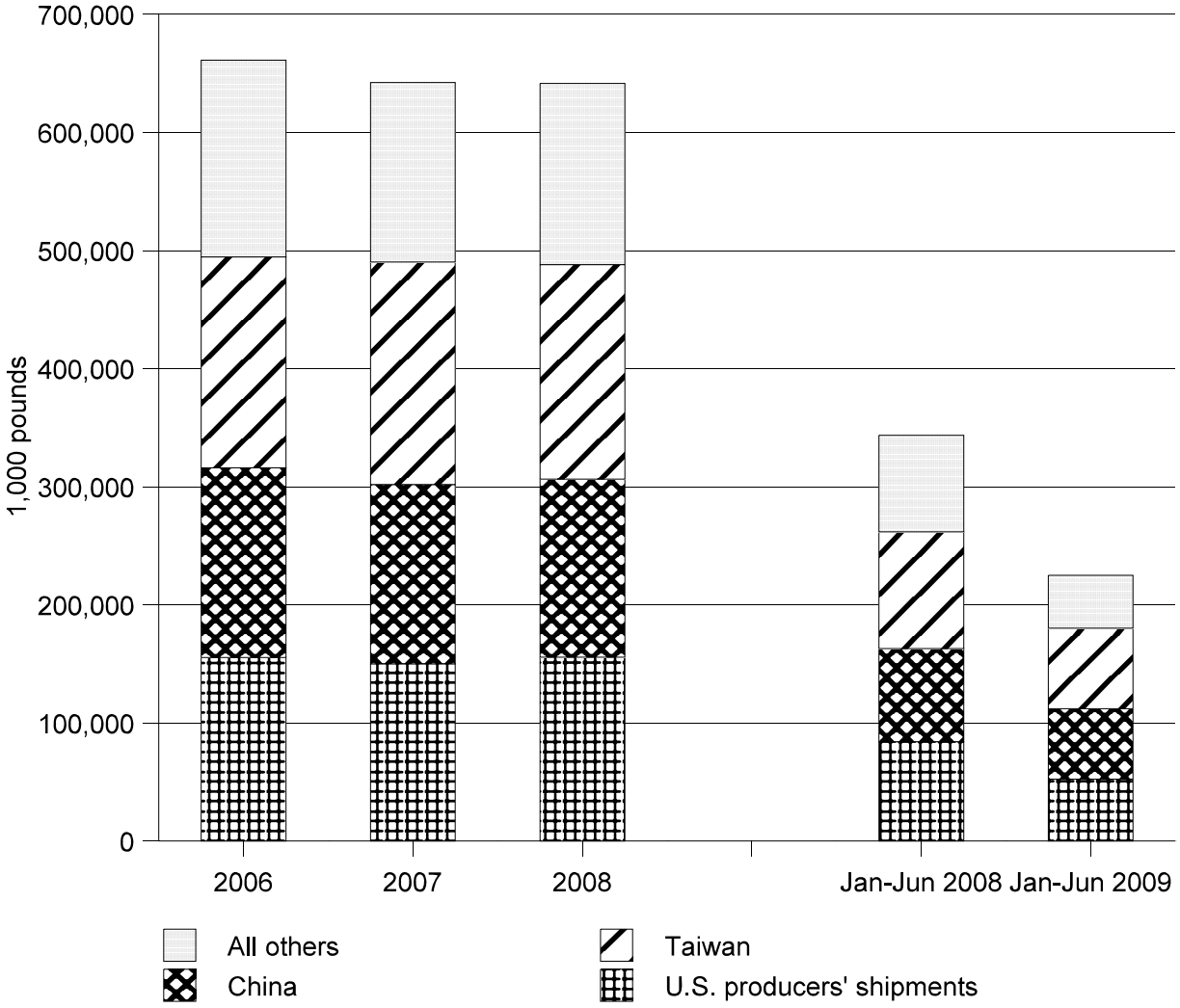
Table IV-3
CSSF: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2006-08, January-June 2008, and January-June 2009

Item	Calendar year			January-June	
	2006	2007	2008	2008	2009
	Quantity (*1,000 pounds*)				
U.S. producers' U.S. shipments	155,302	150,112	155,578	84,172	52,331
U.S. shipments of imports from–					
China	160,690	151,861	150,823	78,853	59,692
Taiwan	178,733	188,355	181,632	98,763	68,031
Subject subtotal	339,423	340,217	332,454	177,617	127,723
Nonsubject countries	166,598	152,027	153,579	81,683	44,976
Total U.S. imports	506,020	492,244	486,033	259,300	172,699
Apparent U.S. consumption	661,322	642,355	641,611	343,472	225,030
	Value (*1,000 dollars*)				
U.S. producers' U.S. shipments	152,151	150,266	182,715	88,837	61,713
U.S. shipments of imports from--					
China	108,100	103,072	125,608	62,053	48,385
Taiwan	140,527	154,695	177,278	93,155	71,448
Subject subtotal	248,627	257,767	302,886	155,208	119,833
Nonsubject countries	189,592	178,246	188,162	104,057	59,305
Total U.S. imports	438,219	436,013	491,048	259,265	179,138
Apparent U.S. consumption	590,370	586,279	673,763	348,102	240,851

Note.–Because of rounding, figures may not add to the totals shown.

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

Figure IV-1
CSSF: Apparent U.S. consumption, by sources, 2006-08, January-June 2008, and January-June 2009



Source: Table IV-3.

U.S. MARKET SHARES

U.S. market share data are presented in table IV-4. U.S. producers' market share increased, in both quantity and value terms, between 2006 and 2008 but was lower in the 2009 interim period than in the same period in 2008. The market share of CSSF imported from the subject countries combined increased slightly over the period for which data were collected.

Table IV-4
CSSF: U.S. consumption and market shares, 2006-08, January-June 2008, and January-June 2009

Item	Calendar year			January-June	
	2006	2007	2008	2008	2009
	Quantity (*1,000 pounds*)				
Apparent U.S. consumption	661,322	642,355	641,611	343,472	225,030
	Value (*1,000 dollars*)				
Apparent U.S. consumption	590,370	586,279	673,763	348,102	240,851
	Share of quantity (*percent*)				
U.S. producers' U.S. shipments	23.5	23.4	24.2	24.5	23.3
U.S. imports from--					
China	24.3	23.6	23.5	23.0	26.5
Taiwan	27.0	29.3	28.3	28.8	30.2
Subject subtotal	51.3	53.0	51.8	51.7	56.8
Nonsubject countries	25.2	23.7	23.9	23.8	20.0
All countries	76.5	76.6	75.8	75.5	76.7
	Share of value (*percent*)				
U.S. producers' U.S. shipments	25.8	25.6	27.1	25.5	25.6
U.S. imports from--					
China	18.3	17.6	18.6	17.8	20.1
Taiwan	23.8	26.4	26.3	26.8	29.7
Subject subtotal	42.1	44.0	45.0	44.6	49.8
Nonsubject countries	32.1	30.4	27.9	29.9	24.6
All countries	74.2	74.4	72.9	74.5	74.4

Note.–Because of rounding, figures may not add to the totals shown.

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

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of CSSF is presented in table IV-5. The ratio of subject imports to production was mostly unchanged during 2006-08, but then increased in the 2009 interim period relative to the same period in 2008. This increase can be mostly attributed to U.S. production decreasing by a greater percentage relative to the percentage decrease in subject imports during the same period.

Table IV-5
CSSF: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2006-08, January-June 2008, and January-June 2009

Item	Calendar year			January-June	
	2006	2007	2008	2008	2009
	Quantity (*1,000 pounds*)				
U.S. production	162,349	157,128	170,275	90,841	45,923
Imports from:					
China	167,934	157,618	158,457	78,076	58,784
Taiwan	186,889	201,916	202,437	94,658	54,011
Subject subtotal	354,823	359,534	360,895	172,734	112,795
Nonsubject countries	166,967	141,766	164,950	90,086	31,516
Total imports	521,790	501,300	525,845	262,820	144,311
	Ratio of U.S. imports to production (*percent*)				
Imports from:					
China	103.4	100.3	93.1	85.9	128.0
Taiwan	115.1	128.5	118.9	104.2	117.6
Subject subtotal	218.6	228.8	211.9	190.1	245.6
Nonsubject countries	102.8	90.2	96.9	99.2	68.6
Total imports	321.4	319.0	308.8	289.3	314.2

Note.–Because of rounding, figures may not add to the totals shown.

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

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICING

U.S. prices of CSSF can fluctuate based on demand factors such as overall U.S. economic activity and sectoral demand fluctuations such as in manufacturing and industrial construction.[1] On the supply side, prices of CSSF also can differ because of a number of factors such as raw material costs and product specifications, including but not restricted to grade and type of steel, length, diameter, and coating or finish. The prices of CSSF can also fluctuate due to the size of the shipment and to competition.[2]

Raw Material Costs

Total raw material costs averaged 53.0 percent of the responding U.S. producers' total costs of goods sold to produce CSSF during January 2006-June 2009. The principal raw material input used to produce domestic CSSF is steel rod, cold-heading quality; some producers also purchase the downstream cold-drawn steel wire rod/bar.[3] U.S. spot market quarterly prices of steel rod fluctuated sharply during April 2007-September 2009[4] as did spot prices of steel scrap during January 2006-September 2009 (figure V-1).[5]

As seen in figure V-1, prices of steel rod and steel scrap moved together,[6] although prices of steel scrap rose and fell more sharply than prices of steel rod. U.S. quarterly prices of steel rod fluctuated but increased from $35.26 per cwt (100 pounds) during April-June 2007 (the first quarter for which prices were available) to a period high of $62.08 per cwt by July-September 2008, or by 76.1 percent, before decreasing to a period low of $34.12 per cwt by April-June 2009, or by 45.0 percent from the period high, and then increasing somewhat to $35.41 per cwt by July-September 2009.[7]

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[1] Petition, volume I, p. 22.

[2] Part II discusses in detail substitution between CSSF and alternative products. Part V shows prices of U.S.-produced CSSF and that imported from subject and nonsubject countries, where the latter also compete with the domestic CSSF.

[3] E-mail from ***.

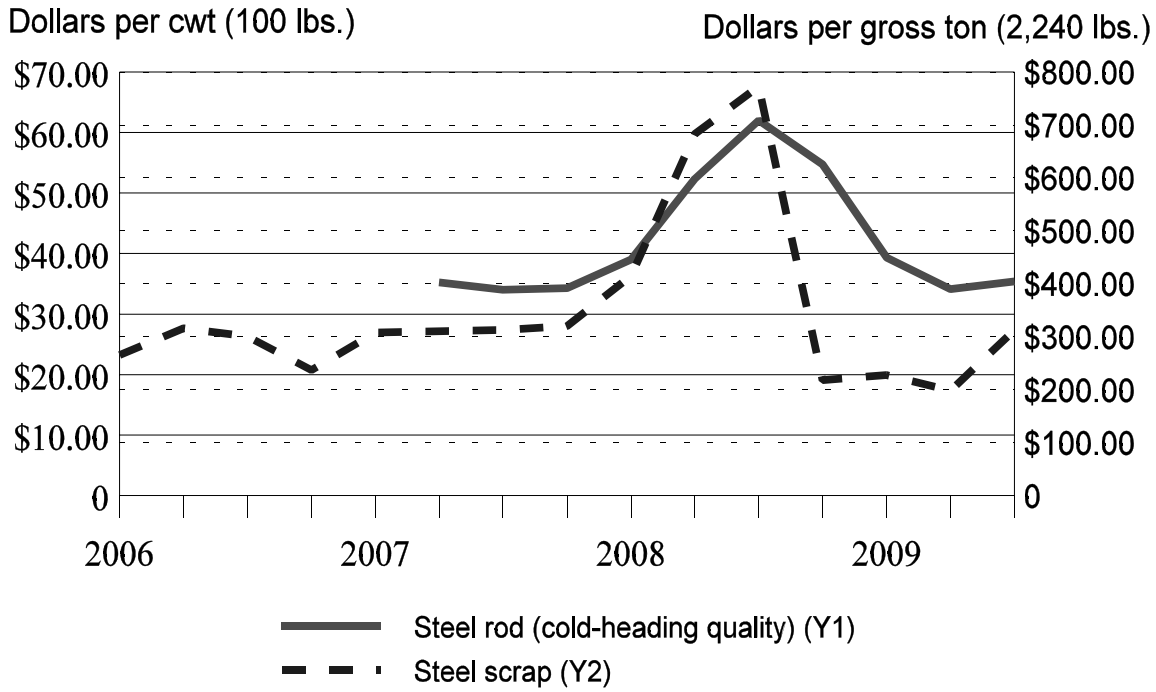
[4] Prices of steel rod are f.o.b. the mill and include surcharges for scrap and energy, but only for common carbon steel; prices do not include alloy surcharges or extras for alloy steel. These prices are intended to indicate price trends; specific prices any buyer pays reportedly will vary due to a number of factors, including volume, distribution issues, specification variances, surcharges mentioned above, packaging fees, and other market factors.

[5] Prices of steel scrap are the American Metal Market prices of No. 1 Busheling-Chicago steel scrap delivered to the customer; Nucor referenced this price series at the conference (conference transcript, p. 97 (McCoy)); *** commented on the price volatility of Busheling scrap as a major factor affecting steel prices (***).

[6] As noted earlier, prices of steel rod included the surcharge for steel scrap.

[7] Changes in U.S. producers' reported quarterly selling prices of four specified CSSF products shown later in Part V were correlated with the quarterly movements of the quarterly steel rod prices during April 2007-June 2009. The correlation coefficients between prices of the CSSF products and steel rod ranged from 73.5 percent for product 2 to 92.9 percent for product 3.

Figure V-1
Steel rod (cold-heading quality) and steel scrap: U.S. prices, by quarter, April 2007-September 2009 for steel rod and January 2006-September 2009 for steel scrap



Source: American Metal Market, http://www.amm.com/price/, retrieved September 29, 2009 and October 14, 2009.

U.S. CSSF producers described the changes in prices of their raw materials and other inputs that were used to produce CSSF during January 2006-June 2009 and they reported the impact of these input costs on their selling prices and quantities of CSSF during this period.[8] U.S. producers of CSSF generally cited the price volatility of carbon and alloy steel and energy (typically natural gas) inputs during January 2006-June 2009.[9] The U.S. producers also indicated that their selling prices of CSSF increased and volumes decreased as steel and energy costs increased. *** reported that they were unable to recoup the full increase in input costs in their selling prices due to prices of imported CSSF from China and Taiwan and that the subsequent decrease in input costs did not allow them to compete with the imported products.

Tariff Rates

The U.S. normal trade relations *ad valorem* import duty rate during January 2006-June 2009 was free for imports of CSSF, including those from China and Taiwan, under HTS subheadings 7318.15.20 and 7318.16.00, and 8.5 percent for imports of CSSF under HTS subheading 7318.15.80. Cap screws are subject to the 8.5 percent duty, whereas bolts are not. The NAFTA duty rate was free for imports of CSSF under all three HTSUS subheadings.

[8] U.S. producer questionnaire responses, sections V-13-14.

[9] In addition, *** cited an increase in fuel costs that led to higher shipping costs (Ibid.).

U.S. Inland Transportation Costs

Six U.S. producers of CSSF and 20 U.S. importers of the CSSF from China and Taiwan reported in their questionnaire responses the average U.S. freight costs to their U.S. customers' locations for their total sales of CSSF during January 2006-June 2009.[10] U.S.-inland freight costs for domestic CSSF averaged 3.2 percent of the delivered prices, and U.S.-inland freight costs of CSSF from the subject countries averaged 5.6 percent of the delivered prices.[11]

Nine U.S. producers and 22 U.S. importers of CSSF from China and Taiwan estimated their U.S. shipments of domestic and subject imported CSSF that were shipped to U.S. customers in three specified distance categories during January 2006-June 2009.[12] U.S. producers' and importers' reported shipment shares of domestic and subject imported CSSF during this period, by distance categories from their U.S. selling locations,[13] are shown in the following tabulation.

	Shares of U.S. commercial shipments (*percent*)	
Distance shipped	U.S.-produced	Imported from China and Taiwan
Within 100 miles	7.3	27.5
101 to 1,000 miles	71.0	27.6
Over 1,000 miles	21.7	45.0
Total	100.0	100.0
Note.–Totals may not add to 100.0 due to rounding.		

Nine U.S. producers of CSSF, 19 U.S. importers of CSSF from China, 19 importers of CSSF from Taiwan, and 16 importers of CSSF from nonsubject countries reported the U.S. geographic market area(s) during 2008 to which they shipped their domestic and subject imported CSSF.[14] The weighted-average U.S. shipment shares by each of the specified geographic areas for the subject products produced

[10] U.S. producer and importer questionnaire responses, sections V-8 and IV-8, respectively. *** responding U.S. producers reported that their customers arranged the U.S. freight (U.S. producer questionnaire responses, section V-7). On the other hand, 13 of 23 responding U.S. importers of CSSF from China and/or Taiwan reported that they arranged the U.S.-inland freight to their U.S. customer locations, whereas the 10 remaining importers of CSSF from the subject countries reported that their customers arranged the freight (U.S. importer questionnaire responses, section IV-7).

[11] U.S. producers of CSSF and importers of CSSF from China and Taiwan also reported the U.S. freight share of their delivered prices for four specified CSSF products sold to distributors during January-June 2009. These freight costs averaged 3.2 percent for U.S. producers for all four products, 4.9 percent for the imports from China, and 5.5 percent for the imports from Taiwan.

[12] U.S. producer and importer questionnaire responses, sections V-8 and IV-8, respectively.

[13] U.S. producers were requested to report shipping costs from their U.S. production facilities and U.S. importers were requested to report shipping costs from their U.S. ports-of-entry. The firms were also requested to include any freight to their U.S. warehouses if they sold their CSSF from such facilities.

[14] U.S. producer and importer questionnaire responses, sections IV-19 and III-22, respectively.

domestically and imported from China, Taiwan, and nonsubject coutries are shown in the following tabulation.

U.S. geographic area	Shares of 2008 U.S. commercial shipments (*percent*)			
	U.S.-produced	Imported from China	Imported from Taiwan	Imported from nonsubject countries
Northeast[1]	15.3	14.3	11.3	10.9
Midwest[2]	32.5	31.7	36.6	41.5
Southeast[3]	29.8	18.8	18.9	23.0
Central Southwest[4]	12.2	14.4	13.8	11.9
Mountains[5]	2.3	7.4	7.9	3.9
Pacific Coast[6]	7.8	12.5	10.5	8.4
Other[7]	-	0.8	1.0	0.5
Total	100.0	100.0	100.0	100.0

[1] Includes CT, ME, MA, NH, NJ, NY, PA, RI, and VT.
[2] Includes IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI.
[3] Includes AL, DE, DC, FL, GA, KY, MD, MS, NC, SC, TN, VA, and WV.
[4] Includes AR, LA, OK, and TX.
[5] Includes AZ, CO, ID, MT, NV, NM, UT, and WY.
[6] Includes CA, OR, and WA.
[7] Includes all other markets in the United States not previously listed, including AK, HI, PR, and VI, among others.

Note.–Totals may not add to 100.0 due to rounding.

PRICING PRACTICES[15]

Nine U.S. producers of CSSF, 20 U.S. importers of CSSF from China, and 20 importers of CSSF from Taiwan reported their 2008 U.S. commercial shipments by type of sale;[16] their shipment shares, based on quantity, are shown in the following tabulation.[17]

[15] Information on pricing practices discussed in this section was based on questionnaire responses of the U.S. producers and importers of the domestic and imported Chinese and Taiwanese CSSF, unless otherwise noted.

[16] U.S. producer and importer questionnaire responses, sections V-2 and IV-2, respectively.

[17] Spot sales are usually one-time delivery, within 30 days of the purchase agreement; short-term sales are for multiple deliveries for up to 12 months after the purchase agreement; and long-term sales are for multiple deliveries for more than 12 months after the purchase agreement. Short-term and long-term sales may be arranged by contracts or oral agreements.

Type of sale	Shares of 2008 U.S. commercial shipments (*percent*)		
	U.S.-produced	Imported from China	Imported from Taiwan
Spot sales	46.1	66.3	50.6
Short-term sales	32.7	30.5	38.6
Long-term sales	21.2	3.2	10.8
Total	100.0	100.0	100.0

U.S. producers of CSSF and importers of CSSF from the subject countries reported that spot sales prices were typically based on oral agreements where price lists were frequently used, whereas short-term and long-term contract sales prices were typically based on contracts.[18] Both U.S. producers and importers reported that they negotiated prices for all three types of sales lengths where the price of steel, production costs, the level of capacity utilization, general market conditions, and the size of the order were considered.[19] U.S. producers and importers reported that their long-term contracts typically ranged 2-3 years and, for U.S. producers, short-term contracts were typically 2-3 months, whereas for importers, short-term contracts were typically 12 months. U.S. producers reported that their long-term and short-term contracts typically allowed for price renegotiations,[20] fixed both price and quantity, and contained meet-or-release provisions. U.S. importers reported that their long-term and short-term contracts were about evenly divided as to whether there were price renegotiation provisions, whether the contracts fixed both price and quantity or just price, and whether there were meet-or-release provisions.

*** reporting U.S. producers of CSSF reported quoting prices on an f.o.b. plant basis, with the customer arranging the freight. On the other hand, 16 of the 26 responding U.S. importers of CSSF from China and/or Taiwan reported quoting prices on an f.o.b. U.S. warehouse basis and the remaining 10 importers reported quoting prices on a delivered basis; 13 of the 23 responding importers reported arranging the U.S. freight and 10 importers reported that the customer arranged the freight.[21] U.S. producers of CSSF and U.S. importers of CSSF from the subject countries typically offered payment terms of net 30 days, although some responding producers and importers also offered payment discounts of ½ to 2 percent if paid within 10 days.[22]

Nine U.S. producers of CSSF, 17 U.S. importers of CSSF from China, and 18 importers of CSSF from Taiwan reported their 2008 commercial shipments, by quantity, that were shipped from U.S. inventory or direct from U.S. production or from China or Taiwan and the number of days of lead time from the date of order to the date of delivery to U.S. customers.[23] Their aggregated responses are presented in the following tabulation.

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[18] U.S. producer and importer questionnaire responses, sections V-3 through V-5 and IV-3 through IV-5, respectively.

[19] Ibid. U.S. producers of CSSF and importers of CSSF from the subject countries generally reported offering quantity discounts; those producers and importers that reported offering no discounts also noted that the size of the order was a factor in determining price (U.S. producer and importer questionnaire responses, sections V-6 and IV-6, respectively).

[20] For short-term contracts, four U.S. producers reported price renegotiation provisions and four reported no price renegotiation provisions (U.S. producer questionnaire responses, section V-4).

[21] U.S. producer and importer questionnaire responses, sections V-7 and IV-7, respectively.

[22] Ibid.

[23] U.S. producer and importer questionnaire responses, sections V-9 and IV-9, respectively.

Shares of 2008 U.S. commercial shipments and lead times						
	U.S.-produced		Imported from China		Imported from Taiwan	
Shipment source	Share of U.S. shipments (*percent*)	Lead time (*days*)	Share of U.S. shipments (*percent*)	Lead time (*days*)	Share of U.S. shipments (*percent*)	Lead time (*days*)
U.S. inventory	40.0	17	94.4	3	93.8	3
U.S. production/foreign country	60.0	72	5.6	148	6.2	130
Total	100.0		100.0		100.0	

QUESTIONNAIRE PRICE DATA

U.S. selling value and quantity data were requested for sales to U.S. customers for the following four CSSF product categories produced in the United States and imported from China and Taiwan:[24] [25]

Product 1.--Heavy hex nut, A563, type 1 steel, Grade C, ¾ inch diameter and 10 threads per inch.

Product 2.–Heavy hex structural bolt, A325, type 1 steel, ¾ inch diameter by 2 inches long, 10 threads per inch, and not fully threaded.

Product 3.–Hex cap screw, Grade 5, type 1 steel, ½ inch diameter by 1-1/2 inches long, 13 threads per inch, fully threaded, and zinc-blue electroplated.

Product 4.–Hex cap screw, Grade 8, type 1 steel, 5/8 inch diameter by 2 inches long, 18 threads per inch, fully threaded, and zinc phosphate and oil coating.

The price data were based on quarterly net U.S. delivered selling price data of U.S. producers and importers for their shipments of the specified domestic CSSF products and those imported from China and Taiwan, during January 2006-June 2009, to U.S. distributors unrelated to the selling firms. In addition, each U.S. importer was requested to provide the selling price data for the specified products that they imported from their largest nonsubject country source.[26]

Three U.S. producers of CSSF, six U.S. importers of the specified CSSF products from China, and nine U.S. importers of CSSF from Taiwan reported useable price information, but not necessarily for

[24] The petitioners suggested these product categories and indicated that collecting prices on a delivered basis and in dollars per piece was appropriate (petition, pp. 24-25; staff telephone interview with ***, September 23, 2009; and e-mails from ***, September 23-24, 2009).

[25] Product 1 may involve low carbon (grade 2) or medium carbon (grade 5) steel, whereas products 2-4 involve only medium carbon steel (grades 5 or 8). ***. E-mail from ***, October 27, 2009.

[26] If the reporting firms sold their CSSF on a U.S. f.o.b. basis, they were requested to estimate, to the extent possible, the delivered price by adding to the f.o.b. price all U.S.-inland freight (actual and/or estimated) for U.S. shipments (1) direct from their U.S. plants or port(s)-of-entry and (2) for shipments from their U.S. warehouses (if not located at the plant/port-of-entry), the U.S. freight from the U.S. plant(s)/port(s)-of-entry to their warehouses and from the warehouses to distributors. The firms were requested to report the resulting effective delivered value and not to report transactions where they were unable to report values, either actual or adjusted, on a delivered basis.

all products or periods. In addition, three U.S. importers of CSSF also reported the requested price data for two nonsubject countries, Canada and Thailand.[27] The responding U.S. producers reported a total quantity (converted to pounds) of the U.S.-produced CSSF for pricing purposes during January 2006-June 2009 that accounted for 3.6 percent of their total reported U.S. commercial shipments of the U.S.-produced CSSF during this period.[28] The responding U.S. importers reported total sales quantities (converted to pounds) of the imported CSSF from the subject countries for pricing purposes during January 2006-June 2009 that accounted for 1.1 percent of total U.S. commercial shipments of imports of CSSF from China and 2.4 percent of imports of CSSF from Taiwan during this period. In addition, the responding U.S. importers reported total sales quantities (converted to pounds) of CSSF from the two nonsubject countries for pricing purposes during January 2006-June 2009 that accounted for 2.8 percent of total U.S. commercial shipments of imports of CSSF from nonsubject countries during this period.[29]

The total delivered sales quantities and values of the specified CSSF products to distributors for which U.S. producers and subject importers reported the requested pricing data during January 2006-June 2009 are shown in the following tabulation.

* * * * * * *

Although prices were collected in pieces, which is the way the U.S. producers and importers generally sell their CSSF products, weights and values may be better bases than pieces to make comparisons across the four products because of the different weights and prices for each product. As seen in the tabulation, by either weight or value, U.S. producers' sales were concentrated in products 2, 1, and 4; Chinese importers' sales were concentrated in product 1; and Taiwanese importers' sales were concentrated in products 2, 3, and 1.

Trends in weighted-average prices of the domestic CSSF and imported CSSF from China and Taiwan and comparisons of the weighted-average prices of the domestic and imported products from China and Taiwan are based on the responding firms' reported quarterly net delivered U.S. selling price data to distributors. Quarterly trends in weighted-average selling prices and total quantities of the domestic and subject imported specified products 1-4 are shown by products in tables V-1 through V-4, respectively, and in figures V-2a through V-2d, respectively; price comparisons between the domestic and the subject imported products are also shown in these tables. The reported quarterly quantities and weighted-average prices of the specified products 1-3 imported from Canada and products 1 and 3 imported from Thailand are briefly discussed in appendix D and shown in figures D-1 through D-3.

Table V-1
CSSF: Net weighted-average U.S. delivered selling prices and quantities of domestic and subject imported CSSF product 1 and margins of underselling/(overselling), by quarters, January 2006-June 2009

* * * * * * *

[27] U.S. importers reported the requested pricing data for products 1-3 from Canada and products 1 and 3 from Thailand.

[28] The weight measure is based on Nucor's reported weight equivalents for 100 pieces of each product for which pricing data were reported (e-mails from ***, October 8, 2009 and from ***, October 16, 2009.).

[29] The limited coverage ratios for the reported pricing data from U.S. producers and importers are due to the large number of CSSF products.

Table V-2
CSSF: Net weighted-average U.S. delivered selling prices and quantities of domestic and subject imported CSSF product 2 and margins of underselling/(overselling), by quarters, January 2006-June 2009

* * * * * * *

Table V-3
CSSF: Net weighted-average U.S. delivered selling prices and quantities of domestic and subject imported CSSF product 3 and margins of underselling/(overselling), by quarters, January 2006-June 2009

* * * * * * *

Table V-4
CSSF: Net weighted-average U.S. delivered selling prices and quantities of domestic and subject imported CSSF product 4 and margins of underselling/(overselling), by quarters, January 2006-June 2009

* * * * * * *

Figure V-2a
CSSF: Net weighted-average U.S. delivered selling prices and quantities of domestic and subject imported CSSF product 1, by quarters, January 2006-June 2009

* * * * * * *

Figure V-2b
CSSF: Net weighted-average U.S. delivered selling prices and quantities of domestic and subject imported CSSF product 2, by quarters, January 2006-June 2009

* * * * * * *

Figure V-2c
CSSF: Net weighted-average U.S. delivered selling prices and quantities of domestic and subject imported CSSF product 3, by quarters, January 2006-June 2009

* * * * * * *

Figure V-2d
CSSF: Net weighted-average U.S. delivered selling prices and quantities of domestic and subject imported CSSF product 4, by quarters, January 2006-June 2009

* * * * * * *

Price Trends

The weighted-average quarterly delivered selling prices and quantities of the specified CSSF products produced domestically and imported from China and Taiwan fluctuated during January 2006-June 2009 (tables V-1 through V-4 and figures V-2a through V-2d). Price trends of the domestic CSSF during January 2006-June 2009 appear to be influenced, at least partially, by price fluctuations of raw materials, including importantly the steel input. Quarterly prices of the domestic products increased to period highs during July-September 2008, as steel prices also reached their peak, and then decreased as steel prices fell. A summary of price trends and high/low prices for the domestic products and the imported products from China and Taiwan is shown in table V-5.

Quarterly delivered selling prices of the CSSF products 1-4 produced domestically and imported from the subject countries were generally at or above their initial period prices during January 2006-June 2009; the lone exception was prices of product 2 imported from Taiwan, where prices were lower than the initial period value during this period. Prices of domestic products 1-2 ended higher than their initial period values, while prices of domestic products 3-4 ended lower than their initial period values. Prices of products 1-4 imported from China ended higher than their initial period values. Prices of products 1-2 imported from Taiwan ended lower than their initial period values, while prices of products 3-4 from Taiwan ended higher than their initial period values.

U.S. producers' quarterly shipment quantities of products 1-4 decreased during January 2006-June 2009. Quarterly shipment quantities of products 1-2 imported from China generally increased during this period, while shipments of product 3 from China decreased and shipments of product 4 from China remained relatively stable. Quarterly shipment quantities of products 1-3 imported from Taiwan generally decreased during January 2006-June 2009, while shipments of product 4 from Taiwan remained relatively stable, but picked up somewhat during October 2008-June 2009.

Table V-5
CSSF: Summary of trends in quarterly weighted-average net delivered selling prices for domestic and subject imported CSSF products 1-4, by country of origin, January 2006-June 2009

* * * * * * *

Price Comparisons

A total of 53 and 55 quarterly price comparisons were possible between the domestic CSSF products 1-4 and those imported from China and Taiwan, respectively, that were shipped to U.S. distributors during January 2006-June 2009. In 52 selling price comparisons between the domestic and imported Chinese products, the imported products were priced less than the domestic products. In 51 selling price comparisons between the domestic and imported Taiwanese products, the imported products were priced less than the domestic products. The five remaining price comparisons between the domestic and imported products from the subject countries showed that the domestic products were priced less than the imported products.[30] The selling price comparisons are shown by period and by product based on quantity and on value for imported Chinese CSSF in table V-6a and for imported Taiwanese CSSF in table V-6b.

Table V-6a
CSSF: Number of quarterly net weighted-average U.S. delivered selling price comparisons between U.S.-produced and imported CSSF from China, January 2006-June 2009

* * * * * * *

Table V-6b
CSSF: Number of quarterly net weighted-average U.S. delivered selling price comparisons between U.S.-produced and imported CSSF from Taiwan, January 2006-June 2009

* * * * * * *

[30] Prices of specified CSSF products 2-4 imported from Taiwan were generally higher than prices of the products from China during January 2006-June 2009; prices of product 1 imported from Taiwan were consistently lower than prices of product 1 from China. As noted earlier, the product 1 prices from Taiwan were heavily influenced by large volumes and low prices of a single importer.

LOST REVENUES AND LOST SALES

In the petition, Nucor reported that it had lost revenues and sales to the imported CSSF from China and Taiwan during January 2006-June 2009, but did not provide the information needed for the staff to investigate.[31] The petitioner reported that Nucor does not keep detailed lost revenue/sales information or have this information within its control as it sells through distributors; the latter reportedly do not provide Nucor with such information compared to end users.[32]

The U.S. producer questionnaire requested information on lost revenue and lost sales of CSSF for the products imported from China and Taiwan during January 2006-June 2009.[33] Two U.S. producers, ***, provided a total of two lost revenues allegations and seven lost sales allegations as a result of competition with imported CSSF from China and Taiwan during January 2006-June 2009. One U.S. producer, ***, provided a list of customers to whom it lost sales prior to 2006. In addition, two other U.S. producers indicated losing revenue and three U.S. producers indicated losing sales of CSSF to the imported products from China and Taiwan, but were unable to provide any information.[34] [35] On the other hand, seven other U.S. producers reported that they had not lost revenues and four producers reported that they had not lost sales to the subject imported products.[36]

The two lost revenue allegations totaled $1,598.75 and the seven lost sales allegations totaled $216,948. Responding purchasers disagreed with one of the lost revenue allegations, 4 of the lost sales allegations, and was unfamiliar with the product cited in another lost sales allegation. There were no responses for the remaining lost revenue and lost sales allegation. The purchasers cited in the lost revenue and lost sales allegations in the questionnaire responses, the transaction information supplied by the U.S. producers, and whether the responding purchasers agreed or disagreed with the allegations are shown in tables V-7 and V-8, respectively. Any additional comments of the responding purchasers are discussed following the tables.

Table V-7
CSSF: U.S. producers' lost revenue allegations

* * * * * * *

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

* * * * * * *

[31] Petition, vol. I, pp. 27-28 and petitioner's postconference brief, Answers to Staff Questions, p. 28.

[32] E-mail from ***, October 2, 2009.

[33] U.S. producer questionnaire responses, sections VII-2 (lost revenues) and VII-3 (lost sales).

[34] One of the latter three producers, ***, reported that customers provide general feedback that Chinese and Taiwanese pricing is lower, resulting in lower sales for the firm. *** stated that it cannot provide specific examples and documentation.

[35] *** was one of the firms indicating that it had lost revenues and sales, but did not provide any allegations where requested in its questionnaire rsponse. In response to section V-6 of the U.S. producer questionnaire asking about discount policies, *** provided six allegations of lost revenue/sales that involved generalized information, but no contact information. *** provided contact information ***, but did not provide fax numbers as requested. The staff notes that these allegations predated the filing of the petition ***. Because this information was provided so late in the investigations, the staff was unable to follow up.

[36] One of the seven producers, ***, stated that the prices of CSSF from China and Taiwan are so low that the firm does not bother to provide competing price quotes when product from these countries is being considered by a potential customer.

***.[37]
***.

Purchasers cited in lost revenue and lost sales allegations were also asked (1) whether they switched purchases of CSSF from U.S. producers to products imported from China and/or Taiwan and, if they did switch, they were asked if price was the reason; and (2) whether U.S. producers reduced their prices of CSSF to compete with suppliers of CSSF from China and/or Taiwan during January 2006-June 2009. Only two purchasers, ***, responded. *** responded "Yes" to question 1 for CSSF from both China and Taiwan, but indicated that its shift to CSSF imported from China and Taiwan from that produced domestically was not as a result of price. *** cited availability and lead times as the reasons for the shift to the subject imported CSSF and asserted that there was not enough capacity or range of products from U.S. producers. *** responded "No" to question 2 for both China and Taiwan, explaining that U.S. producers adjusted their prices up or down according to changes in material prices, scrap surcharges, energy costs, and plating costs. *** indicated "No" to both questions for CSSF from China and from Taiwan.

[37] ***.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

The same nine producers that provided production and shipment data also provided financial data on their CSSF operations.[1] There was no reported internal consumption, and transfers to related parties were minimal, accounting for approximately one-half percent of sales quantities and values every period. Accordingly, they are being presented together with commercial sales.

OPERATIONS ON CSSF

Income-and-loss data for U.S. producers of CSSF are presented in table VI-1, and selected company-specific financial data are presented in table VI-2. In sum, sales and profitability increased measurably between 2006 and 2008, and then were both sharply lower during January-June 2009 compared to the same period in 2008.[2] From 2006 to 2008, steadily improving unit sales values offset (in 2007) and then augmented (in 2008) fluctuations in sales quantities, resulting in a 22-percent increase in the absolute value of sales. Operating income more than followed suit, as the industry was able to increase its unit sales values by several cents per pound more than the $0.14 per pound increase in unit operating costs[3] (which was largely attributable to raw materials). The improvement in financial results was widespread, as eight of the nine firms reported increases in the absolute value of operating profits and the unit value of sales, and seven reported increases in the absolute value of sales and in their operating margin (see table VI-2).

The improving financial situation reversed itself when comparing January-June 2009 to January-June 2008. Sales quantities were down by more than one-third, and every level of profitability was down by every measure. Unit sales values were $0.12 per pound higher in the first half of 2009 than in the first half of 2008, but unit operating costs were $0.18 per pound higher, led by raw materials ($0.08 per pound higher), although other factory costs and direct labor were $0.05 and $0.04 per pound higher, respectively. The decline in financial results was as widespread as was the increase during 2006-08, as seven firms reported decreases in the absolute quantity and value of sales, the absolute value of operating profits, and their operating margins (see table VI-2). Moreover, five firms reported operating losses in the first half of 2009, while only one or two reported an operating loss during the preceding periods.

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[1] The producers and their respective fiscal year ends if other than December 31 are Brunner, Copper State (April 30; reported data for years ending April 30 of 2007-09, Hill Fastener, MNP (November 30), Nucor, Quality Bolt (June 30; reported data for years ending June 30 of 2007-09, Telefast, Unytite, and 3V.

[2] See footnote 1 in table VI-1 for a discussion of possible issues with the financial data.

[3] Cost of goods sold and selling, general, and administrative (SG&A) expenses combined.

Table VI-1
CSSF: Results of operations of U.S. producers, 2006-08, January-June 2008, and January-June 2009

Item	Fiscal year			January-June	
	2006	2007	2008	2008	2009
	Quantity (*1,000 pounds*)				
Total net sales	163,203	157,167	166,014	89,199	55,597
	Value (*$1,000*)				
Total net sales	158,202	156,725	192,510	93,688	65,237
Cost of goods sold:					
Raw materials	61,929	60,428	81,795	38,437	28,452
Direct labor	17,882	18,926	20,419	10,065	8,408
Other factory costs	40,161	39,709	44,254	21,487	16,097
Total cost of goods sold	119,972	119,063	146,468	69,989	52,957
Gross profit	38,230	37,662	46,042	23,699	12,280
SG&A expense	25,613	20,517	24,305	12,307	8,478
Operating income[1]	12,617	17,145	21,737	11,392	3,802
Other (income) or expense, net	(438)	(98)	770	344	619
Net income or (loss)	13,055	17,243	20,967	11,048	3,183
Depreciation	3,926	3,712	4,325	2,258	2,459
Cash flow	16,981	20,955	25,292	13,306	5,642
	Ratio to net sales (*percent*)				
Cost of goods sold:					
Raw materials	39.1	38.6	42.5	41.0	43.6
Direct labor	11.3	12.1	10.6	10.7	12.9
Other factory costs	25.4	25.3	23.0	22.9	24.7
Average COGS	75.8	76.0	76.1	74.7	81.2
Gross profit	24.2	24.0	23.9	25.3	18.8
SG&A expenses	16.2	13.1	12.6	13.1	13.0
Operating income[1]	8.0	10.9	11.3	12.2	5.8
	Number of companies reporting				
Operating losses	2	2	1	1	5
Data	9	9	9	9	9

Table continued on next page.

Table VI-1--*Continued*
CSSF: Results of operations of U.S. producers, 2006-08, January-June 2008, and January-June 2009

Item	Fiscal year			January-June	
	2006	2007	2008	2008	2009
	Unit value (*per pound*)				
Net sales	$0.97	$1.00	$1.16	$1.05	$1.17
Cost of goods sold:					
Raw materials	0.38	0.38	0.49	0.43	0.51
Direct labor	0.11	0.12	0.12	0.11	0.15
Other factory costs	0.25	0.25	0.27	0.24	0.29
Average COGS	0.74	0.76	0.88	0.78	0.95
Gross profit	0.23	0.24	0.28	0.27	0.22
SG&A expenses	0.16	0.13	0.15	0.14	0.15
Operating income[1]	0.08	0.11	0.13	0.13	0.07

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

[1] *** producers – *** – had difficulty preparing profit-and-loss statements for CSSF only, and instead estimated all of their CSSF costs based upon the ratio of CSSF sales to all fastener sales. As a result, the profit margin for CSSF and all other fasteners was the same. The ITC staff discourages producers in any investigation from estimating all of their costs in such a manner, because the resulting cost structure and profitability will be the same for any and all products, and this is often not the case. While it may be reasonable to base some costs, such as SG&A expenses and interest expense, on the ratio of subject merchandise sales to all sales, it is seldom reasonable to base cost of goods sold (direct materials, direct labor, and other factory costs) on such a ratio. Producers must instead review their accounting and cost records and determine the actual costs of the subject merchandise (in this case CSSF). The problems associated with basing all costs upon the relative sales ratio becomes more pronounced when the subject merchandise makes up a relatively small portion of the overall sales. This was the case for *** of the four named producers. Finally, the issue becomes particularly pronounced when the overall sales contain a wide mix of high and low value products. In this particular case, the named producers ***.

The four named producers accounted for *** percent of sales values in every period. Their average operating margins for fiscal years 2006, 2007, 2008, January-June 2008, and January-June 2009, and the operating margins of the five other producers, are as follows:

	Fiscal year			January-June	
	2006	2007	2008	2008	2009
Operating margins:					
Four named producers	***	***	***	***	***
Five other producers	***	***	***	***	***

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

Table VI-2
CSSF: Selected results of operations of U.S. producers, by firm, 2006-08, January-June 2008, and January-June 2009

* * * * * * *

As discussed at the staff conference, the producers' operating costs increased from 2006 to 2009.[4] The unit cost of raw materials (primarily cold-heading quality (CHQ) steel rod) increased by $0.13 per pound, with most of the increase occurring from 2007 to 2008. This agrees with the data in figure V-1, which shows the price for number 1 busheling scrap out of Chicago (the main input for CHQ rod) increasing from approximately $300 per gross ton ($0.13 per pound) to as much as $750 per gross ton $0.33 per pound) for a time in mid-2008 before falling to $200 per gross ton ($0.09 per pound) by late 2008.[5]

The unit cost of direct labor and other factory costs both increased by $0.04 per pound during the same time frame, with essentially all of the increase occurring during the first half of 2009. As indicated in table VI-1, the absolute values of these costs were lower by approximately 16 and 25 percent, respectively, in January-June 2009 than in January-June 2008. However, since the relative decreases for these semi-fixed costs were much less than the decrease in sales quantities (approximately 38 percent), the unit costs for both increased.

A variance analysis for the operations of U.S. producers of CSSF is presented in table VI-3. The information for this variance analysis is derived from table VI-1. The analysis confirms the previous discussion – the increase in operating income from 2006 to 2008 was the result of revenues increasing faster than costs, and operating income was lower in January-June 2009 compared to January-June 2008 because costs increased faster than revenues and sales volumes declined sharply. The summary at the bottom of the table illustrates that from 2006 to 2008 the positive effect of increased prices ($31.6 million) was somewhat offset by increased costs ($22.7 million); comparing interim 2009 to 2008, the combined negative effect of increased costs ($10.1 million) and decreased sales volume ($4.3 million) was more than twice as much as the positive effect of increased prices ($6.8 million).

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Capital expenditures and research and development ("R&D") expenses are shown in table VI-4.

ASSETS AND RETURN ON INVESTMENT

Data on the U.S. producers' total assets and their return on investment ("ROI") are presented in table VI-5.

[4] Conference transcript, p. 97 (McCoy).

[5] Conference transcript, p. 97 (McCoy).

Table VI-3
CSSF: Variance analysis on the operations of U.S. producers, 2006-08, and January-June 2008 to January-June 2009

Item	Between fiscal years			Jan.-June
	2006-08	2006-07	2007-08	2008-09
	Value (*$1,000*)			
Total net sales:				
Price variance	31,583	4,374	26,963	6,842
Volume variance	2,725	(5,851)	8,822	(35,293)
Total net sales variance	34,308	(1,477)	35,785	(28,451)
Cost of sales:				
Cost variance	(24,430)	(3,528)	(20,703)	(9,333)
Volume variance	(2,066)	4,437	(6,702)	26,365
Total cost of sales variance	(26,496)	909	(27,405)	17,032
Gross profit variance	7,812	(568)	8,380	(11,419)
SG&A expenses:				
Expense variance	1,749	4,149	(2,633)	(807)
Volume variance	(441)	947	(1,155)	4,636
Total SG&A variance	1,308	5,096	(3,788)	3,829
Operating income variance	9,120	4,528	4,592	(7,590)
Summarized as:				
Price variance	31,583	4,374	26,963	6,842
Net cost/expense variance	(22,680)	621	(23,336)	(10,141)
Net volume variance	217	(467)	965	(4,291)

Note.--Unfavorable variances are shown in parentheses; all others are favorable.

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

Table VI-4
CSSF: Capital expenditures and research and development expenses of U.S. producers, 2006-08, January-June 2008, and January-June 2009

Item	Fiscal year			January-June	
	2006	2007	2008	2008	2009
	Value (*1,000 dollars*)				
Capital expenditures:					
Brunner	***	***	***	***	***
Copper State	***	***	***	***	***
Hill Fastener	***	***	***	***	***
MNP	***	***	***	***	***
Nucor	***	***	***	***	***
Quality Screw	***	***	***	***	***
Safety Socket	***	***	***	***	***
Telefast	***	***	***	***	***
Unytite	***	***	***	***	***
3V	***	***	***	***	***
Total	2,692	3,227	6,412	***	***
R&D expenses:					
Brunner	***	***	***	***	***
Copper State	***	***	***	***	***
Hill Fastener	***	***	***	***	***
MNP	***	***	***	***	***
Nucor	***	***	***	***	***
Quality Screw	***	***	***	***	***
Safety Socket	***	***	***	***	***
Telefast	***	***	***	***	***
Unytite	***	***	***	***	***
3V	***	***	***	***	***
Total	***	***	***	***	***

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

Table VI-5
CSSF: U.S. producers' total assets and return on investment, fiscal years 2006-08

Item	Fiscal year		
	2006	2007	2008
Value of assets:	**Value (*$1,000*)**		
Current assets:			
Cash and equivalents	1,713	1,735	2,654
Accounts receivable, net	12,762	13,247	12,741
Inventories	32,481	34,789	44,702
Other	739	2,667	1,095
Total current assets	47,695	52,438	61,192
Property, plant and equipment:			
Original cost	79,405	84,050	92,411
Less: accumulated depreciation	60,788	65,006	70,709
Equals: book value	18,617	19,044	21,702
Other non-current assets	293	304	284
Total assets	66,605	71,786	83,178
Operating income	12,617	17,145	21,737
		Share *(percent)*	
Return on investment	18.9	23.9	26.1

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

CAPITAL AND INVESTMENT

The Commission requested U.S. producers of CSSF to describe any actual or potential negative effects of imports of CSSF from China and Taiwan on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Their responses are as follows:

Since January 1, 2006, has your firm experienced any actual effects on its return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of CSSF from China and/or Taiwan?

Brunner	***
Copper State	***
Hill Fastener	***
MNP	***
Nucor	***
Quality Bolt	***
Telefast	***
Unytite	***
3V	***

Does your firm anticipate any negative impact of imports of CSSF from China and/or Taiwan?

Brunner	***
Copper State	***
Hill Fastener	***
MNP	***
Nucor	***
Quality Bolt	***
Telefast	***
Unytite	***
3V	***

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the nature of the alleged subsidies was presented earlier in this report; information on the volume of imports of the subject merchandise is presented in Parts IV; information on the pricing of U.S. and imported subject products is presented in Part 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 CHINA

The Commission requested data from 34 firms in China believed to be possible producers of CSSF. Of these firms, 11 provided questionnaire responses containing useable data, two certified that they had not produced or exported CSSF since January 1, 2006, and 21 did not provide responses. The largest responding firm in terms of production, ***, estimated that it accounted for *** percent of production of CSSF in China and *** percent of exports of CSSF from China to the United States.

Table VII-1 presents aggregated data reported by producers in China. Between 2006 and 2008, capacity, inventories, and exports increased, whereas production, home-market shipments, and total shipments decreased; the magnitude of the changes was generally minor, although inventories increased substantially. Nearly all indicators decreased in January-June 2009 compared to the levels in January-June 2008. Virtually all projections also show decreases. One foreign producer, ***, attributed its conservative projections to the current global recession.

Table VII-1
CSSF: China's reported production capacity, production, shipments, and inventories, 2006-08, January-June 2008, January-June 2009, and projections for 2009 and 2010

* * * * * * *

THE INDUSTRY IN TAIWAN

The Commission requested data from 23 firms in Taiwan believed to be possible producers or exporters of CSSF. Of these firms, 39 provided questionnaire responses containing useable data and 11 certified that they had not produced or exported CSSF since January 1, 2006.[1] ***, the largest responding foreign producer in terms of production, estimated that it accounted for *** percent of 2008 total production of CSSF in Taiwan and *** percent of 2008 exports of CSSF from Taiwan to the United States. All other Taiwanese firms responding to the Commission's questionnaire were *** smaller (based

[1] More questionnaires were received than sent because staff believes that the Taiwan industry association circulated the Commission's questionnaire among its members to increase participation in these investigations.

on production) than ***.[2] The Taiwan International Fastener Institute estimated total CSSF production capacity in Taiwan to be *** pounds per year.[3]

Between 2006 and 2008, nearly all indicators reported by the Taiwanese firms decreased, with production decreasing the most both absolutely and in percentage terms (table VII-2). Nearly all indicators also decreased in January-June 2009 compared with the levels in January-June 2008, especially production. Projections for 2009 and 2010 show substantial decreases from 2008 levels.

Table VII-2
CSSF: Taiwan's reported production capacity, production, shipments, and inventories, 2006-08, January-June 2008, January-June 2009, and projections for 2009 and 2010

* * * * * * *

THE INDUSTRIES IN CHINA AND TAIWAN COMBINED

Table VII-3 presents aggregate data for the reporting producers of CSSF in China and Taiwan.

Table VII-3
CSSF: Subject countries' reported production capacity, production, shipments, and inventories, 2006-08, January-June 2008, January-June 2009, and projections for 2009 and 2010

Item	Actual experience					Projections	
				January-June			
	2006	2007	2008	2008	2009	2009	2010
	Quantity (*1,000 pounds*)						
Capacity	809,463	799,717	815,641	400,327	371,132	706,218	703,777
Production	676,430	685,839	662,352	347,681	204,895	426,885	447,943
End of period inventories	92,120	114,876	123,396	101,899	121,870	112,466	98,866
Shipments:							
Internal consumption	5,914	9,502	8,416	3,609	3,845	8,299	8,317
Home market	185,536	187,114	161,465	98,457	78,924	165,221	176,363
Exports to--							
The United States	305,440	277,870	300,107	147,391	85,297	173,974	177,039
All other markets	259,128	276,904	269,158	147,677	83,651	164,502	175,937
Total exports	564,568	554,774	569,265	295,067	168,948	338,475	352,976
Total shipments	756,019	751,389	739,146	397,133	251,717	511,996	537,656

Table continued on next page.

[2] One large producer of fasteners in Taiwan, ***, provided a questionnaire response claiming CSSF production, but according to the company website ***, the company produces "vehicle fasteners." Staff repeatedly attempted to contact *** to confirm the nature of the company's fastener operations but no further information was obtained. *** was therefore excluded from the dataset.

[3] Respondents' postconference brief, exh. 1, p. 1 (Chen).

Table VII-3--*Continued*
CSSF: Subject countries' reported production capacity, production, shipments, and inventories, 2006-08, January-June 2008, January-June 2009, and projections for 2009 and 2010

Item	Actual experience					Projections	
				January-June			
	2006	2007	2008	2008	2009	2009	2010
	Ratios and shares (*percent*)						
Capacity utilization	83.6	85.8	81.2	86.8	55.2	60.4	63.6
Inventories to production	13.6	16.7	18.6	14.7	29.7	26.3	22.1
Inventories to total shipments	12.2	15.3	16.7	12.8	24.2	22.0	18.4
Share of total quantity of shipments:							
Internal consumption	0.8	1.3	1.1	0.9	1.5	1.6	1.5
Home market	24.5	24.9	21.8	24.8	31.4	32.3	32.8
Exports to--							
The United States	40.4	37.0	40.6	37.1	33.9	34.0	32.9
All other markets	34.3	36.9	36.4	37.2	33.2	32.1	32.7
All export markets	74.7	73.8	77.0	74.3	67.1	66.1	65.7

Note.–Because of rounding, figures may not add to the totals shown.

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

U.S. IMPORTERS' INVENTORIES

Reported end-of-period inventories of CSSF held by U.S. importers of subject merchandise from China and Taiwan are shown in table VII-4. Inventories of CSSF from both China and Taiwan, as a ratio to imports and to U.S. shipments of imports from each of those countries, were over 50 percent in 2008 and were over 70 percent in January-June 2009. Inventories of imports from all other sources were also large as a ratio to imports and U.S. shipments of imports.

Table VII-4
CSSF: U.S. importers' end-of-period inventories of imports, 2006-08, January-June 2008, and January-June 2009

Source	Calendar year			January-June	
	2006	2007	2008	2008	2009
Imports from China:					
Inventories (*1,000 pounds*)	88,977	87,158	88,886	79,870	84,897
Ratio to imports (*percent*)	53.0	55.3	56.1	51.1	72.2
Ratio to U.S. shipments of imports (*percent*)	55.4	57.4	58.9	50.6	71.1
Imports from Taiwan:					
Inventories (*1,000 pounds*)	91,836	90,138	104,071	86,097	96,303
Ratio to imports (*percent*)	49.1	44.6	51.4	45.5	89.2
Ratio to U.S. shipments of imports (*percent*)	51.4	47.9	57.3	43.6	70.8
Imports from subject sources:					
Inventories (*1,000 pounds*)	180,813	177,296	192,957	165,967	181,201
Ratio to imports (*percent*)	51.0	49.3	53.5	48.0	80.3
Ratio to U.S. shipments of imports (*percent*)	53.3	52.1	58.0	46.7	70.9
Imports from all other sources:					
Inventories (*1,000 pounds*)	45,571	38,899	50,254	50,142	45,368
Ratio to imports (*percent*)	27.3	27.4	30.5	27.8	72.0
Ratio to U.S. shipments of imports (*percent*)	27.4	25.6	32.7	30.7	50.4
Imports from all sources:					
Inventories (*1,000 pounds*)	226,384	216,194	243,210	216,109	226,568
Ratio to imports (*percent*)	43.4	43.1	46.3	41.1	78.5
Ratio to U.S. shipments of imports (*percent*)	44.7	43.9	50.0	41.7	65.6

Note.– Partial-year ratios are based on annualized import and shipment data.

Note.– Importer *** imports, shipments, and inventories do not reconcile. The firm reported that its database is extremely fragmented and sometimes lacks key information, such as product weight and country of origin.

Note.– Importer *** imports, shipments, and inventories do not reconcile. The firm's inventory data do not differentiate based on foreign or domestic sources.

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

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of CSSF after June 30, 2009. Table VII-5 presents importers' responses by source.

Table VII-5
CSSF: U.S. importers' current orders, by source, imported or arranged for importation after June 30, 2009

Source	July-Sept. 2009	Oct.-Dec. 2009	Jan.-Mar. 2010	After Mar. 2010	Total
	Quantity (*1,000 pounds)*				
China	12,838	33,377	14,429	265	60,909
Taiwan	18,991	42,675	11,605	697	73,968
All other sources	1,664	8,839	683	43	11,229
Total	33,493	84,892	26,717	1,005	146,107
Source: Compiled from data submitted in response to Commission questionnaires.					

ANTIDUMPING INVESTIGATIONS IN THIRD-COUNTRY MARKETS

Staff is aware of several antidumping/countervailing duty investigations on steel fasteners concerning one or both of the subject countries. The European Union conducted an antidumping duty investigation on iron and steel (other than stainless steel) fasteners from China in 2007-09. An antidumping duty order was imposed in January 2009.[4] China subsequently filed a complaint against the EU at the World Trade Organization.[5] Canada conducted antidumping and countervailing duty investigations on steel fasteners from China and Taiwan in 2004-05. The investigations resulted in the imposition of antidumping duties on product from China and Taiwan as well as countervailing duties on product from China; the duties remain in place.[6] South Africa maintains antidumping duties on Chinese and Taiwanese fasteners from a 1999 investigation. The duties were continued in a 2005 review investigation, but the order is due to expire unless another five-year review is requested by December 2,

[4] EC Council Regulation No 91/2009 (January 26, 2009). Antidumping duties range from 26.5 to 85.0 percent, with two producers in China excluded from that order. The EU also has antidumping duties in place for *stainless* steel fasteners from China, Taiwan, Indonesia, Thailand, and Vietnam; investigations for imports from India and Malaysia are also underway. "EIFI alleges stainless steel dumping from India and Malaysia." Fastener+Fixing Magazine. Fastener Fair. July 24, 2009, http://fastenerfair.com/page3074/antidumping.aspx, accessed on October 23, 2009.

[5] "China asks WTO to rule on trade dispute on fasteners." IndustryWeek. Agence France-Presse, October 12, 2009, http://www.industryweek.com/articles/china_asks_wto_to_rule_on_trade_dispute_on_fasteners_20152.aspx, accessed on October 26, 2009. China also initiated its own antidumping duty investigation on fasteners from the EU in December 2008. "China announces AD investigation against fasteners from EU." Fastener Fair. January 7, 2009, http://www.fastenerfair.com/page3075/antidumping.aspx, accessed on October 28, 2009.

[6] Canada Border Services Agency. Certain Carbon Steel and Stainless Steel Fasteners - Notice of Conclusion of Re-investigation. February 28, 2007, http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/ad1308/ad1308-ni06-eng.html, accessed on October 23, 2009.

2009.[7] In addition, Mexico initiated an antidumping duty investigation on carbon steel nuts from China in February 2009.[8]

INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury "by reason of subject imports," the legislative history states "that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) 'to ensure that it is not attributing injury from other sources to the subject imports.'"[9]

There is no publicly available information regarding international production or exports of CSSF during the period for which data were collected. Canada is known to be a significant producer of CSSF, accounting for at least 3 percent of total imports of CSSF coming into the United States.[10] Certain firms in Korea and Thailand are believed to have significant operations as well.[11] Jim Witucki, sales manager for Nucor, testified that "...although there's a presence of others, they're either still in the developing stages or so small that they really don't come into play in a regular and ongoing basis..."[12] Other countries believed to be producing CSSF on a smaller scale include Brazil, Germany, India, Ireland, Italy, Japan, Netherlands, Switzerland, and the United Kingdom.[13] Of the countries mentioned, staff believes Canada, Italy, Japan, and Thailand to be some of the largest sources CSSF imports outside of China and Taiwan.[14]

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[7] "South Africa announced antidumping case against Chinese iron and steel bolts and nuts would expire soon." Chinafastener.info. July 3, 2009, http://www.chinafastener.info/en/news/3042.htm, accessed on October 26, 2009.

[8] "Mexico initiates antidumping investigation against carbon steel nuts from China." Chinafastener.info. September 2, 2009, http://www.chinafastener.info/en/news/2943/Mexico_initiates_antidumping_investigation_against_carbon_steel_nuts_from_China.htm, accessed on October 26, 2009.

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

[10] Conference transcript, p. 75 (Witucki).

[11] Ibid., p. 186 (Porteous).

[12] Conference transcript, p. 43 (Witucki).

[13] Based on importer questionnaire responses.

[14] Based on importer questionnaire responses from *** (Canada), *** (Italy), *** (Japan), and *** (Thailand).

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–472 and 731–TA–1171–1172 (Preliminary)]

Certain Standard Steel Fasteners From China and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701–TA–472 and 731–TA–1171–1172 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and/or Taiwan of certain standard steel fasteners (''fasteners''), provided for in subheadings 7318.15.20, 7318.15.80, and 7318.16.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by November 9, 2009. The Commission's views are due at Commerce within five business days thereafter, or by November 17, 2009.

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

DATES: *Effective Date:* September 23, 2009.

FOR FURTHER INFORMATION CONTACT: Joshua Kaplan (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov)*. The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on September 23, 2009, by Nucor Fastener Division, St. Joe, IN.

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

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

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 14, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Joshua Kaplan (202–205–3184) not later than October 9, 2009, to arrange for their appearance. Parties in support of the imposition of antidumping and/or countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 19, 2009, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

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

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: September 24, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–23501 Filed 9–28–09; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–960, A–583–845]

Certain Standard Steel Fasteners From the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations

DATES: *Effective Date:* October 22, 2009.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Operations Office 7, (202) 482–6312 or (202) 482–0649, respectively (Taiwan); Susan Pulongbarit or Jerry Huang, AD/CVD Operations Office 9, (202) 482–

4031 or (202) 482–4047, respectively (People's Republic of China); Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On September 23, 2009, the Department of Commerce (the Department) received petitions concerning imports of certain standard steel fasteners (fasteners) from the People's Republic of China (PRC) and Taiwan filed in proper form by Nucor Fastener (Petitioner). *See* Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Standard Steel Fasteners from the People's Republic of China and Taiwan, dated September 23, 2009 (Petition). On September 30, 2009, the Department issued additional requests for information and clarification of certain areas of the Petition. Petitioner timely filed additional information pertaining to Taiwan and the PRC on October 5, 2009. *See* Petition for the Imposition of Antidumping Duties on Certain Standard Steel Fasteners from Taiwan: Response to Deficiency Questionnaire, dated October 5, 2009 (Taiwan Deficiency Response); *see also* Petition for the Imposition of Antidumping Duties on Certain Standard Steel Fasteners from the People's Republic of China: Response to Deficiency Questionnaire, dated October 5, 2009 (PRC Deficiency Response). Petitioner further timely filed additional information pertaining to general issues in the Petition on October 6, 2009 (*see* Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Taiwan: Response to General Issues Deficiency Questionnaire, dated October 6, 2009 (Supplement to the AD/CVD Petitions)), on October 8, 2009 (*see* Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Antidumping Duties on Certain Standard Steel Fasteners from Taiwan: Submission of Additional Information Related to The Calculation of Industry Standing, dated October 8, 2009 (Industry Support Supplement)), also on October 8, 2009, (*see* Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Taiwan: Response to General Issues Deficiency Questionnaire, dated October 8, 2009 (Second Supplement to the AD/CVD Petitions)), also on October 8, 2009, (*see* Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Antidumping Duties on Certain Standard Steel Fasteners from Taiwan: Confirmation of Simultaneous Filing at DOC and ITC, dated October 8, 2009 (Simultaneous Filing Supplement)), on October 9, 2009 (*see* Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Antidumping Duties on Certain Standard Steel Fasteners from Taiwan: Revised Description of Scope and Uses and Technical Characteristics/U.S. Producers List, dated October 9, 2009 (Third Supplement to the AD/CVD Petitions)), and on October 13, 2009 (*see* Certain Standard Steel Fasteners from the People's Republic of China and Certain Standard Steel Fasteners from Taiwan).

The period of investigation (POI) for the PRC is January 1, 2009, through June 30, 2009. The POI for Taiwan is July 1, 2008, through June 30, 2009. *See* 19 CFR 351.204(b)(1).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Tariff Act), Petitioner alleges that imports of certain standard steel fasteners from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Tariff Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Tariff Act, and has demonstrated sufficient industry support with respect to the antidumping duty investigations that Petitioner is requesting the Department to initiate (*see* ''Determination of Industry Support for the Petitions'' section below).

Scope of the Investigations

The products covered by these investigations are fasteners from the PRC and Taiwan. For a full description of the scope of the investigations, please *see* ''Scope of Investigations,'' in Appendix I of this notice. The Department, after consulting with Petitioner, made minor changes to the scope language submitted by Petitioner in the Third Supplement to the AD/CVD Petitions. *See* Memorandum to the file from Steve Bezirganian, Analyst, entitled ''Certain Standard Steel Fasteners from the People's Republic of China (A–570–960 and C–570–961) and Taiwan (A–583–845): Revisions to Petitioner's Proposed October 9, 2009, Scope Language,'' dated October 13, 2009.

Comments on Scope of Investigations

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by Monday, November 2, 2009, which is twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Duty Questionnaires

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

Interested parties may provide information or comments that they believe are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe fasteners, it may be that only a select few product characteristics take into account

commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by October 27, 2009. Additionally, rebuttal comments must be received by November 3, 2009.

Determination of Industry Support for the Petitions

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

Section 771(4)(A) of the Tariff Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (the Commission), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the Commission must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Tariff Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that fasteners constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Certain Standard Steel Fasteners from the People's Republic of China (PRC Checklist), at Attachment II, Industry Support, and Antidumping Duty Investigation Initiation Checklist: Certain Standard Steel Fasteners from Taiwan (Taiwan Checklist), at Attachment II, Industry Support, on file in the Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Tariff Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of Investigations'' section above. To establish industry support, Petitioner provided its production of the domestic like product for the year 2008, and compared this to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petition, at 2–3, Exhibit I–10; *see also* Supplement to the AD/CVD Petitions, at 17–18, Exhibit I–Supp-6, and Industry Support Supplement, at Attachment 1. To estimate 2008 production of the domestic like product, Petitioner used its own data and industry specific knowledge. *See* Industry Support Supplement, at Attachment I; *see also* PRC Checklist at Attachment II, Taiwan Checklist at Attachment II. Petitioner calculated total domestic production based on its own production plus estimates regarding the other producers of the domestic like product in the United States. *Id.* We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

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

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Tariff Act and it has demonstrated sufficient industry support with respect to the antidumping duty investigations that it is requesting the Department initiate. *Id.*

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is

threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Tariff Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, increased import penetration, declining sales, reduced production, reduced capacity, increased raw material cost, abandoned product lines, reduced shipments, reduced wages and hours worked, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* PRC Checklist at Attachment III, Injury, and Taiwan Checklist at Attachment III, Injury.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of fasteners from the PRC and Taiwan. The sources of data for the deductions and adjustments relating to the U.S. price, the factors of production (for the PRC), and price-based NV (for Taiwan) are also discussed in the country-specific initiation checklists. *See* PRC Checklist and Taiwan Checklist.

U.S. Price

The PRC

For the PRC, Petitioner calculated export price (EP) based on documentation of offers for sale obtained from a confidential source. *See* PRC Initiation Checklist; *see also* Petition Vol. II at 3 and Exhibit II–2. Based on the terms of sale, Petitioner adjusted the export price for brokerage and handling, ocean freight, insurance and port expenses, as well as U.S. inland freight expenses. *See* PRC Initiation Checklist; *see also* Petition Vol. II at 5–13 and Exhibit II–5.

Taiwan

For Taiwan, Petitioner based U.S. price on EP because, it maintains, Taiwanese producers typically sell the subject merchandise either directly to unaffiliated U.S. customers or via an unaffiliated trading company to the U.S. customer. Petitioner obtained POI prices of fasteners produced by the Taiwanese manufacturer Jinn Her Enterprise Co., Ltd. (Jinn Her). Petitioner substantiated the U.S. prices used with affidavits from persons who obtained the information. Petitioner deducted, where appropriate, movement expenses (foreign inland freight, foreign port, brokerage and handling charges, ocean freight, and U.S. inland freight). Petitioners also deducted an amount for imputed credit expenses, based upon the presumed terms of payment. *See* Taiwan Checklist; *see also* Petition Vol. IV at 2–8 and Exhibits IV–1 to IV–15, and Taiwan Deficiency Response at Exhibits IV–Supp-1 to IV–Supp-5.

Normal Value

The PRC

Petitioner claims the PRC is a non-market economy (NME) country and that no determination to the contrary has been made by the Department. *See* Petition Vol. II at 14. In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of the PRC investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issue of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner contends that India is the appropriate surrogate country for the PRC because: (1) it is at a level of economic development comparable to that of the PRC and (2) it is a significant producer and exporter of comparable merchandise. *See* Petition Vol. II at 14–16. Based on the information provided by Petitioner, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Petitioner calculated the NV and dumping margins using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioner calculated NV based on consumption rates of the factors of production on the average consumption rates of a fasteners producer in the United States (Surrogate Domestic Producer) for identical or similar merchandise. *See* Petition Vol. II at 2 and 16–17 and Exhibit II–16. In calculating NV, Petitioner based the quantity of each of the inputs used to manufacture and pack fasteners in the PRC on product-specific production costs and/or consumption rates of the Surrogate Domestic Producer during the POI. *See* Petition Vol. II at 16–17 and Exhibit II–16. Petitioner states that the actual usage rates of the foreign manufacturers of fasteners, Autocraft Industrial (Autocraft) and Shanghai Prime Machinery Co., Ltd. (Shanghai Prime), are not reasonably available; however, Petitioner notes that according to the information available to Petitioner, the production of fasteners by Autocraft and Shanghai Prime relies on similar production methods to the Surrogate Domestic Producer. *See* Petition Vol. II at 16 and 19 and and 16–17 and Exhibit II–16.

Petitioner determined the consumption quantities of all raw materials and packing materials based on the production experience of the Surrogate Domestic Producer. *See* Petition Vol. II at 2 and 19–20. Petitioner valued the factors of production based on reasonably available, public surrogate country data, specifically, Indian import statistics from the Global Trade Atlas (GTA). *See* the PRC Deficiency Response at 1 and Exhibits II–Supp-1 and 2. Petitioner excluded from these import statistics imports from countries previously determined by the Department to be NME countries. Petitioner also excluded import statistics from Indonesia, the Republic of Korea, and Thailand, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. *Id.,* at 1 and Exhibits II–Supp-1 and 2. In addition, the Petitioner made currency conversions, where necessary, based on the POI-average rupee/U.S. dollar exchange rate, as reported on the Department's Web site. *See* Petition Vol. II at 21 and Exhibit II–8. Petitioner determined labor costs using the labor consumption, in hours, derived from the Surrogate Domestic Producer's experience. *See* Exhibit II–16 and PRC Deficiency Response at Exhibit II–Supp-2. Petitioner valued labor costs using the Department's NME Wage Rate for the

PRC at *http://ia.ita.doc.gov/wages/05wages/05wages-051608.html. See* Petition Vol. II at 26. For purposes of initiation, the Department determines that the surrogate values used by Petitioner are reasonably available and, thus, acceptable for purposes of initiation.

Petitioner determined electricity costs using the electricity consumption, in kilowatt hours, derived from the Surrogate Domestic Producer's experience. *See* Petition Vol. II at 26 and Exhibit II–16. Petitioner valued electricity using the Indian electricity rate reported by the Central Electric Authority of the Government of India. *See* PRC Deficiency Response at 3 and Exhibits II–Supp-2 and II–Supp-5.

Petitioner determined natural gas costs using the natural gas consumption derived from the Surrogate Domestic Producer's experience. *See* Volume II of the Petition at Exhibit II–16. Petitioner valued natural gas using the CRISIL natural gas rate that the Department replied upon in several recent investigations. *See, e.g., Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China,* 72 FR 40274 (July 24, 2007). Petitioner converted the amounts denominated in Indian rupees to USD using the Department's published exchange rates for the time period for the prospective POI. *See* Volume II of the Petition at 25–26 and Exhibit II–22.

Petitioner determined nitrogen costs using a price quote from Bhoruka Gases Ltd, which was previously relied upon in *Frontseating Valves from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 74 FR 10886 (March 13, 2009) and Petition Vol. II at 25 and Exhibit II–20, and the Supplement to the Petition Vol. II at 2.

Petitioner determined the consumption of all packing materials based on the Surrogate Domestic Producer's experience. *See* Volume II of the Petition at 28 and Exhibit II–16. Petitioner valued packing materials based on Indian import statistics from GTA, and as noted above, excluded NME countries as well as countries with general export subsidies. *See* the Supplement to the AD PRC Petition at Exhibit II–Supp-1. In addition, Petitioner made currency conversions, where necessary, based on the POI-average rupee/USD exchange rate, as reported on the Department's Web site. *See* the Supplement to the AD PRC Petition at Exhibit II–Supp-3.

Petitioner based factory overhead, selling, general and administrative (SG&A), and profit on data from Sundaram Fasteners Ltd. (SFL), a producer of similar merchandise, for the 2007–2008 fiscal year. *See* Petition Vol. II at 27–28 and Exhibit II–24. For purposes of the initiation, the Department finds Petitioner's use of SFL's unconsolidated financial ratios appropriate.

Taiwan

Petitioner based NV on price quotes for fasteners offered for sale in Taiwan by Jinn Her. These price and adjustment data were obtained through market research commissioned by petitioner. The price and adjustment data involve merchandise that is both commonly sold in the home market, and is substantially identical to the merchandise sold in the United States. Since the prices quoted were on an ''ex-works'' basis, Petitioner made no adjustments for movement expenses. Petitioner adjusted NV for imputed credit expenses. For comparison to EP, petitioner then added U.S. credit expenses. *See* Taiwan Checklist.

Fair-Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of fasteners from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of U.S. prices and NV calculated in accordance with section 773(c) of the Tariff Act, the estimated dumping margins for fasteners from the PRC range from 66.87 percent to 205.97 percent. *See* PRC Checklist and PRC Deficiency Response at Exhibit II–Supp-4. Based on a comparison of U.S. price and NV, the estimated dumping margins for fasteners from Taiwan range from 51.39 percent to 114.14 percent. *See* Taiwan Checklist; *see also* Petition Vol. IV at 18–19 and Exhibit IV–20, and Taiwan Deficiency Response at 11 and Exhibit IV–Supp-8.

Initiation of Antidumping Investigations

Based upon the examination of the Petition on fasteners from the PRC and Taiwan, the Department finds the Petition meets the requirements of section 732 of the Tariff Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of fasteners from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Tariff Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Targeted-Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted-dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted-dumping allegations, 19 CFR 351.301(d)(5). *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008). The Department stated that ''withdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.'' *Id.,* 73 FR at 74931.

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

Respondent Selection

The PRC

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

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 73 FR 10221, 10225 (February 26, 2008); *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China,* 70 FR 21996, 21999 (April 28, 2005). The Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html,* and a response to the

quantity and value questionnaire is due no later than November 3, 2009. Also, the Department will send the quantity and value questionnaire to those PRC companies identified in the Petition at Exhibit I–4 and in the General Issues Deficiency Response at Exhibit I–Supp-1.

Taiwan

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the Harmonized Tariff Schedule of the United States (HTSUS) numbers 7318.15.2030, 7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085, the six HTSUS categories most specific to the subject merchandise, during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice. We note that Petitioner has stated that five of the six HTS categories covering subject merchandise ''are broad basket categories that also cover products outside the scope of this investigation.'' *See* Petition at 9 and Exhibit I–5. Accordingly, the Department invites additional comments regarding the CBP data and respondent selection, including the propriety of basing respondent selection upon CBP data in this investigation, within ten days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

Separate Rates Application

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, dated April 5, 2005 (Separate Rates and Combination Rates Bulletin), available on the Department's Web site at *http://ia.ita.doc.gov/policy/bull05-1.pdf.* Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China,* 72 FR 43591, 43594–95 (August 6, 2007). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* on the date of publication of this initiation notice in the **Federal Register.** The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the ''Respondent Selection'' section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate-rate status. The quantity and value questionnaire will be available on the Department's Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* on the date of the publication of this initiation notice in the **Federal Register.**

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

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

See Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

Distribution of Copies of the Petition

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

Commission Notification

We have notified the Commission of our initiations, as required by section 732(d) of the Tariff Act.

Preliminary Determinations by the Commission

The Commission will preliminarily determine, no later than November 7, 2009, whether there is a reasonable indication that imports of fasteners from the PRC and Taiwan are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination with respect to any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

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

Dated: October 13, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigations

The merchandise covered by the investigations consists of certain standard nuts, standard bolts, and standard cap screws, of steel other than stainless steel. Standard nuts, standard bolts, and standard cap screws covered by the investigations may have a variety of finishes, including but not limited to coating in paint, phosphates, and zinc. Standard bolts and standard cap screws covered by the investigations have a shank or thread with an actual and/or nominal diameter between 6 millimeters and 32 millimeters (inclusive). Standard bolts and standard cap screws covered by the investigations also possess a circular or hexagonal head, the surface of which may be flat or rounded (also known as ''dome-shaped'' or ''button-headed''). Standard bolts covered by the investigations may have an attached washer face or the equivalent (*e.g.,* a flanged head or chamfered corners on the underside of a fastener with a hexagonal-shaped head). Standard cap screws covered

by the investigations have a permanently-attached washer face. Standard nuts are covered by the investigations if they are suitable for attachment to bolts and/or cap screws covered by the investigations.

Standard bolts, standard cap screws, and standard nuts are covered by the investigations whether imported alone, attached to other subject and/or non-subject merchandise (*e.g.,* tension control assemblies), or unattached and in combination with other subject merchandise and/or non-subject merchandise.

Standard nuts, standard bolts, and standard cap screws meet the requirements of one or more nationally recognized consensus industry standard specifications (including but not limited to those referenced below). Subject merchandise is typically certified to the specifications published by one or more consensus standards organizations such as the following: the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), the International Organization for Standardization (ISO), and the Industrial Fasteners Institute. Common specifications to which subject merchandise is certified include, but are not limited to: ASTM A194, ASTM A307, ASTM A325, ASTM A325M, ASTM A354, ASTM A449, ASTM A490, ASTM A563, ASTM F568M, ASTM F1852, ASTM F2280, SAE J429, SAE J1199, ISO 898–1, ISO 898–2, ISO 4759–1, ISO 8992, and comparable foreign and domestic specifications (including, but not limited to, metric versions of specifications such as those listed above).

Excluded from the scope of the investigations are bolts, cap screws, and nuts produced for an original equipment manufacturer (OEM) part number specific to any ''automobile'' as defined in 49 U.S.C. Section 32901(a)(3), any ''work truck'' as defined in 49 U.S.C. Section 32901(a)(19), or any ''medium-duty passenger vehicle'' as defined in 40 CFR Section 86.1803–01 (2009).

Also excluded from the scope of the investigations are bolts, cap screws, and nuts produced for an OEM part number specific to any ''aircraft'' as defined in 14 CFR Section 1.1 (2009).

Also excluded from the scope of the investigations are track bolts. Track bolts have a circular, rounded head and a shank which, immediately beneath the head, possesses an oval or elliptical shape, such that the non-round shape would restrict rotational movement of the bolt. Also excluded from the scope of the investigations are carriage bolts. Carriage bolts have a circular, rounded head and a shank which, immediately beneath the head, possesses a non-round shape (*e.g.,* square, finned), such that the non-round shape would restrict rotational movement of the bolt. Also excluded from the scope of the investigations are socket screws. Socket screws have a head with a recessed cavity into which a shaped bit may be inserted to turn and drive the fastener.

Unless explicitly excluded from the scope of the investigations, bolts, cap screws, and nuts meeting the description of subject merchandise are covered by the investigations.

Merchandise covered by the investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings: 7318.15.2030, 7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigations is dispositive.

[FR Doc. E9–25194 Filed 10–21–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–961]

Certain Standard Steel Fasteners From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* October 22, 2009.

FOR FURTHER INFORMATION CONTACT: Yasmin Nair and Joseph Shuler, 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) 482–3813 and (202) 482–1293, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On September 23, 2009, the Department of Commerce (''Department'') received a countervailing duty petition concerning imports of certain standard steel fasteners (''fasteners'') from the People's Republic of China (''PRC''). The petition was filed in proper form by Nucor Fastener (''Petitioner''), a domestic producer of fasteners.[1] In response to the Department's requests, Petitioner provided timely information supplementing the Petition on October 6, 7, 8, and 9, 2009.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (''the Act''), Petitioner alleges that manufacturers, producers, or exporters of standard steel fasteners in the PRC receive countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and Petitioner has demonstrated sufficient industry support with respect to the countervailing duty (''CVD'') investigation (*see* ''Determination of Industry Support for the Petition'' section below).

Period of Investigation

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

Scope of Investigation

The products covered by the investigation are fasteners from the PRC and Taiwan. For a full description of the scope of the investigation, please *see* ''Scope of Investigation,'' in Appendix I of this notice. The Department, after consulting with Petitioner, made minor changes to the scope language submitted by Petitioner in the Third Supplement to the AD/CVD Petitions, dated October 9, 2009, at Attachment 1. *See* Memorandum to the file from Steve Bezirganian, Analyst, entitled ''Certain Standard Steel Fasteners from the People's Republic of China (A–570–960 and C–570–961) and Taiwan (A–583–845): Revisions to Petitioner's Proposed October 9, 2009, Scope Language,'' dated October 13, 2009.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by November 2, 2009, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period for scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

[1] *See* Petition for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, as Amended: Certain Standard Steel Fasteners from the People's Republic of China, dated September 23, 2009 (''Petition'').

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on September 23, 2009, the Department invited representatives of the Government of the PRC for consultations with respect to the CVD petition. On October 13, 2009, the GOC requested that the Department extend the deadline for consultations. The Department responded that it could not extend this deadline for pre-initiation consultations, but would consult with the GOC in the course of this proceeding if initiated, as required by Article 13.2 of the Agreement on Subsidies and Countervailing Measures.

Determination of Industry Support for the Petition

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

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), *citing Algoma Steel Corp. Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that fasteners constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* ''Countervailing Duty Investigation Initiation Checklist: Certain Standard Steel Fasteners from the People's Republic of China'' (''Initiation Checklist''), at Attachment II, Analysis of Industry Support for the Petitions Covering Certain Standard Steel Fasteners from the People's Republic of China, on file in the Central Records Unit (''CRU''), Room 1117 of the main Department of Commerce building.

In determining whether Petitioner has standing (*i.e.,* the domestic workers and producers supporting the Petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition), we considered the industry support data contained in the Petition with reference to the domestic like product. To establish industry support, Petitioner provided its production of the domestic like product for the year 2008, and compared this to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petition, at 2–3, Exhibit I–10, and Supplement to the AD/CVD Petitions, dated October 6, 2009, at 17–18, Exhibit I–Supp-6, and Industry Support Supplement, dated October 8, 2009 (''Industry Support Supplement''), at Attachment 1. To estimate 2008 production of the domestic like product, Petitioner used its own data and industry specific knowledge. *See* Industry Support Supplement, at Attachment 1. Petitioner calculated total domestic production based on its own production plus estimates regarding the other producers of the domestic like product in the United States. *Id.* We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

The Department's review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support. First, the Petition establishes support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like products and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 702(c)(4)(D) of the Act and Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like products. *See* Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like products produced by that portion of the industry expressing support for, or opposition to, the Petitions. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* Initiation Checklist at Attachment II.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. *See* Initiation Checklist at Attachment II.

Injury Test

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

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of standard steel fasteners from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industry producing certain standard steel fasteners. In addition, Petitioner alleges that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

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

Initiation of Countervailing Duty Investigation

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

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

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

A. Preferential Loans and Interest Rates
   1. Policy Loans to Chinese Fasteners Producers
   2. Export Loans
   3. Preferential Lending to Fasteners Producers and Exporters Classified as ''Honorable Enterprises''
   4. Preferential Loans as Part of the Northeast Revitalization Program
B. Government Provision of Goods or Services for Less Than Adequate Remuneration (''LTAR'')
   1. Wire Rod for LTAR
   2. Hot-Rolled Steel for LTAR
   3. Zinc for LTAR
   4. Land-Use Rights for LTAR
C. Income and Other Direct Taxes
   1. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
   2. Preferential Income Tax Policy for Enterprises in the Northeast Region
   3. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
D. Indirect Tax and Tariff Exemption Programs
   1. Export Incentive Payments Characterized as ''VAT Rebates''
   2. Import Tariff and VAT Exemptions for Foreign Invested Enterprises (''FIEs'') and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
E. Preferential Income Tax Subsidies for FIEs
   1. ''Two Free, Three Half'' Tax Exemptions for FIEs
   2. Income Tax Exemption Program for Export-Oriented FIEs
   3. Local Income Tax Exemption and Reduction Programs for ''Productive'' FIEs
   4. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
   5. Income Tax Subsidies for FIEs Based on Geographic Location
   6. VAT Refunds for FIEs Purchasing Domestically Produced Equipment
F. Direct Grants
   1. ''Five Points, One Line'' Program
   2. Export Interest Subsidies
   3. The State Key Technology Renovation Project Fund
   4. Export Assistance Grants in Zhejiang Province
   5. Subsidies for Development of Famous Export Brands and China World Top Brands
   6. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
   7. Programs to Rebate Antidumping Legal Fees in Zhejiang and Shenzhen Province

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

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

1. Preferential Loans for Key Projects and Technologies

In its Petition, Petitioner asserted that some fasteners producers located in Northeastern China may benefit from preferential loans given to their steel suppliers. However, Petitioner did not file an adequate upstream subsidy allegation, nor did Petitioner allege that fasteners producers would be eligible to receive preferential loans under this program directly. Furthermore, in its October 7, 2009 supplemental response, Petitioner allows that it is unlikely that fasteners producers benefited from this program. Accordingly, we do not plan on investigating this program.

2. Electricity for LTAR

Petitioner alleges that the Government of the PRC (''GOC'') is providing a financial benefit of electricity for less than adequate remuneration to steel producers, and that fasteners producers receive an associated downstream benefit within the meaning of Section 771(5)(D)(iii) of the Act. The financial contribution as alleged by Petitioner is an upstream subsidy. Petitioner has not supported the allegation and, consequently, we do not plan to investigate this program.

3. Fixed Assets Investment Orientation Regulatory Tax

Petitioner claims that producers of fasteners in the PRC are exempted from or receive preferential income tax rates on investments in fixed assets. Petitioner has not provided information to demonstrate that fasteners producers would be covered by the relevant legislation. For example, the legislation relating to this program includes specific aspects of the iron and steel production process that are eligible for tax benefits, but it does not include any processes related to production of fasteners. Accordingly, we do not plan

on investigating this program. However, if one of the mandatory respondents chosen in this investigation is part of a vertically integrated steel company, or cross-owned with a primary steel producer, Petitioner may re-allege this program under a timely filed new subsidy allegation, at which time the Department will reconsider the information provided. Accordingly, we do not plan on investigating this program.

4. Tax Reduction for Enterprises Making Little Profit

According to the PRC's World Trade Organization subsidies notification, enterprises with annual taxable incomes between Renminbi (''RMB'') 30,000 and 100,000 are eligible for a three percent reduction in their annual income tax rate. Petitioner has not established with reasonably available information that ''enterprises making little profit'' are a *de jure* specific group because Petitioner has provided no explanation of why companies with access to this program comprise an enterprise or industry, or group of enterprises or industries within the meaning of Section 771(5A) of the Act. Consequently, we do not plan on investigating this program.

5. Income Tax Exemption for Investment in Domestic ''Technological Renovation''

Petitioner alleges that, pursuant to the Technological Renovation of Domestic Equipment Corporate Income Tax Exemption Notice, the State Tax Administration provides a tax credit to enterprises for a certain portion of investment in any domestically produced equipment that relates to technology updates. However, in the final determination of certain kitchen appliance shelving and racks from the PRC, the Department investigated this program and found that it does not exist.[2] Consequently, we do not plan on investigating this program.

6. China's Enforced Undervaluation of Its Currency

Petitioner alleges that the GOC-maintained exchange rate effectively prevents the appreciation of the Chinese currency (RMB) against the U.S. dollar. Therefore, when producers/exporters in the PRC sell their dollars at official foreign exchange banks, as required by law, the producers receive more RMB than they otherwise would if the value of the RMB were set by market mechanisms. Petitioner describes the benefit conferred as the excess of RMB received, over what would have been received at a market rate (''excess RMB'') and alleges specificity within the meaning of Section 771(5A)(B) of the Act by virtue of the fact that ''* * * there is a direct and positive correlation between the export activity/export earnings and the amount of subsidy received.'' Section 771(5A)(B) of the Act describes an export subsidy as ''* * * a subsidy that is, in law or fact, contingent upon export performance, alone or as 1 of 2 or more conditions.'' Petitioner has failed to sufficiently allege that the receipt of the excess RMB is contingent on export or export performance because receipt of the excess RMB is independent of the type of transaction or commercial activity for which the dollars are converted or of the particular company or individuals converting the dollars. Therefore, we do not plan on investigating this program because Petitioner has failed to properly allege the specificity element.

[2] *See Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 74 FR 37012 (July 27, 2009), and accompanying Issues and Decision Memorandum at 18.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POI. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties with access to information protected by APO within five days of the announcement of the initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

Distribution of Copies of the Petition

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

ITC Notification

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

Preliminary Determination by the ITC

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

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

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I—Scope of Investigation

The merchandise covered by the investigation consists of certain standard nuts, standard bolts, and standard cap screws, of steel other than stainless steel. Standard nuts, standard bolts, and standard cap screws covered by the investigation may have a variety of finishes, including but not limited to coating in paint, phosphates, and zinc. Standard bolts and standard cap screws covered by the investigation have a shank or thread with an actual and/or nominal diameter between 6 millimeters and 32 millimeters (inclusive). Standard bolts and standard cap screws covered by the investigation also possess a circular or hexagonal head, the surface of which may be flat or rounded (also known as ''dome-shaped'' or ''button-headed''). Standard bolts covered by the investigation may have an attached washer face or the equivalent (*e.g.,* a flanged head or chamfered corners on the underside of a fastener with a hexagonal-shaped head). Standard cap screws covered by the investigation have a permanently-attached washer face. Standard nuts are covered by the investigation if they are suitable for attachment to bolts and/or cap screws covered by the investigation.

Standard bolts, standard cap screws, and standard nuts are covered by the investigation whether imported alone, attached to other subject and/or non-subject merchandise (*e.g.,* tension control assemblies), or unattached and in combination with other subject merchandise and/or non-subject merchandise.

Standard nuts, standard bolts, and standard cap screws meet the requirements of one or more nationally recognized consensus industry standard specifications (including but not limited to those referenced below). Subject merchandise is typically certified to the specifications published by one or more consensus standards organizations such as the following: the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), the International Organization for Standardization (ISO), and the Industrial Fasteners Institute. Common specifications to which subject merchandise is certified

include, but are not limited to: ASTM A194, ASTM A307, ASTM A325, ASTM A325M, ASTM A354, ASTM A449, ASTM A490, ASTM A563, ASTM F568M, ASTM F1852, ASTM F2280, SAE J429, SAE J1199, ISO 898–1, ISO 898–2, ISO 4759–1, ISO 8992, and comparable foreign and domestic specifications (including, but not limited to, metric versions of specifications such as those listed above).

Excluded from the scope of the investigation are bolts, cap screws, and nuts produced for an original equipment manufacturer (OEM) part number specific to any ''automobile'' as defined in 49 U.S.C. Section 32901(a)(3), any ''work truck'' as defined in 49 U.S.C. Section 32901(a) (19), or any ''medium-duty passenger vehicle'' as defined in 40 C.F.R. Section 86.1803–01 (2009).

Also excluded from the scope of the investigation are bolts, cap screws, and nuts produced for an OEM part number specific to any ''aircraft'' as defined in 14 CFR 1.1 (2009).

Also excluded from the scope of the investigation are track bolts. Track bolts have a circular, rounded head and a shank which, immediately beneath the head, possesses an oval or elliptical shape, such that the non-round shape would restrict rotational movement of the bolt. Also excluded from the scope of the investigation are carriage bolts. Carriage bolts have a circular, rounded head and a shank which, immediately beneath the head, possesses a non-round shape (*e.g.,* square, finned), such that the non-round shape would restrict rotational movement of the bolt. Also excluded from the scope of the investigation are socket screws. Socket screws have a head with a recessed cavity into which a shaped bit may be inserted to turn and drive the fastener.

Unless explicitly excluded from the scope of the investigation, bolts, cap screws, and nuts meeting the description of subject merchandise are covered by the investigation.

Merchandise covered by the investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings: 7318.15.2030, 7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

[FR Doc. E9–25197 Filed 10–21–09; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

CALENDAR OF THE COMMISSION'S OCTOBER 14, 2009 CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

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

Subject:	Certain Standard Steel Fasteners from China and Taiwan
Inv. Nos.:	701-TA-472 and 731-TA-1171-1172 (Preliminary)
Date and Time:	October 14, 2009 - 9:30 a.m.

The conference in connection with these investigations was held in Courtroom B, 500 E Street, SW, Washington, DC.

OPENING REMARKS:

Petitioners
Alan H. Price, Wiley Rein LLP
Respondents
Matthew T. McGrath, Barnes Richardson & Colburn

In Support of the Imposition of Antidumping and Countervailing Duties:

Wiley Rein LLP
Washington, DC
on behalf of

Nucor Fastener

Tom Miller, Vice President & General Manager, Nucor Fastener
J.J. McCoy, Controller, Nucor Fastener
Jim Witucki, Sales Manager, Nucor Fastener
Jim Gialamas, Technical Services Director, Nucor Fastener
David Aman, National Sales Manager, Sems & Specials

Alan H. Price, Esq.)
Daniel B. Pickard, Esq.) – OF COUNSEL
Adam Gordon, Esq.)

In Opposition to the Imposition of Antidumping and Countervailing Duties:

Barnes Richardson & Colburn
Washington, DC
on behalf of

Bossard North America
Earnest Machine Products Co.
Fastenal Co.
Fasteners and Automotive Products, LLC
Heads and Threads International, LLC
The Hillman Group
Indent Metals, LLC
Porteous Fastener Co.
Soule, Blake & Wechsler, Inc.
Stelfast, Inc.
XL Screw Corp.

Barry Porteous, President, Porteous Fastener Company
Max Hillman, CEO, The Hillman Group
Steen Hansen, CEO**,** Bossard North America
Steve Schonholtz, President**,** Indent Metals
Ming-Jou Chen, Chairman, Taiwan International Fastener Institute

Matthew T. McGrath, Esq.) – OF COUNSEL
Stephen W. Brophy, Esq.)

Garvey Schubert Barer
Washington, DC
on behalf of

Chun Yu Works (U.S.A.) Inc.

Dan Lee, Project Manager, Chun Yu Works (U.S.A.) Inc.

Lizbeth R. Levinson, Esq.) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

Petitioners
Daniel B. Pickard, Wiley Rein LLP
Respondents
Matthew T. McGrath, Barnes Richardson & Colburn

APPENDIX C

SUMMARY DATA

Table C-1
Fasteners: Summary data concerning the U.S. market, 2006-08, January-June 2008, and January-June 2009

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

	Reported data					Period changes			
				January-June					Jan.-June
Item	2006	2007	2008	2008	2009	2006-08	2006-07	2007-08	2008-09
U.S. consumption quantity:									
Amount	661,322	642,355	641,611	343,472	225,030	-3.0	-2.9	-0.1	-34.5
Producers' share (1)	23.5	23.4	24.2	24.5	23.3	0.8	-0.1	0.9	-1.3
Importers' share (1):									
China	24.3	23.6	23.5	23.0	26.5	-0.8	-0.7	-0.1	3.6
Taiwan	27.0	29.3	28.3	28.8	30.2	1.3	2.3	-1.0	1.5
Subtotal	51.3	53.0	51.8	51.7	56.8	0.5	1.6	-1.1	5.0
Other sources	25.2	23.7	23.9	23.8	20.0	-1.3	-1.5	0.3	-3.8
Total imports	76.5	76.6	75.8	75.5	76.7	-0.8	0.1	-0.9	1.3
U.S. consumption value:									
Amount	590,370	586,279	673,763	348,102	240,851	14.1	-0.7	14.9	-30.8
Producers' share (1)	25.8	25.6	27.1	25.5	25.6	1.3	-0.1	1.5	0.1
Importers' share (1):									
China	18.3	17.6	18.6	17.8	20.1	0.3	-0.7	1.1	2.3
Taiwan	23.8	26.4	26.3	26.8	29.7	2.5	2.6	-0.1	2.9
Subtotal	42.1	44.0	45.0	44.6	49.8	2.8	1.9	1.0	5.2
Other sources	32.1	30.4	27.9	29.9	24.6	-4.2	-1.7	-2.5	-5.3
Total imports	74.2	74.4	72.9	74.5	74.4	-1.3	0.1	-1.5	-0.1
U.S. shipments of imports from:									
China:									
Quantity	160,690	151,861	150,823	78,853	59,692	-6.1	-5.5	-0.7	-24.3
Value	108,100	103,072	125,608	62,053	48,385	16.2	-4.7	21.9	-22.0
Unit value	$0.67	$0.68	$0.83	$0.79	$0.81	23.8	0.9	22.7	3.0
Ending inventory quantity	88,977	87,158	88,886	79,870	84,897	-0.1	-2.0	2.0	6.3
Taiwan:									
Quantity	178,733	188,355	181,632	98,763	68,031	1.6	5.4	-3.6	-31.1
Value	140,527	154,695	177,278	93,155	71,448	26.2	10.1	14.6	-23.3
Unit value	$0.79	$0.82	$0.98	$0.94	$1.05	24.1	4.5	18.8	11.3
Ending inventory quantity	91,836	90,138	104,071	86,097	96,303	13.3	-1.8	15.5	11.9
Subtotal:									
Quantity	339,423	340,217	332,454	177,617	127,723	-2.1	0.2	-2.3	-28.1
Value	248,627	257,767	302,886	155,208	119,833	21.8	3.7	17.5	-22.8
Unit value	$0.73	$0.76	$0.91	$0.87	$0.94	24.4	3.4	20.2	7.4
Ending inventory quantity	180,813	177,296	192,957	165,967	181,201	6.7	-1.9	8.8	9.2
All other sources:									
Quantity	166,598	152,027	153,579	81,683	44,976	-7.8	-8.7	1.0	-44.9
Value	189,592	178,246	188,162	104,057	59,305	-0.8	-6.0	5.6	-43.0
Unit value	$1.14	$1.17	$1.23	$1.27	$1.32	7.7	3.0	4.5	3.5
Ending inventory quantity	45,571	38,899	50,254	50,142	45,368	10.3	-14.6	29.2	-9.5
All sources:									
Quantity	506,020	492,244	486,033	259,300	172,699	-3.9	-2.7	-1.3	-33.4
Value	438,219	436,013	491,048	259,265	179,138	12.1	-0.5	12.6	-30.9
Unit value	$0.87	$0.89	$1.01	$1.00	$1.04	16.7	2.3	14.1	3.7
Ending inventory quantity	226,384	216,194	243,210	216,109	226,568	7.4	-4.5	12.5	4.8
U.S. producers':									
Average capacity quantity	316,191	317,840	335,425	163,351	175,519	6.1	0.5	5.5	7.4
Production quantity	162,349	157,128	170,275	90,841	45,923	4.9	-3.2	8.4	-49.4
Capacity utilization (1)	51.3	49.4	50.8	55.6	26.2	-0.6	-1.9	1.3	-29.4
U.S. shipments:									
Quantity	155,302	150,112	155,578	84,172	52,331	0.2	-3.3	3.6	-37.8
Value	152,151	150,266	182,715	88,837	61,713	20.1	-1.2	21.6	-30.5
Unit value	$0.98	$1.00	$1.17	$1.06	$1.18	19.9	2.2	17.3	11.7
Export shipments:									
Quantity	5,577	4,805	7,506	3,818	2,330	34.6	-13.8	56.2	-39.0
Value	5,512	5,119	9,011	4,174	2,801	63.5	-7.1	76.0	-32.9
Unit value	$0.99	$1.07	$1.20	$1.09	$1.20	21.5	7.8	12.7	10.0
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	458	461	468	472	446	2.2	0.7	1.5	-5.5
Hours worked (1,000s)	879	890	942	483	384	7.2	1.2	5.9	-20.4
Wages paid ($1,000s)	20,949	22,505	23,381	12,170	10,604	11.6	7.4	3.9	-12.9
Hourly wages	$23.84	$25.29	$24.82	$25.21	$27.60	4.1	6.1	-1.9	9.5
Productivity (pounds per hour)	184.7	176.6	180.8	188.2	119.5	-2.1	-4.4	2.4	-36.5
Unit labor costs	$0.13	$0.14	$0.14	$0.13	$0.23	6.4	11.0	-4.1	72.4
Net sales:									
Quantity	163,203	157,167	166,014	89,199	55,597	1.7	-3.7	5.6	-37.7
Value	158,202	156,725	192,510	93,688	65,237	21.7	-0.9	22.8	-30.4
Unit value	$0.97	$1.00	$1.16	$1.05	$1.17	19.6	2.9	16.3	11.7
Cost of goods sold (COGS)	119,972	119,063	146,469	69,988	52,957	22.1	-0.8	23.0	-24.3
Gross profit or (loss)	38,230	37,662	46,042	23,700	12,279	20.4	-1.5	22.2	-48.2
SG&A expenses	25,613	20,517	24,305	12,307	8,478	-5.1	-19.9	18.5	-31.1
Operating income or (loss)	12,617	17,145	21,736	11,393	3,801	72.3	35.9	26.8	-66.6
Capital expenditures	2,692	3,227	6,412	***	***	138.2	19.9	98.7	***
Unit COGS	$0.74	$0.76	$0.88	$0.78	$0.95	20.0	3.1	16.5	21.4
Unit SG&A expenses	$0.16	$0.13	$0.15	$0.14	$0.15	-6.7	-16.8	12.1	10.5
Unit operating income or (loss)	$0.08	$0.11	$0.13	$0.13	$0.07	69.4	41.1	20.0	-46.5
COGS/sales (1)	75.8	76.0	76.1	74.7	81.2	0.2	0.1	0.1	6.5
Operating income or (loss)/ sales (1)	8.0	10.9	11.3	12.2	5.8	3.3	3.0	0.4	-6.3

(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.

APPENDIX D

PRICE COMPARISONS AMONG THE U.S.-PRODUCED CSSF PRODUCTS AND THOSE IMPORTED FROM SUBJECT AND NONSUBJECT COUNTRIES

Although not shown in tables, prices of the three specified CSSF products imported from Canada were generally priced higher than prices of these products imported from China and Taiwan during January 2006-June 2009, whereas price comparisons between the Canadian and domestic products were mixed. Prices of the two products imported from Thailand were generally less than prices of the domestic products and those imported from China during January 2006-June 2009, but generally greater than prices of the products imported from Taiwan. The following tabulation shows the number of quarterly price comparisons showing under/overselling for all reported specified products imported from Canada and Thailand vis-a-vis the products produced domestically and imported from China and Taiwan during January 2006-June 2009.

Number of quarterly price comparisons for all reported specified products

	Canada versus--		Thailand versus--	
Countries	Underselling	Overselling	Underselling	Overselling
United States	24	18	21	3
China	2	40	15	9
Taiwan	2	40	8	16
Total	28	98	44	28

Figures D-1 through D-3 show the quarterly delivered prices and quantities of the specified products 1-3, respectively, for domestic CSSF, those imported from the two subject countries and from Canada, and products 1 and 3 from Thailand.[1]

Figure D-1
CSSF: Net weighted-average U.S. delivered selling prices and quantities of product 1 produced domestically, imported from the subject countries, and imported from Canada and Thailand, by quarters, January 2006-June 2009

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Figure D-2
CSSF: Net weighted-average U.S. delivered selling prices and quantities of product 2 produced domestically, imported from the subject countries, and imported from Canada, by quarters, January 2006-June 2009

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Figure D-3
CSSF: Net weighted-average U.S. delivered selling prices and quantities of product 3 produced domestically, imported from the subject countries, and imported from Canada and Thailand, by quarters, January 2006-June 2009

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[1] U.S. importers reported the requested pricing data for products 1-3 from Canada and products 1 and 3 from Thailand.