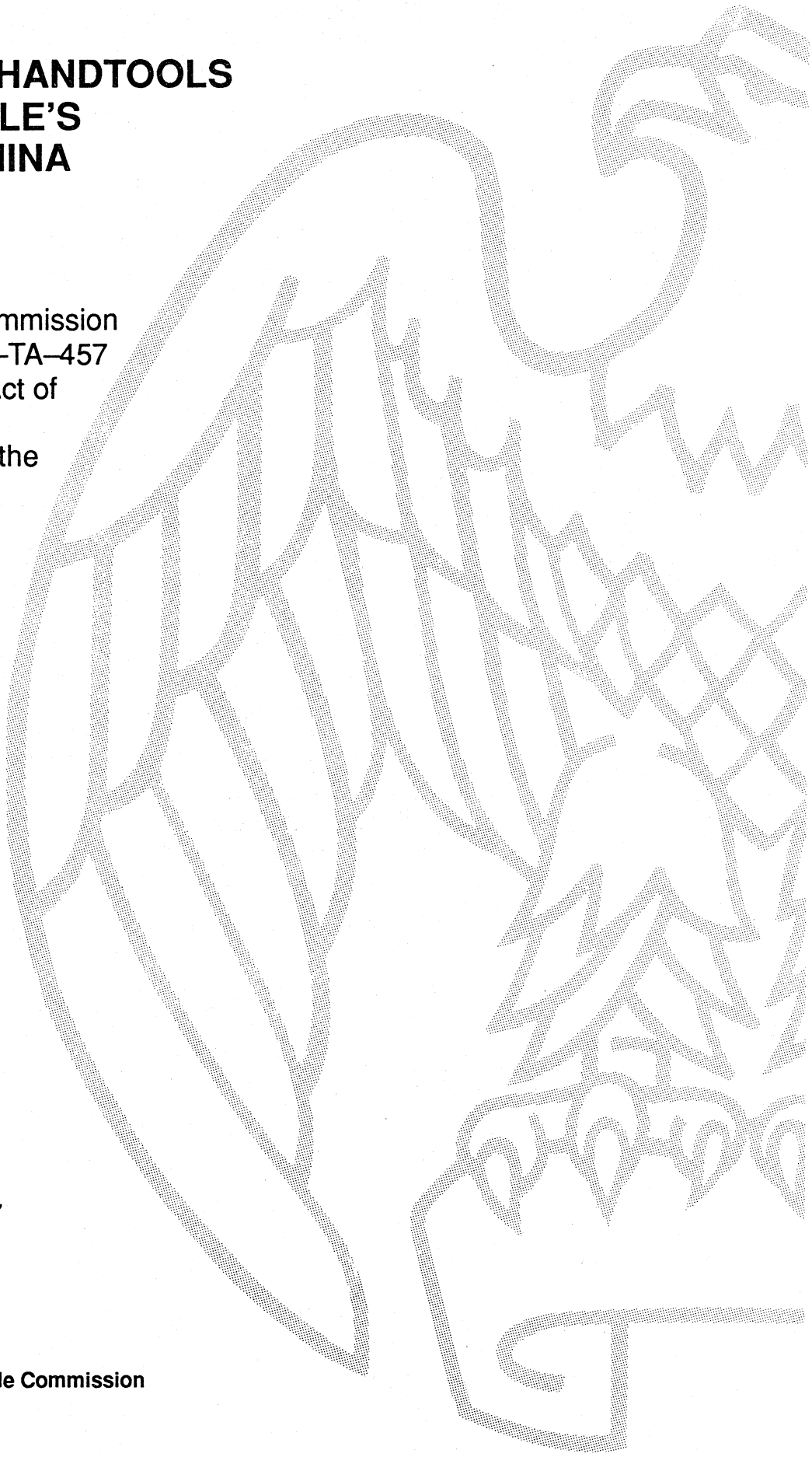
HEAVY FORGED HANDTOOLS FROM THE PEOPLE'S REPUBLIC OF CHINA

Determination of the Commission in Investigation No. 731–TA–457 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information that reveals business proprietary operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-457 (Final)

HEAVY FORGED HANDTOOLS FROM THE PEOPLE'S REPUBLIC OF CHINA

Determinations

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)), that industries in the United States are materially injured by reason of imports from the People's Republic of China of the following heavy forged handtools, provided for in subheadings 8201.30.00, 8201.40.60, 8205.20.60, and 8205.59.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV):[2] striking tools,[3] bar tools,[4] digging tools,[5] and hewing tools.[6]

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

[2] The Department of Commerce has determined that imports covered within the scope of this investigation include: (1) hammers and sledges with heads over 1.5 kg. (3.3 pounds) (hammers and sledges); (2) bars over 18 inches in length, track tools and wedges (bars and wedges); (3) picks and mattocks; and (4) axes, adzes, and similar hewing tools (axes and adzes). The hammers and sledges, picks and mattocks, and axes and adzes categories each include heads which may or may not be painted, which may or may not be finished, and which may or may not be imported with handles. Commerce specifically excluded from the scope of this investigation hammers and sledges with heads 1.5 kg. (3.3 pounds) in weight and under, hoes and rakes, and bars 18 inches and under in length.

[3] The Commission also determines, pursuant to section 735(b)(4)(a), that critical circumstances do not exist such that it is necessary to impose the duty retroactively.

[4] Acting Chairman Brunsdale and Commissioner Lodwick dissenting. The Commission also determines, pursuant to section 735(b)(4)(a), that critical circumstances do not exist such that it is necessary to impose the duty retroactively.

[5] The Commission also determines, pursuant to section 735(b)(4)(a), that critical circumstances do not exist such that it is necessary to impose the duty retroactively.

[6] Acting Chairman Brunsdale dissenting.

Background

The Commission instituted this investigation effective October 15, 1990, following a preliminary determination by the Department of Commerce that imports of heavy forged handtools from People's Republic of China were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. § 1673b(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 31, 1990 (55 F.R. 45868). The hearing was held in Washington, DC, on January 3, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

On the basis of the information obtained in these final investigations, we unanimously determine that an industry in the United States is materially injured by reason of less than fair value (LTFV) imports from the People's Republic of China ("China") of the striking tools that are subject to investigation and that an industry in the United States is materially injured by reason of LTFV imports from China of the digging tools that are subject to investigation. The Commission further determines that an industry in the United States is materially injured by reason of LTFV imports from China of the hewing tools that are subject to investigation. [1] The Commission also determines that an industry in the United States is materially injured by reason of LTFV imports from China of the bar tools that are subject to investigation. [2]

I. Like Product and Domestic Industry

To determine whether "material injury" exists, the Commission must first make factual determinations with respect to the "like product" and the "domestic injury." The term "industry" is defined as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product..." [3] In turn like product is defined as "a

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[1] Acting Chairman Brunsdale dissents from this determination. See Views of Acting Chairman Brunsdale, infra.

[2] Acting Chairman Brunsdale and Commissioner Lodwick dissent from this determination. See Views of Acting Chairman Brunsdale, infra, and Dissenting Views of Commissioner Lodwick, infra.

[3] 19 U.S.C. § 1644(a).

product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation..." [4] [5]

The Commission's decision regarding like product is essentially a factual determination made on a case by case basis. [6] The Commission generally considers a number of factors in analyzing like product issues including: (1) physical characteristics and uses, (2) interchangeability, (3) channels of distribution, (4) common manufacturing facilities and production employees, (5) customer or producer perceptions, and (6) price. [7] No single factor is dispositive, and the Commission may consider other factors it deems

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[4] 19 U.S.C. § 1677(10).

[5] The Department of Commerce has defined the imported product subject to this investigation as follows:

> Imports covered by these investigations are HFHTs comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg. (3.3 pounds) (" hammers/sledges"); (2) bars over 18 inches in length, track tools and wedges ("bars/wedges"); (3) picks and mattocks ("picks/mattocks"); and (4) axes, adzes, and similar hewing tools ("axes/adzes").
>
> HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers, and steel woodsplitting wedges..... Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.3 pounds) in weight and under, hoes and rakes, and bars eighteen inches in length and under.

56 Fed. Reg. 241, 241-42 (January 3, 1991).

[6] Asociacion Colombiana de Exportadores v. United States (ASCOFLORES), 693 F. Supp. 1165, 1169 (CIT 1988) (like product determination essentially one to be based on the unique facts of each case); Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea and Taiwan, Inv. Nos. 731-TA-448-450 (Final), USITC Pub. 2312 at 4-5 (September 1990).

[7] See, e.g., Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea and Taiwan, supra at 4-5; ASCOFLORES, 693 F. Supp. at 1170 n.8.

relevant based on the facts of a given investigation.

As noted by Congress, the like product requirement is not to be "interpreted in such a narrow fashion as to permit minor differences in physical characteristics and uses to lead to the conclusion that the products are not like each other." [8] Accordingly, we have found minor product variations to be an insufficient basis for a separate like product analysis, and instead, have looked for clear dividing lines among products. [9]

1. One "like product" or four "like products."

In its preliminary determination, the Commission found that there were four separate like products: (1) hammers and sledges, with heads weighing over 1.5 kg. (3.3 pounds) and with or without handles; (2) crowbars, track tools, and other bar tools, of iron or steel, except bars eighteen inches and under; (3) picks and mattocks, with and without handles; and (4) axes, adzes and similar hewing tools, other than machetes, with and without handles. [10] The Commission reached this conclusion because the physical characteristics of the heavy forged handtools subject to investigation differ, because these categories of tools have limited interchangeability, because both the

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[8] S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[9] See, e.g., Sony Corporation of America v. United States, 712 F. Supp. 978 (Ct. Int'l Trade, April 26, 1989) at 6; ASCOFLORES, 693 F. Supp. at 1168-69; Fresh and Chilled Atlantic Salmon from Norway, Inv. No. 731-TA-454 (Preliminary), USITC Pub. 2272 (April 1990); Certain Telephone Systems and Subassemblies Thereof from Japan and Taiwan, Invs. Nos. 731-TA-426 and 428 (Final), USITC Pub. 2237 (November 1989) at 6-7; Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Inv. Nos. 303-TA-19 and 20, 731-TA-391-399 (Final), USITC Pub. 2185 (May 1989); Operators for Jalousie and Awning Windows from El Salvador, Inv. Nos. 701-TA-272 and 731-TA-319 (Final), USITC Pub. 1934 (January 1987) at 4, n.4.; S. Rep. 249, 96th Cong., 1st Sess. 90-91 (1979).

[10] Heavy Forged Handtools from the People's Republic of China, Inv. No. 731-TA-457 (Preliminary), USITC Pub. 2284 (May 1990) (hereinafter "Preliminary Opinion") at 4-13.

producers and the purchasers perceive them to be different, and because at least the later stages of the manufacturing process typically differ from product to product.

In this final investigation, no one has contended that the Commission should treat these categories of heavy forged handtools as one like product. Nor has the Commission developed additional facts that warrant treating these handtools as one like product. Thus, the Commission again determines that there are four like products, corresponding to the four classes or kinds of articles subject to investigation, except as described in section 2 below.

2. "Like Product" Categories Broader Than the Imports Subject to Investigation.

Respondent continues to contend that two of the four like products, the hammer like product and the bar tool like product should be expanded to include other domestically made tools, which they contend are like the imports subject to investigation. [11]

As we noted in the preliminary investigation, the Commission can, in appropriate circumstances, define the like product more broadly than the Commerce scope determination. [12] [13]

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[11] Respondent did not repeat the contention put forth in the preliminary investigation that the pick and mattock like product should be expanded to include hoes and rakes. The Commission declined to expand the definition of this category in the preliminary investigation. We see no reason to change this decision in the final.

[12] See, e.g., Generic Cephalexin Capsules From Canada, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (August 1989); Shock Absorbers and Parts, Components, and Subassemblies Thereof from Brazil, Inv. No. 731-TA-421 (Preliminary), USITC Pub. 2128 (September 1988); Natural Bristle Paint Brushes from the People's Republic of China, Inv. No. 731-TA-244 (Final), USITC Pub. 1805 (January 1986).

[13] The Commission has also noted that the fact that Customs may draw a particular line in defining its tariff categories is not determinative of the outcome of a like product inquiry. Certain All-Terrain Vehicles from Japan, USITC Pub. 2163, Inv. No. 731-TA-388 (Final) (March 1989). See also, Royal

(continued...)

The Commission has repeatedly considered whether to treat products which cover a range of weights and sizes as one "like product," or whether to break the like product definition at some specific weight or size demarcation, as is urged here by the petitioner. In Certain Fresh Cut Flowers from Canada, Chile, Colombia, Costa Rica, Ecuador, Israel, and the Netherlands, [14] and Certain Fresh Cut Flowers from Peru, Kenya, and Mexico, [15] for example, a majority of the Commission concluded that miniature carnations were a separate like product from standard carnations, and that pompon chrysanthemums were a separate like product from standard chrysanthemums. In remanding the determination to the Commission, the Court of International Trade stated:

> ...the court has found little in the record to differentiate miniature from standard carnations or pompon from standard chrysanthemums. Carnations and chrysanthemums are often discussed in general terms in the staff report and by witnesses at the Commission's hearings. There is some difference between size and stem length between standard and miniature carnations and between standard and pompon chrysanthemums, but it is not clear that these differences are any greater than the differences within the standard types. [16]

Indeed, as the Commission noted in a recent investigation, Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea and Taiwan, the Commission "generally has not drawn lines based solely on size, and has looked for other points of distinction before finding

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[13](...continued)
Business Machines Inc. v. United States, 507 F. Supp. 1007, 1014, n.18 (CIT 1980), aff'd, 669 F. 2d 692 (CCPA 1982).

[14] Invs. Nos. 701-TA-275 through 278 and 731-TA-327 through 331 (Final), USITC Pub. 1956 (March 1987).

[15] Invs. Nos. 303-TA-18 and 731-TA-332, 333 (Final) USITC Pub. 1968 (April 1987).

[16] ASCOFLORES, 693 F. Supp. at 1170 (emphasis added).

separate like products." [17]

a. Hammers

In its preliminary investigation, the Commission agreed with the petitioner that all hammers with heads weighing over 1.5 kg., or 3.3 pounds, constituted one like product. [18] Because respondents raised the argument that this definition should be broadened late in the preliminary investigation the Commission did not have the opportunity to gather information during the preliminary investigation that would have either supported or refuted their contentions. However, the Commission stated that it would revisit this issue in the final investigation. [19]

In this final investigation, respondents have amended their initial claim that this category should be broadened to include all other hammers, regardless of the weight of the heads. Respondents now agree with petitioner that certain hammers - claw hammers and ball peen hammers - should not be included in the like product, but continue to contend that the 1.5 kg. head

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[17] Inv. Nos. 731-TA-448-450 (Preliminary), USITC Pub. 2234 at 4-5 (November 1989). See also, Internal Combustion Engine Forklift Trucks From Japan, ("Forklifts") Inv. No. 731-TA-377 (Final), USITC Pub. 2082 (May 1988) (the Commission determined not to include forklift trucks with a weight-lift capacity of greater than 15,000 pounds, because of differences in end uses, applications and manufacturing processes); Color Picture Tubes From Canada, Japan, the Republic of Korea, and Singapore, Inv. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 (December 1987), (all color picture tubes are one "like product", regardless of size because they all have the same general appearance and end uses, because they may be produced on the same production equipment and by the same employees, and because all CPTs generally share the same distribution process); Forged Steel Crankshafts From The Federal Republic of Germany and the United Kingdom ("Crankshafts")Inv. No. 731-TA-351 and 353 (Final), USITC Pub. 2014 (September 1987); Color Television Receivers From the Republic of Korea and Taiwan, Inv. No 731-TA-134 (Final), USITC Pub. 1514 (April 1984) (all color television receivers were one like product regardless of size because all receivers are put to the same use and because there are no clear dividing lines).

[18] Preliminary Opinion at 11.

[19] Id. at 11.

weight is not the appropriate cutoff point for the like product definition in this investigation. [20] Respondents claim that carpenter claw hammers and ball peen hammers generally weigh less than 2 pounds, [21] and that the most appropriate point to delineate this like product is to include all hammers weighing two pounds or more. [22]

Petitioners agree that ball peen and claw hammers are a distinct like product and state that their intention in excluding all hammers with heads below 1.5 kg. was to exclude ball peen and claw hammers from the like product. [23] The primary reason they have given the Commission for proposing to draw the line for the definition of the like product at 1.5 kg. is to coincide with the HTS category that is being investigated by Commerce. [24] They acknowledge, however, that one would be unlikely to see a claw hammer over two pounds, [25] although they contend that there are ball peen hammers with heads weighing up to four pounds. [26]

We believe that the additional facts on the record that have been gathered during this final investigation, including certain business proprietary information which we cannot discuss here, make it appropriate to alter the definition of the heavy hammer like product category in this final investigation to include all hammers with heads weighing two pounds or more. [27] The parties agree that it is appropriate to exclude ball peen and claw hammers from this like product. We note also that there is a clear

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[20] Respondents' Prehearing brief at 6; Hearing Tr. at 82-83.
[21] Prehearing Brief at 6.
[22] Respondents' Posthearing Brief, Ex. A at 1.
[23] Hearing Tr. at 62.
[24] Hearing Tr. at 61.
[25] Hearing Tr. at 74.
[26] Id.
[27] See e.g., Final Staff Report at A-4, Appdx. C at B-16, n.1; Inv. O-025 at 25-26, n.49.

dividing line between the physical characteristics and uses, producer perceptions, and other aspects of the claw and ball peen hammers, when compared with other striking tools. We have concluded that defining this like product to include all hammers with heads weighing two pounds or more is the way to reflect these distinctions. Moreover, we note that there are virtually no facts on the record to support maintaining the distinction that petitioners drew at the inception of this investigation, which was adopted by the Commission in the preliminary investigation only because it had not had an opportunity to explore respondents' contentions that the categories should be broadened.

b. Track Tools, Wedges and Bar Tools

In the preliminary investigation, the Commission declined to broaden this like product category to include bar tools eighteen inches and under. [28] Because respondents raised the contention that this like product category should be broadened late in the preliminary investigation, the Commission had not had sufficient opportunity at that time to gather any data that would have either supported or refuted these contentions. [29] However, the Commission noted that it would revisit this issue in its final determination. [30]

In this final investigation, respondents continue to contend that this like product should be broadened. [31] Respondents note that there is no rational reason to differentiate between 18 inch crowbars and those bar tools over 18 inches that were included in the like product in the preliminary investigation. Respondents also contend that there is complete

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[28] Preliminary Opinion at 9, 11.
[29] Id. at 11.
[30] Id.
[31] See, e.g., Hearing Tr. at 110.

substitutability in manufacturing bar tools of all sizes. Further, they contend that the marketing and channels of distribution are the same, noting that petitioner's own catalog advertises certain wrecking bar models that are available in any length from 12 inches to 36 inches. [32]

Conversely, petitioner argues that heavy bar products are distinct from light bar products. For example, they contend that fourteen inch bars are used for light work, such as pulling nails, and cannot perform the heavy bar's lifting functions. Petitioner argues further that there are differences in the design and manufacture of light bars. Specifically, petitioner states that, although the apparatus which manufactures heavy bars could be used to manufacture the smaller bars, it would be economically inefficient. Petitioner also argues that there is a distinct price difference between light and heavy bars. [33]

In this final investigation, the Commission has had an additional opportunity to gather data concerning the appropriateness of drawing a dividing line in the bar tools category based on length. Based on the additional data which we have gathered, some of which is confidential and cannot be discussed here, we find that this like product should include bar tools of all lengths. The similarity in the methods of manufacture supports including bar tools of all lengths in this like product, as the forging presses used to manufacture bars over eighteen inches can also be used to produce bars under 18 inches. [34] When analyzed with respect to the statutory factors governing the Commission's like product determinations, additional information on the record, which is confidential and cannot be discussed here,

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[32] Respondents' Prehearing Brief at 5; Hearing Tr. at 83.
[33] Petitioner's Prehearing Brief at 11-12; Hearing Tr. at 63.
[34] Final Staff Report at A-4.

also supports including bar tools of any length in this like product. [35] While there may be some differences in the design, price or use of short bars and long bars, these differences do not present the Commission with the type of clear distinction that would make it appropriate to define this like product to exclude bar tools below a certain length. We also note that the scope of the investigation includes track tools and wedges of all lengths, and that it only makes a distinction with respect to the length of bar tools. [36] For all the reasons set forth above, in this final investigation we define one like product to include all track tools, wedges, and bars regardless of length.

3. Handles as part of like products [37]

In the preliminary investigation, the Commission treated the handles for hammers, picks and mattocks, and hewing tools, as part of each of the three pertinent like product categories. [38] [39]

Petitioner has continued to argue that handles should not be included in any like product definition. Petitioner contends that it is the shape and

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[35] See, e.g., INV-O-025 at 26, n.51.

[36] The petitioner has not provided the Commission with any explanation as to why this agency should draw a distinction based on length with respect to only bars, and not track tools or wedges, when defining the limits of this like product.

[37] In the preliminary investigation, the Commission found that the striking tool, hewing tool and digging tools categories each include the head alone, as well as the finished tool, as Commerce has done in defining the scope of this investigation. No one has challenged this finding in this final determination, and the Commission finds no basis for reaching a different conclusion.

[38] Preliminary Opinion at 12-13.

[39] We note, in this context, that the handle which is attached to the overwhelming majority of heavy forged handtools sold in this country, whether the head is made domestically or imported, is made in the United States. Few heavy forged handtools imported from China include the handle. This is because of the widespread agreement that hickory is a material which is vastly superior for making handles to any type of wood that is available in China.

weight of the head, rather than the handle, that imparts the function to a handled tool. Petitioner asserts that handles and finished tools move through different channels of distribution - handles travel primarily to producers and assemblers, whereas finished tools are distributed through retail outlets. The petitioner also notes that the methods of manufacturing a head and a handle are totally different, as are the employees used to manufacture these items. Finally, petitioner argues that if handles are to be included as a like product in this investigation, they should be grouped as one like product, rather than each type of handle being grouped with the finished tool with which it is used. [40]

Respondents argue that the handle is an essential component of a completed handtool. They contend that hammers, axes, picks and mattocks are useless without handles. [41] Respondents make additional arguments with respect to the value added which cannot be repeated here because they are based primarily on business proprietary data.

The question whether to include handles in the definition of each like product raises the issue of the circumstances in which an article at one stage of a multi-stage production process is "like" an article at a later or final stage in the production process. Among the factors on which the Commission has relied in determining whether finished and unfinished products are the same or different like products are the degree to which the different stages embody essential characteristics of or impart essential characteristics to the final product, the existence of separate markets for the finished and unfinished products, and the costs and value of the different production

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[40] Posthearing Brief of petitioner, Responses to Commissioners' Questions at 14-18.

[41] Prehearing Brief of Respondent at 11-14.

states. [42]

After careful analysis of the additional information that the Commission has gathered in this final investigation, we have concluded that the handles are not a part of any like product definition. We base this conclusion, in part, on the value added by attaching the head to the handle, an issue which we cannot discuss in detail because of the confidential nature of the pertinent data. [43] We are also convinced that it is the head that imparts the essential characteristic to the handtools in question, and that the handle just provides a means of using the head. Our conclusion is further supported by the fact that there is a separate replacement market for some handle production and by the fact that the handle alone is not interchangeable with the products which are subject to investigation. Indeed, we believe that the handle manufacturers are part of an entirely separate industry. Because, for the most part, only the heads of picks and mattocks, axes, and hammers are imported from China, domestic handle manufacturers are unlikely to be injured by dumped imports of these products imported from China, and they do not produce a product that is like these imports. Finally, we note that, with the exception of handles for picks and mattocks, handles and finished tools move

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[42] Certain Forged Steel Crankshafts From the Federal Republic of Germany and the United Kingdom, Inv. No. 731-TA-351 and 353 (Final) USITC Pub. 2014 (September 1987). See also, Certain Stainless Steel Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-376 (Final) USITC Pub. 2067 (March 1988) (finished and unfinished fittings found to constitute one like product because fittings cannot be used for their intended purposes unless completely finished, and finishing does not alter essential function of fitting); Butt-Weld Pipe Fittings from Brazil and Taiwan, Inv. Nos. 731-TA-308 and 310 (Final), USITC Pub. 1918 (Dec. 1986) and Butt-Weld Pipe Fittings from Japan, 731-TA-309 (Final), USITC Pub. 1943 (Jan. 1987) (finished and unfinished fittings found to constitute one like product because unfinished fittings had no use or market other than manufacture into finished fittings, finishing operations did not alter essential characteristics of fittings, and weighted-average cost of finishing was only 14 percent of total cost).

[43] Final Staff Report at A-41.

through different channels of distribution (handles travel primarily to producers of heavy forged handtools heads and assemblers, whereas finished tools are distributed through retail outlets), and that the methods of manufacturing a head and a handle are totally different.

4. Conclusion

In summary, the Commission continues to find that there are four separate like products, defined as follows: (1) hammers and sledges, with heads weighing two pounds or more, with or without handles (striking tools); (2) all bar tools, track tools, and wedges (bar tools); (3) picks and mattocks, with or without handles (digging tools); and (4) axes, adzes and hewing tools, other than machetes, with or without handles (hewing tools).

DOMESTIC INDUSTRY

Section 771(4)(A) of the Tariff Act of 1930 defines domestic industry as:

> ...the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. [44]

The Commission must address two issues in deciding the scope of the domestic industry in this investigation: (1) whether Madison Mill, a company that manufactures tool handles and assembles them with imported heads is part of any of three domestic industries, striking tools, digging tools, and hewing tools; and (2) whether companies that purchase domestic handles and assemble them with imported heads are part of any of these three domestic industries.

Respondents have contended that both categories of companies should be included within the Commission's definition of the domestic industries. [45]

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[44] 19 U.S.C. § 1677(4)(A).
[45] Respondents' Prehearing Brief at 11-14.

With respect to companies that manufacture handles and assemble them with imported heads, they contend that such activity constitutes substantial manufacturing activity in the United States. To support this assertion, they note that handle manufacturers employ substantial numbers of workers and have expensive capital equipment. They supplied the Commission with an affidavit from Madison Mill describing the process in which that company engages to obtain a completed tool to sell. [46] Respondents argue that the operations which assemble purchased domestic handles with imported heads also have substantial expenditures for labor and capital, although they supply little support for this assertion. [47]

Petitioner contends that neither category of company is properly included in the Commission's definition of the domestic industry. Petitioners urge the Commission to apply the type of analysis used in Internal Combustion Engine Forklift Trucks from Japan [48] and make the country in which the head is manufactured determinative of whether the tool is manufactured by a member of the domestic industry or by a foreign producer. [49] Petitioner also continues to contend that making a handle and inserting it into an imported head adds very little value to the head, requires little capital investment, and involves little technical expertise. They also argue that such operations create little domestic employment. [50]

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[46] Respondents' Prehearing Brief at 13, and Exhibit 2.
[47] Respondents' Prehearing submission at 13.
[48] Inv. No. 731-TA-377 (Final), USITC Pub. 2082 (May 1988). In that investigation, the Commission determined in what country a forklift truck was produced by the place of the manufacture of the frame, rather than its more usual value-added approach. The Commission departed from its more usual analysis because of the unusual facts in the investigation, including the difficulties in allocating foreign and U.S. costs between the countries. We find that no such circumstances are present here.
[49] Petitioner's Posthearing submission at 19.
[50] Petitioner's Posthearing submission at 21.

In the past, the Commission has considered value added, among other practical indicia of U.S. production, in determining whether a particular domestic producer performed sufficient production-related activity in the United States to be considered a member of the domestic industry. Specifically, the Commission has examined U.S. value added along with such factors as (1) the extent and source of a firm's capital investment, (2) the technical expertise involved in U.S. production activity, (3) research and development of all aspects of the product's technology, (4) the sophistication of the technology employed in the United States, (5) the amount of U.S. employment, and (6) whether production involves actual fabrication or merely assembly. [51] The Commission has emphasized that no single factor -- including value-added -- is determinative and that value-added information becomes more meaningful when other production activity indicia are taken into account. [52]

After considering the factors set forth above, and based on data that cannot be disclosed here because it is confidential, the Commission has concluded that Madison Mill engages in sufficient production-related activity in the United States to fall within the definition of the striking tools, hewing tools, and digging tools domestic industries. Based on data that cannot be disclosed because it is confidential, the Commission has decided not to include companies that do no more than assemble imported heads with handles purchased from a domestic manufacturer within any of these three domestic

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[51] See, e.g., Generic Cephalexin Capsules From Canada, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (August 1989); Certain All-Terrain Vehicles from Japan, 731-TA-388 (Final), USITC Pub. 2163 (March 1989); Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (December 1986) at 11 & n.23; Low-Fuming Brazing Copper Wire and Rod from New Zealand, Inv. No. 731-TA-246 (Final), USITC Pub. 1779 (November 1985) at 6.

[52] See, e.g., Color Television Receivers from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-134, 135 (Final), USITC Pub. 1514 at 7-8 (May 1984).

industries.

RELATED PARTIES

In this final investigation, the Commission considered whether to exclude either Madison Mill or Mann Edge as a related party. The related parties provision [53] allows for the exclusion of certain domestic producers from the domestic industry in "appropriate circumstances" when a producer is related to exporters or importers of the product under investigation, or is itself an importer of that product. The purpose of excluding a related party from the domestic industry is to avoid distortions in aggregate industry data that would result from the inclusion of data from a producer that was shielded from, or being benefitted by, the unfairly traded imports at issue. [54]

Application of the related parties provision is within the Commission's discretion based on the facts presented in each case. [55] The Commission has stated previously that domestic producers who substantially benefit from their relation to the subject imports are properly excluded as related parties. [56] The factors the Commission has examined include:

> (1) the position of the related producers vis-a-vis the rest of the domestic industry;
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> (2) the reasons why the domestic producers have chosen to import the product under investigation -- to benefit from the unfair trade practice,or to enable them to continue production and compete in the domestic market; and
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> (3) the percentage of domestic production

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[53] 19 U.S.C. § 1677(4)(B).

[54] Empire Plow v. United States, supra at 1353-54; Electrolytic Manganese Dioxide from Greece and Japan, Inv. Nos. 731-TA-406 and 408 (Final), USITC Pub. 1798 (1986) at 10.

[55] Empire Plow Co., 675 F. Supp. at 1352 (1987).

[56] See, e.g., Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (1986).

attributable to related producers. [57]

The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation. [58]

In this final investigation, the Commission is confronted with the question whether it should exclude Madison Mill from the striking tools, digging tools and hewing tools industries as a related party. We believe that it is significant that Madison Mill appeared in opposition to the petition in this investigation. We also believe that it is clear that Madison Mill benefits from the LTFV heads that are imported from the People's Republic of China. For these reasons, as well as for reasons which are based on data in the confidential record, the Commission finds that it is appropriate to exclude Madison Mill from each of these three industries as a related party.

The Commission also considered whether it should exclude Mann-Edge from amy of the industries of which it is a member. In the preliminary investigation, the Commission determined that there was insufficient evidence to warrant excluding Mann-Edge from any of the four domestic industries. Mann-Edge is believed to be the largest domestic producer of axes. It also produces other heavy forged handtools such as hammers, mauls, sledges, and a minimum line of bar products. [59] The Commission has gathered considerable additional data in this final investigation pertinent to its decision whether to exclude Mann-Edge as a related party from any of the four industries.

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[57] Id. See Empire Plow Co., 675 F. Supp. at 1353-54 (commenting, with respect to factors (1) and (2) that "[t]his is a reasonable approach when viewed in light of the legislative history...").

[58] See, e.g., Rock Salt from Canada, Inv. No. 731-TA-239 USITC Pub. 1798 (1986) at 12.

[59] Final Staff Report at A-7.

Based on data which is in the confidential record, the Commission continues to conclude that it is not appropriate to exclude Mann-Edge from any of the domestic industries of which it is a member.

CONDITION OF THE INDUSTRIES [60]

In assessing the condition of the domestic industries, the Commission considers, among other factors, U.S. consumption, production, shipments, capacity utilization, inventories, employment, wages, financial performance, capital investment, and research and development expenditures. [61] No single factor is dispositive, and in each investigation the Commission considers the particular nature of the industry involved and the relevant economic factors which have a bearing on the state of the industry. [62] Before describing the condition of the industries, we note that much of the information on which we base our decisions is business proprietary, and therefore our discussion of the industries must necessarily be general in nature.

The Commission requested data from the domestic producers concerning overall establishment operations on heavy forged handtools and operations on each of the four categories of handtools. Production, consumption and employment data were obtained for specific categories of heavy forged

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[60] Acting Chairman Brunsdale joins in this discussion of the condition of the domestic industries, except as otherwise indicated below. However, she does not reach a separate legal conclusion regarding the presence or absence of material injury based on this information. While she does not believe an independent determination of the condition of the domestic industries is either required by the statute or useful, she finds the discussion of the condition of the domestic industries helpful in determining whether any injury resulting from dumped imports is material.

[61] See, 19 U.S.C. § 1677(7)(C)(iii).

[62] See 19 U.S.C. § 1677(7)(V)(iii), which requires us to consider the condition of the industry in the context of the business cycle and conditions of competition that are distinctive to the domestic industry. See also H.R. Rep. 317, 96th Cong., 1st Sess. at 46; S. Rep. 249, 96th Cong., 1st Sess. at 88.

handtools corresponding to the like products in this investigation. However, the domestic producers were only able to provide us with reliable financial data based on their overall operations. [63] Thus, in accordance with 19 U.S.C. § 1677(4)(D), the industries' financial data was analyzed on a product line basis. [64]

1. Striking Tools with Heads Two Pounds and Over

Apparent domestic consumption of striking tools increased in quantity and value from 1987 to 1989, and decreased slightly from the interim period of 1989 (January - September) to the interim period of 1990 (January - September).[65] Domestic production increased from 1987 to 1989, but decreased slightly from the interim period of 1989 to the interim period of 1990. U.S. producers' production capacity remained essentially unchanged from 1987 to 1989, but decreased slightly from the interim period of 1989 to the interim period of 1990. Capacity utilization increased from 1987 to 1989, and decreased slightly from the interim period of 1989 to the interim period of 1990. Domestic shipments increased from 1987 to 1989. Domestic shipments in units decreased from the interim period of 1989 to the interim period of 1990, while domestic shipments measured in value terms increased during the same period. End-of-period inventories increased from 1987 to 1988, and decreased from 1988 to 1989, as well as from the interim period of 1989 to the interim period of 1990. [66]

The employment of production and related workers, and related indicia,

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[63] Although one company did provide the Commission with financial data, broken down by category of tools, because officials from that company themselves questioned the reliability of this data, the Commission chose not to rely on it.
[64] 19 U.S.C. § 1677(4)(D)
[65] INV-O-031.
[66] Table 1,000.

increased from 1987 to 1988, and fell from 1988 to 1989. These indicia remained essentially constant from the interim period of 1989 to the interim period of 1990. [67]

2. Bar Tools [68]

Apparent consumption of bar tools increased in quantity from 1987 to 1988, fell from 1988 to 1989, and decreased again from the interim period of 1989 to the interim period of 1990. In value terms, apparent consumption increased from 1987 to 1988, decreased from 1988 to 1989, and fell again from the interim period of 1989 to the interim period of 1990. [69] Production capacity remained constant from 1987 to 1989, but declined slightly from the interim period of 1989 to the interim period of 1990. Capacity utilization and domestic production increased from 1987 to 1989, but decreased from the interim period of 1989 to the interim period of 1990. The quantity and value of domestic shipments increased from 1987 to 1988, but declined in 1989 to a level below 1987 shipments. Domestic shipments decreased again from the interim period of 1989 to the interim period of 1990. End-of-period inventories decreased throughout the period of investigation. [70]

The employment of production and related workers, and related indicia, decreased slightly from 1987 to 1988, and increased from 1988 to 1989. In general, these indicia remained constant from the interim period of 1989 to the interim period of 1990. [71]

3. Digging Tools

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[67] Id.
[68] Commissioner Lodwick does not join in this discussion. See Dissenting Views of Commissioner Lodwick, infra.
[69] Final Staff Report at A-11, Table 4, INV-O-027, and Table 1,000.
[70] Table, 1,000.
[71] Id.

Domestic consumption of digging tools increased significantly in both quantity and value from 1987 to 1989, but decreased significantly in both quantity and value from the interim period of 1989 to the interim period of 1990. [72] Production capacity remained constant from 1987 to 1989, and increased slightly from the interim period of 1989 to the interim period of 1990. U.S. production and domestic shipments decreased from 1987 to 1988, and declined sharply from 1988 to 1989. Both production and shipments continued to decline from the interim period of 1989 to the interim period of 1990. Similarly, capacity utilization declined throughout the period of investigation. End-of-period inventories remained constant throughout the period of investigation. [73]

The number of production and related workers, and other employment indicia, declined from 1987 to 1989, but increased from the interim period of 1989 to the interim period of 1990. [74]

4. Hewing Tools

Apparent consumption of hewing tools increased both in quantity and in value from 1987 to 1989. Apparent consumption decreased somewhat from the interim period of 1989 to the interim period of 1990. [75] Domestic capacity decreased from 1987 to 1988, but remained constant throughout the remainder of the period of investigation. United States production and capacity utilization increased slightly from 1987 to 1988, and then decreased from 1988 to 1989, falling below 1987 levels, and decreased again from the interim period of 1989 to the interim period of 1990. Domestic shipments increased in

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[72] Final Staff Report at A-39, Table 29.
[73] Final Staff Report at B-18-19, Table D-1.
[74] Final Staff Report at B-18, Table D-1.
[75] Final Staff Report at A-39, Table 29.

quantity and value from 1987 to 1989, and decreased from the interim period of 1989 to the interim period of 1990. End-of-period inventories increased somewhat from 1987 to 1988, and dropped dramatically from 1988 to 1989, only to increase again from the interim period of 1989 to the interim period of 1990. [76]

Employment trends increased slightly from 1987 to 1988, decreased somewhat from 1988 to 1989, and increased again slightly from the interim period of 1989 to the interim period of 1990. [77]

Financial Data

Net sales for overall establishments of the producers who reported such data increased from 1987 to 1988, and decreased slightly from 1989 to 1990 and from the interim period of 1989 to the interim period of 1990. [78] [79] Operating income decreased steadily throughout the period of investigation. Operating income margins as a percentage of sales were low in 1987, and decreased steadily throughout the period of investigation. Gross profits decreased steadily throughout the period of investigation. Gross profits as a share of net sales decreased from 1987 to 1988, increased slightly from 1988 to 1989, and decreased again from the interim period of 1989 to the interim period of 1990. [80] Overall, return on both fixed assets and total assets was poor throughout the period of investigation. [81]

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[76] Final Staff Report at B-18, Table D-1.
[77] Id.
[78] Since none of the reporting firms were able to provide reliable separate data on the four product groups or on heavy forged handtools generally, the discussion of trends of these data is based on overall operations.
[79] Producers reported that heavy forged handtools accounted for approximately 62 percent of overall establishment net sales in 1989. Preliminary Staff Report at A-20.
[80] Final Staff Report at A-23, Table 18.
[81] Final Staff Report at A-26, Table 22.

Based on the data available in these investigations, we find that the four domestic industries are materially injured. [82] [83] While the trends are mixed, we note that apparent consumption, domestic production, capacity utilization, and domestic shipments almost all declined for all four industries from the interim period of 1989 to the interim period of 1990, although to varying degrees. Finally, we note that the declining overall profitability of the producers, particularly their poor return on both fixed and total assets, indicates that the industries are suffering material injury.

With respect to the hewing tool industry, we considered the additional factor of the opposition to the petition by a company representing a majority of that industry in making our material injury determination. [84] Despite this company's opposition to the petition, however, the other data concerning the hewing tools industry as a whole, the financial data for the producers' overall establishments, and the factors summarized in the preceding paragraph, on balance, led us to conclude that the hewing tool industry has suffered material injury. [85]

MATERIAL INJURY BY REASON OF IMPORTS [86]

In making a final determination in an antidumping investigation, the Commission is charged with determining whether material injury to the domestic industry is "by reason of" the imports under investigation. [87] The

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[82] Acting Chairman Brunsdale does not join in this conclusion. See, n.59, supra and Views of Acting Chairman Brunsdale.
[83] Commissioner Lodwick does not join in this conclusion with respect to the bar tools industry. See, Dissenting Views of Commissioner Lodwick.
[84] We note that Congress gave the Department of Commerce the statutory authority to make standing determinations.
[85] Acting Chairman Brunsdale does not join in this conclusion. See, n. 59, supra, and Views of Acting Chairman Brunsdale.
[86] Acting Chairman Brunsdale does not join in this discussion. See Views of Acting Chairman Brunsdale, infra.
[87] 19 U.S.C. § 1673d(b).

Commission may take into account information concerning other causes of harm to the domestic industry, but it is not to weigh causes. [88] The imports need only contribute, even minimally, to material injury. [89]

For most of the industries, the subject imports increased their market penetration during at least some of the period of investigation. While the price comparison trends are mixed, there were numerous instances of underselling by the imported products throughout the period of investigation.

Specific trends for each of the industries are discussed in turn.

Striking Tools

Questionnaire responses show that U.S. imports from China of striking tools increased dramatically both in quantity and value from 1987 to 1989, and declined from the interim period of 1989 to the interim period of 1990. [90]

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[88] "Current law does not... contemplate that the effects from the subsidized [or LTFV] imports be weighted against the effects associated with other factors (e.g., the volume and prices of nonsubsidized [LTFV] imports, 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) which may be contributing to overall injury to an industry." S. Rep. No. 249, 96th Cong. 1st Sess. 57-58, 74 (1979)

[89] Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1088 (Ct. Int'l Trade 1988); Hercules,Inc. v. United States, 673 F. Supp. 454, 479 (1987).

[90] Final Staff Report at A-33, Table 26. We note that the Commission has also collected official import statistics from the Department of Commerce for each of the four industries. The official statistics from the Department of Commerce only include data for imports, and do not report data for domestic shipments of imports. Further, official data is only available on a unit basis with respect to striking tools. We also note that the official U.S. import statistics for bar tools includes bars of 18 inches and under, which are not within the scope of the investigation defined by the Department of Commerce. Further, the official import statistics for digging tools in 1989 and in the interim period of 1990 include hoes and rakes, which are not within the scope of the investigation defined by the Department of Commerce.

The Commission uses import statistics in a number of different ways in making it injury determinations. Because of the limitations set forth above with respect to the official statistics, the Commission has decided to rely on its questionnaire data. Only in this way can it be sure that it is relying on

(continued...)

Market penetration increased from 1987 to 1989 by approximately 25 percent both in quantity and value terms, and declined slightly from the interim period of 1989 to the interim period of 1990. [91] While there was overselling by the imports of one sledgehammer product with a Chinese handle sold to the hardware market, the price comparisons in the same market were mixed when the price of the comparable domestic product was compared with the price of an imported sledgehammer composed of an imported head and a U.S. handle. Price comparisons for this same product reflected consistent underselling by the imported product when sales to the handtool manufacturers industry (HTM) from April 1989 to September 1990 were examined. [92]

The selling prices of a second imported striking tool with a Chinese handle reflect consistent underselling in the hardware market. When the imported head is attached to a U.S. handle, although the margins of underselling decline, there are only two instances of overselling in 15 quarters of reported sales to the hardware market. [93]

Based on purchaser questionnaire data, all of the price comparisons between these two domestic striking tools and the comparable striking tools imported with Chinese handles showed underselling by the imported product. In addition, almost all of the price comparisons between these two domestic products and the Chinese products sold with a domestic handle also showed underselling. [94]

We find that in light of the overall increasing import trends, market

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[90](...continued)
comparable data throughout its analyses, and throughout the entire period of investigation.

[91] INV-O-031.

[92] Final Staff Report at A-50, Tables 38 and 39.

[93] Final Staff Report at A-50, Table 38.

[94] Final Staff Report at A-51.

penetration, and the evidence of underselling, LTFV imports are a cause of material injury to the domestic striking tools industry.

Bar Tools [95]

The quantity and value of imports from China of bar tools increased sharply from 1987 to 1989, and decreased somewhat from the interim period of 1989 to the interim period of 1990. [96] Market penetration measured in quantity terms stayed constant from 1987 to 1988, and then increased by more than 40 percent from 1988 to 1989. Market penetration in quantity terms increased again from the interim period of 1989 to the interim period of 1990. [97] Market penetration measured in value terms, followed a similar pattern. [98]

Of the 30 quarterly price comparisons between the two domestic bar products and the comparable Chinese products sold in the hardware market, 15 comparisons showed the imported products to be priced less than the domestic product, while 15 comparisons showed instances of overselling by the imported product. [99]

We find that in light of the overall increase in the level of imports, the significant increase in market penetration, and the evidence of underselling, LTFV imports are a cause of material injury to the domestic bar tools industry.

Digging Tools

U.S. imports from China of digging tools increased constantly from 1987

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[95] Commissioner Lodwick does not join in this discussion. See Dissenting Views of Commissioner Lodwick, infra.
[96] Final Staff Report at A-33, Table 26.
[97] Final Staff Report at A-11, Table 4, INV-O-027, and Table 1,000.
[98] Final Staff Report at A-11, Table 4, INV-O-027, and Table 1,000.
[99] We note that, although the purchaser questionnaire data show far more instances of overselling than the comparisons between the producer and importer data, the purchaser price data is based on far more limited shipment quantities than the latter data. Final Staff Report at A-52-53.

to 1989, both in terms of value and quantity, and decreased between the interim period of 1989 and the interim period of 1990. [100] Market penetration started at a high level in 1987 and increased by approximately one-third from 1987 to 1989. Market penetration also increased from the interim period of 1989 to the interim period of 1990. [101]

Based on producer and importer questionnaire price data, all quarterly price comparisons between the domestically produced digging tool and the digging tool imported from China show margins of underselling. All quarterly price comparisons based on purchaser questionnaire data also show underselling by the imported product. [102]

We find that in light of the generally increasing levels of imports, the significant growth in market penetration, and the sustained underselling, LTFV imports are a cause of material injury to the domestic digging tools industry.

Hewing Tools

U.S. imports from China of hewing tools decreased from 1987 to 1988, increased dramatically from 1988 to 1989 to levels well above those in 1987, and then declined from the interim period of 1989 to the interim period of 1990. [103] Market penetration increased slightly in volume from 1987 to 1988, increased by almost thirty percent from 1988 to 1989, and continued to increase from the interim period in 1989 to the interim period in 1990. Market penetration in value terms decreased slightly from 1987 to 1988, increased by nearly sixty percent to levels well above 1987 levels from 1988 to 1989, and decreased from the interim period of 1989 to the interim period

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[100] Final Staff Report at A-33, Table 26.
[101] Final Staff Report at A-39, Table 29.
[102] Final Staff Report at A-53, and Table 41.
[103] Final Staff Report at A-33, and Table 26.

of 1990. [104]

All 11 of the quarterly price comparisons between the domestic heavy forged hewing tool and the imported hewing tool with an imported handle sold in the hardware market showed the imported product to be underselling the domestic product by a substantial margin. All 15 quarterly price comparisons between the domestic product and the imported product with a U.S. handle sold in the hardware market also showed underselling. Similarly, all 6 of the possible quarterly price comparisons between the domestic and the imported hewing product with U.S. handles sold in the HTM market showed significant margins of underselling by the imported product. [105]

Based on purchaser questionnaire data, all of the possible quarterly price comparisons between the domestic product and the imported product, whether with an imported or a U.S. handle, showed consistent underselling by the imported product. [106]

We find that in light of the significant increased level of market penetration, in combination with the persistent underselling, LTFV imports are a cause of material injury to the domestic hewing tools industry.

CRITICAL CIRCUMSTANCES

Petitioners have alleged that critical circumstances exist with respect to striking tools, bar tools, and digging tools as the result of massive importations from China. The Commerce Department made affirmative critical circumstances determinations with respect to each of these three product categories, but determined that there are no critical circumstances with respect to axes.

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[104] Final Staff Report at A-39, Table 29.
[105] Final Report at A-54, and at Table 42.
[106] Final Staff Report at A-54.

Given Commerce's affirmative critical circumstances findings in this final investigation, the Commission is required to determine, for each domestic industry for which it makes an affirmative injury determination, "whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time" [107]

An affirmative critical circumstances determination is a finding that, the effectiveness of the antidumping order would be materially impaired by the failure to impose duties retroactively. [108] The purpose of this provision is to deter efforts to circumvent the antidumping order, particularly when such efforts exacerbate the injury to the industry. [109] This provision, which was amended in the 1988 Trade Act, now clarifies the factors which the Commission is to consider in making this determination. The statute requires the Commission to consider: (1) the condition of the industry; (2) whether massive imports of the subject merchandise in a relatively short time can be accounted

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[107] 19 U.S.C. § 1673d(b)(4)(A) (Supp. 1990).

[108] H.R. Rep. No. 100-576 at 611, 100th Cong., 2d Sess (1988). In addressing the argument that the Commission must find a separate causal link between the massive imports and material injury, the Court of International Trade has stated:

> [T]he ITC is not required by law or considerations of fairness to isolate the massive quantities [of imports] and make them the separate subject of an injury inquiry.
>
> In those circumstances it is sufficient if the ITC concentrates on the capacity of these massive imports to render ineffectual the normal imposition of duties (prospectively from the date of publication of the preliminary determination) and thereby bring about a recurrence of material injury primarily caused by normal levels of importation.

ICC Industries, Inc. v. United States, 632 F. Supp. 36, 40 (CIT 1986), aff'd, 812 F. 2d 694 (Fed. Cir. 1987).

[109] See, H.R. Rep. No. 100-576, 100th Cong., 2nd Sess. at 611 (1988).

for by efforts to avoid the potential imposition of antidumping duties; (3) whether foreign economic conditions led to the massive imports of the merchandise; and (4) whether the impact of the massive imports of the merchandise is likely to continue for some period after the issuance of the antidumping duty order. [110] [111]

With respect to the three industries for which Commerce found affirmative circumstances exist (striking tools, bar tools, and hewing tools), we find that no critical circumstances exist. [112] We conclude that there is no indication that foreign economic conditions have led to massive imports of the merchandise or that the increased imports can be accounted for by efforts to avoid the imposition of antidumping duties. Nor do we have any information suggesting that the impact of the massive imports is likely to continue for some period after the issuance of the antidumping order. Indeed, we note that the level of end-of-period inventories held by U.S. importers decreased from the interim period of 1989 to the interim period of 1990. [113]

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[110] 19 U.S.C. 1673d(b)(4)(A)(iii).

[111] See also , H. Rep. 100-576, 100th Cong., 2d Sess. (1988) at 611-12.

[112] Acting Chairman Brunsdale joins in this conclusion. For a discussion of her reasoning, see Views of Acting Chairman Brunsdale, infra. Commissioner Lodwick does not join in this portion of the opinion as it pertains to bar tools, as he made a negative injury determination with respect to that industry.

[113] Final Staff Report at A-60, Table 24.

CONCLUSION

For all of the reasons set forth above we determine that the domestic industries defined above are materially injured by reason of the imports from the People's Republic of China that Commerce has determined are sold at less than fair value.

VIEWS OF ACTING CHAIRMAN ANNE E. BRUNSDALE

Heavy Forged Handtools from the People's Republic of China
Investigation Number 731-TA-457 (Final)

In this investigation, I find that domestic industries producing striking and digging heavy forged handtools[1] are materially injured by reason of imports of these products from the People's Republic of China (PRC) that are being sold at less than fair value. I find that domestic industries producing hewing and bar heavy forged handtools[2] are neither materially injured nor threatened with material injury by reason of dumped imports from the PRC.[3]

I concur with my colleagues on the definition of the four like products in this case, the domestic industries that produce these like products, and the issue of related parties. I also accept the Commission's description of the condition of the industry as an accurate portrayal of the circumstances of the industries during the period of investigation. I do not, however, join in the determination that this information

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[1] Striking tools consist of heavy hammers such as sledge hammers and woodsplitting mauls. Digging tools are picks and mattocks.

[2] Hewing tools are axes, adzes, and similar tools. Bar tools include crowbars, wrecking bars, digging bars, tampers, track tools and wedges. Track tools and wedges are also included in the bar tools category.

[3] The statute also directs us to consider whether "the establishment of an industry in the United States is materially retarded by reason of" the dumped imports. (19 U.S.C. 1673d(b)(1)(B)) However, this is not an issue in the present case and therefore will not be discussed further in this opinion.

establishes the presence of material injury to the domestic industries. I differ from my colleagues in that I do not believe that an analysis of the condition of the domestic industry is sufficient to establish that a domestic industry is, or is not, injured by reason of dumped imports -- this being the issue the statute requires us to address.[4] Further, I do not believe that an independent legal determination based on the condition of the industry is either required by the statute or useful.[5]

In these views, I set forth my causation analysis on material injury and threat -- the "by reason of" issue, to use the words of the statute. I also address whether critical circumstances exist in the cases of striking, bar, and digging tools.[6] But before turning to these tasks, a brief review of the history of the domestic industries producing heavy forged handtools will help us place the current state of the domestic industry in the proper context.

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[4] 19 U.S.C. 1673(2).

[5] See Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989) at 10-15 (Views of Chairman Brunsdale and Vice Chairman Cass). I do, however, find the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from dumped imports is material.

[6] Because the Department of Commerce did not find critical circumstances in the case of hewing tools, the issue does not arise concerning that product.

The History of the Domestic Industries

During the past decade, several large domestic firms stopped producing heavy forged handtools after concluding that profits were not great enough to support continued production.[7] Rockford Drop Forge built a new plant to produce mauls and wedges in the early 1980s, only to close it about two years later. True Temper Corporation closed its major heavy handtool plant in 1982 and reduced its presence in the industry to the finishing of forgings purchased from both domestic and foreign suppliers.[8] Stanley Tool quit producing heavy forged handtools in 1985. Warren Tool permanently closed its tool manufacturing operations in 1987.[9]

Dumped imports from the PRC cannot be blamed for the exit of most of these firms. They left the industry in the early 1980s, and petitioner states that, until the mid-1980s, the import competition came from Japan and Taiwan, not the PRC.[10] Imports from these countries were never found to be unfairly traded. Thus, the exit of most of these firms would appear to have had more to do with the loss of comparative advantage to foreign producers than with the advent of any dumped imports.

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[7] Hearing Transcript at 11 (Testimony of H. Phillip Kennedy, President, Woodings-Verona Tool Works, Inc.).

[8] Id. at 11-12.

[9] Id. at 12; Staff Report at A-6.

[10] Hearing Transcript at 13.

Even the history of petitioner Woodings-Verona Tool Company suggests that the U.S. does not have a comparative advantage in the production of these products. Up until 1985, Woodings-Verona was owned by the Budd Company. In that year, Budd decided to sell the company. However, no outside buyers were forthcoming, again suggesting that domestic production of heavy forged handtools is not efficient. In June 1986, Woodings-Verona's management stepped in and organized a leveraged buy out.[11]

Further, until very recently Woodings-Verona imported pick, mattock, and axe heads, thereby providing additional evidence of the efficiency of importing heavy forged handtools rather than producing them in the U.S. According to testimony at the Commission hearing, Woodings imported these items from the Chinese respondents from 1982 or 1983 until early this year, at which time respondents refused to ship additional quantities to Woodings because of past due debts.[12]

All of this suggests that the U.S. does not have a comparative advantage in the production of heavy forged handtools. While this conclusion appears valid, it does not answer the question of whether the domestic industries producing

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[11] Id. at 12-13; Staff Report at A-7.

[12] Hearing Transcript at 93-95 (Testimony of Wang Zhaoshun, Deputy Division Chief, Tianjin Machinery Import and Export Corporation) and Affidavit of Wang Zhaoshun, submitted as Exhibit 3 to Respondents' Pre-Hearing Brief.

these tools are injured by dumped imports from the People's Republic of China. In order to answer this question, I must consider, as in all Title VII cases, how the condition of the industry would have differed if the dumped imports had not been present in the market.[13] It is to that task that I now turn.

Material Injury by Reason of Dumped Heavy Forged Handtools

In determining whether or not the domestic industries producing particular heavy forged handtools are materially injured by reason of dumped imports, I considered, as the statute directs, the volume of subject imports, the effects of these imports on the price of the like product, and the effects on the domestic industry producing the like product.[14] As is obvious from these statutory factors, and as I have stated so often in the past,[15] a coherent and transparent analysis of the kind demanded by the

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[13] Of course, the elimination of the dumped imports could be accomplished by raising the price of the Chinese imports to the point that they are no longer being dumped.

[14] 19 U.S.C. 1677(7)(B).

[15] See, e.g., Certain Steel Pails from Mexico, Inv. No. 731-TA-435 (Final), USITC Pub. 2277, at 24-28 (May 1990) (Additional Views of Chairman Anne E. Brunsdale); Certain Residential Door Locks and Parts Thereof From Taiwan, Inv. No. 731-TA-433 (Final), USITC Pub. 2253, at 33-36 (January 1990) (Additional Views of Chairman Anne E. Brunsdale); Certain Electrical Conductor Aluminum Redraw Rod from Venezuela, Inv. Nos. 701-TA-287 (Final) and 731-TA-378 (Final), USITC Pub. 2103, at 42-46 (August 1988) (Dissenting Views of Chairman Anne E. Brunsdale); and Color Picture Tubes from Canada, Japan, the Republic or Korea, and Singapore, Inv. Nos. 731-TA-367-370 (Final), USITC Pub. 2046, at 23-32 (December 1987) (Additional Views of Vice Chairman Anne E. Brunsdale).

statute requires an assessment of the domestic market and an understanding of the role of the subject imports within that market. Economics, which is the study of markets and how they change, is an ideal source of the tools necessary for making that assessment.

Application of the tools of economics involves little more than organizing and evaluating the evidence in the record in a manner that permits me to assess the impact of the dumped imports in a rigorous fashion. These tools are not surrogates for the statutory factors. Rather, they permit me to analyze in a direct fashion the volume effect, the price effect, and the overall impact of the dumped imports on the domestic industry as the law specifically and unambiguously requires.[16]

Market Penetration by Subject Imports. One of the most important factors in analyzing the effect of the dumped imports on the domestic industry is the U.S. market share captured by the dumped imports. The smaller that share, the smaller the effect of the dumped imports, and vice versa.

In the current investigation, data on the penetration of the various heavy forged handtools from the PRC are confidential and therefore cannot be discussed in a public opinion. In addition, the available import data that must be combined with domestic shipments data to determine import penetration figures have

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[16] 19 U.S.C. 1677(7)(B).

significant problems. I believe it would be useful to discuss these problems and how I have resolved them in reaching my determinations.

Two sources of data on imports are available, Commission questionnaires and the U.S. Department of Commerce import statistics. In this case Commission questionnaires provide relatively complete data on imports from the PRC but only minimal coverage of imports from other countries.[17] Accordingly, figures on U.S. apparent consumption based on these data will be understated and the PRC's share of the market will be overstated.

In contrast, data based on Commerce's official import statistics provide complete coverage of imports from all countries.[18] But they have other problems. First, Commerce reports imports at landed, duty-paid value, whereas domestic shipments are reported at the value for which they are sold by U.S. producers.[19] Thus, to the extent that the importers add value to the imported product, either by physically transforming the product or simply by providing services, import penetration

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[17] See Staff Report at A-31. Import data based on Commission questionnaires are reported at A-33, Table 26. Data on shipments of imports based on Commission questionnaires are reported at A-10 - A-12, Tables 3-6.

[18] These data are provided in the Staff Report at A-38, Table 28.

[19] See Producers' Questionnaire, Instructions for Section II-B. This problem does not arise if data on the value of shipments of imports are used, because the value of shipments of imports is reported at the same level of trade as domestic shipments. (See Importers' Questionnaire, Instructions for Section II-A.)

figures based on the official import statistics will be understated.[20]

In this case, the problem of value added by importers is particularly significant for striking and hewing tools. A completed hammer or axe consists of a forged head and an attached handle, and hammers and axes shipped by importers and domestic producers include both parts. However, imports generally consist of just the forged head.[21] Handles, which are made of American hickory, are added in this country. A substantial portion of the value of the final tool is accounted for by the handle.[22] It therefore does not make sense to combine the value of domestic shipments and the value of imports on a landed, duty-paid basis to compute market shares.

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[20] Evidence of the extent of value added by importers can be obtained by comparing the unit values of imports, which are reported in the Staff Report at A-35, Table 27, with the unit values of shipments of imports, which can be derived from the data in Tables 3 through 6 at A-10 - A-12. Using data for interim 1990 for imports from the PRC, the ratio of unit value of imports to unit value of shipments from imports is equal to 0.40 for striking tools, 0.62 for bar tools, 0.44 for digging tools, and 0.72 for hewing tools.

[21] Less than 10 percent of imported striking and digging tools and less than 20 percent of imported axes from the PRC enter the United States with handles attached. (Respondents' Post-Hearing Brief, Appendix A: Responses to Commission Questions Posed to Respondents' Counsel and Julian Scruggs, at 2.)

[22] Staff Report at A-40 - A-41. A completed digging tool also consists of a forged head and a handle which is generally made of American hickory and is added in this country. However, the head of a pick or mattock is only slipped over the handle. It is not physically attached. Further, most digging tools imported from China are not shipped with handles when they are sold by the importer.

A second problem with Commerce's official import data is that the data on bar and digging tools include imports not subject to the current investigation. In bar tools, only tools over 18 inches in length are within the scope of the investigation.[23] However, the official import data include all bar tools, regardless of length.[24] In the digging tools category, the problem is that, since the beginning of 1989, the official statistics include imports of hoes and rakes, which are not subject to the current investigation.[25] Thus, the official import figures overstate imports of these two product.[26]

Because of the various problems with the official Commerce data and the fact that the problems are greater for some of the like products than for others, I decided that using data from different sources provides the best picture for different like products. In the case of the striking, hewing, and digging

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[23] Staff Report at A-3.

[24] Id. at A-38, Table 28, n.1.

[25] Id., n.2.

[26] Since the data for bar tool imports are overstated for the entire period of investigation, it is difficult to determine how significant the overstatement is. However, the fact that there is a change in the case of digging tools allows us to obtain some indication of the significance of the change by comparing the data before and after the change was made. In this case, the increase in imports from $2.8 million in 1988 to $10.8 million in 1989 strongly suggests that there are a lot of hoes and rakes being imported and that the data for 1989 and later do not provide a good picture of the level of subject imports.

tools, I used the value data as reported by Commerce.[27] I attempted to adjust these data to approximate the value of the tools as sold by the importer, rather than the landed value at which the data are reported.[28] Since such an adjustment roughly values the imports at the same level of trade as the domestic shipments, it enabled me to combine the import and domestic shipments data to obtain reasonable figures on market penetration.[29]

For bar tools I estimated import penetration using the data gathered through Commission questionnaires.[30] I did not use the official import data because they include an unknown quantity of items that are not subject to investigation. While the

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[27] Since the official import data for digging tools become seriously distorted beginning in 1989, I have focused on the 1987 and 1988 figures.

[28] I have done this by increasing the reported value by the ratio of the unit value of shipments of imports of the product in question to the unit value of imports of that product as derived from Commission questionnaire data.

[29] I estimate that imports of striking tools from the PRC accounted for [***] percent of U.S. apparent consumption in interim 1990. For hewing tools, the figure was [***] percent. Imports of digging tools from the PRC are estimated to account for [***] percent of U.S. apparent consumption in 1988.

[30] The value of shipments of imports from China of bars over 18 inches in length and the value of domestic shipments of such bars are reported in the Staff Report at A-11, Table 4. Data on domestic shipments of bars that are 18 or fewer inches in length are reported in Table C which accompanies Memorandum dated February 1, 1991, to the Commission from the Director, Office of Investigations, entitled "Investigation No. 731-TA-457 (Final): Heavy Forged Handtools from the People's Republic of China -- Critical Circumstances and Trade Data on Nonsubject Striking and Bar Tools" (INV-O-027).

Commission questionnaires provide the best figures available, I expect that these data overstate the market shares of both the unfair imports and the domestic industry since they are likely to exclude significant quantities of imports from third countries.[31]

Dumping Margins. The effect of the dumped imports on the U.S. industry producing a like product will also depend on the price at which these imports are sold. In particular, the effect will depend on the difference between the price charged for the unfair imports and the fair price. The greater the difference, the greater the number of purchasers who will shift from the domestic like product to the dumped import in order to obtain the benefits of a reduced price.

As a measure of the difference between the dumped and the fair price, I look at dumping margins computed by the Department of Commerce. Those margins were 15.02 percent for hewing tools, 31.76 percent for bar tools, 45.42 percent for striking tools, and 50.81 percent for digging tools.[32]

In evaluating the effect these dumping margins have on the domestic industry, it is important to be aware of differences between the point in the distribution chain at which the margins are calculated and the point at which the imports compete with

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[31] I estimate that imports of subject bar tools accounted for [***] percent of all bar tools during the interim 1990 period.

[32] Staff Report at A-3.

the domestic like product. In the current case, it appears most reasonable to think of the competition between the imported and domestically produced handtools occurring at the level of the final purchaser. For the hardware segment of the market, which accounted for substantially more than half of domestic shipments and virtually all of the import sales,[33] the competition between imported and domestic tools occurs at the local hardware store.

In contrast, the dumping margins are computed at an ex-factory level. That is, the Commerce Department's calculations measure the extent to which the imported product's price is unfairly low when it leaves the factory in China.

To determine the effect of the dumped imports on the domestic industry, then, it is necessary to determine how much the price in the hardware store increases in response to a given percentage increase in the ex-factory price of a handtool. This will depend on the value added after the product leaves the factory and whether this value changes with the ex-factory price of the import -- which will depend, in part, on the amount of value that is added to the imported product after it arrives in the United States. In this case, the value added in this country consists of handles that are attached after the imported head arrives in the United States, of finishing of some of the tools,

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[33] Id. at A-13.

and of marketing services.[34] An increase in the price of the imported head will not cause the cost of purchasing and attaching handles to increase, nor will it increase the cost of finishing or marketing in the United States. Thus, the percentage increase in the price of the final handtool will be much smaller than that of the ex-factory price of the imported heads.[35]

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[34] The handles for digging tools are not physically attached to the heads. Rather, the head is simply slipped over the handle. It has generally proven more economical to ship and display heads and handles separately rather than to assemble them prior to purchase by the end user. (Hearing Transcript at 119.) This does not however eliminate the need to adjust for the value of the handle in determining how dumped imports affect the domestic industry. Even though the head and handle are not physically attached, the consumer must purchase both in order to have a usable tool; and it will therefore be the difference in the prices of the combined head and handle that will lead the consumer to select between imports and domestic products.

[35] Other costs incurred before the import arrives in the United States -- such as freight and insurance costs -- can also cause the percentage increase in the final price to be less than that of the ex factory price. For example, one would not expect the costs of ocean shipping to increase proportionately with an increase in the price of the product being shipped. Using different methodologies, both petitioner and respondents have suggested that the costs of such items as ocean freight and insurance add approximately 15 percent to the ex-factory price of the imports. (See Comments on APO Materials Submitted by Petitioner Woodings-Verona Tool Works, Inc., at 18 and Respondents' Post-Hearing Brief, Appendix B: Response to Commission Questions Posed to Respondents' Economic Consultants, at 11.)

Previous discussions of the appropriateness of adjusting for non-proportionate costs have tended to focus on costs, such as the costs of shipping, for which Commerce must adjust in its margin calculations. (See, e.g., *The CADIC Bulletin*, Issue 2, June 15, 1989, at 5-7.) This appears to have led petitioner to conclude that it is inappropriate to adjust for such items as the costs of handles in the present case. (See Responses to Questions from Commissioners and Staff Submitted by Petitioner

(continued...)

Effect on Prices and Volumes Sold by Domestic Industries. A consideration of the dumping margins and import penetration figures alone is not sufficient to determine, as I must, how the domestic industries producing like products are affected by the dumped imports. In order to evaluate the effects on the volume of sales made by the domestic industries and on the prices at which these sales are made, I must know how purchasers and suppliers respond to changes in the prices of the imported product and the domestic like product. The key attribute of dumped imports is their unfairly low price, and it is through this low price that the effects on the domestic industry are felt and must be evaluated.

(1) Substitutability. One of the key factors affecting the degree of injury from dumped imports is the extent to which a reduction in the price of the unfairly traded import will lead U.S. purchasers of handtools to purchase the unfair imports rather than the products of domestic manufacturers. If purchasers believe the domestic and imported products are very

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[35](...continued)
Woodings-Verona Tool Works, Inc., January 9, 1991, at 30 and Comments on APO Materials Submitted by Petitioner Woodings-Verona Tool Works, Inc., at 18.) However, petitioner is incorrect in asserting that it is not equally appropriate to adjust for costs incurred downstream of the point from which Commerce begins its calculations. The objective is not to determine how the price will change at the level at which Commerce starts its work, but how the price will change at the level where the competition with the domestic product occurs.

similar, material injury as a result of the dumping is more likely. With a high level of substitutability, a small decrease in the price of the imported handtools may lead a large fraction of purchasers to shift from the domestic product to the unfairly traded import. If, on the other hand, purchasers do not perceive the unfairly traded products to be good substitutes for those produced domestically, the price decline occasioned by dumping will lead fewer purchasers to switch to the imported product; therefore it is less likely that the domestic industry will be materially injured by reason of the dumped imports.

The degree of substitutability between products of different producers can be quantified using a concept that economists call the elasticity of substitution.[36] A high elasticity of substitution indicates that products are good substitutes while a low elasticity indicates the obverse.

In this, as in all Title VII investigations, the Commission's Applied Economics Division provided the Commission with its evaluation of the substitutability between the domestic and imported products. Its memorandum concluded that:

> Producer, importer, and purchaser questionnaires suggest that the domestic and imported [heavy forged handtools] are similar in quality. However, some perceived and actual differences in quality, "Buy-America" provision/preferences, and long and sometimes unpredictable lead times for orders of the Chinese products limit substitutability between the imported

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[36] The elasticity of substitution is defined as the percentage change in the relative quantities of two goods resulting from a 1 percent change in their relative prices.

> Chinese and U.S.-produced [handtools] in various segments of the U.S. market. An elasticity of substitution ranging from 2 to 4 is estimated for each of the like-product categories.[37]

The parties had an opportunity to comment on this analysis. In the end, I find that the staff reasonably summarizes the evidence on the record in this investigation and I concur with its conclusion.[38]

(2) Changes in total quantity purchased. The injury a domestic industry suffers as a result of dumped imports will also depend on the responsiveness of the aggregate demand for that product to a change in price. If demand is highly responsive, the lower dumped price will generate a large increase in total sales of the product. In such a case, a relatively large portion of the increased sales of the dumped imports will be sales that would not have been made had the price been higher, and a relatively small portion will be sales lost by domestic producers. By contrast, if the total quantity does not increase significantly with the decrease in price, most of the increased sales of the unfair imports will come from the domestic producers

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[37] "Economics Memorandum, Investigation No. 731-TA-457, Heavy Forged Handtools from the People's Republic of China," February 4, 1991 (INV-O-025) at 19.

[38] For a discussion of the differences that reduce the substitutability between domestic and imported handtools, see Staff Report at A-5 and A-42. I note also that Mr. Kenneth Sharding, Director of Manufacturing for petitioner Woodings-Verona, testified at the hearing that some of the imported Chinese handtools failed to meet product standards established by the American National Standards Institute. (Hearing Transcript at 75.)

or from other sources of imports. Thus, the greater the price responsiveness of total demand, the less likely the domestic industry will be materially injured.

The economic concept used in measuring this effect is the elasticity of aggregate demand.[39] The higher this elasticity the more responsive demand is to a change in price.

The degree to which power tools can economically be substituted for heavy forged handtools is the key disagreement among the parties that relates to this issue. Petitioner and Commission staff placed the price responsiveness of aggregate demand in the fairly inelastic range.[40] Respondents claimed that the ability to substitute power tools for handtools makes the demand for handtools more responsive than this.[41] They point to the availability of rental power tools as evidence that these tools are substitutable for handtools even for the casual user.

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[39] The elasticity of demand is defined as the percentage change in the quantity of a product sold resulting from a 1 percent change in the average price of the product.

[40] In terms of numeric values, petitioner places the elasticities at -0.3 for bar and digging tools and at -0.5 for striking and hewing tools. (Comments on APO Materials Submitted by Petitioner Woodings-Verona Tool Works, Inc., at 13) The Commission's Applied Economics Division places the elasticities in the range of -0.5 to -0.7 for all of the products, with the exception of bars whose elasticity they believe is in the range of -0.3 to -0.5. (Economics Memorandum at 24-28)

[41] Respondents' Post-Hearing Brief, Appendix B: Responses to Commission Questions Posed to Respondents' Economic Consultants, at 4-5. In terms of numerical values, respondents argue that the elasticities lie in the range of -0.75 to -1.0.

In general I agree with staff and petitioners that respondents overstated the amount of substitutability between power tools and heavy forged handtools. For some uses, such as cutting down a tree or splitting large quantities of fire wood, it may be economical to rent a power tool. However, I suspect that even if the price of handtools rose, handtools would continue to be employed in most jobs for which they are currently used. Substitute power tools do not exist for all of the tasks performed with handtools. Furthermore, the rental cost data furnished in respondents' post-hearing brief lead me to believe that, in many cases, the average homeowner would be unlikely to rent a power tool even where an appropriate power tool exists. Thus, I agree with staff and petitioners that the demand for heavy forged handtools is fairly inelastic.

(3) Price responsiveness of domestic supply. How dumped imports affect the domestic industry will also depend on the responsiveness of domestic supply to a change in price -- that is, the elasticity of domestic supply.[42] If domestic supply is highly elastic -- in other words, if a slight decrease in price causes domestic firms to contract their production by a relatively large amount -- any effect of dumping is likely to be found primarily in decreased quantities sold by the domestic firms rather than in depressed or suppressed prices for the

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[42] The elasticity of domestic supply is the percentage change in the quantity of domestic production resulting from a 1 percent change in the domestic goods's price.

product. On the other hand, if the elasticity of supply is lower, dumping may have a smaller quantity effect along with greater price depression or suppression.

Because of the extremely high level of excess capacity reported by domestic firms in these investigations, the elasticity of supply is high, suggesting that the dumped imports have mainly caused reduced domestic production.[43] Parties appear to agree with this assessment.[44]

(4) Price responsiveness of supply of non-subject imports. The final factor that must be examined in assessing the effect of the dumped imports is the responsiveness of the supply of fairly traded imports -- imports that are not being sold at dumped prices -- to a change in price. A large increase in the supply of fairly traded imports as a result of a slight price increase reduces the likelihood that the domestic industry is materially injured as a result of unfairly traded imports. The higher the elasticity of supply of fairly traded imports -- the technical

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[43] The capacity utilization figures, which are confidential, are reported in the Staff Report at A-14, Table 7. I note that there has been some debate about the capacity data reported by some firms. However, even if these figures were reported on a basis that was more comparable with those used by other firms, there would be substantial excess capacity. (See Id. at A-15.)

[44] See Respondents' Post-Hearing Brief, Appendix B: Responses to Commission Questions Posed to Respondents' Economic Consultants, at 5 and Petitioner's Pre-Hearing Brief at 64-65.

economic concept used in measuring this response[45] -- the more the effect of any dumping falls on other sources of imports and the less the effect is borne by the domestic industry.

There was considerable debate in this case concerning the ability to produce the subject handtools in countries other than the PRC. Respondents argued that because there are alternative sources of imports of heavy forged handtools, domestic producers of handtools would not benefit from any anti-dumping order against the PRC.[46] While respondents identified a number of countries that might provide such imports, they focused their attention on Brazil and Mexico, while petitioner asserted that these countries are not likely sources of increased fair imports.[47]

Unfortunately much of the discussion by both parties about the ability of the Brazilians to increase their exports was less than complete. First, petitioner stated: "One, Tramontina [the Brazilian producer] does not manufacture heavy striking tools such as sledges. Two, Tramontina does not export tools such as axes to the U.S. because they do not meet U.S. standards and

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[45] Like its counterpart the elasticity of domestic supply, the elasticity of supply of fair-valued imports measures the percentage increase in the supply of fair-valued imports that would result from a 1 percent increase in the price of those imports.

[46] See Respondents' Pre-Hearing Brief at 41-43.

[47] See Hearing Transcript at 30-33 (Testimony of Robert L. Baiz, Director of Strategic Planning, Woodings-Verona Tool Works, Inc.).

design."[48] While this testimony would appear to demonstrate that the Brazilians are not be a ready alternative source of imported handtools, further evidence on the record shows the statement to be somewhat overdrawn. Tramontina does make sledges for sale in other countries. The only reason their current axes and sledge hammers are not saleable in the United States is that they are not produced to U.S. specifications, such as the weight of the head and the size of the handle hole.[49] However, the changes necessary to produce to U.S. standards could be made with relative ease.[50]

While this clearly suggests, contrary to the claims of petitioner, that Brazilian imports could replace imports from the PRC, other evidence fails to support respondents claim that the availability of "non-subject and third country imports would negate any benefits to the domestic industries of an anti-dumping order."[51] Specifically, the evidence indicates that the Brazilian producer will only find it profitable to produce for

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[48] Id. at 32.

[49] See Letter dated January 11, 1991, to Mr. Kenneth R. Mason, Secretary, U.S. International Trade Commission, from Antonio J. Galafassi, Vice-President, Lasso Corporation, included as Exhibit 6 to Comments on APO Materials Submitted by Petitioner Woodings-Verona Tool Works, Inc., and Hearing Transcript at 74 (Testimony of Kenneth W. Sharding, Director of Manufacturing, Woodings-Verona Tool Works, Inc.)

[50] See Respondents' Post-Hearing Brief, Appendix A: Response to Commission Questions to Respondents' Counsel and Julian Scruggs, at 4.

[51] Respondents' Pre-Hearing Brief at 41.

the U.S. market at prices that are above current levels.[52] If the price of the imports against which the domestic industry must compete were higher, the domestic industry would be better off. Thus, while the availability of Brazilian imports will limit the gains to the domestic industry, their presence in the market does not directly establish that the condition of the domestic industry would not be materially improved if the dumped imports from the PRC were eliminated.

The Effect of Dumping on the Domestic Industries. On the basis of the factors discussed above, I determine that the domestic industries producing hewing tools and bar tools are not materially injured by dumped imports from the People's Republic of China. The market shares of the dumped imports of these two classes of tools are relatively low, as are the dumping margins calculated by the Commerce Department. Further, the percentage reduction in the prices final consumer pay for the imports is considerably smaller than the dumping margins for these products because there is substantial domestic value added in the final

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[52] See Letter to Mr. Kenneth R. Mason, supra n. 49, which states in part:

> I would further add that Tramontina and Forjasul's desire to provide heavy forged hand tools to the market in the United States has been severely limited by the price it can receive in the U.S. Tramontina must compete against the prices of imports offered from the People's Republic of China. The prices from the PRC have effectively excluded Tramontina and Forjasul from the US market for heavy forged hand tools for the last four or five years.

product. Finally, there is only moderate substitutability between the domestic like products and the dumped imports. Given this set of facts, the amount of injury the dumped imports inflict upon these two domestic industries does not rise to the level of material.

I also determine that the industries producing striking and digging tools are injured by subject imports. I reach different determinations for different industries primarily because of differences in the market penetration of the Chinese imports and because of differences in the dumping margins. As with bar and hewing tools, the substantial amount of domestic value added included in a finished striking or digging tool reduces the impact of the dumping margin on the price paid by the final consumer, and the elasticity of substitution of the domestic and imported products is again in the moderate range. However, with a higher dumping margin and a greater level of import penetration, the injury caused by the dumped imports is greater in the cases of striking and digging tools, and reaches a level that is material.

My determination that there is no material injury in the case of hewing tools is further supported by the fact that the firm accounting for far more than half of the domestic production in that industry does not support the petition.[53] If a domestic

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[53] Staff Report at A-6, Table 1, and telephone conversations between Commission staff and representatives of [***], February 5 and 6, 1991.

industry is being injured, or even threatened with material injury, I would expect that industry to support the petition. The absence of support from a majority of the industry that would stand to benefit from the imposition of dumping duties certainly suggests an absence of injury.[54]

In addition to considering the impact of dumping on the sales volume of the domestic industry and the prices at which those sales occurred, the statute directs us to examine "the impact of such merchandise on domestic producers of like products. . . ."[55] In conducting this examination, we are instructed to consider such factors as industry employment, investment, and utilization of capacity.[56]

The effect of dumping on these factors follows from the effect on industry volume and price. For example, the effect on industry employment is directly related to the effect on volume

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[54] Indeed, under the holding of the Court of International Trade in Suramerica de Aleaciones Laminadas, C.A. v. United States, 746 F. Supp. 139 (CIT 1990), serious questions arise concerning the standing of petitioner to bring the present case as it relates to hewing tools. While the Commission may not be the appropriate agency to make standing decisions (See Brief of Defendants-Appellants United States International Trade Commission in Suramerica de Aleaciones Laminadas, C.A. v. United States, United States Court of Appeals for the Federal Circuit, Appeal Nos. 91-1015, -1050, -1055.), the lack of support in the case of hewing tools strongly suggests that, under the holding of the CIT in Suramerica, the issue of standing as it relates to hewing tools in the present case needs to be revisited either by the Commission or by the Department of Commerce.

[55] 16 U.S.C. 1677(7)(B)(i)(III).

[56] 19 U.S.C. 1677(7)(C)(iii).

since an industry's employment level will rise or fall with changes in its production. In the cases of bar and hewing tools, I believe dumping did not have a material impact on employment because it had no material effect on industry output. On the other hand, the larger declines in the domestic sales of striking and digging tools suggests that employment in these industries may well have been materially reduced.

Investment levels depend on the expected future profitability of the industry. If dumping causes significant declines in industry prices or sales and if these declines are expected to persist into the future, firms may not find it profitable to engage in as much investment as they would have without the dumping. Again, in the cases of hewing and bar tools, I find no material impact on investment given the slight impact of dumped imports on volume and price. Finally, since the dumped imports of bar and hewing tools have had no material impact on either industry volume or future investment, they have had no material impact on capacity utilization in those industries.

Threat of Material Injury to Hewing and Bar Tool Industries

Having determined that domestic industries producing hewing and bar tools are not materially injured, I must now consider the threat of future injury. In determining that there is no threat

of material injury, I am mindful of the factors Congress directs me to consider.[57] I am also mindful of the direction that

> [a]ny determination . . . that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.[58]

Capacity and Capacity Utilization. In making threat determinations, the Commission is directed to consider "any increase in production capacity or existing unused capacity in the exporting country. . ."[59] In the present case, the only available data on capacity to produce heavy forged handtools in the People's Republic of China covers production of all such tools; there is no separation of data by type. Looking at this total data, I note that there was a substantial increase in capacity during the period of the Commission's investigation. Capacity of respondents Shandong and Tianjin increased 25 percent between 1987 and 1989. However, capacity appears to have reached a plateau in 1989 and is projected to decline in 1990 and 1991.[60]

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[57] 19 U.S.C. 1677(7)(F)(i).

[58] 19 U.S.C. 1677(7)(F)(ii).

[59] 19 U.S.C. 1677(7)(F)(i)(II). The statute also directs us to consider "the presence of underutilized capacity" (19 U.S.C. 1677(7)(F)(i)(VI))

[60] The precise figures are reported in the Staff Report at A-30, Table 25.

Even given the long lead times necessary to fill orders in this case, capacity increases that were completed more than a year ago would not provide evidence of future injury.

As to capacity utilization, the record does show a projected decline in 1991, due to a decline in projected production levels.[61] However, almost three quarters of this projected decline in production is the result of projected declines in exports to the United States and apparent drawing down of inventories held in China.[62]

Inventories Held in the United States. Another factor the Commission is to consider in its threat determinations is "any substantial increase in inventories of the merchandise in the United States."[63] Inventories of both bar and hewing tools held by U.S. importers declined between December 31, 1989, and September 30, 1990. Inventories of hewing tools at the end of September 1990 were lower than at any other point for which data are provided in the staff report. While inventories of bar tools had been increasing up until September 30, 1989, by September 30, 1990, they had declined virtually to the level found on December

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[61] Id.

[62] While total exports in 1991 are projected to be [***] million units, production is only projected at [***] million units. Id.

[63] 19 U.S.C. 1677(7)(F)(i)(V).

31, 1987.[64] This decline in inventories held in the United States is not consistent with a threat of future injury.

Import Penetration. The final threat factor I shall discuss is the directive to consider "any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level."[65] While the penetration levels of imports of bar and hewing tools from the PRC have risen substantially during the period of the Commission's investigation, the bulk of the increase in both cases occurred between 1988 and 1989. Compared to the increase between 1988 and 1989, the increase in the market share of bar tools from the PRC between 1989 and interim 1990 was quite small.[66] Based on the Commerce Department's official import statistics as modified according to the discussion above, import penetration of hewing

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[64] Staff Report at A-29, Table 24. While imports of hewing tools as a percent of imports had risen during the interim period of 1990, this is the result of a 60 percent decline in imports between interim 1989 and interim 1990. (Id. at A-33, Table 26)

[65] 19 U.S.C. 1677(7)(F)(i)(III). Though I do not explicitly discuss the other statutory factors for threat determinations, I have considered them in reaching my determination.

[66] Based on the data collected from Commission questionnaires, subject bar tools from the PRC accounted for [***] percent of domestic consumption by value in 1987 and 1988, [***] percent in 1989, and [***] percent in interim 1990. (Staff Report at A-11, Table 4, and Memorandum to the Commission from the Director, Office of Investigations, dated February 1, 1991, entitled "Investigation No. 731-TA-457 (Final): Heavy Forged Handtools from the People's Republic of China -- Critical Circumstances and Trade Data on Nonsubject Striking and Bar Tools," Table C.

tools during the interim 1990 period fell to their lowest level during the period of investigation.

On this point, I also note respondents' testimony concerning the serious difficulties they face in attempting to expand production and exports.[67] This is not suggestive of a threat of future injury.

Conclusion: No Threat of Future Injury. Given the projected decline in PRC capacity, the declining inventories held in the United States and the lack of a rapid increase in market penetration of the subject imports during 1990, I conclude that there is no threat of future material injury due to imports of bar and hewing tools imported from the People's Republic of China at less than fair value.

Critical Circumstances

Petitioners alleged that critical circumstances exist with respect to striking, bar, and digging tools as a result of massive importations from the PRC. Commerce found that critical

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[67] Hearing Transcript at 89-94 (Testimony of Zhao Deliang, Manager, Agricultural Handtools Division, Shandong Machinery Import and Export Corporation, and Wang Zhaoshun, Deputy Division Chief, Tianjin Machinery Import and Export Corporation.) See also, Affidavit of Wang Zhaoshun, submitted as Exhibit 3 to Respondents' Pre-Hearing Brief and Affidavit of Zhao Deliang, submitted as Exhibit 4 to Respondents' Pre-Hearing Brief.

circumstances exist with respect to each of these products, but not with respect to hewing tools.[68]

Given that Commerce made an affirmative determination of critical circumstances in these three cases and that the Commission finds that the domestic industries producing these products are materially injured, the statute directs that we also determine

> whether retroactive imposition of antidumping duties . . . appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time.[69]

If the Commission makes an affirmative determination of critical circumstances, antidumping duties will be applied to imports that entered into the United States or were withdrawn from warehouses during the 90-day period prior to the issuance of Commerce's preliminary determination.[70] In this case, duties would be applied retroactively to imports entering the United States between July 21 and October 19, 1990.[71] The purpose of critical

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[68] 56 Federal Register 241 (January 3, 1991).

[69] 19 U.S.C. 1673d(b)(4)(A)(i).

[70] 19 U.S.C. 1673b(e)(2).

[71] Memorandum to the Commission from Director, Office of Investigations, dated February 1, 1991, and entitled "Investigation No. 731-TA-457 (Final): Heavy Forged Handtools from the People's Republic of China -- Critical Circumstances and Trade Data on Nonsubject Striking and Bar Tools (INV-O-027). Given the Commission's affirmative final determinations in this case, duties will apply to all entries after October 19, 1990, whether or not critical circumstances are found.

circumstances is to provide relief from effects of massive imports and to deter importers from attempting to circumvent the dumping laws by making massive shipments immediately after the filing of an antidumping petition.[72]

In the present case, I find little evidence that would support a finding of critical circumstances. First, in making the critical circumstances determination, the Commission is directed to determine "whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury."[73] Since, in my view, the domestic industries producing bar and hewing tools have not been materially injured by reason of dumped imports, it follows immediately that there can be no injury to recur and therefore no critical circumstances in these two cases.

Second, the record indicates that there are often substantial lags between placement of an order for Chinese handtools and the shipment of that order. Importers reported frequent disruptions in production and shipping from the PRC that resulted in orders being delayed nine months to two years.[74] At the hearing, the President of Madison Mill, an importer of heavy forged handtools, testified that a minimum lead time of five months is required to ship an order and that all shipments

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[72] See, H.R. Rep. No. 317, 96 Cong., 1st Sess., at 63 (1979).

[73] 19 U.S.C. 1673d(b)(4)(A)(i) (emphasis added).

[74] Economics Memorandum at 23.

received during the July-to-October period were to fill orders placed before they learned of the petition in early April.[75]

Finally, if an attempt were being made to avoid the effects of a potential anti-dumping order by importing large quantities before such an order could become effective, I would expect to see increasing inventories between the date of filing and the date duties are imposed. However, for all product groups involved in this case, inventories of the subject merchandise held by U.S. importers were lower at the end of September 1990 than they had been at the same time a year earlier or at the end of December 1987, 1988, or 1989.[76] Given that, even in the absence of a finding of critical circumstances, duties became effective less than 20 days after the date of these inventory figures, I believe the inventory evidence to be totally inconsistent with an attempt to avoid the effects of the forthcoming anti-dumping order.

In light of the evidence that orders placed after the dumping petition was filed could not have been received in the U.S. before the dumping duties became effective and the evidence that inventories declined rather than expanded during the interim

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[75] Hearing Transcript at 104 (Testimony of Julian Scruggs, President, Madison Mill, Inc.).

[76] Staff Report at A-29, Table 24. The ratio of inventories to imports did rise for striking and hewing tools. However, this was a result of a decline in imports, not an increase in inventories.

period of 1990, I find that critical circumstances did not exist with respect to imports of striking, bar, or digging tools.

Conclusion

I determine that the domestic industries producing bar and hewing heavy forged handtools are not materially injured, nor are they threatened with material injury, by reason of dumped imports of these products from the People's Republic of China. I also determine that domestic industries producing striking and digging heavy forged handtools are materially injured by reason of dumped imports from the PRC. Finally, I determine that critical circumstances do not exist regarding the importation of striking, bar, or digging tools.

Dissenting Views of Commissioner Lodwick

Condition of the Bar Tool Industry

In evaluating the condition of the domestic bar tool industry, I considered, among other factors, U.S. consumption, production shipments, capacity, capacity utilization, inventories, employment, wages, financial performance, capital investment and research and development expenditures. Most of this information is proprietary and will be discussed in general terms.

Unlike consumption of other heavy forged handtools in this investigation, consumption of bar tools has remained relatively steady by value and quantity.[1] U.S. domestic shipments of bar tools have also held steady by value and declined slightly by quantity.[2] As a result, U.S. market share of U.S. consumption of bar tools has remained relatively constant from 1987 to 1989 though U.S. market share dipped slightly in the interim period.[3] However, U.S. bar tool production and capacity utilization rose during the period of investigation while end of period inventories dropped.[4] Correspondingly, the number of production and related workers, hours worked and wages paid in the bar tool industry rose from 1987 to 1989.[5]

Since the domestic producers were only able to provide us with reliable data for their overall operations, there is no specific financial performance, capital investment and research and development information for bar tool industry. While the operating income for the overall establishment operations is declining over the period, the profitability of non bar tool industries we have found to be injured have

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[1] Calculated from Table 1000, INV-0-027 and from the Final Staff Report at Table 4.

[2] Table 1000.

[3] Calculated from Table 1000, INV-0-027 and from the Final Staff Report at Table 4.

[4] Table 1000.

[5] Id.

influenced these operating income levels.[6] Overall investment remained steady while research and development actually increased over the period.[7]

Based on the bar tools industry's maintenance of its market share and its increasing production during a period of stable consumption, I find that this industry is not materially injured.

No Material Injury by LTFV Imports

I note the rapidly increasing market penetration by Chinese bar tool imports but realize that they are displacing third country imports in the U.S. market.[8] Despite some evidence of underselling of product 4, a 18 lb. crowbar, there is no conclusive information indicating a declining price index for that product.[9] However, price information about another bar tool, a 24 inch wrecking bar, shows substantial overselling by the imported product and rising prices throughout the period.[10] The pricing information about both the 18 lb. crowbar and the 24 inch wrecking bar suggests that despite the rapid market penetration by Chinese imports, prices in the domestic market have not changed enough to adversely affect U.S. producers' shipment levels and production plans. The only apparent effect the Chinese imports have had in the U.S. bar tool market is to displace third country imports. I therefore find that the U.S. bar tool industry in not materially injured by reason of imports from China.

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[6] Final Staff Report at Table 18.

[7] Final Staff Report at Table 23 and 24.

[8] Final Staff Report at Table 4.

[9] Final Staff Report at Tables 33, 34 and 40.

[10] Final Staff Report at Tables 33, 34 and 40.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

Following preliminary determinations by the U.S. Department of Commerce (Commerce) that heavy forged handtools[1] from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV), the U.S. International Trade Commission, effective October 15, 1990, instituted investigation No. 731-TA-457 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's investigation, and of the public hearing to be held in connection therewith, was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 31, 1990 (55 F.R. 45868).[2] The hearing was held in Washington, DC, on January 3, 1991.[3]

In its final determinations, published in the Federal Register of January 3, 1991 (56 F.R. 241), Commerce determined that imports of heavy forged handtools from the People's Republic of China are being, or are likely to be, sold in the United States at LTFV.[4] The Commission's administrative deadline for its final injury determination is February 11, 1991.

Background

The instant investigation results from a petition filed on April 4, 1990, by Woodings-Verona Tool Works, Inc., Verona, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of heavy forged handtools from China.[5] In response to the petition, the Commission instituted, effective

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[1] For purposes of this investigation, heavy forged handtools (HFHTs) consist of the following products, finished or unfinished, with or without handles: (1) hammers, sledges, and mauls (hammers and sledges), including drilling hammers and woodsplitting mauls, with heads over 1.5 kg. (3.3 lb.) each; (2) bars of over 18 in. in length, track tools, and wedges (bars and wedges), including wrecking bars, digging bars, tampers, and steel woodsplitting wedges; (3) picks and mattocks; and (4) axes, adzes, and similar hewing tools (axes and adzes). This investigation does not include hammers and sledges with heads 1.5 kg. (3.3 lb.) in weight and under, hoes and rakes, or bars 18 in. in length and under.

[2] Copies of cited Federal Register notices are presented in app. A.

[3] A list of the participants in the hearing is presented in app. B. A portion of the hearing was conducted in camera.

[4] A copy of Commerce's notice of final determinations is presented in app. A.

[5] The petition also alleged "critical circumstances" with respect to all the subject imports.

April 4, 1990, investigation No. 731-TA-457 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether or not an industry in the United States is materially injured or threatened with material injury by reason of the subject imports. On May 22, 1990, the Commission unanimously determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of HFHTs.

There have been no other Commission investigations concerning HFHTs from China. However, in 1975 the Commission conducted an antidumping investigation concerning certain nonpowered handtools (i.e., chisels, punches, hammers, sledges, vises, C-clamps, and battery terminal clamp lifters) from Japan. On December 2, 1975, the Commission unanimously determined that an industry in the United States was not injured and was not likely to be injured, and an industry in the United States was not prevented from being established, by reason of imports from Japan of certain nonpowered handtools, including hammers and sledges (with or without handles).[6] Moreover, the Commission conducted a general factfinding investigation on nonpowered handtools in 1983.[7]

Nature and Extent of Sales at LTFV

On January 3, 1991, Commerce published in the Federal Register (56 F.R. 241) its final determinations that HFHTs from China are being, or are likely to be, sold in the United States at LTFV. As the basis for calculating LTFV dumping margins, Commerce relied on the best information available. Best information available in this case was information provided by the petitioner, because the foreign producers/exporters failed to respond adequately to the request for information by Commerce. In using the information submitted by the petitioner, Commerce made certain adjustments for credit expenses, which were not factored into petitioner's margin estimates. Commerce also recalculated petitioner's estimate of the average margin for axes and adzes, which Commerce determined was calculated incorrectly. Based on these adjustments, Commerce determined weighted-average dumping margins for the kinds and classes of merchandise under investigation to be as follows (in percent):

Class or kind of HFHT from China	Weighted-average LTFV margin
Hammers and sledges.....	45.42
Bars and wedges.....	31.76
Picks and mattocks.....	50.81
Axes and adzes.....	15.02

[6] U.S. International Trade Commission, Chisels, Punches, Hammers, Sledges, Vises, C-clamps, and Battery Terminal Lifters from Japan (investigation No. AA1921-149), USITC Publication 748, December 1975.

[7] U.S. International Trade Commission, Trends in International Trade in Nonpowered Handtools, Report to the Committee on Ways and Means (investigation No. 332-163, USITC Publication 1485, February 1984.

On the basis of countrywide import data, Commerce also found that critical circumstances exist with respect to imports of hammers and sledges, bars and wedges, and picks and mattocks, three of the four classes or kinds of HFHT imports from China. Commerce did not find that critical circumstances exist with respect to axes and adzes from China because the dumping margins for axes and adzes were "not sufficient to impute knowledge of dumping."

The Product

Description and uses

The HFHTs included in the scope of this investigation consist of the following products, finished or unfinished, with or without handles: (1) hammers, sledges, and mauls (hammers and sledges or "striking tools"), including drilling hammers and woodsplitting mauls, with heads over 1.5 kilograms (3.3 pounds) each; (2) bars of over 18 inches (45.72 centimeters) in length, track tools, and wedges (bars and wedges or "bar tools"), including wrecking bars, digging bars, tampers, and steel woodsplitting wedges; (3) picks and mattocks ("digging tools"); and (4) axes, adzes, and similar hewing tools (axes and adzes or "hewing tools"). Hoes and rakes are not covered by this investigation. The term "HFHTs" does not include hammers and sledges of 1.5 kilograms in weight and under or bars of 18 inches in length and under.

Striking tools.--Heavy hammers and sledges are commonly referred to as striking tools. These hammers have heavier tool heads than claw-type (carpenters') hammers or ball peen type (machinists') hammers. Heavy hammer and sledge heads included in the scope of the investigation are over 1.5 kilograms (3.3 pounds) in weight, and may weigh as much as 20 pounds. Sledge hammers are heavy hammers used for driving stakes, wedges or other objects. Woodsplitting mauls resemble sledge hammers except that they have one axe-like edge. They are intended primarily to split wood without the use of wedges, but the blunt end may be used for striking stakes, wedges, or other objects as one would with a sledge hammer.

Bar tools.--The bar tools included in the scope of the investigation include crowbars, wrecking bars, digging bars, and tampers, but exclude bars measuring 18 inches and under in length. The principal product in this group is the crowbar, a relatively long steel bar usually flattened and slightly bent at one or both ends and used as a lever.

Digging tools.--Picks are produced in a number of styles and differ principally in the weight of the head, the angle and size of the prongs, and the shape of the pick points. They are generally used for digging in relatively hard soil. Mattocks are somewhat similar to picks but have one end broad instead of pointed. Mattocks are used for digging in relatively soft soil.

Hewing tools.--Axes, adzes, and similar tools are generally referred to as hewing tools. Axes are generally grouped into two categories: large axes and special-purpose axes. Large axes are intended primarily for chopping wood. They are manufactured with either two cutting edges (double bit) or a single cutting edge (single bit). The single-bit axe has on the opposite side of the axe head a hammer face that can be used for pounding. Special-purpose

axes are designed to function as two tools. For example, the mattock axe is a single-bit axe with an adze-shaped grubbing blade on the back and is designed for digging, prying, or chopping.

Manufacturing process

The method used most often in the production of the subject products is forging. This process involves shearing the raw material (fine-grain, special bar-quality steel) to a specific size and heating it in an electric, gas, coal, or oil-fired furnace to a temperature that renders the steel malleable. The raw material is then shaped into the desired form by intermittent blows of forging hammers fitted with impression dies. After forging, numerous steps are undertaken before manufacturing is completed. These steps include trimming excess metal; heat treating to increase strength; and grinding, polishing, and painting to obtain a finished appearance.

In the Commission's questionnaire, U.S. producers were asked whether they produced all of the subject HFHTs on the same equipment and machinery and, if so, whether their production and capacity could be shifted between products. The responses of four firms indicate that U.S. producers generally produce HFHTs on machinery and equipment dedicated to specific product lines. For certain products, however, some machinery and equipment are shared. For example, mechanical forging presses that produce bars over 18 inches in length may also be used to produce bars 18 inches and shorter. The same can be said of hammers with heads weighing over and under 1.5 kilograms. As one firm responded, they each can be produced on the same forging hammers. Each of the four firms indicated an ability to shift production and capacity between products. * * *, however, stated that such a shift was both inefficient and dangerous to employees and could not be supported by market demands. In the United States, products other than HFHTs are not usually produced on equipment used to produce HFHTs.

Manufacturing handles for HFHTs involves four basic steps: (1) cutting, (2) drying, (3) sanding, and (4) finishing. The manufacturing process starts with ripping 1-1/2 inch thick raw cut boards into strips measuring either 2 inches or 3-1/4 inches wide and measuring 8 feet to 16 feet long. The wood strips are then run through cutoff saws that remove knots and other defects and cut the strips to approximate usable lengths. Once this process is completed, the shortened strips are stacked in a cross pattern in a storage shed and allowed to air-dry for approximately 6 months. The air-dried strips are then returned to the mill and cut to the exact length required for the particular handle being made. The strips of wood are then placed by hand into a lathe, which mills the wood into the appropriate shape for the tool head. After lathing, the rough handle is sanded for smoothness and then run through a burner, which gives it the desired "flame-tempered" appearance. The semi-finished handle is then graded for defects and finished in tumbling drums, which impart a smooth, polished wax surface.

Substitution between the domestically produced and imported products

To the average consumer, there do not appear to be any distinct differences between HFHTs produced in the United States and those manufactured in China. The principal characteristics, functions, uses, and manufacturing processes of the tools produced in both countries are essentially the same. According to the petitioner, there are substantial differences in quality between HFHTs produced in the United States and those manufactured in China, but those differences are not apparent to the ultimate customers.[8] A representative of a U.S. importer stated that importers are faced with justifying the quality of HFHTs from China.[9] Reportedly, imported handtools from China come under constant criticism and certain retailers are not sure that these handtools can meet U.S. standards. Domestic handtools however, are reportedly automatically accepted as being better quality products.[10]

U.S. tariff treatment

HFHTs are provided for in the following subheadings of the Harmonized Tariff Schedule of the United States (HTS):[11] (1) 8201.30.00 (covering mattocks, picks, hoes and rakes, and parts thereof); (2) 8201.40.60 (axes, bill hooks, and similar hewing tools, and parts thereof, excluding machetes and parts thereof); (3) 8205.20.60 (hammers and sledge hammers, and parts thereof, with heads over 1.5 kilograms each); and (4) 8205.59.30 (crowbars, track tools and wedges, and parts thereof). Hoes and rakes that are provided for in subheading 8201.30.00 are not considered here to be HFHTs and are not included in the scope of the investigation. HFHTs were previously provided for in items 648.53, 648.67, 651.23, and 651.25 of the former Tariff Schedules of the United States. The column 1-general rates of duty under these HTS subheadings for products of countries entitled to most-favored-nation (MFN) status (including China since 1980) are 2.9 percent ad valorem (8201.30.00), 6.2 percent ad valorem (8201.40.60), 2.1 percent ad valorem (8205.20.60), and 0.4 cents per kilogram (8205.59.30).[12]

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[8] Transcript of the hearing, pp. 26, 64-65.

[9] Transcript of the conference, pp. 93-94.

[10] Ibid.

[11] The HTS replaced the previous Tariff Schedules of the United States effective Jan. 1, 1989. Chs. 1 through 97 of the HTS are based on the internationally-adopted Harmonized Commodity Description and Coding System through the six-digit level of product description, with additional U.S. product subdivisions at the eight-digit level.

[12] The rates of duty in col. 1-general of the HTS are MFN rates and, in general, represent the final stage of the reductions granted in the Tokyo Round of the Multilateral Trade Negotiations. Col.1-general rates are applicable to imported products from all countries except those countries and areas enumerated in general note 3(b) to the HTS, whose products are dutied at the rates set forth in col. 2. Particular goods from enumerated countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the special rates of duty subcolumn of col. 1.

The U.S. Market

U.S. producers

There are essentially four firms that produce HFHTs in the United States: the petitioner, Woodings-Verona Tool Co., Inc.; Mann Edge Tool Co.; Council Tool Co., Inc.; and Warwood Tool Co. In the aggregate, these four firms accounted for nearly all reported production of HFHTs in 1989 (table 1). Based on information received in response to Commission questionnaires, the number of other firms that also produce some or all of the four classes or kinds of HFHTs subject to the investigation is insignificant. The full production capability of these few firms is believed to be minuscule relative to that of the four principal producers.[13]

Table 1
Heavy forged handtools: Major U.S. producers, location of their production facilities, estimated shares of production, and their position on the petition

Firm	Plant location	Share of reported production (1989) Percent	Position on on petition
Council Tool Co., Inc....	Lake Waccamaw, NC	***	***
Mann Edge Tool Co.....	Lewistown, PA	***	***
Warwood Tool Co.....	Wheeling, WV	***	***
Woodings-Verona Tool Works, Inc.....	Columbiana, OH Falls City, NE Verona, PA	***	Petitioner (supports)

Source: Compiled from data submitted in response to questionnaire of the United States International Trade Commission.

At least one firm stopped producing HFHTs during the period of investigation, and several other firms ended production prior to this period. In March 1987, Warren Tool Corp. (Hiram, OH) permanently shut down its tool manufacturing operations. Warren sold its production equipment to Woodings-Verona and now markets tools that it buys from remaining producers, including * * *. Other significant firms that have left the HFHT industry include Stanley Tools and True Temper. Stanley left the HFHT industry as a producer in early 1985. It now markets heavy forged striking and bar tools * * *. Stanley also * * *. True Temper ceased full production of heavy forged handtools in 1982 and * * *.

Most domestic HFHT producers are small and medium-sized family-run operations that have been in existence for many years. Council Tool, for example, was founded in 1886. It produces HFHTs at its manufacturing facility in Lake Waccamaw, NC. In addition to HFHTs, Council also produces shrubbing

[13] One such firm, Vaughan & Bushnell Manufacturing Co. (Hebron, IL), * * *.

tools (e.g., ditch blades and bush hooks); forestry tools (e.g., fire swatters and rakes and planting tools); and a variety of handtools not subject to this investigation. Council's HFHTs tools are marketed under the brand names of Copperhead (pickhead and fireman axes, some sledges and mauls); Classic; Railsplitter; and Velvicut axes. Of the HFHTs covered by this investigation, Council produces all but picks and mattocks, * * *.

Mann Edge, founded in 1843, is the largest known domestic producer of axes (sold under the Collins Axe brand name). In addition to axes, Mann Edge also produces hammers, sledges, mauls, wedges, and a limited range of bar tools. Through its Hickory Forge subsidiary in Williamsport, PA, Mann Edge also produces hickory handles for HFHTs. Mann Edge * * *.[14] * * *.

CooperTools, a division of Cooper Industries, manufactures and markets striking tools under its Plumb line of merchandise. The bulk of its striking tool production * * *.

During the period of investigation, the petitioner, Woodings-Verona Tool Works, Inc., manufactured all four classes or kinds of HFHTs subject to the investigation. Formerly owned by the Budd Corp., Woodings-Verona was acquired by a group of its management employees in June 1986. In addition to HFHTs, other products produced by the firm include nonsubject striking and bar tools, tent pins, nail pullers, levels and gauges, and tire irons and wheel wrenches. The bulk of Woodings-Verona's production of HFHTs is done at * * *. Bar tools are produced at the firm's Harrold Tool division in Columbiana, OH, and track tools are produced at its Verona, PA, facility.

There are about four or five major tool handle producers in the United States, none of which produce HFHTs.[15] Handle manufacturers produce a wide assortment of handles for many different types of handtools, not only HFHTs. In the United States, hickory, because of its strength and toughness, is the primary wood used for handles for heavy handtools. As such, handle producers tend to operate mills in areas of the United States where the hickory tree is indigenous. Council and Mann Edge produce * * * of their own handle requirements. However, as the need arises, they may also source additional supplies from any one of several major manufacturers. Woodings-Verona does not produce its own handles. Instead, * * *.

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[14] Information on U.S. producers' purchases of the subject HFHTs is presented in the section of this report entitled "U.S. Producers' Purchases."

[15] Major handle producers include IXL Manufacturing Co., Inc. (Bernie, MO); OP Link Handle Co. (Salem, IN); Railway Handle Corp. (Kenbridge, VA); and Chicksaw Handle Co. (Houston, MS).

U.S. importers

Commission questionnaires were sent to 89 of the more than 130 firms believed by Commission staff to have imported HFHTs from China under HTS subheadings 8201.30.00, 8201.40.60, 8205.20.60, and 8205.59.30.[16] Usable data were received from 22 firms, including U.S. producers that import. Of the 22 firms that provided usable data, 16 provided data on their imports of HFHTs from China. Fifty-four firms responded that they did not import the subject HFHTs during the period covered by the investigation.[17] Firms responding to the questionnaire accounted for 68.7 percent of the 1989 value of imports of HFHTs from China as reported in the official statistics of the U.S. Department of Commerce.

U.S. importers of HFHTs generally fall into two groups: (1) hardline products wholesalers/distributors and (2) domestic producers. Hardline products wholesalers/distributors import HFHTs for resale to mostly the retail hardware sector (i.e., retail hardware stores, home center chains, and mass merchandisers). Firms that are included in this group include Atlas Group (Fairfield, NJ); Kulkoni, Inc. (Houston, TX); Madison Mill, Inc. (Nashville, TN);[18] and Olympia Tools (Azusa, CA).

U.S. producers import HFHTs to complement their own production and to remain price competitive in certain markets. Council Tool imports * * *, whereas Woodings-Verona imports * * *. Mann Edge, through its domestic subsidiary Hickory Forge, imports * * *.

The following tabulation shows the share of reported U.S. imports of HFHTs from China in 1989 accounted for by the major known U.S. importers (in percent):

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[16] Counsel for the petitioner argues that in sending out questionnaires, the Commission's staff overlooked several large importers of HFHTs from China In a letter to the Commission dated Dec. 28, 1990, Counsel identified three firms (* * *) that it believes were not sent Commission questionnaires. Each of these firms was also listed by the two exporters/respondents as being amon their five largest U.S. customers. * * * responded to the questionnaire unde the name of * * *. The Commission's staff was unable to locate * * * at the address provided by either counsel or the two exporters. * * * imports are believed to have been reported in the questionnaire response of * * *.

[17] The large number of firms that responded that they did not import products subject to the investigation may in part be due to the "basket" nature of merchandise imported under the HTS numbers involved. Hoes and rake and parts thereof, for example, are imported under HTS subheading 8201.30.00, which also includes picks and mattocks.

[18] Madison Mill imports HFHTs under the name of * * *.

Apparent consumption

As shown in table 2, the quantity and value of apparent consumption of HFHTs rose steadily from 1987 to 1989 and decreased from interim 1989 to interim 1990.[19] Apparent consumption increased from *** units, valued at $***, in 1987 to *** units, valued at $***, in 1989. Apparent consumption declined to *** units, valued at $***, in interim 1990, down from *** units, valued at $***, in the corresponding period of 1989.

Table 2
Heavy forged handtools: U.S. producers' domestic shipments, shipments of imports, and apparent consumption, 1987-89, January-September 1989, and January-September 1990

Item	1987	1988	1989	January-September-- 1989	1990
	Quantity (1,000 units)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	1,511	1,815	2,332	1,688	1,541
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***
	Value (1,000 dollars)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	6,982	8,210	11,193	8,157	7,237
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Striking tools.--Apparent consumption of striking tools (i.e., hammers, sledges, and mauls, all with heads weighing over 1.5 kilograms (3.3 pounds)) increased by *** percent by quantity and *** percent by value from 1987 to 1989 (table 3). Apparent consumption decreased in quantity and value by *** percent and *** percent, respectively, from interim 1989 to interim 1990. As a share of the value of apparent consumption of all HFHTs, striking tools accounted for *** percent of the total in 1989 and *** percent of the total in interim 1990.

[19] The "interim" periods referred to consist of the period January-September of 1989 and 1990.

Table 3
Striking tools:[1] U.S. producers' domestic shipments, shipments of imports, and apparent consumption, 1987-89, January-September 1989, and January-September 1990

Item	1987	1988	1989	January-September-- 1989	1990
	Quantity (1,000 units)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	436	553	681	505	443
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***
	Value (1,000 dollars)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	2,714	3,264	4,069	3,089	2,690
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***

[1] Products for which data are reported all have heads weighing over 1.5 kilograms (3.3 pounds) each.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Bar tools.--Apparent consumption of bar tools (i.e., bars measuring over 18 inches in length, wedges, and track tools) increased by *** percent by quantity and *** percent by value from 1987 to 1989 (table 4). From interim 1989 to interim 1990, apparent consumption declined by *** percent by quantity and increased by *** percent by value. In terms of the value of total apparent consumption, the subject bar tools accounted for *** percent of the value in 1989 and *** percent in interim 1990.

Digging tools.--Apparent consumption of digging tools (i.e., picks and mattocks) increased by *** percent by quantity and *** percent by value from 1987 to 1989 (table 5). From interim 1989 to interim 1990, apparent consumption declined in both quantity and value, by *** percent and *** percent, respectively. As a share of the value of total apparent consumption, digging tools accounted for *** percent of the total in 1989 and *** percent in interim 1990.

Hewing tools.--Apparent consumption of hewing tools (i.e., axes, adzes, and similar hewing tools, except machetes) increased by *** percent by quantity and *** percent by value from 1987 to 1989 (table 6). From interim 1989 to interim 1990, apparent consumption declined *** percent and ***

Table 4
Bar tools:[1] U.S. producers' domestic shipments, shipments of imports, and apparent consumption, 1987-89, January-September 1989, and January-September 1990

Item	1987	1988	1989	January-September--1989	January-September--1990
	Quantity (1,000 units)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	334	341	477	334	352
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***
	Value (1,000 dollars)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	955	1,006	1,491	1,024	1,156
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***

[1] Bars for which data are reported are all over 18 inches in length.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 5
Digging tools: U.S. producers' domestic shipments, shipments of imports, and apparent consumption, 1987-89, January-September 1989, and January-September 1990

Item	1987	1988	1989	January-September--1989	January-September--1990
	Quantity (1,000 units)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	445	582	697	496	435
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***
	Value (1,000 dollars)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	1,877	2,408	2,848	2,113	1,816
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 6
Hewing tools: U.S. producers' domestic shipments, shipments of imports, and apparent consumption, 1987-89, January-September 1989, and January-September 1990

Item	1987	1988	1989	January-September-- 1989	1990
	Quantity (1,000 units)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	296	339	477	353	311
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***
	Value (1,000 dollars)				
U.S. producers' domestic shipments	***	***	***	***	***
Shipments of imports from--					
China	1,436	1,532	2,785	1,931	1,575
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

percent by quantity and value, respectively. As a share of the value of total apparent consumption, hewing tools accounted for *** percent of the total in 1989 and *** percent of the total in interim 1990.

Channels of distribution

The U.S.-produced HFHTs and HFHTs imported from China are sold principally in the same channels of distribution. There are four basic market segments for HFHTs: (1) the hardware segment; (2) the industrial segment; (3) original equipment manufacturers (OEMs); and, (4) the Government segment. Based on information provided in the Commission's questionnaire by U.S. importers of HFHTs from China, the imported products compete with the U.S. products primarily in the hardware segment and to a lesser extent in the industrial and OEM segments. The imported products do not appear to compete in the Government segment, mostly for two reasons. First, built into the Federal Government's contracting guidelines are procedures that generally give preference to U.S. products. This policy is commonly referred to as the "Buy American" clause. A number of State and local governments have similar clauses in their contracting guidelines. A second possible reason for the exclusion of imported HFHTs from this market is the exacting quality standards

specified in the bidding process. Such standards relate to product liability and are generally perceived as a barrier against the imported products. Although U.S. importers do not compete in this market segment, it is of relatively limited importance to U.S. producers, in terms of overall shipments. For example, based on responses provided by U.S. producers to the Commission's questionnaire, the Government market accounted for *** percent of U.S. producers' HFHTs shipments by quantity in 1989.

The hardware segment of the HFHT market generally exists at two levels--the wholesaler/distributor level and the retail level. At the wholesaler/distributor level are retail, dealer-owned hardline wholesalers (e.g., Ace, Servistar, Cotters, etc.) and merchandising groups. At the retail level are independent retail hardware stores, home-center chains (e.g., Hechinger's, Home Depot, 84 Lumber, etc.), and general mass merchandisers such as Sears and K-Mart. Based on the questionnaire responses of U.S. producers and importers, within the hardware market, wholesalers/distributors accounted for *** percent, by quantity, of U.S. producers' domestic shipments in 1989 versus *** percent for U.S. importers. Likewise, for the same period, *** percent of U.S. producers' domestic shipments were to hardware retailers, compared with *** percent of U.S. importers' domestic shipments.

The industrial and OEM markets as a group accounted for *** percent, by quantity, of U.S. producers' domestic shipments of HFHTs in 1989 and accounted for only *** percent of U.S. importers' HFHT U.S. shipments in the same year. The industrial and OEM markets are made up of firms involved in mining, construction, railroading, and a host of other industries.

Manufacturers of handles for HFHTs serve two principal markets--the OEM market and the replacement market. Sales to the OEM market (i.e., tool head manufacturers) are generally direct sales from vendor to buyer. On the other hand, sales of replacement handles move through several channels of distribution before ultimately reaching the end user or consumer. These channels consist of wholesale hardware distributors; farm merchandising groups; mass merchandisers; and industrial, contractor, mining, and mill supply houses.

Consideration of Alleged Material Injury to an Industry in the United States

Commission questionnaires were sent to 27 firms believed to produce HFHTs subject to the investigation. Of the 17 firms that responded to the questionnaire, 8 firms indicated that they did not produce HFHTs during the period of investigation. One firm responded to the questionnaire but was unable to supply usable data.[20] Eight firms were able to supply usable data

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[20] The Leetonia Tool Co. was not able to provide the data requested in the questionnaire in the manner requested. However, it did indicate in its response that it * * *. The firm reported that its present full production capability for all products is * * * annually. Leetonia * * *.

with respect to HFHTs.[21] Of these eight, four (Council Tool, Mann Edge Tool, Warwood, and Woodings-Verona) account for the vast majority of the data that follow.[22]

U.S. producers' capacity,[23] production, and capacity utilization

Prior to the period of investigation, two firms are known to have exited the domestic HFHT industry. At least one firm (Warren Tool Corp.) is known to have exited the industry during the period of investigation.[24]

U.S. producers' HFHT capacity declined *** percent from 1987 to 1988, partly due to a decrease in hewing tool capacity. HFHT capacity remained unchanged from 1988 to 1989, and decreased by *** percent from interim 1989 to interim 1990 (table 7).

U.S. production of HFHTs increased *** percent from 1987 to 1988, declined *** percent from 1988 to 1989, and decreased *** percent from interim 1989 to interim 1990. Production decreases occurred in two of the four product groups from 1988 to 1989 and in all four product groups from interim 1989 to interim 1990.

U.S. producers' capacity utilization for HFHTs increased from *** percent in 1987 to *** percent in 1988, decreased to *** percent in 1989, and declined to *** percent in interim 1990.

Table 7
Heavy forged handtools: U.S. producers' end-of-period capacity, production, and capacity utilization, by types, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

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[21] The Commission questionnaire also requested data from firms on their operations involving nonsubject handtools. Specifically, firms were requested to supply trade data (e.g., production, shipments, and inventories), financial data, and other data revelant to the manufacture of striking tools with heads weighing 1.5 kilograms (3.3 pounds) and under and bars measuring 18 inches and under in length. The information provided by firms having such operations is presented in table C-1, app. C.

[22] Salient industry data including and excluding the data for Mann Edge are presented in app. D, tables D-1 and D-2.

[23] The Commission's questionnaire requested firms to report their "full production capability" to produce HFHTs based on the maximum level of production that their establishment could reasonably expect to attain under normal operating conditions.

[24] Petitioner's postconference brief provided estimates, which were substantial, of Warren Tool's capacity to produce HFHTs in 1987.

As shown in the following tabulation, capacity utilization for individual producers varied greatly in 1989. * * * had the highest rate, operating at *** percent of capacity. * * * was followed by * * *, which operated at *** percent of capacity, and * * * operated at *** percent of capacity.

* * * * * * *

U.S. producers' domestic shipments

Data on U.S. producers' domestic shipments of HFHTs are shown in tables 8 and 9. U.S. producers' domestic shipments of HFHTs increased by *** percent by quantity and *** percent by value from 1987 to 1989 (table 8). Such shipments rose from *** units, valued at $***, in 1987 to *** units, valued at $***, in 1989. U.S. producers' domestic shipments declined *** percent by quantity and *** percent by value from interim 1989 to interim 1990. The increase in the quantity and value of U.S. producers' domestic shipments from 1987 to 1988 was much more pronounced than the increase from 1988 to 1989. From 1987 to 1988, U.S. producers' domestic shipments increased in quantity and value by *** percent and *** percent, respectively, compared with increases from 1988 to 1989 of *** percent and *** percent, respectively. The average unit value of U.S. producers' domestic shipments fluctuated upward from 1987 to 1989 and increased from interim 1989 to interim 1990.

Table 8
Heavy forged handtools: U.S. producers' domestic shipments, by types, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

As the data in table 9 show, * * * and * * * accounted for a large percentage (by quantity) of U.S. producers' domestic shipments of HFHTs during the period of investigation. Together, these two firms accounted for *** percent of such shipments in 1987, *** percent in 1988, *** percent in 1989, and *** percent in interim 1990. * * * share of U.S. producers' domestic shipments averaged about *** percent from 1987 to 1989 and was *** percent in interim 1990.

Table 9
Heavy forged handtools: U.S. producers' domestic shipments, by selected firms and by types, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Striking tools.--U.S. producers' domestic shipments of striking tools increased steadily in quantity and value from 1987 to 1989. Such shipments rose from *** units, valued at $***, in 1987 to *** units, valued at $***, in 1989. From interim 1989 to interim 1990, U.S. producers' domestic shipments declined *** percent by quantity and *** percent by value. The average unit value of such shipments fell slightly from 1987 to 1989 and increased by *** percent from interim 1989 to interim 1990. Throughout the period of investigation, * * * led all producers in domestic shipments of heavy forged striking tools, accounting for between *** percent and *** percent of the total quantity.

Bar tools.--The quantity and value of U.S. producers' domestic shipments of bar tools increased steadily from 1987 to 1989, increasing from *** units, valued at $***, in 1987 to *** units, valued at $***, in 1989. From interim 1989 to interim 1990, U.S. producers' shipments declined by *** percent by quantity and increased by *** percent by value. The average unit value of U.S. producers' domestic shipments declined by *** percent from 1987 to 1989 and increased by *** percent from interim 1989 to interim 1990.

* * * share of U.S. producers' domestic shipments of heavy forged bar tools increased from *** percent of the total in 1987 to *** percent in 1989. * * * share increased to *** percent of the total in interim 1990, up from *** percent in interim 1989.

Digging tools.--The quantity and value of U.S. producers' domestic shipments of digging tools declined steadily throughout the period of investigation. The average unit value of such shipments fluctuated upward from 1987 to 1989 and declined from interim 1989 to interim 1990.

* * * was one of two firms that produced and shipped digging tools during the period of investigation. It accounted for *** percent of U.S. producers' domestic shipments of digging tools in 1987 and 1988, and for *** percent of such shipments in 1989 and interim 1990.

Hewing tools.--U.S. producers' domestic shipments of hewing tools increased from *** units, valued at $***, in 1987 to *** units, valued at $***, in 1989. From interim 1989 to interim 1990, such shipments declined by *** percent by quantity and by *** percent by value. The average unit value of such shipments increased steadily throughout the period of investigation.

* * * accounted for *** percent of U.S. producers' domestic shipments of hewing tools in 1987, *** percent in 1988, *** percent in 1989, and *** percent of such shipments in interim 1990. Although * * *'s share of such shipments was * * *, its share * * * throughout the investigation period.

Since striking, digging, and hewing tools require handles, U.S. producers were asked to report shipments of these handtools in two ways: shipments of tools without handles (i.e., heads only) and shipments of tools with handles. According to the responses of firms that provided such data, the bulk of U.S. producers' domestic shipments of striking, digging, and hewing tools were shipped with handles, as shown in the following tabulation:

* * * * * * *

U.S. producers' exports

* * * were the only firms that reported exports of HFHTs. These * * * firms' exports during the period of investigation were *** units in 1987, *** units in 1988, *** units in 1989, *** units in January-September 1989, and *** units in January-September 1990. * * *, which did not report export values, exported * * *. * * *.

U.S. producers' purchases

Domestic purchases.--Data on U.S. producers' domestic purchases of HFHTs are shown in table 10.[25] As shown in the table, the value of U.S. producers' purchases fluctuated downward from 1987 to 1989. The quantity and value of U.S. producers' domestic purchases of HFHTs declined * * * from interim 1989 to interim 1990. Within product groups, * * *, accounted for the bulk of U.S. producers' domestic purchases. These purchases were mostly made by * * *.

Table 10
Heavy forged handtools: U.S. producers' domestic purchases, by types, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Import purchases.--The import purchases of U.S. producers are shown in tables 11 and 12. As shown in table 11, the quantity and value of U.S. producers' import purchases from all sources increased annually from 1987 to 1989 and declined from interim 1989 to interim 1990. U.S. producers' imports from China increased from *** units, valued at $***, in 1987 to *** units, valued at $***, in 1989. Conversely, U.S. producers' imports from sources other than China declined throughout the period of investigation. The average unit value of U.S. producers' imports from all sources fluctuated from 1987 to 1989 and declined from interim 1989 to interim 1990. The average unit value of U.S. producers' imports from China also declined in the interim period after rising steadily from 1987 to 1989.

Table 11
Heavy forged handtools: U.S. producers' import purchases from China and from all other sources, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

[25] Data concerning U.S. producers' purchases of handles are shown in app. E, table E-1.

Based on the questionnaire responses of * * *, there was, during the period of investigation, some displacement of domestic production by imported HFHTs. As a share of production, * * * imports of HFHTs from China equaled *** percent of its production in 1987, *** percent in 1988, and *** percent in 1989 (table 12). For * * *, this ratio dipped from *** percent in 1987 to *** percent in 1988 and increased to *** percent in 1989. From interim 1989 to interim 1990, the ratio declined from *** percent to *** percent for * * * and from *** percent to *** percent for * * *.

Table 12
Heavy forged handtools: Imports from China, production, and ratio of imports to production for Mann Edge and Woodings-Verona, by types, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

An insignificant share of U.S. producers' domestic and import purchases of HFHTs consisted of tools with handles. Of the * * * firms that reported purchases, * * * is the only firm that does not produce its own handles.[26] [27]

U.S. producers' inventories

U.S. producers' end-of-period inventories of HFHTs are shown in table 13. Such inventories increased from 1987 to 1988, decreased from 1988 to 1989, and increased from interim 1989 to interim 1990. The ratio of U.S. producers' inventories to domestic shipments remained at *** percent in 1987 and 1988 and then declined to *** percent in 1989. The ratio increased from *** percent in interim 1989 to *** percent in interim 1990. Bar and hewing tools accounted for the bulk of U.S. producers' inventories of HFHTs throughout the period of investigation.

Table 13
Heavy forged handtools: U.S. producers' end-of-period inventories, by types, as of Dec. 31, 1987-89, and as of Sept. 30, 1989 and Sept. 30, 1990

* * * * * * *

Employment, wages, and productivity

The average number of all persons employed within the reporting establishments in which HFHTs are produced rose by 4.8 percent from 1987 to 1988, decreased by 5.3 percent in 1989, and then increased by 2.1 percent from interim 1989 to interim 1990 (table 14). The number of production and related

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[26] * * * purchases about *** percent of its handles from * * *.
[27] See table F-1, app. F, for data on U.S. handle producers.

Table 14
Overall establishment employment: Average number employed, average number of production and related workers producing all products, hours worked, wages paid, and total compensation paid to such workers, 1987-89, January-September 1989, and January-September 1990[1]

Item	1987	1988	1989	January-September-- 1989	1990
Average number of all persons employed.....	796	834	790	801	818
Production and related workers producing all products:					
Number employed.....	690	735	695	705	723
Hours worked (1,000 hours).....	1,421	1,466	1,438	1,062	1,085
Wages paid (1,000 dollars).....	13,588	14,630	15,273	11,314	13,823
Total compensation paid (1,000 dollars)...	15,501	16,963	17,636	13,030	15,838

[1] Data are for 5 firms that accounted for practically all of the industry's reported domestic shipments, by quantity, in 1989.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

workers employed in producing all products of the establishments and hours worked increased in 1988 and then decreased in 1989, whereas wages and total compensation paid to such workers rose without interruption from 1987 to 1989. There was an upward trend in all employment aspects in interim 1990, compared with interim 1989.

The number of production and related workers producing HFHTs increased by *** percent from 1987 to 1988, decreased *** percent from 1988 to 1989, and rose by *** percent from interim 1989 to interim 1990 (table 15). The number of hours worked by such workers increased by *** percent from 1987 to 1988, decreased *** percent from 1988 to 1989, and increased by *** percent from interim 1989 to interim 1990. Wages and total compensation paid to such production and related workers increased by *** percent and *** percent, respectively, from 1987 to 1989, and increased by *** percent and *** percent, respectively, from interim 1989 to interim 1990. Although productivity of production and related workers producing HFHTs declined from 1988 to 1989, the overall gain from 1987 to 1989 was *** percent (table 16). However, productivity declined *** percent from interim 1989 to interim 1990. Unit labor costs for production and related workers producing HFHTs rose throughout the period of investigation.[28]

[28] Council, Woodings-Verona, Mann Edge, Warwood, and Vaughan & Bushnell each produce forged handtools that are not the subject of this investigation.
(continued...)

Table 15
Heavy forged handtools: Average number of production and related workers, hours worked, wages paid, and total compensation paid, by types, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Table 16
Heavy forged handtools: Productivity and unit labor costs, by types, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Data on the number of production and related workers producing HFHTs employed by U.S. producers on a company-by-company basis are shown in table 17. As the data shows, * * * consistently employed * * * of all production and related workers employed by U.S. producers during the period of investigation. * * * was * * *, employing about *** percent of all production and related workers. The number of production and related workers employed by * * * represented between *** percent and *** percent of all such workers during the period of investigation.

Table 17
Heavy forged handtools: Average number of production and related workers, by firms, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Production and related workers employed by * * * and * * * have long had union representation. Those employed by * * *. Unions represented include the United Steelworkers of America (* * *), the United Food & Commercial Workers (* * *), and the Boilermakers and Blacksmith Workers (* * *). * * *'s and * * *'s production and related workers are not represented by any union.

Striking tools.--The number of production and related workers producing striking tools and the number of hours worked by such workers fluctuated from 1987 to 1989 and remained virtually unchanged from interim 1989 to interim 1990. Wages and total compensation paid to production and related workers increased from 1987 to 1988, decreased from 1988 to 1989, and increased from

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[28] (...continued)
Because some of these nonsubject handtools (e.g., hammers with heads weighing 1.5 kilograms (3.3 pounds) and under and bars of 18 inches and under) may be produced on the same equipment on which the subject handtools are produced, firms are able to shift production and related workers between the subject and nonsubject handtools as demand warrants.

interim 1989 to interim 1990. Productivity of production and related workers decreased by *** percent from 1987 to 1988 and increased by *** percent from 1988 to 1989. From interim 1989 to interim 1990, productivity declined by *** percent while unit labor costs rose by *** percent.

Bar tools.--The number of production and related workers producing bar tools fell slightly from 1987 to 1988 and increased by *** percent from 1988 to 1989. Similarly, the number of hours worked by such workers fell by *** percent from 1987 to 1988 and increased by *** percent from 1988 to 1989. There was little or no change from interim 1989 to interim 1990 in the number of production and related workers employed and the number of hours worked by such workers. Productivity of production and related workers rose sharply from 1987 to 1988, decreased from 1988 to 1989, and decreased by *** percent from interim 1989 to interim 1990. Unit labor costs fell by *** percent from 1987 to 1988, increased by *** percent from 1988 to 1989, and increased by *** percent from interim 1989 to interim 1990.

Digging tools.--The number of production and related workers producing digging tools, the number of hours worked by such workers, and wages and total compensation paid to such workers all declined from 1987 to 1989 and increased from interim 1989 to interim 1990. Productivity of production and related workers increased by *** percent from 1987 to 1988 and declined by *** percent from 1988 to 1989 and by *** percent from interim 1989 to interim 1990. Unit labor costs decreased by *** percent from 1987 to 1988 and increased by more than *** percent from 1988 to 1989, and again from interim 1989 to interim 1990.

Hewing tools.--The number of production and related workers producing hewing tools and the number of hours worked by such workers increased from 1987 to 1988 and decreased, by *** percent and *** percent, respectively, from 1988 to 1989. The number of such workers employed by U.S. producers increased slightly from interim 1989 to interim 1990, as did the number of hours worked by those workers. Wages and total compensation paid to production and related workers generally increased throughout the period of investigation. Productivity of production and related workers fell by *** percent from 1987 to 1988, increased slightly from 1988 to 1989, and declined by *** percent from interim 1989 to interim 1990. Unit labor costs rose continuously throughout the investigation period.

In the Commission's questionnaire, U.S. producers were asked to report and explain the reductions, if any, that occurred in the number of production and related workers producing HFHTs during the investigation period. * * * placed a total of *** workers on indefinite layoff since September 1987, citing as a reason a lack of orders. Its shift to imports was the reason given by * * * for permanently terminating *** workers in May 1989.

Financial experience of U.S. producers

Four producers, accounting for virtually all U.S. producers' domestic shipments of HFHTs in 1989, supplied usable income-and-loss data on overall establishment operations.[29] The firms are Council Tool Co., Mann Edge Tool Co., Warwood Tool Co., and Woodings-Verona Tool Works, Inc. Woodings-Verona's reported shipments of its U.S.-produced HFHTs for the interim period of January-September 1990 were approximately *** percent of the company's overall sales for the interim period.[30] Mann Edge could not segregate operations on HFHTs but stated that * * * percent of production was of other products.[31] Council and Warwood provided overall establishment operations but also could not segregate heavy forged handtool operations. Council's reported shipments of its U.S.-produced HFHTs for the interim period of January-September 1990 were approximately *** percent of the company's overall sales for the interim period[32] and Warwood's reported shipments of its U.S.-produced HFHTs for the interim period of January-September 1990 were approximately *** percent of the company's overall sales for the interim period.[33]

The overall income-and-loss data for Woodings-Verona,[34] * * *, and data for the two plants that produce most of the company's HFHTs are presented separately to demonstrate changes caused by an acquisition in 1986 and the effect of other company-specific items. Woodings-Verona comprises approximately *** percent, and together with Mann Edge comprises over *** percent, of the U.S. producers' overall establishment sales in 1989.

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[29] * * * reported income-and-loss data for the years ended * * *; * * * reported data for the years ended * * *; * * * reported data for the years ended * * *; and * * * reported data for the years ended * * *. * * *, * * *, and * * * provided interim data for January-September of 1989 and 1990. * * * provided interim data for * * *. In view of the atypical fiscal years of the producers, fiscal year financial data are aggregated in the year in which the fiscal year begins.

[30] Woodings-Verona also produces wheel wrenches, nail pullers, other striking tools (approximately $*** in 1989), other bar tools (approximately $*** in 1989), level gauges, screwdrivers, rail anchors, and railroad tools other than track tools. The company also purchases and sells * * *.

[31] Mann Edge Tool Co. purchases * * *. * * *. The president of Mann Edge stated that *** percent of Mann Edge's sales are from * * *. However, * * *.

[32] Council also produces shrubbing tools, other striking tools (approximately *** percent of net sales, or $*** in 1989), other bar tools (approximately *** percent of net sales, or $*** in 1989), fire-fighting tools, forgings, and specialty tools.

[33] Warwood also produces railroad tools other than track tools, bars for the industrial market, and smaller wedges than those included in HFHTs.

[34] Woodings-Verona's questionnaire income-and-loss data for overall establishment operations were adjusted by the USITC staff to agree with the company's audited financial statement received on Jan. 24, 1991. The effect was to * * *. * * *. The submitted data for interim 1990 and the data provided for Woodings-Verona's two plants that produce most of the company's HFHTs have not been adjusted. However, if adjusted, the operating income as a share of net sales would * * *.

The Commission staff requested the companies to provide income-and-loss data by overall establishment operations, operations on HFHTs, and operations on groups of handtools (striking, hewing, digging, and bar tools). Only Woodings-Verona was able to provide separate data on either HFHTs or the four product groups; the other firms stated that they cannot separate costs of goods sold of HFHTs from other products because their accounting systems are not designed to do so.

Data for Woodings-Verona, accounting for approximately *** percent of the combined companies' overall establishment net sales, were verified by the Commission's staff. Following the verification visit, * * *,[35] including * * *. These data are presented in appendix G and have not been verified. As noted in appendix G, Woodings-Verona * * *.

The Commission staff also requested income-and-loss data for other striking tools and other bar tools. The Stanley Tool Works Division of The Stanley Works reported the requested data, which are presented in appendix H.[36]

The Commission staff also requested income-and-loss data from handle producers. American Hickory Corp. (a related company of * * *), IXL Manufacturing Co., and Tennessee Wood Works (* * *) provided usable data on overall tool handle operations. These data are presented in appendix I.

Overall establishment operations.--Net sales for overall establishment operations of the four reporting U.S. producers of HFHTs increased by *** percent from $*** in 1987 to $*** in 1988 (table 18). Net sales decreased by *** percent to $*** in 1989. Operating income was $*** in 1987, $*** in 1988, and $*** in 1989. Operating income margins as a percent of net sales were *** percent in 1987, *** percent in 1988, and *** percent in 1989. Net sales of $*** for the interim period ended September 30, 1990, were *** percent less than the net sales of $*** for the interim period ended September 30, 1989. Operating income was $*** in interim 1989 and $*** in interim 1990. The operating income margins were *** percent in interim 1989 and *** percent in interim 1990. Handtools accounted for approximately *** percent of overall establishment net sales in 1989. Net sales, operating income, and operating income margins for overall establishment operations are presented in table 19 for each company.

Table 18
Income-and-loss experience of U.S. producers on their overall establishment operations, accounting years 1987-89, January-September 1989, and January-September 1990

* * * * * * *

[35] * * *.

[36] * * * provided overall income-and-loss data and net sales only for other striking tools, which were approximately *** percent of overall net sales. Net sales of other striking tools reported were $*** in 1987, $*** in 1988, and $*** in 1989.

Table 19
Income-and-loss experience of U.S. producers on their overall establishment operations, by firms, accounting years 1987-89, January-September 1989, and January-September 1990

* * * * * * *

The overall establishment income-and-loss experience of Woodings-Verona is presented separately in table 20. Woodings-Verona was acquired from the Budd Co. as stated in the following note to its 1990 financial statements:

"* * *."

Table 20
Income-and-loss experience of Woodings-Verona on its overall establishment operations, accounting years ended September 30, 1988-90, January-September 1989, and January-September 1990

* * * * * * *

As a result of this purchase, * * *, Woodings-Verona's and the reporting U.S. producers' overall establishments operating income, operating income margin, net income before taxes, and net income before taxes as a percent of sales would be as shown in the following tabulation:

* * * * * * *

A comparison of the financial indicators shown in the tabulation with the corresponding financial indicators in tables 18 and 20 indicates that the * * *. The statements of assets, liabilities, and shareholders' equity for Woodings-Verona since its acquisition from the Budd Co. are presented in appendix J as of September 30, 1987, 1988, 1989, and 1990.

Woodings-Verona * * * as evidenced by the following comment in the independent auditors' report to the stockholders and the Board of Directors for the year ended September 30, 1990:

"* * *."[37]

Woodings-Verona's financial condition * * * as stated in its notes to the 1990 financial statements:

"* * *."[38]

---

[37] * * *.
[38] * * *.

"During the year ended September 30, 1989, the Company * * *."

Woodings-Verona also * * *[39] as stated in the commitments and contingencies note to the financial statements:

"* * *."

Operations on HFHTs.--Woodings-Verona's income-and-loss data for the two plants (located in Columbiana, OH, and * * *) that produce most of the company's HFHTs are presented in table 21. However, the plants also produce wheel wrenches, nail pullers, small bars, small hammers, and other products not included in HFHTs. The plants also * * *. A third plant (located in Verona, PA), which produces rail anchors, hammers, tent pins, and some HFHTs, is included in Woodings-Verona's overall establishment operations. The Verona, PA, plant's HFHT production (approximately $*** in 1990) is * * *.

Table 21
Income-and-loss experience of Woodings-Verona's two plants producing mostly heavy forged handtools, accounting years ended September 30, 1988-90, January-September 1989, and January-September 1990

* * * * * * *

If the data in table 21 (income-and-loss data for the two plants that produce most of Woodings-Verona's HFHTs) were substituted for Woodings-Verona's overall establishment data included in table 18 (overall establishment income-and-loss data for the four companies combined), the overall establishment net sales, operating income, and the operating income as a share of net sales for the combined companies would be as shown in the following tabulation:

* * * * * * *

Investment in productive facilities.--The four producers that reported overall establishment income-and-loss data also provided data on their investment in productive facilities and on total assets. These data are presented in table 22.

Capital expenditures.--The four producers that reported overall establishment income-and-loss data also provided data on capital expenditures for their operations. These data are presented in table 23.

[39] * * *.

Table 22
Value of overall establishment property, plant, and equipment of U.S. producers of heavy forged handtools, as of the end of accounting years 1987-89, January-September 1989, and January-September 1990

Item	1987	1988	1989	January-September-- 1989	1990
	Value (1,000 dollars)				
Fixed assets:					
Original cost	13,806	14,464	15,234	***	***
Book value	7,483	7,402	7,315	***	***
Total assets[1]	26,837	24,605	23,892	***	***
	Return on total assets (percent)				
Operating return[2]	***	***	***	***	***
Net return[3]	***	***	***	***	***

[1] Defined as book value of fixed assets plus current and noncurrent assets.
[2] Defined as operating income or loss divided by asset value.
[3] Defined as net income or loss divided by asset value.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 23
Overall establishment capital expenditures by U.S. producers of heavy forged handtools, accounting years 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Research and development expenses.--One company (* * *) reported estimated research and development expenses of $*** each year and $*** for each interim period for overall establishment operations.

Capital and investment.--The Commission requested U.S. producers to describe any actual or potential negative effects of imports of HFHTs from China on their firms' growth, investment, ability to raise capital, or development and production efforts (including efforts to develop a derivative or improved version of their products). Their responses are shown in appendix K.

Consideration of the Question of Threat of Material Injury

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

> In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors[40]--
>
> (I) If a 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 subsidy is an export subsidy inconsistent with the Agreement),
>
> (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
>
> (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
>
> (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
>
> (V) any substantial increase in inventories of the merchandise in the United States,
>
> (VI) the presence of underutilized capacity for producing the merchandise in the exporting country,
>
> (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

---

[40] Sec. 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

> (VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,
>
> (IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and
>
> (X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.[41]

Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury or Threat Thereof;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of Alleged Material Injury to an Industry in the United States." Item I, regarding subsidies, and item IX, regarding agricultural products, are not relevant in this case. Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), (VIII) and (IX) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows.

U.S. importers' inventories

U.S. importers' end-of-period inventories of the subject Chinese-produced HFHTs increased steadily from 1987 to 1989, increasing from 986,000 units in 1987 to 1.2 million units in 1989 (table 24). The ratio of inventories to imports, however, declined from 59.4 percent in 1987 to 49.1 percent in 1989.

---

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

Table 24
Heavy Forged handtools: U.S. importers' end-of-period inventories of imports from China, by types, as of Dec. 31 of 1987-89, and as of Sept. 30, 1989 and Sept. 30, 1990

Item	As of Dec. 31 of--			As of Sept. 30 of--	
	1987	1988	1989	1989	1990
	Quantity (1,000 units)				
Striking tools.....	285	318	357	351	308
Bar tools.....	155	185	211	225	166
Digging tools.....	239	308	315	298	200
Hewing tools.....	307	264	345	312	197
Total.....	986	1,075	1,228	1,186	871
	Ratio (percent) to imports[1]				
Striking tools.....	62.2	54.2	49.5	48.6	58.3
Bar tools.....	52.5	48.9	41.9	44.3	40.6
Digging tools.....	44.4	47.4	43.9	42.7	37.7
Hewing tools.....	83.3	92.6	61.5	57.6	88.7
Average.....	59.4	56.6	49.1	48.0	52.2

[1] Calculated from data provided by firms supplying both inventory and import data. Ratios for interim periods are calculated from annualized imports.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The level of end-of-period inventories held by U.S. importers in interim 1990 was significantly lower (by 26.6 percent) than the level of such inventories held in the comparable period of 1989. U.S. producers' (* * *) share of U.S. importers' end-of-period inventories of the products produced in China was *** percent in 1987, *** percent in 1988, *** percent in 1989, and *** percent in interim 1990.

U.S. importers' current orders for HFHTs

In the Commission's questionnaire, importers were asked whether they had imported or arranged for the importation of HFHTs from China after September 30, 1990. Based on the responses of 10 firms, U.S. importers arranged for the importation of HFHT orders totaling approximately 280,000 units. Such orders have been scheduled for delivery between October 1990 and March 1991.

Ability of foreign producers to generate exports and the availability of export markets other than the United States

China began developing its heavy forged handtool industry in 1981 and has since evolved into a leading world exporter of such merchandise. Currently, there are an estimated 500 factories in China that are producing HFHTs. Many of these factories are reported to be inefficient and are not believed to be capable of producing products of the quality necessary to penetrate markets in industrialized countries. As a nonmarket economy, decisions with regard to domestic production targets and product distribution are usually controlled by agencies of the state.

The Commission requested counsel for Shandong Machinery Import & Export Corp. and Tianjin Machinery Import & Export Corp. to provide information on the heavy forged handtool industry in China.[42] The information requested included data on production, capacity, capacity utilization, home-market shipments, inventories, exports to the United States, exports to other major markets, and total exports, for 1987-89 and projected full-year 1990 and 1991. Similar data were requested by the Commission from the U.S. Embassy in Beijing.[43]

The questionnaire responses for Shandong Machinery and Tianjin Machinery show an aggregate increase in HFHT capacity of *** percent from 1987 to 1989 (table 25). Over the same period, production rose by *** percent, world exports increased *** percent, and exports to the United States rose by *** percent.[44] Exports to the United States as a share of production increased from 1987 to 1988 and declined thereafter.

Table 25
Heavy forged handtools: Production capacity, production, exports, and inventories of Shandong Machinery Import & Export Corp. and Tianjin Machinery Import & Export Corp., 1987-89, with projections for 1990 and 1991

* * * * * * *

[42] Henan Machinery Import & Export Corp. refused to cooperate with Commerce in its investigation and neither did it provide the data requested through counsel by the Commission.

[43] The U.S. Embassy in Beijing was not able to provide the information requested by the Commission. However, based on information it had received from representatives of Provincial trading corporations, the Embassy suggested the existence of a 1988 State Council Directive that purportedly severed the links between the China National Import and Export Corp. and Provincial import/export corporations of category III goods, in which HFHTs are included. The Embassy's response stated in part "* * *."

[44] Reported exports to the United States by these two companies * * * of the reported imports from China in 1989.

Of the * * * HFHT factories operated by Shandong, * * *.[45] Among Tianjin's * * * factories, * * *.[46] In addition to HFHTs, the factories of both Shandong and Tianjin manufacture forged handtools not subject to the investigation as well as chains, meat cleavers, forged automobile parts, forkhoes, and pitchforks. Neither Shandong or Tianjin * * *.

There is no evidence of the existence of any dumping findings or antidumping remedies in GATT-member countries on HFHTs from China.

Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury or Threat Thereof

U.S. imports

Two sets of import data are reported herein. The first set consists of import data (quantity and value) as reported by 22 U.S. importers (including 3 U.S. producers that import) in response to the Commission's questionnaire. The second set consists of import data (value only) reported in official statistics of the U.S. Department of Commerce. Each of the two sets of data has certain inherent limitations. With regard to the questionnaire data, the coverage is less than complete because not all U.S. importers responded to the Commission's questionnaire. Importers accounting for approximately 68.7 percent of the value of 1989 imports from China as reported by Commerce, and importers accounting for approximately 2.1 percent of the value of 1989 imports from all other countries as reported by Commerce, provided data in response to the questionnaire. With regard to the official statistics on HFHTs, there are three types of problems. First, in all years, import data for bars, track tools, and wedges include an undetermined amount of imports of products not subject to the scope of the investigation (i.e., bars of 18 inches and under in length). Second, in 1989, import data for picks and mattocks include hoes and rakes, which are not subject to the scope of the investigation (when the HTS replaced the TSUS as of Jan. 1, 1989, hoes and rakes became grouped in the same category as picks and mattocks). And third, the units of quantity differ from one category to another or are nonexistent (i.e., they are reported in dozens for hammers, sledge hammers, and mauls; in kilograms for bars, track tools, and wedges; and do not exist for mattocks and picks or for axes, bill hooks, and similar hewing tools)--accordingly, only the value of official statistics is reported herein.

---

[45] In its questionnaire response to the Commission, Shandong provided the names and addresses of the five largest U.S. importers of its HFHTs. All but one of these importers were sent Commission questionnaires. The Commission's staff was unable to locate * * *, the one firm that was not sent a questionnaire, at the address provided.

[46] * * * was listed by Tianjin as one of its five largest U.S. importers of HFHTs. * * * was not sent a Commission questionnaire. When contacted by the Commission's staff, * * *, a vice president with the firm, stated that * * *. * * * stated that * * *.

U.S. imports based on questionnaire responses.--The data on U.S. imports of HFHTs as compiled from questionnaire responses are presented in tables 26 and 27. The quantity and value of U.S. imports of HFHTs from China increased without interruption from 1987 to 1989 and declined sharply from interim 1989 to interim 1990. The quantity of imports increased by 50.5 percent from 1987 to 1989 and decreased by 35.0 percent from interim 1989 to interim 1990 (table 26). In terms of value, U.S. imports from China increased by 64.5 percent from 1987 to 1989 and fell by 39.2 percent from interim 1989 to interim 1990. By quantity, U.S. producers accounted for *** percent of U.S. imports from China in 1989, compared with *** percent in 1987 (table 27). In terms of value, the ratio of U.S. producers' imports to total imports from China was *** percent in 1989 versus *** percent in 1987.

Striking tools.--U.S. imports from China of striking tools rose by 57.4 percent by quantity and 42.2 percent by value from 1987 to 1989. From interim 1989 to interim 1990, such imports fell by 26.9 percent by quantity and 24.8 percent by value. The average unit value of striking tools imported from China fell unevenly (by 9.5 percent) from 1987 to 1989 and increased by 3.0 percent from interim 1989 to interim 1990. As a share of total U.S. imports from China of HFHTs, striking tools accounted for 29.0 percent of the total by quantity and 31.3 percent of the total by value in 1989.

Bar tools.--The quantity of U.S. imports from China of bar tools increased by 71.2 percent from 1987 to 1989 and decreased by 19.6 percent from interim 1989 to interim 1990. In terms of value, there was a sharper increase (90.1 percent) from 1987 to 1989 and a smaller decrease (16.4 percent) from interim 1989 to interim 1990. The average unit value of bar tools imported from China increased irregularly (by 10.9 percent) from 1987 to 1989 and increased by 3.6 percent from interim 1989 to interim 1990. As a share of total U.S. imports from China of HFHTs, bar tools accounted for 20.3 percent of the quantity and 17.9 percent of the value in 1989.

Digging tools.--The quantity of U.S. imports from China of digging tools rose by 31.8 percent from 1987 to 1989 and declined by 36.2 percent from interim 1989 to interim 1990. The value of such imports increased by 48.4 percent from 1987 to 1989 and decreased by 46.5 percent from interim 1989 to interim 1990. The average unit value of digging tools imported from China rose steadily from 1987 to 1989, increasing by 12.6 percent overall. The average unit value fell by 16.1 percent from interim 1989 to interim 1990. As a share of total U.S. imports from China of HFHTs in 1989, digging tools accounted for 28.3 percent of the quantity and 27.6 percent of the value.

Hewing tools.--The quantity of U.S. imports from China of hewing tools increased by 52.3 percent from 1987 to 1989 and decreased by 59.1 percent from interim 1989 to interim 1990. The value of such imports more than doubled from 1987 to 1989, increasing from $591,000 to $1.3 million. However, from interim 1989 to interim 1990, the value of imports fell by 67.4 percent. The average unit value of U.S. imports of hewing tools from China increased substantially (by 41.4 percent) from 1987 to 1989 and declined by 20.1 percent

Table 26
Heavy forged handtools: U.S. imports from China and from all other sources, by types, 1987-89, January-September 1989, and January-September 1990,[1] based on responses to the Commission's questionnaire

Item	1987	1988	1989	January-September-- 1989	1990
	Quantity (1,000 units)				
Striking tools:					
From China	458	587	721	540	395
From all other	***	***	***	***	***
Total	***	***	***	***	***
Bar tools:					
From China	295	372	505	382	307
From all other	***	***	***	***	***
Total	***	***	***	***	***
Digging tools:					
From China	534	650	704	511	326
From all other	***	***	***	***	***
Total	***	***	***	***	***
Hewing tools:					
From China	365	285	556	401	164
From all other	***	***	***	***	***
Total	***	***	***	***	***
Total, all HFHTs:					
From China	1,652	1,894	2,486	1,834	1,192
From all other	***	***	***	***	***
Total	***	***	***	***	***
	Value (1,000 dollars)				
Striking tools:					
From China	1,206	1,352	1,715	1,276	959
From all other	***	***	***	***	***
Total	***	***	***	***	***
Bar tools:					
From China	516	738	981	750	627
From all other	***	***	***	***	***
Total	***	***	***	***	***
Digging tools:					
From China	1,020	1,253	1,514	1,114	596
From all other	***	***	***	***	***
Total	***	***	***	***	***
Hewing tools:					
From China	591	467	1,272	961	313
From all other	***	***	***	***	***
Total	***	***	***	***	***

See footnote at end of table.

Table 26--Continued
Heavy forged handtools: U.S. imports from China and from all other sources, by types, 1987-89, January-September 1989, and January-September 1990,[1] based on responses to the Commission's questionnaire

Item	1987	1988	1989	January-September--1989	January-September--1990
	Value (1,000 dollars)				
Total, all HFHTs:					
From China	3,333	3,810	5,482	4,101	2,495
From all other	***	***	***	***	***
Total	***	***	***	***	***
	Unit value				
Striking tools:					
From China	$2.63	$2.30	$2.38	$2.36	$2.43
From all other	***	***	***	***	***
Average	***	***	***	***	***
Bar tools:					
From China	1.75	1.98	1.94	1.96	2.03
From all other	***	***	***	***	***
Average	***	***	***	***	***
Digging tools:					
From China	1.91	1.93	2.15	2.18	1.83
From all other	***	***	***	***	***
Average	***	***	***	***	***
Hewing tools:					
From China	1.62	1.64	2.29	2.39	1.91
From all other	***	***	***	***	***
Average	***	***	***	***	***
Total, all HFHTs:					
From China	2.02	2.01	2.21	2.24	2.09
From all other	***	***	***	***	***
Average	***	***	***	***	***

[1] The data reported in the table were compiled from the responses of 22 firms, 16 of which imported from China. The data for those 16 firms that imported from China accounted for 68.7 percent of the value of U.S. imports from China in 1989 as reported by the Department of Commerce.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 27
Heavy forged handtools: U.S. imports from China by U.S. producers and all other U.S. importers, by types, 1987-89, January-September 1989, and January-September 1990,[1] based on responses to the Commission's questionnaire

Item	1987	1988	1989	January-September-- 1989	1990
	Quantity (1,000 units)				
Striking tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	458	587	721	540	395
Bar tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	295	372	505	382	307
Digging tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	534	650	704	511	326
Hewing tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	365	285	556	401	164
Total, all HFHTs:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	1,652	1,894	2,486	1,834	1,192
	Value (1,000 dollars)				
Striking tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	1,206	1,352	1,715	1,276	959
Bar tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	516	738	981	750	627
Digging tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	1,020	1,253	1,514	1,114	596
Hewing tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	591	467	1,272	961	313

See footnote at end of table.

Table 27--Continued
Heavy forged handtools: U.S. imports from China by U.S. producers and all other U.S. importers, by types, 1987-89, January-September 1989, and January-September 1990,[1] based on responses to the Commission's questionnaire

Item	1987	1988	1989	January-September--1989	January-September--1990
	Value (1,000 dollars)				
Total, all HFHTs:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Total	3,333	3,810	5,482	4,101	2,495
	Unit value				
Striking tools:					
U.S. producers	$***	$***	$***	$***	$***
All other U.S. importers	***	***	***	***	***
Average	2.63	2.30	2.38	2.36	2.43
Bar tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Average	1.75	1.98	1.94	1.96	2.03
Digging tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Average	1.91	1.93	2.15	2.18	1.83
Hewing tools:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Average	1.62	1.64	2.29	2.39	1.91
Total, all HFHTs:					
U.S. producers	***	***	***	***	***
All other U.S. importers	***	***	***	***	***
Average	2.02	2.01	2.21	2.24	2.09

[1] The data reported in the table were compiled from the responses of 22 firms, 16 of which imported from China. The data for those 16 firms that imported from China accounted for 68.7 percent of the value of U.S. imports from China in 1989 as reported by the Department of Commerce.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

from interim 1989 to interim 1990. As a share of total U.S. imports from China of HFHTs in 1989, hewing tools accounted for 22.4 percent of the quantity and 23.2 percent of the value.

U.S. imports based on official statistics.--Based on official statistics of the U.S. Department of Commerce, the value of U.S. imports of HFHTs from all sources increased by 62.0 percent from 1987 to 1989 and by 12.8 percent from interim 1989 to interim 1990 (table 28). Imports rose from $14.2 million in 1987 to $23.0 million in 1989 and from $16.2 million in interim 1989 to $18.2 million in interim 1990. The value of U.S. imports from China increased by 83.5 percent from 1987 to 1989 and by 5.9 percent from interim 1989 to interim 1990. In addition to China, other leading exporters of HFHTs to the United States during the period of investigation included Japan, Taiwan, and Mexico.

The only HFHT category for which official statistics are reported in units is striking tools. Official imports of striking tools are presented in the following tabulation (in 1,000 units):[47]

	From China	From all other countries	Total
1987	644	853	1,497
1988	975	381	1,357
1989	1,287	805	2,091
January-September--			
1989	843	624	1,467
1990	1,062	359	1,422

[47] Because of rounding, figures may not add to the totals shown.

Table 28
Heavy forged handtools: U.S. imports for consumption, by types and by selected sources, 1987-89, January-September 1989, and January-September 1990, based on official U.S. import statistics

(Landed, duty-paid value, in 1,000 dollars)

Item	China	Japan	Taiwan	Mexico	Other	Total
Striking tools:						
1987	1,149	1,006	629	196	335	3,316
1988	2,150	126	53	273	577	3,179
1989	2,498	182	285	999	339	4,303
January-September--						
1989	1,669	173	191	692	285	3,010
1990	2,090	164	193	606	273	3,327
Bar tools:[1]						
1987	673	201	2,144	757	326	4,101
1988	1,694	257	940	1,114	270	4,275
1989	1,686	76	1,247	758	313	4,080
January-September--						
1989	1,098	54	845	525	270	2,793
1990	1,288	40	929	339	294	2,890
Digging tools:						
1987	736	255	223	134	680	2,028
1988	1,820	89	293	68	532	2,802
1989[2]	1,473	178	4,916	853	3,379	10,799
January-September--						
1989[2]	1,035	108	3,487	727	2,443	7,801
1990[2]	1,198	288	5,934	530	2,344	10,294
Hewing tools:						
1987	1,793	591	1,884	79	385	4,732
1988	1,929	177	949	80	518	3,653
1989	2,326	189	746	18	508	3,787
January-September--						
1989	1,398	141	612	9	393	2,554
1990	929	50	486	2	255	1,722
Total:[1]						
1987	4,351	2,053	4,880	1,166	1,726	14,177
1988	7,593	649	2,235	1,535	1,897	13,909
1989[2]	7,983	625	7,194	2,628	4,539	22,969
January-September--						
1989[2]	5,200	476	5,135	1,953	3,391	16,158
1990[2]	5,505	542	7,542	1,477	3,166	18,233

[1] Includes bars of 18 inches and under in length.
[2] Includes hoes and rakes.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Market penetration of imports

According to importers' U.S. shipments data obtained in response to Commission questionnaires, the quantity of U.S. imports of HFHTs from China as a share of apparent consumption was *** percent in 1987, *** percent in 1988, *** percent in 1989, and *** percent in interim 1990 (table 29). As a share of apparent consumption by value, U.S. importers' shipments of HFHTs from China were *** percent in 1987, *** percent in 1988, *** percent in 1989, and *** percent in interim 1990 (down from *** percent in interim 1989).

Table 29
Heavy forged handtools: Apparent U.S. consumption and ratios of shipments of imports to apparent consumption, by types, 1987-89, January-September 1989, and January-September 1990, based on data received in response to the Commission's questionnaires

* * * * * * *

Striking tools.--As a share of apparent consumption by quantity, U.S. importers' shipments of striking tools from China increased from *** percent in 1987 to *** percent in 1988 and increased to *** percent in 1989. The ratio declined from *** percent in interim 1989 to *** percent in interim 1990. U.S. importers' shipments as a share of apparent consumption by value also increased annually from 1987 to 1989 and decreased from interim 1989 to interim 1990.

Bar tools.--U.S. importers' shipments of bar tools from China as a share of apparent U.S. consumption by quantity decreased from *** percent in 1987 to *** percent in 1988, increased to *** percent in 1989, and increased from *** percent in interim 1989 to *** percent in interim 1990. As a share of apparent consumption by value, U.S. importers' shipments decreased from *** percent in 1987 to *** percent in 1988, increased to *** percent in 1989, and increased from *** percent in interim 1989 to *** percent in interim 1990.

Digging tools.--U.S. importers' shipments of digging tools from China as shares of apparent consumption by quantity and value were significant throughout the period of investigation. As a share of apparent consumption by quantity, such shipments increased from *** percent in 1987 to *** percent in 1989. The ratio increased from *** percent in interim 1989 to *** percent in interim 1990. As a share of apparent consumption by value, importers' shipments increased from *** percent in 1987 to *** percent in 1989 and increased from *** percent in interim 1989 to *** percent in interim 1990.

Hewing tools.--As a share of apparent consumption by quantity, U.S. importers' shipments of hewing tools from China increased from *** percent in 1987 to *** percent in 1989. The ratio increased only slightly from interim 1989 to interim 1990. As a share of apparent consumption by value, importers' shipments increased irregularly from *** percent in 1987 to *** percent in 1989. The ratio declined from *** percent in interim 1989 to *** percent in interim 1990.

If apparent U.S. consumption is calculated using official import statistics, U.S. imports from China of all HFHTs as a share of apparent consumption by value increased from *** percent in 1987 to *** percent in 1988, declined to *** percent in 1989, and barely increased from interim 1989 to interim 1990 (table 30). The percentage change in the ratio of U.S. imports from China to apparent consumption from 1987 to 1989 for the four product categories was as follows: striking tools, up *** percent; bar tools, up *** percent; digging tools, down *** percent; and hewing tools, up *** percent. From interim 1989 to interim 1990, the ratio of imports from China to apparent consumption declined for digging and hewing tools and increased for striking and bar tools.

Table 30
Heavy forged handtools: Apparent U.S. consumption and ratios of imports to apparent consumption, by types, 1987-89, January-September 1989, and January-September 1990, based on official U.S. import statistics and on U.S. producer data received in response to the Commission's questionnaire

* * * * * * *

Prices[48]

Product characteristics.--U.S. producers, importers, and purchasers reported in their questionnaire responses that the U.S.-produced and imported Chinese striking, bar, and digging HFHTs were generally comparable, but that imported Chinese hewing HFHTs were generally inferior to the domestic products. They noted some distinctions, however, between the domestic and imported products that involved all four product categories, including the quality and relative value of handles, consistency in the quality of the forgings, and both availability and reliability of supply.[49] In addition, wholesalers and retailers commented in their questionnaire responses on market conditions in the U.S. market for purchasing HFHTs.

Quality and relative value of handles.--Wooden handles produced in the United States are superior to those from China and are used on many of the HFHTs requiring attached handles wherein the forgings are imported from

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[48] Throughout this section, imported Chinese HFHTs "requiring attached handles" refers to both HFHTs made of Chinese forgings with Chinese handles and HFHTs made of Chinese forgings with U.S handles. This reference is for convenience and is not intended to be a judgment of whether HFHTs comprised of Chinese forgings with U.S handles constitute imported or domestic handtools. The reported pricing data separately discuss Chinese HFHT forgings with imported wooden handles and those with U.S.-produced wooden handles.

[49] Purchasers indicated in their questionnaire responses that they sometimes purchased the U.S.-produced HFHTs even when prices were higher than prices of the Chinese HFHTs. As reasons, they cited the distinctions identified here and preference by the consumer, who often associated the domestic product with higher quality.

China as well as on all such forgings produced in the United States.[50] U.S. producers and importers of the domestic and Chinese HFHTs usually sell the striking (e.g., sledge hammers) and hewing (e.g., axes) tools to wholesalers and retailers with the handles attached, although a majority of the forged parts from China enter the United States without handles. The digging tools (e.g., picks/mattocks) are often sold to wholesalers and retailers without the handles, which are generally packaged and invoiced separately from the forged part. The bar tools (e.g., crow bars and wrecking bars) have metal handles forged as an integral part of the tool.

U.S. importers who purchase the Chinese heavy forged striking and hewing tools without handles generally produce or purchase handles in the United States and attach them to these tools to sell to wholesalers and retailers. Importers reported that the value of U.S.-produced hickory handles as a percent of their net U.S. f.o.b. selling prices of the heavy forged handtools with Chinese forgings and U.S handles averaged approximately *** percent for striking tools and *** percent for hewing tools.[51] For the heavy forged digging tools that were sold with Chinese forgings and U.S. handles, the handles averaged approximately *** percent of their net U.S. f.o.b. selling prices of the combined product. U.S. producers reported lower figures for the value of U.S.-produced hickory handles as a share of their net U.S. f.o.b. selling prices of U.S.-produced HFHTs, averaging approximately *** percent for the striking tools, *** percent for the hewing tools, and *** percent for the digging tools. U.S. producers generally reported lower producing/purchasing costs of the hickory handles and higher average net f.o.b. selling prices of the completed HFHTs than did the importers.[52] Both U.S. importers and producers reported that the percentage shares of the values of U.S.-produced hickory handles to net U.S. f.o.b. selling prices of the subject handtools that they reported for the January-September 1990 period remained essentially unchanged during the entire period of investigation.

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[50] The attached handles on HFHTs are generally made of wood, with U.S.-produced handles made of hickory and the imported Chinese handles made of oak, ash, or banana wood; the hickory comes in several grades with white-wood, straight-grain handles priced at a premium and red-wood hickory handles or those with knots or other discolorations commanding somewhat lower prices. Hickory is a better wood for handles than the other hardwoods because it is dense yet lightweight, absorbing more vibration. These characteristics of hickory handles result in less wear on handtool users and fewer incidents of broken handles. Fiberglass handles are reportedly used on about *** percent of the HFHTs requiring attached handles (Commission staff telephone conversation with * * *).

[51] Questionnaire respondents were asked to estimate that part of the sales value accounted for by the forged part of the handtool and that part accounted for by the handle, specifying the type of wood in the handle and whether the handle was imported from China or produced in the United States.

[52] Individual respondents reported using U.S. hickory handles of various grades of hickory. No consistent pattern of higher or lower handle values appeared among U.S. importers or U.S. producers, although some produced and others purchased their hickory handles.

Quality of forgings.--Purchasers reported in their questionnaire responses that material quality and finish of the forged part of the imported Chinese striking, bar, and digging HFHTs are inconsistent, and imported hewing tools are generally inferior in material and quality to the domestic products. Factors cited were improper heat treating/tempering of the forgings that resulted in more numerous instances of splintering and chipping of the Chinese mauls, wedges, and axes than the domestic products. * * * also noted that the Chinese bars tend to be smaller in diameter and dented more easily than the domestic bars. In addition, * * * reported that the dimensions of the eyes punched in the Chinese striking, digging, and hewing tool forgings vary more than the domestic tool forgings, leading to poorer-fitting handles in the Chinese tools.

Reliability/availability of supply.--Purchasers reported that U.S. producers of HFHTs generally had more reliable delivery and greater availability of supply than U.S. importers of the Chinese products. Unpredictable delivery of HFHTs shipped from China necessitated large inventories to maintain supply availability comparable to U.S.-produced products. As a result, some purchasers reported that they buy the Chinese HFHTs only when the domestic products are temporarily not available.[53]

Purchasers' buying practices.--Purchasers of HFHTs reported in their questionnaire responses that they typically buy domestic and imported Chinese HFHTs monthly, mostly on a spot basis, from approved vendors. Some purchasers evaluated their vendors annually and others every 3 or 4 years. Retailers reported contacting two to four suppliers when making a purchase, whereas wholesalers contacted one to two suppliers. As the most important factors they considered when sourcing their HFHTs, purchasers reported price most frequently, then quality and availability.

Purchasers usually buy their HFHTs on a delivered price basis, with the supplier picking up most of the U.S. freight on large orders. Prices of the domestic and imported HFHTs quoted to purchasers typically changed once a year. Purchasers reported most frequently that * * * were the price leaders for HFHTs in the U.S. market. All are large * * * HFHTs; * * * are also * * * HFHTs. Finally, purchasers indicated that they do not compete with their suppliers in selling HFHTs.

Questionnaire price data.--The products for which pricing data were requested are described here.[54]

> Product 1. 8-POUND SLEDGE HAMMER--8-pound head, manufactured from fine-grain special bar-quality steel, forged, trimmed, heat-treated, ground, shot-blasted (wheelabrated), polished, and painted, with attached 36-inch wooden handle.

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[53] On the other hand, * * * noted that * * *.

[54] The products were suggested by petitioners as representative of a significant share of U.S.-produced and imported Chinese HFHTs. (Telephone conversations with * * *.)

Product 2. 8-POUND SPLITTING MAUL--8-pound head, manufactured from high-carbon steel, sheared, forged, trimmed, upset, heat-treated to fine grain, magnetically inspected, ground, shot-blasted, polished, sharpened and painted, with attached 36-inch wooden handle.

Product 3. 2-POUND SLEDGE HAMMER--2-pound head, manufactured from high-carbon steel, forged, trimmed, heat-treated to fine grain, magnetically inspected, ground, shot-blasted, polished, and painted, with attached 16-inch wooden handle.

Product 4. 18-POUND PINCH OR WEDGE POINT CROWBAR--18-pound bar (dimensions 60 inches by 1-1/4 inches) manufactured from high-carbon steel, forged, sheared, rolled, ground, sharpened, and painted.

Product 5. 24-INCH WRECKING BAR--manufactured from fine grain special bar-quality steel, forged, trimmed, bent (both ends), shot-blasted, ground, and painted.

Product 6. 14-1/2-INCH NAIL PULLER/UTILITY BAR--manufactured from high-carbon steel, sheared, forged, trimmed--both ends, ground, sharpened, painted, and polished.

Product 7. 5-POUND PICK/MATTOCK--5-pound head, manufactured from fine-grain special bar-quality steel, eye forged, pick and mattock blades forged, ground, heat-treated, shot-blasted and painted, without handle.

Product 8. 3-1/2-POUND SINGLE-BIT MICHIGAN AXE--3-1/2-pound head, manufactured from fine-grain special bar-quality steel, forged, trimmed, upset, ground, heat-treated, shot-blasted, polished, painted, and sharpened, with attached 36-inch bent wooden handle.

U.S. producers and importers.--The Commission requested net U.S. f.o.b. and delivered selling prices to both wholesalers and retailers in the hardware market for sales of products 1, 2, 4, 5, 7, and 8 from U.S. producers and importers of the subject products.[55] Net selling price data were also requested from U.S. producers and importers of the subject forged handtools for sales to (1) handtool manufacturers (HTMs)[56] of the largest volume product in each of four product categories (products 1, 4, 7, and 8) and (2) the industrial market for the largest volume product in the hammers/

[55] In addition, selling prices were also requested from U.S. producers of an additional sledge hammer product and additional crowbar product (products 3 and 6, respectively) that were lighter/shorter than the heavy forged products within the scope of Commerce's investigations.

[56] Individual handtool manufacturers in the United States do not make all the handtools required by their customers. As a result, the producers often fill out their product lines by purchasing other handtools, including one or more of the subject HFHTs, ball peen hammers, and claw hammers.

sledges and bars/wedges product categories (products 1 and 4).[57] The price data were requested for the largest sale and for total sales of the specified products, by quarters, during January 1987-September 1990.[58]

Four U.S. producers--Council Tool Co., Mann Edge Tool Co., Warwood Tool Co., and Woodings-Verona Tool Works, Inc.--and 14 U.S. importers of HFHTs, which include *** reporting U.S. producers,[59] provided price data, but not necessarily for every product or period. The total reported sales quantity of the U.S.-produced HFHTs for which pricing data were reported accounted for *** percent of reported domestic shipments of all U.S.-produced heavy forged striking tools, *** percent of U.S.-produced heavy forged bar tools, *** percent of U.S.-produced heavy forged digging tools, and *** percent of U.S.-produced heavy forged hewing tools during January 1987-September 1990. The total reported sales quantity of the imported Chinese HFHTs for which pricing data were reported accounted for *** percent of reported imports of all Chinese heavy forged striking tools, *** percent of Chinese heavy forged bar tools, *** percent of Chinese heavy forged digging tools, and *** percent of Chinese heavy forged hewing tools during January 1987-September 1990.

Purchasers.--The Commission also requested net delivered purchase prices and quantities for HFHT products 1, 2, 4, 5, 7, and 8 from 107 purchasers, encompassing wholesalers and retailers in the hardware market and industrial supply firms in the industrial market.[60] These 107 companies are believed to account for a substantial share of U.S. purchases of HFHTs produced domestically and imported from China.[61] The purchase price data were requested for the largest purchase and total purchases of each product reported, by quarters, during January 1988-September 1990. Sixteen purchasers reported at least some of the requested price data, but the quantities on which the reported prices were based totaled far less than the quantities reported by U.S. producers and importers in their delivered price data.[62]

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[57] Wholesalers and retailers in the hardware market reportedly account for most of the competition with the imported Chinese handtools. Sales to HTMs and, to a lesser extent, customers in the industrial market reportedly also involve some competition with the Chinese products. Government purchases (mostly federal) and railroad company purchases (part of the industrial market) reportedly involve competition only among U.S. producers based on Buy-American requirements or preferences. * * *. Commission staff telephone conversations with * * *.

[58] If a firm imported the Chinese HFHTs for resale to end users in its own stores, it was requested to report its ex-dock, duty-paid U.S. port-of-entry purchase price.

[59] These two U.S. producers accounted for about *** percent of the reported quantity of HFHTs imported from China during January 1987-September 1990.

[60] The responding hardware wholesalers reported selling most of their HFHTs to hardware retailers and home center outlets, which sell their HFHTs primarily to homeowners.

[61] These purchasers represent the largest hardware and industrial customers of U.S. producers and importers who supplied questionnaire responses during the preliminary investigation.

[62] Delivered prices of U.S.-produced HFHTs reported by purchasers involved shipment quantities amounting to about *** percent of the quantity in pricing

(continued...)

Price trends.--Price trends of the domestically produced and imported Chinese HFHTs were based on net U.S. f.o.b. selling prices from producer and importer questionnaire responses (tables 31-37). U.S. producers reported net f.o.b. selling prices to the hardware, industrial, and HTM sectors, whereas importers reported the pricing data to the hardware and HTM sectors. Price trends for the imported Chinese heavy forged striking and hewing handtools are shown separately for those tools imported and sold with the Chinese handles and those imported Chinese tools sold with wooden handles produced and attached in the United States. Price trends for the U.S.-produced small nonsubject forged striking and bar handtool products are shown in appendix L, table L-1. For some products, the reported U.S. producer and importer price data show the same price in two or more consecutive periods. This reflects prices reported by only one respondent to the same customer.

U.S. producers' and importers' reported net f.o.b. selling prices of the domestic and imported Chinese heavy forged handtool products fluctuated, but during the periods reported they increased for the majority of product/customer categories. Some of the price increases, however, were modest and occurred only in more recent periods.

Striking tools.--U.S. producers reported quarterly net U.S. f.o.b. selling prices of their U.S.-produced product 1 (8-pound sledge hammer) to the hardware, HTM, and industrial markets and their selling prices of product 2 (8-pound maul) to the hardware market during January 1987-September 1990 (table 31). Prices of both domestic products 1 and 2 fluctuated, but for product 1 ended the period higher and for product 2, lower than their initial-period values. Price increases for product 1 ranged from about *** percent on sales to the hardware and industrial markets to almost *** percent on sales to the HTM market during January 1987-September 1990.[63] Prices of product 2 sold to the hardware market fell by about *** percent during the period. The hardware market represented by far the largest market for the reported domestic striking tool product 1. Fluctuations in prices of product 1 to the hardware market showed more marked declines from its initial-period value

Table 31
Price indexes and average net f.o.b. selling prices of U.S.-produced heavy forged striking handtools, by type of market, by specified product, and by quarter, January 1987-September 1990

* * * * * * *

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[62](...continued)
data reported by U.S. producers, and delivered prices of imported Chinese HFHTs reported by purchasers involved shipment quantities amounting to about *** percent of the quantity in pricing data reported by U.S. importers.

[63] Quarterly net f.o.b. selling prices of domestic striking handtool product 3 (2-pound sledgehammer) sold to the hardware market remained above its initial-period value throughout January 1987-September 1990, rising during the period by about *** percent (table L-1).

than fluctuations in prices of product 1 in the HTM and industrial markets; prices in these latter markets remained above their initial-period values.

U.S. importers reported quarterly net U.S. f.o.b. selling price data for Chinese products 1 and 2 sold to the hardware markets and limited sales of Chinese product 1 to the HTM market (table 32); no net f.o.b. pricing data were reported for sales of imported Chinese product 1 to the industrial market. Only a limited amount of pricing data was reported for sledge hammer product 1 from China imported with wooden handles (mostly of oak); the majority of the reported pricing data for this imported product included wooden handles, mostly hickory, produced and attached in the United States. Although reported net selling prices of maul product 2 from China included greater sales quantities of the product imported with wooden handles (mostly oak) than product 1, the majority of sales of Chinese product 2 were also with hickory handles produced and attached in the United States.

Table 32
Price indexes and average net f.o.b. selling prices of heavy forged striking handtools imported from China, by type of market, by specified product, and by quarter, January 1987-September 1990

* * * * * * *

Based on sales of Chinese products 1 and 2 imported with wooden handles and sold to the hardware market, quarterly selling prices of product 1 remained virtually unchanged during April 1987-March 1988 and those of product 2 generally fell during January 1987-December 1989, by about *** percent. Quarterly selling prices of Chinese product 1 sold with U.S. handles to the hardware market fluctuated but rose by *** percent during January 1987-September 1990; on sales to the HTM market, prices rose by about *** percent during the period reported, April 1989-September 1990. Prices of Chinese product 2 sold with U.S. handles to the hardware market rose by about *** percent during January 1987-September 1990.

Bar tools.--U.S. producers reported quarterly net U.S. f.o.b. selling prices of their U.S.-produced product 4 (18-pound crowbar) to the hardware, HTM, and industrial markets, and their selling prices of product 5 (24-inch wrecking bar) to the hardware market during January 1987-September 1990 (table 33). Although prices of both domestic products fluctuated, they generally rose during the period on sales to the hardware market, by about *** percent for product 4 and almost *** percent for product 5.[64] On the other hand, selling prices of domestic product 4 to the HTM market, which is the largest market for this bar-tool product, fell by about *** percent during

[64] Quarterly net f.o.b. selling prices of domestic bar handtool product 6 (14-1/2 inch nail puller/utility bar) sold to the hardware market fluctuated but rose by almost *** percent during January 1987-September 1990 (table L-1).

Table 33
Price indexes and average net f.o.b. selling prices of U.S.-produced heavy forged bar handtools, by type of market, by specified product, and by quarter, January 1987-September 1990

* * * * * * *

this period.[65] Selling prices of domestic product 4 sold to the industrial market remained below the initial-period value for most of this period, but rose in July-September 1990 to end the period almost *** percent above the initial-period value.

U.S. importers reported quarterly net U.S. f.o.b. selling price data for Chinese bar products 4 and 5 sold to the hardware market and product 4 sold to the HTM market (table 34). No net f.o.b. pricing data were reported for sales of the imported Chinese product 4 to the industrial market. Based on sales to the hardware market, quarterly selling prices of Chinese product 4 rose by *** percent during January 1987-September 1990, while prices of product 5 rose by almost *** percent. Quarterly prices of Chinese product 4 sold to the HTM market rose by about *** percent during the period reported, April 1989-September 1990.

Table 34
Price indexes and average net f.o.b. selling prices of heavy forged bar handtools imported from China, by type of market, by specified product, and by quarter, January 1987-September 1990

* * * * * * *

Digging tools.--U.S. producers reported quarterly net U.S. f.o.b. selling prices of their U.S.-produced product 7 (5-pound pick/mattock) to the hardware and HTM markets (table 35), and U.S. importers reported quarterly net f.o.b. selling prices of Chinese product 7 mostly to the hardware market with limited sales to the HTM market (table 36). Quarterly selling prices of the U.S.-produced product generally remained above their initial-period value during January 1987-September 1990, rising during the period by almost *** percent on sales to the hardware market and by almost *** percent on sales to the HTM market.

Table 35
Price indexes and average net U.S. f.o.b. selling prices of U.S.-produced heavy forged digging and hewing handtools sold to the hardware and HTM markets, by specified product and by quarter, January 1987-September 1990

* * * * * * *

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[65] The decrease in price results from * * *.

Table 36
Price indexes and average net U.S. f.o.b. selling prices of heavy forged digging handtool product 7 (5-pound pick/mattock) imported from China and sold to the hardware and HTM markets, by quarter, January 1987-September 1990

* * * * * * *

Quarterly selling prices of Chinese product 7 sold to the hardware market fluctuated but rose by *** percent during the same period, and prices based on sales of this imported product to the HTM market rose by *** percent during the limited period reported, April 1989-September 1990.

Hewing tools.--U.S. producers reported quarterly net U.S. f.o.b. selling prices of their U.S.-produced product 8 (3-1/2 pound single-bit Michigan axe) to the hardware and HTM markets (table 35), and U.S. importers reported quarterly net f.o.b. selling prices of Chinese product 8 mostly to the hardware market with limited reported sales to the HTM market (table 37). A substantially greater volume of Chinese product 8 was sold with handles produced in the United States than with imported handles, although sales with the imported handles increased significantly in the last reported quarter.

Table 37
Price indexes and average net U.S. f.o.b. selling prices of heavy forged hewing handtool product 8 (3-1/2 pound single bit Michigan axe) imported from China and sold to the hardware and HTM markets, by specified product and by quarter, January 1987-September 1990

* * * * * * *

Quarterly selling prices of U.S.-produced product 8 sold to the hardware market, the largest market by far for this product, generally remained below their initial-period value during January 1987-December 1989, before rising during January-September 1990 to end the period about *** percent above the initial-period value. On the other hand, quarterly prices of domestic product 8 sold to the HTM market remained above their initial-period value throughout January 1987-September 1990 and ended the period almost *** percent above the initial-period value.

Based on sales of Chinese product 8 imported with wooden handles, quarterly prices of the imported product sold to the hardware market fluctuated but remained above their initial-period value during April 1987-September 1989. Prices of this product then fell below their initial-period value, dropping precipitously in April-June 1990 to end *** percent below their initial-period value.[66] Quarterly prices of Chinese product 8 sold

[66] Most of the decline in prices during July 1989-June 1990 occurred in the final quarter when * * *.

to the hardware market with handles produced in the United States fell during January 1987-September 1990 by *** percent. Quarterly prices of Chinese product 8 sold to the HTM market with U.S.-produced handles remained virtually unchanged during the limited period reported, April 1989-September 1990.

Price comparisons.--Quarterly price comparisons between domestic and imported Chinese heavy forged handtools are based on net delivered selling prices reported in U.S. producer and importer questionnaire responses[67] and on net delivered prices reported in much more limited responses to purchaser questionnaires.[68] Price comparisons based on the producer and importer questionnaires and those based on the purchaser questionnaires generally were similar in the price relationships they showed.[69] Price comparisons based on the delivered-price data reported by purchasers are discussed in the text, supplementing the delivered price comparisons based on delivered prices reported by U.S. producers and importers, but are not shown in tables.

The majority of the quarterly price comparisons were based on sales to the hardware sector, with a limited number of price comparisons involving sales to the HTM and industrial sectors. The price comparisons showed a more consistent pattern of underselling by the imported products for heavy forged digging handtool product 7 (pick/mattock) and hewing handtool product 8 (Michigan axe) than that shown for heavy forged striking handtool products 1 (sledge hammer) and 2 (maul) and bar handtool products 4 (crowbar) and 5 (wrecking bar).[70] Underselling by the Chinese striking and hewing handtools was greater for the imported products sold with Chinese handles than the Chinese forgings sold with U.S.-produced handles.

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[67] The *** U.S. producers who also imported the Chinese HFHTs accounted for about *** percent of the total sales quantity of Chinese HFHTs reported by U.S. importers in their delivered-price data. Excluding U.S. producers' delivered prices of their imported Chinese HFHTs eliminates the 16 price comparisons based on sales to the HTM market, all of which showed underselling by the imported HFHTs. No other changes in the number of instances of underselling or overselling result from excluding this data, and, except for bars sold to the hardware market, the average margins of underselling and overselling were essentially unchanged. Price comparisons of the domestic and imported bar products sold to the hardware market that do not include U.S. producers' delivered prices of their imported Chinese HFHTs showed a greater degree of underselling than if the U.S. producers' import prices were included.

[68] The limited response of purchaser price data involved far lower shipment quantities. As indicated earlier, purchasers reported delivered prices based on shipment quantities of domestic and imported Chinese HFHTs that were only *** and *** percent, respectively, of quantities reported by U.S. producers and importers in their price data.

[69] The only exception involved bar products sold to the hardware sector. Delivered price comparisons based on purchaser price data reflecting such sales showed considerable overselling by the imported products in contrast to the mixed pattern shown from the producer and importer delivered-price data. The latter price data, however, are considered more reliable as they reflect much higher shipment quantities than the purchaser data.

[70] During January 1987-September 1990, * * *.

Striking tools.--Based on producer and importer questionnaire price data, quarterly net-delivered-price comparisons between U.S.-produced heavy forged striking handtool products 1 (sledge hammer) and 2 (maul) and those from China are shown in tables 38 and 39. Based on the 46 possible quarterly price comparisons between the domestic and imported Chinese heavy forged handtool products 1 and 2 sold to the hardware market, the Chinese products imported with handles show a greater degree of underselling than the Chinese products sold with handles produced in the United States (table 38).[71] Of the 16 quarterly price comparisons between domestic products 1 and 2 and Chinese products with imported handles, 13 showed the imported product to be priced less than the domestic product by an average margin of about *** percent. Three price comparisons showed imported product 1 to be priced higher than the domestic product by an average of *** percent. Of the 30 quarterly price comparisons between domestic products 1 and 2 and Chinese products sold with handles produced in the United States, 21 showed the imported product to be priced lower than the domestic product by an average margin of almost *** percent. On the other hand, nine price comparisons involving the Chinese products with U.S.-produced handles showed the imported products to be priced higher than the domestic products by an average of about *** percent.

Table 38
Net U.S. delivered selling prices of heavy forged striking handtools produced in the United States and imported from China and sold to the hardware market and margins of under/(over)selling, by specified product and by quarter, January 1987-September 1990

* * * * * * *

Six quarterly price comparisons were possible between domestic and imported Chinese heavy forged handtool product 1 sold to the HTM market; all Chinese products had handles produced in the United States (table 39). All six quarterly price comparisons showed the imported product to be priced less than the domestic product, by an average margin of *** percent.

Table 39
Net U.S. delivered selling prices of heavy forged striking handtool product 1 produced in the United States and imported from China and sold to the HTM market and margins of under/(over)selling, by quarter, April 1989-September 1990

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[71] A single net delivered price comparison involving product 1 sold to the industrial sector was possible during July-September 1989 between the domestic sledge hammer and the imported Chinese sledge hammer with an imported handle. During this period, the imported product was priced about *** percent below the domestic product.

Based on purchaser questionnaire price data, 38 quarterly net-delivered-price comparisons were possible between domestic and imported Chinese HFHT products 1 and 2 sold to the hardware sector.[72] All 16 quarterly price comparisons between domestic products 1 and 2 and the Chinese products with imported handles showed the imported products to be priced less than the domestic products, by an average margin of *** percent. Eighteen of the 22 price comparisons between domestic products 1 and 2 and the Chinese products sold with handles produced in the United States showed the imported product to be priced lower than the domestic product by an average margin of about *** percent. Four price comparisons involving Chinese products sold with U.S.-produced handles showed the imported products to be priced higher than the domestic products by an average of about *** percent.

Bar tools.--Based on producer and importer questionnaire price data, quarterly net-delivered-price comparisons between U.S.-produced heavy forged bar handtool products 4 (crowbar) and 5 (wrecking bar) and those from China are shown in table 40.

Table 40
Net U.S. delivered selling prices of heavy forged bar handtools produced in the United States and imported from China and sold to the hardware market, and margins of under/(over)selling, by specified product and by quarter, January 1987-September 1990

* * * * * * *

Of the 30 quarterly price comparisons between domestic and Chinese products 4 and 5 sold to the hardware market,[73] 15 showed the imported product to be priced lower than the domestic product by an average margin of about *** percent.[74] Fifteen price comparisons showed the imported

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[72] Based on purchaser questionnaire price data, a single net delivered price comparison involving product 2 sold to the industrial sector was possible during January-March 1988 between the domestic maul and the imported Chinese maul with a U.S.-produced handle. During this period, the imported product was priced *** percent below the domestic product.

[73] One quarterly net-delivered-price comparison between the domestic and imported Chinese bar product 4 sold to the HTM market and two delivered-price comparisons based on sales to the industrial market were possible. On sales to the HTM market, the imported product was priced almost *** percent below the domestic product during April-June 1989, and on sales to the industrial market, the imported product was priced almost *** and *** percent below the domestic product during the respective periods April-June 1989 and April-June 1990.

[74] In this market, the average margin of underselling increased from *** to *** percent with the exclusion of delivered prices of the Chinese bars reported by U.S. producers.

products to be priced higher than the domestic products by an average of about *** percent.

Based on the purchaser questionnaire price data, 22 quarterly price comparisons were possible between domestic and imported products 4 and 5 sold to the hardware sector. One price comparison, involving product 4, showed the imported product to be priced less than the domestic product by a margin of *** percent. Twenty-one price comparisons between domestic and imported products 4 and 5 showed the imported products to be priced higher than the domestic products by an average margin of almost *** percent. Although this purchaser price data showed considerable overselling compared with the mixed pattern shown with producer and importer price data, it is based on far more limited shipment quantities than the latter price data.

Digging tools.--Based on producer and importer questionnaire price data, quarterly net delivered price comparisons between U.S.-produced heavy forged digging handtool product 7 (pick/mattock) and that product imported from China are shown in table 41. All 15 quarterly price comparisons between domestic and Chinese product 7 sold to the hardware market showed the imported product to be priced lower than the domestic product, by an average margin of *** percent.[75]

Table 41
Net U.S. delivered selling prices of heavy forged digging handtool product 7 produced in the United States and imported from China and sold to the hardware market and margins of under/(over)selling, by quarter, January 1987-September 1990

* * * * * * *

Based on purchaser questionnaire price data, all 11 quarterly price comparisons between domestic and imported product 7 sold to the hardware sector showed the imported product to be priced lower than the domestic product, by an average margin of *** percent.

Hewing tools.--Based on producer and importer questionnaire price data, quarterly net delivered price comparisons between U.S.-produced heavy forged hewing handtool product 8 (Michigan axe) and this product imported from China with imported handles and with handles produced and attached in the United States are shown in table 42.

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[75] Three quarterly net-delivered-price comparisons between domestic and imported Chinese digging product 7 sold to the HTM market were possible during January-September 1990. All three price comparisons showed the imported product to be priced lower than the domestic product, by an average margin of almost *** percent.

Table 42
Net U.S. delivered selling prices of heavy forged hewing handtool product 8 produced in the United States and imported from China and sold to the hardware and HTM markets and margins of under/(over)selling, by quarter, January 1987-September 1990

* * * * * * *

Based on the 26 possible quarterly price comparisons between domestic and imported Chinese heavy forged handtool product 8 sold to the hardware market, the Chinese axes imported with handles show a greater degree of underselling than the Chinese axes sold with handles produced in the United States. All 11 of the quarterly price comparisons between domestic product 8 and Chinese product 8 with imported handles showed the imported product to be priced lower than the domestic product, by an average margin of about *** percent. All 15 quarterly price comparisons between domestic product 8 and Chinese product 8 sold with handles produced in the United States also showed the imported axe to be priced lower than the domestic axe, by an average margin of about *** percent.

Six quarterly price comparisons were possible between domestic and imported Chinese heavy forged handtool product 8 sold to the HTM market; all involved the imported product with handles produced in the United States (table 42). All six quarterly price comparisons showed the imported product to be priced lower than the domestic product, by an average margin of *** percent.

Based on purchaser questionnaire price data, 20 quarterly net-delivered-price comparisons were possible between domestic and imported Chinese HFHT product 8 sold to the hardware sector. All nine quarterly price comparisons between domestic product 8 and the Chinese product with imported handles showed the imported products to be priced lower than the domestic products by an average margin of almost *** percent. All 11 price comparisons with Chinese product 8 sold with handles produced in the United States also showed the imported product to be priced lower than the domestic product, by an average margin of about *** percent.[76]

Transportation factors

Four U.S. producers and 15 U.S. importers responded to questions on transportation factors in the questionnaires. Both U.S. producers and importers sell from their U.S. manufacturing locations or ports of entry and from U.S. warehouses. Most of the U.S.-produced and imported HFHTs are shipped by truck in the U.S. market.

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[76] Based on purchaser questionnaire data, a single net-delivered-price comparison involving product 8 sold to the industrial sector was possible during July-September 1989; it involved imported Chinese axes with a U.S.-produced handle. During this period, the imported product was priced *** percent below the domestic product.

In comparison to the responding U.S. producers, the importers generally reported selling a higher proportion of their imported HFHTs to customers located less than 500 miles from their U.S. selling locations. The responding U.S. producers and importers reported that they generally arrange freight to their customers' locations. Reported U.S.-inland freight costs ranged from *** to *** percent of the U.S. f.o.b. selling price, with both U.S. producers and importers frequently quoting delivered prices and absorbing the freight on large orders.

Exchange rates

Usable market exchange-rate data for the Chinese renminbi are not available. The Chinese Government pegs the renminbi to the value of the U.S. dollar and controls its convertibility with other currencies.

Lost sales

* * * reported lost sales allegations involving competition from imported Chinese heavy forged handtools subject to this investigation.[77] * * * provided information on lost sales allegations, citing * * *;[78] * * * cited * * *. The reported lost sales allegations totaled almost $*** during 1987-90.[79] During the preliminary investigation, the Commission staff was able to contact four purchasers; one of these four, * * *, was also cited by * * * in the final investigation. Additional conversations with * * * during the final investigation are shown immediately below, as are conversations with the other cited purchasers that the staff contacted during the final investigation. Conversations with the four firms contacted during the preliminary investigation conclude this section.

Final investigation.--During the final investigation, * * * alleged that * * * accounted for a lost sale of $*** in *** that involved the following * * *.[80] * * * of * * * stated that his firm purchased these * * * from * * * in *** but had switched to * * * in ***. He did switch to the Chinese * * * in ***. He explained that in *** his firm switched from * * * to * * * because of lower prices and cited the following delivered prices during * * * between * * * and * * * for each of the cited * * *:

* * * * * * *

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[77] * * *.

[78] * * *.

[79] *** firms cited in lost sales allegations responded to purchaser questionnaires. Their reported purchase quantities of U.S.-produced, Chinese, and other imported HFHTs during 1988-89, the periods for which such data were requested, are included in the discussions of Commission staff conversations with these firms.

[80] * * * reported in its purchaser questionnaire response * * *.

* * * explained that * * * used * * *, yielding stronger * * * on its * * * than those produced by * * *, which used * * *. * * * indicated that contractors experienced more * * * after using * * * than * * * products, but * * * prices, which * * *.

According to * * *, * * * approached him in *** to sell the Chinese * * * at a delivered price of about $*** per tool. As a result, he * * *. Then in ***, * * * was approached by * * * to supply * * * with a full line of HFHTs,[81] * * *. * * * indicated that he switched to * * * in *** for all of his HFHT requirements because it provided an attractive package deal, which included * * * in the sizes identified above offered at a delivered price of $*** per tool. This arrangement relieved * * * from having to * * *.

The remaining lost sales allegations investigated during the final investigation and discussed below were reported by * * *.

* * *,[82] was named in lost sales allegations amounting to $*** annually during *** that involved Chinese * * *. * * *, purchaser of HFHTs for * * *, reported that his firm purchased all its HFHTs, including * * *, from * * * during this period. To the best of his knowledge, the HFHTs supplied by * * * were produced in the United States. He indicated that his firm buys the domestic HFHTs from * * * because of good price and quality. He considers the Chinese HFHTs to be inferior in quality compared with the domestic HFHTs and cited lower quality handles, inconsistent heat treating/tempering of the forgings, less attractive painting and grinding, and a lack of a consistent quality of steel in the imported products.

* * * also commented that some nonsubject tools could substitute in some uses for the subject handtools. He noted that * * * could be used in place of * * * in light-duty tasks, * * * instead of * * *, * * * (commonly referred to as * * *) in place of * * *, and * * * in place of the * * *.[83] * * * indicated that the use of * * * instead of * * * would account for the most extensive substitution between nonsubject and subject handtools.

* * *,[84] was named in lost sales allegations amounting to $*** annually during *** that involved Chinese * * *. * * *, purchaser of HFHTs for * * *, reported that his firm purchased most of the HFHTs, including * * *, for * * * buying only from * * * during this period. To the best of his knowledge, the HFHTs supplied by * * * were * * *. * * * commented that * * * occasionally purchase HFHTs directly rather than * * * (which may have led to * * * lost sale allegation), but no billing for any such purchases had come to his attention.[85] He indicated that his firm buys the domestic HFHTs from * * * because of good price and quality. He considers the Chinese HFHTs to be inferior in quality compared with the domestic HFHTs and cited * * *. * * * commented that he has seen some Chinese HFHTs that are first shipped to * * * and * * * where they are * * * and then shipped to the U.S. market where U.S.

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[81] * * *.
[82] * * *.
[83] * * * also noted that * * *.
[84] * * *.
[85] * * *.

hickory handles are inserted. He felt these latter products are more comparable to U.S.-produced HFHTs than those imported directly from China. * * * indicated that * * * is considering * * * and * * * as possible sources of HFHTs where they would buy with their letter of credit, but the firm has not made any decision yet.

* * *[86] was named in lost sales allegations amounting to $*** annually during *** that involved * * * Chinese HFHTs.[87] * * *, purchaser of HFHTs for * * *, did not feel * * * had lost sales to the Chinese products because * * * had not ever purchased HFHTs from * * *. He reported that since *** his firm has purchased its HFHTs from * * *, which carries Chinese HFHTs. According to * * *, his firm buys * * * from * * *, including HFHTs and such items as * * *. In addition, * * * ships directly to * * *. * * * indicated that in * * * had quoted prices of * * * to * * *. Although he thought the pricing was competitive, * * * stayed with * * * for these and other HFHT products because his firm prefers to deal with vendors that * * *. * * * felt that the domestic HFHTs were better finished than the Chinese products. He also commented that * * * and * * * probably substitute in some uses for the respective lighter/shorter subject HFHTs.

* * *[88] was named in lost sales allegations involving Chinese * * * and amounting to $*** annually during ***. * * *, buyer of HFHTs for the firm, did not agree with the "lost sale" characterization. He indicated that his firm has purchased its * * * and many of its other HFHTs from * * * during * * * and has purchased Chinese * * * from * * * since at least 1985. * * * before selling them as completed tools. Although * * * also sells * * *, * * * indicated that he buys the Chinese product because of a traditional supplier relationship with * * *. * * * does purchase * * * from * * *.

* * *[89] was named in lost sales allegations amounting to $*** during *** that involved * * *. * * * was reluctant to discuss his firm's sourcing of HFHTs because of confidentiality concerns. He said that his firm purchases only U.S.-produced HFHTs, but would not explain further.

* * *[90] was named in lost sales allegations amounting to $*** annually during *** that involved * * *. According to * * *, buyer of HFHTs for * * *, his firm purchased * * * from * * * during this period and through mid-year 1990. In * * * his firm switched to * * * for its HFHTs, which, except for * * *, had lower delivered prices than * * *, ranging from *** to *** percent less. Payment terms of the two suppliers were the same. Although * * * was not sure of * * *, Commission staff have learned from producer and importer questionnaires that * * * sources its HFHTs from * * *.

* * * explained that * * * had contemplated changing from * * * for some time as the * * * continually tried to get prices that * * * felt were too high for the market. In * * *, * * * sent a letter to * * * . * * *

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[86] * * *.
[87] * * * reported in its purchaser questionnaire response * * *.
[88] * * *.
[89] * * *.
[90] * * *.

indicated that * * *. Shortly after * * *, * * * switched to * * *. * * *'s delivered prices of the *** HFHTs prior to * * *, in * * *, and in * * * and * * * delivered prices of these products in * * * are shown in the tabulation below:

* * * * * * *

* * *[91] was named in lost sales allegations amounting to $*** annually during *** that involved * * *. According to * * *, his firm has purchased domestic and imported HFHTs from * * * and * * * for at least the last *** years, but about * * * switched from * * * to * * * for its * * *. * * * did not feel that U.S. producers lost sales to Chinese HFHTs because he has purchased a stable mix of domestic and imported HFHTs over the years. He further explained that traditionally the majority of HFHTs sold * * * have been imported, beginning with Japanese products then shifting first to Taiwanese products and more recently to Chinese products.

* * *[92] was named in lost sales allegations amounting to $*** annually during *** that involved * * *. * * *, buyer of HFHTs for the firm, reported buying * * * and * * * HFHTs from * * * during at least * * *. He has not purchased any U.S.-produced HFHTs because they are priced about *** percent higher than the foreign products. He indicated that he would buy domestic HFHTs if their prices were within ***-*** percent of prices of the imported products. He felt consumers would pay this premium to buy the domestic HFHTs, which they view as superior in quality. He claimed, however, that based on hardness tests, the domestic and imported handtools were of the same quality. * * * also commented that * * * for HFHTs in some uses.

* * *[93] was named in lost sales allegations amounting to $*** annually during *** involving * * *. * * *, buyer of HFHTs for the firm, reported buying most of their HFHTs from * * * during at least the last *** years; * * *. * * * indicated that up until * * * it also purchased its * * * from * * *, but since then has purchased these HFHTs only from * * *. * * * reported that his firm buys the HFHTs with a low-grade hickory handle from * * *, but felt that the Chinese forgings were equal in quality to domestic forgings. Based on annual evaluations of HFHT suppliers, * * * indicated that * * * prices of HFHTs were about *** percent lower than * * *, but the U.S. producer sold a higher-grade hickory handle. * * * felt the ***-percent price difference was not significant, but preferred to stay with * * * because of a satisfactory, long-time relationship with this supplier. In commenting on substitutability between the subject handtools and power tools, * * * noted that * * * likely substitute for * * * in many uses.

* * *[94] was named in lost sales allegations amounting to $*** annually during *** involving * * *. * * *, buyer of HFHTs for the firm, reported that his firm has purchased all of its HFHTs from * * * since * * *. * * *

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[91] * * *.
[92] * * *.
[93] * * *.
[94] * * *.

indicated that * * * approached him in * * * to sell HFHTs, but their prices were about *** percent higher than prices of the Chinese HFHTs. * * * remarked that he has been satisfied with * * * as a supplier and has not sought alternative HFHT suppliers during this period. * * * also stated that the Chinese forgings were good quality and he has not received any complaints about these tools breaking, chipping, or cracking.

* * *[95] was named in lost sales allegations amounting to $*** annually during *** involving * * *. * * *, buyer of HFHTs for the firm, reported importing most of their HFHTs from China, but buying their * * * from * * *. * * * complained that * * * raised their prices ***-*** percent annually to * * *, a rate that he indicated the U.S. market could not absorb. As a result, * * * he switched to the Chinese * * *, which were *** percent lower in price than * * *. * * * indicated that the Chinese * * * were as good or better in quality compared to the * * * sold by * * *.

* * *[96] was named in lost sales allegations amounting to $*** annually during *** that involved * * *.[97] * * *, buyer of HFHTs for the firm, explained that his firm sells a variety of merchandise on a close-out basis, carrying domestic and imported products whenever he can purchase them at heavily discounted prices.[98] * * * indicated that he purchased both domestic and imported Chinese HFHTs during the investigation period. He commented that the Chinese products are usually the lowest priced in the market, but their quality varies considerably, whereas the domestic HFHTs are consistently good quality.

* * *[99] was named in lost sales allegations amounting to $*** annually during *** involving * * *. * * *, buyer of HFHTs for the firm, reported buying most of his firm's HFHT requirements from * * * during ***, at prices from *** to *** percent below prices of domestic HFHTs. He also purchased U.S.-produced * * * from * * * throughout this period. * * * felt that the Chinese and domestic HFHTs were comparable in quality, although the domestic products tended to have a better appearance because of more careful polishing and painting. He reported buying * * * from both * * * and * * * to give customers a choice between the Chinese * * * and the * * * U.S.-produced * * *. On a delivered price basis he reported paying $*** per unit for the Chinese * * * and $*** per unit for the U.S.-produced * * * during 1990. * * * commented, however, that the majority of household users of HFHTs buy these products based on price and do not generally perceive a significant quality difference between the domestic and Chinese products.

Preliminary investigation.--* * * named * * * for a lost sale of $*** of HFHTs in * * *. * * * of * * * reported that in * * * they bought * * * of hand tools worth approximately $***-$*** directly from China. These tools were mainly * * *. * * * did not buy any tools with Chinese handles. * * * maintained that the American hickory used to make the domestic wood handles is of far better quality than the Chinese wood. * * * stated that there are no significant differences between domestic and Chinese tool heads, although the

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[95] * * *.
[96] * * *.
[97] * * * reported in its purchaser questionnaire response * * *.
[98] * * * further explained that his firm sells * * *.
[99] * * *.

domestic heads may be slightly better finished. In general, * * * has not returned a significant amount of Chinese or domestic tool heads, although * * *.

* * * was cited by * * * for a lost sale in * * * of $*** of * * *.[100] * * * of * * * could not confirm the specific allegation but reported that * * * had bought Chinese * * * during * * *. * * * stated that * * * bought all their * * *. * * * reported that the Chinese * * *. Because of these problems, * * * from China had a ***-percent return rate.

* * * estimated that * * * sells *** percent of its * * * to * * *. * * * maintains that * * * are very price competitive and that this price competition influences the * * * choice between domestic and imported axes. * * * reported that Chinese * * * sell for $*** to $*** less than domestic * * * (for example, * * *).

* * * named * * * for a lost sale of $*** of HFHTs in * * * and earlier. * * * of * * * reported that they buy handtools from China * * *. He stated that the Chinese handtools are lower in price and quality relative to domestically produced handtools and are generally a better value for the money. * * * said that * * * uses the domestically produced product for the high end and the Chinese products for the low end of the product line. In general, * * * has not returned a significant amount of Chinese or domestic tool heads.

* * * named * * * for a lost sale of $*** of HFHTs in * * *. * * * of * * * reported that he does not purchase handtools from China and that he has no knowledge of prices or quality of Chinese handtools.

Lost revenues

* * * was the only U.S. producer reporting lost revenue allegations involving competition from imported Chinese HFHTs subject to this investigation.[101] * * * provided general information in its lost revenue allegations,[102] citing the same *** purchasers that it did in the preliminary investigation. The reported lost revenue allegations totaled $*** during * * *.[103] Conversations with the three firms that Commission staff contacted during the final investigation and the two firms it contacted during the preliminary investigation are reported below.

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[100] * * * reported in its purchaser questionnaire response * * *.

[101] *** other U.S. producers, * * *, indicated in their questionnaire response that they were forced to lower prices in competition with the subject HFHTs imported from the China, but were unable to provide specific details. * * * indicated in its questionnaire response, however, that it did not have to lower its prices of its U.S.-produced HFHTs because of imports from China.

[102] * * *.

[103] *** firms cited in lost revenue allegations responded to purchaser questionnaires. Their reported purchase quantities of U.S.-produced, Chinese, and other imported HFHTs during 1988-89, the periods for which such data were requested, are included in the discussions of Commission staff conversations with these firms.

Final investigation.--* * * was also named in lost revenue allegations amounting to $*** annually during * * *, which involved * * *. * * *, buyer of HFHTs for * * *, indicated that his firm usually accepts * * * quoted prices for the approximately *** HFHT items * * * buys from * * * as good-faith offers of market-competitive prices.[104] * * * further stated that he was not aware whether or not * * * lowered its prices or rescinded intended price increases because of competition with the Chinese products, but noted that * * * has raised its prices to * * * by about *** percent annually since ***. * * * felt that the actions of many buyers and sellers set the market price of HFHTs in the United States, and has not seen Chinese handtools dominating the competition.

* * * was also named in lost revenue allegations amounting to $*** annually during * * *, which involved * * *. * * *, buyer of HFHTs for * * *, indicated that his firm does not use competing price quotes to obtain low prices from * * *. * * * could not verify the alleged lost revenue claim of * * *, but noted that * * *'s prices have been stable to his firm during this period and only recently increased. He could not recall the exact amount of the price increase.

* * * was named in lost revenue allegations amounting to $*** during * * * that involved * * *.[105] * * *, buyer of HFHTs for * * *, indicated that he has purchased all of his firm's HFHT requirements from * * * for at least the last * * * years. In * * *, * * * tried to increase its prices to * * * by *** percent, but * * * would accept only a ***-percent increase, citing prices of other suppliers like * * *, which offers Chinese HFHTs.[106] In * * *, * * * increased its HFHT prices an additional *** percent, which led * * * to search for a new supplier. Beginning in * * *, * * * will switch from * * * to * * * for its HFHT requirements; * * * offered lower prices than * * *. According to * * *, * * *. * * * felt that the forged parts of Chinese HFHTs were comparable in quality to the U.S.-produced products; he indicated that the Chinese wooden handles were inferior to the U.S.-produced hickory handles.

Preliminary investigation.--* * * was named by * * * in a lost revenue allegation worth $*** in * * *.[107] * * * of * * * reported that they buy from * * * and * * * but no longer buy from * * * or * * *. * * * acknowledged that * * * has bought * * * during * * * but they have not bought * * *. * * * maintained that there are no differences between domestic and Chinese forged tool heads and no difference in the percentage of tool heads returned. * * * reported * * *. * * * estimated that *** percent of their stock is domestic. * * * admitted that * * * did not accept any price increases during *** but did not force any reduction in price from domestic suppliers. * * * maintained that this was simply good business practice that was the result of the competition between the handtool dealers. * * * estimated that Chinese

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[104] * * * reported that he does not use competing price quotes as leverage to extract a lower price from * * *.

[105] * * * reported in its purchaser questionnaire response * * *.

[106] * * * indicated that * * * will allow up to a ***-percent annual price increase from its vendors who supply a broad spectrum of merchandise, including HFHTs. If a vendor is unwilling to keep prices within this limit, his firm will search for a lower-priced supplier.

[107] * * * reported in its purchaser questionnaire response * * *.

* * * were priced *** percent below domestic * * * and that in the case of * * *, the Chinese had a ***-***-percent price advantage.

* * * was named by * * * in a lost revenue allegation worth $*** annually since ***. * * * states that * * * requires them to price all products no more than *** percent above the Chinese price. * * * of * * * reported that they buy Chinese handtools. * * * maintained that there are no differences between domestic and Chinese forged handtools and no difference in the percentage of tool heads returned. * * * stated that Chinese handtools are purchased when they are priced *** percent below domestic handtools.

APPENDIX A

FEDERAL REGISTER NOTICES

[Investigation No. 731-TA-457 (Final)]

Heavy Forged Handtools From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-457 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of heavy forged handtools,[1] provided for in subheadings 8201.30.00, 8201.40.60, 8205.20.60, and 8205.59.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determinations on or before December 26, 1990, and the commission will make its final injury determination by February 11, 1991 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

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

EFFECTIVE DATE: October 15, 1990.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-252-1188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

[1] For purposes of this investigation, the term "heavy forged handtools" covers the following products, finished or unfinished, with or without handles: (1) hammers and sledges with heads over 1.5 kilograms (3.25 pounds) each (hammers and sledges); (2) bars over 18 inches in length, track tools and wedges (bars and wedges); (3) picks and mattocks; and (4) axes, adzes and similar hewing tools (axes and adzes). This investigation does not include hammers and sledges with heads 1.5 kilograms (3.25 pounds) in weight and under, hoes and rakes, or bars 18 inches in length and under.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of heavy forged handtools from the People's Republic of China are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on April 4, 1990, by Woodings-Verona Tool Works, Inc., Verona, PA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (55 FR 22109 (May 31, 1990)).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identfied by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) 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 business proprietary information under a protective order. the Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on December 13, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on January 3, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 21, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 27, 1990, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 24, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 26, 1990.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 9, 1991. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due Janaury 10, 1991. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 9, 1991.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than January 14, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due January 15, 1991.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 23, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25728 Filed 10-30-90; 8:45 am]

BILLING CODE 7020-02-M

[A-570-803]

Final Determinations of Sales at Less Than Fair Value: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that heavy forged hand tools, with or without handles, (HFHTs) from the People's Republic of China (PRC) are being, or are likely to be sold in the United States at less than fair value. Furthermore, we determine that critical circumstances exist for imports of three classes or kinds of HFHTs.

We have notified the U.S. International Trade Commission (ITC) of our determinations and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of HFHTs from the PRC, as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: January 3, 1991.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Brad Hess, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3965 or (202) 377-3773 respectively.

SUPPLEMENTARY INFORMATION:

Final Determinations

We determine that imports of HFHTs from the PRC are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice. We also determine that critical circumstances exist for imports of the following three classes or kinds of HFHTs:

(1) Hammers and sledges with heads over 1.5 kg. (3.33 pounds);

(2) Bars over 18 inches in length, track tools and wedges; and

(3) Picks and mattocks.

Case History

Since the publication of the notice of preliminary determinations (55 FR 42420, October 19, 1990), the following events have occurred. Respondent, petitioner, and an interested party, the Coalition of American Tool Distributors, filed case and rebuttal briefs on October 29 and November 5, 1990, respectively. A public hearing was held on November 7, 1990.

On November 9, 1990, respondent requested a postponement of the Department's final determinations in these investigations until March 4, 1991, so that the Department would have ample time to verify the questionnaire response. Because we rejected the questionnaire response as incomplete and replete with many material deficiencies, we determined that we would not conduct verification. Because time for verification served as the basis for respondent's postponement request, we find that our determination not to verify constitutes a compelling reason not to postpone these final determinations.

Scope of Investigations

Imports covered by these investigations are HFHTs comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg. (3.33 pounds) ("hammers/sledges"); (2) bars over 18 income in length, track tools and wedge ("bars/wedges"); (3) picks and mattock: ("picks/mattocks"); and (4) axes, adzes and similar hewing tools ("axes/adzes").

HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including

wrecking bars, digging bars and tampers; and steal woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under.

Period of Investigations

The period of these investigations is November 1, 1989, through April 30, 1990.

Best Information Available

For the reasons described in the DOC Position for Comment 2, we have determined that China National Machinery Import & Export Corporation (CMC) is the sole respondent in these investigations, and that the three CMC branches reported to have exported HFHTs to the United States during the period of investigations (*i.e.*, Shandong Machinery Import & Export Corporation (Shandong), Tianjin Machinery Import & Export Corporation (Tianjin), and Henan Machinery Import & Export Corporation (Henan)) constitute branches of the same exporting entity. Although we required that sales and cost data be reported for each of these branches, CMC provided no information for Henan. Furthermore, serious material deficiencies were found in the information provided for Shandong and Tianjin.

For each of the four classes or kinds of merchandise, the complete exclusion of the Henan branch from the questionnaire response and the serious material deficiencies in the information provided on behalf of Shandong and Tianjin branches, render CMC's response unuseable for purposes of these final determinations. The deficiencies in CMC's response for each class or kind are outlined below.

Hammers/Sledges

In its questionnaire response, CMC reported sales of hammers/sledges by both the Shandong and Tianjin branches. CMC also indicated that three factories produce hammers/sledges. Unless otherwise specified, the deficiencies and discrepancies noted below apply to both branches involved in selling, and all factories involved in producing hammers/sledges.

Much of the data submitted on computer diskette was not formatted in a way that would permit its use in margin calculations. For one factory, CMC also failed to provide requested product-specific information on steel, production quantity by product, specific distance from factory to port (necessary for calculating freight expenses), and packing. CMC failed to provide requested information for odd pieces and scrap (necessary to accurately calculate material costs). CMC also failed to resolve discrepancies in quantity and value of sales data reported in sections A and C of its response (off by 13 percent for Shandong and 19 percent for Tianjin) and failed to report or account for all payment dates, shipment dates, and loading and containerization expenses.

Bars/Wedges

In its questionnaire response, CMC reported sales of bars/wedges by both the Shandong and Tianjin branches. CMC also indicated that three factories produce bars/wedges. Unless otherwise specified, the deficiencies and discrepancies noted below apply to both branches involved in selling, and all factories involved in producing bars/wedges.

Much of the data submitted on computer diskette was not formatted in a way that would permit its use in margin calculations. For one factory, CMC also failed to provide requested product-specific information for steel, production quantity by product, the distance from factory to port (necessary for calculating freight expenses), and packing. For two factories, CMC provided only part of the packing information requested. CMC failed to provide information requested regarding odd pieces and scrap (necessary to accurately calculate material costs). CMC provided no information for the production process for one factory. CMC failed to resolve, albeit minor, discrepancies in quantity and value of sales data reported in Sections A and C of its response and failed to report or account for all payment dates, loading and containerization expenses. For the Shandong branch, CMC failed to report or account for all shipment dates.

Picks/Mattocks.

In its questionnaire response, CMC reported sales of picks/mattocks by both the Shandong and Tianjin branches. CMC also indicated that two factories produce picks/mattocks. Unless otherwise specified, the deficiencies and discrepancies noted below apply to both branches involved in selling, and both factories involved in producing picks/mattocks.

Much of the data submitted on computer diskette was not formatted in a way that would permit its use in margin calculations. For one factory, CMC also failed to provide requested product-specific information on steel, production quantity by product, packing, and the specific distance from factory to port (necessary for calculating freight expenses). CMC failed to provide requested information for odd pieces and scrap (necessary to accurately calculate material costs). CMC failed to resolve discrepancies in quantity and value of sales data reported in sections A and C of its response (off by 20 percent for Shandong and 44 percent for Tianjin) and failed to report or account for all payment dates, shipment dates, loading and containerization expenses.

Axes/Adzes

In its questionnaire response, CMC reported sales of axes/adzes by both the Shandong and Tianjin branches. CMC also indicated that two factories produce axes/adzes. Unless otherwise specified, the deficiencies and discrepancies noted below apply to both branches involved in selling, and both factories involved in producing axes/adzes.

Much of the data submitted on computer diskette was not formatted in a way that would permit its use in margin calculations. For one factory, CMC also failed to provide requested product-specific information for steel, and the specific distance from factory to port (necessary for calculating freight expenses). CMC also failed to provide requested information for packing, odd pieces and scrap (necessary to accurately calculate material costs). CMC failed to resolve discrepancies in quantity and value of sales data reported in sections A and C of its response (off by 18 percent for Shandong and 38 percent for Tianjin) and failed to report or account for all shipment dates, loading and containerization. For Shandong, CMC failed to report all shipment dates.

Because we determined that CMC's response was unusable for purpose of these final determinations, we have used the best information available in accordance with section 776(c) of the Act. For these determinations, we determined that the best information available was information submitted by the petitioner (see, Comment 4 and

Comment 5). For each class or kind of merchandise, we used an average of the margins contained in the petition, adjusted as follows. In its development of constructed value based on factors of production, petitioner had incorrectly included packing in the basis of its calculations of general expenses and profit. We recalculated constructed value excluding packing from the basis of the calculations of general expenses and profit. Additionally, the United States prices used by petitioner had been incorrectly calculated exclusive of credit. We corrected this error by including credit in the U.S. price.

Critical Circumstances

Petitioner alleged that "critical circumstances" exist with respect to imports of HFHTs from the PRC. Section 735(a)(3) of the Act provides that critical circumstances exist when we determine that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B) of the Act, we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of the domestic consumption accounted for by imports.

In determining knowledge of dumping we normally consider margins of 25 percent or more sufficient to impute knowledge of dumping under section 735(a)(3)(A). See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy (52 FR 24198, June 29, 1987). Because we are relying on the petition for purposes of our determinations regarding sales at less than fair value (see, the "Best Information Available" section of this notice), we have also relied on the petition as best information available in determining knowledge of dumping.

Average margins contained in the petition for hammers/sledges, bars/wedges, and picks/mattocks exceed 25 percent. Therefore, in accordance with section 735(a)(3)(A)(ii), we determine that knowledge of dumping existed for these three classes or kinds. Because dumping margins for CMC for axes/adzes are not sufficient to impute knowledge of dumping nor is there any evidence on the record of a history of dumping of axes/adzes, it was not necessary to determine if imports of axes/adzes had been massive.

Pursuant to 19 CFR 353.16(g), in making critical circumstances determinations the Department normally considers the period beginning on the date the proceeding begins and ending at least three months later. The Department considers this period because it is the period immediately prior to a preliminary determination in which exporters of the subject merchandise could take advantage of their knowledge of the dumping investigation to increase exports to the United States without being subject to antidumping duties. See, e.g., Final Determination of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Trucks from Japan (53 FR 12552, April 15, 1988). For purposes of these determinations, however, we are using as our comparison period the five months following the month of the filing of the petition (*i.e.*, May through September 1990) because we recognize that, due to the lag between export and import, the import statistics for April reflect exports made prior to the date on which the proceeding began (*i.e.*, April 4, 1990).

Because of the unreliability of CMC's quantity and value data (see, the "Best Information Available" section of this notice), we had no reason to assume that similar quantity data, if requested for purposes of critical circumstances, would have been any more reliable. Consequently, we have relied upon the Commerce Department country-wide import data. Because the Commerce Department import statistics for picks/mattocks are based on a "basket" HTS category for which no quantity information is available, we have based our analysis of import levels for that class or kind of merchandise on Commerce Department import statistics for hammers/sledges and bars/wedges as best information available. We compared Commerce Department import statistics for the periods described above. Based on our analysis of this data, we have found that imports of hammers/sledges and bars/wedges have increased by at least 15 percent. Therefore, in accordance with 19 CFR 353.16(f)(2), we find that imports have been massive over a relatively short period of time. Because data on the quantity of imports for picks/mattocks are not available, we have relied upon the Commerce Department import data for hammers/sledges and bars/wedges as best information available and have assumed that imports of picks/mattocks have also been massive over a relatively short period of time.

We also examined Commerce Department import statistics for hammers/sledges and bars/wedges to ensure that the increase in imports did not simply reflect seasonal trends. The seasonal data did not indicate any seasonal increases in shipments.

Because the dumping margins for CMC for hammers/sledges, bars/wedges, and picks/mattocks are sufficient to impute knowledge of dumping, and because imports of these three classes or kinds have been massive, in accordance with sections 735(a)(3)(A)(ii) and 735(a)(3)(B) of the Act, we find that critical circumstances exist with respect to hammers/sledges, bars/wedges, and picks/mattocks exported by CMC. However, because dumping margins for CMC for axes/adzes are not sufficient to impute knowledge of dumping, we determine that critical circumstances do not exist with respect to axes/adzes.

Verification

Because we have rejected CMC's questionnaire response and are using best information available for our determinations, we did not verify CMC's questionnaire response.

Interested Party Comments

All comments raised by parties to the proceeding in these antidumping duty investigations of HFHTs from the PRC are discussed below.

Comment 1

CMC contends that the Department must make separate determinations for each of the four classes or kinds of merchandise in these investigations where sufficient information has been provided to make such determinations.

Petitioner argues that because of the magnitude of discrepancies and errors contained in the questionnaire response, the Department is justified in rejecting the entire response and using instead the best information available for all products under investigation.

DOC Position

We agree with CMC that determinations should be made separately for each class or kind. Based on our review of the questionnaire response, we have determined that the use of best information available is warranted for each of the four classes or kinds of merchandise (see, the "Best

Information Available" section of this notice).

Comment 2

CMC contends that the Department ignored substantive evidence that it consists of three independent companies and erroneously required it to provide a consolidated response encompassing all three entities. CMC also argues that because the Department has accorded separate treatment to multiple respondents from China in other cases, the Department should accord separate treatment to Shandong, Tianjin, and Henan as well. See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Headwear From the People's Republic of China (Headwear) (54 FR 11983, March 23, 1989); Final Determination of Sales at Less Than Fair Value; Certain Iron Construction Castings From the People's Republic of China (Castings) (51 FR 9483, March 19, 1986).

Petitioner maintains that the Department's decision to treat CMC as one company is correct. Petitioner points out that extensive information on the record indicates that the branches have not split from CMC. For example, many source documents submitted on behalf of Shandong and Tianjin show that these two entities continue to conduct business as branches of CMC. Furthermore, before the International Trade Commission in this proceeding, respondent has appeared and filed briefs solely in CMC's name.

Regarding CMC's claim that it should be granted the separate treatment accorded other Chinese respondents in other cases, petitioner notes that none of the other Chinese cases cited by respondent involved CMC. Futhermore, petitioner argues that publicly available information from both the U.S. government and private research institutions indicates that reforms such as the alleged breakup of CMC in 1988, have begun to be rescinded. Therefore, even if Shandong, Tianjin, and Henan had once been independent, both the mechanism and policy of the Chinese government now exist to bind them back together.

Finally, petitioner maintains that CMC's inability to provide the Department with a copy of the government order proving separation further serves as justification for the Department of use best information available.

DOC Position

We have given CMC ample opportunity to document its claim that the three branches identified constitute legally and economically separate entities. In the absence of such documentation, we have repeatedly instructed CMC to submit a consolidated response. CMC has neither submitted the requested documentation of its claim nor has it submitted a consolidated response. Therefore, we have treated Shandong, Tianjin, and Henan as branches of the same exporting entity.

In a letter dated June 5, 1990, CMC stated that three exporters, Shandong, Tianjin, and Henan, were responsible for all exports of the subject merchandise to the United States during the period of investigations. On June 21, 1990, we sent a questionnaire to CMC, requesting that it provide a consolidated response on behalf of all related entities that made sales to the United States during the period of these investigations. In a letter dated June 28, 1990, CMC claimed that pursuant to a government order effective January 1, 1988, CMC was divided into seven independent corporations. On July 5, 1990, we requested a copy of this government order and instructed CMC that without it we would continue to consider CMC as the sole respondent in these investigations. In its July 16, 1990, response to our request, CMC provided a statement dated July 1990 by the China Council for the Promotion of International Trade, that the branches of CMC are now separate corporations.

In our July 23, 1990, meeting with CMC's counsel, we again requested a copy of the government order claimed by CMC as proof of its separation into independent corporations. In its August 3, 1990, submission, CMC provided a June 1990 statement by its company attorney attesting to the alleged separation of CMC into independent corporations. On August 23, 1990, we informed CMC that the documents previously submitted a proof of the alleged separation were unacceptable. We again requested that CMC submit a copy of the government order or other official Chinese government documentation contemporaneous with or prior to the date of the order. In its August 30, 1990, response, CMC submitted additional documents including a Shandong Foreign Trade Bureau notice dated December 1988, which simply required that all provincial corporations (presumedly those in Shandong province) he registered under new names by December 22, 1988. On September 5, 1990, we informed CMC that it had still not complied with our request to provide proof of the government order and that if it did not provide the requested proof it would be required to submit a consolidated response to our questionnaire. CMC's September 19, 1990, response did not include the requested proof of the government order.

As set forth above, CMC's failure to adequately support its claim that Shandong, Tianjin, and Henan are separate entities leaves us no alternative than to treat the three as branches of the same exporting entity, CMC. As for CMC's arguments that we should accord separate treatment to the three branches because we have done so in past cases, we note that the Headwear and Castings cases are distinguishable from these investigations. In Headwear, there was more information on the record regarding the claimed separateness of the exporting entities. As for Castings, the case cited by CMC is only the preliminary results of an administrative review. Because the final results for the Castings case have not been issued, there has been no determination in that case on the issue of whether it is appropriate to accord exporting entities separate treatment.

Comment 3

CMC contends verification of its submitted information would resolve any questions the Department has regarding the break-up of CMC. CMC points out that in Headwear the Department resolved its questions concerning the separation issue at verification.

Petitioner maintains that the Department appropriately resorted to best information available.

DOC Position

The purpose of conducting verification is to establish the accuracy and completeness of information submitted by a respondent. In these investigations, we have determined that substantial material deficiencies in CMC's submissions for each of the four classes or kinds of the subject merchandise warrants the use of best information available in these final determinations (see, the "Best Information Available" section of this notice). As noted in the decision by the Court of International Trade in *Chinsung Indus. Co., Ltd., et al.* v. *United States*, Slip Op. 89-15 (CIT, February 7, 1989), the burden of creating an adequate record rests with the respondent, not the Department. Because we have determined that CMC's response is inadequate, there is no reason for the Department to verify it.

Comment 4

CMC contends that the application of best information available as a penalty

in these investigations is without basis in law or Department policy. CMC states that even though the Department is not fully satisfied with its submissions, it has substantially complied with the Department's information request. Therefore, because CMC has not willfully withheld information, the Department is not justified in using only information most adverse to CMC as best information available.

In particular, CMC maintains that the failure of Henan to participate in the questionnaire response should not constitute grounds for resorting to best information available regarding Shandong and Tianjin because Henan is unrelated to those branches and because they have no control or influence over Henan. CMC claims that, as the Court of Appeals for the Federal Circuit held in U.H.F.C. Company, No. 89-1502, slip op. at 37 (Fed. Cir. Oct. 11, 1990), the Department may not resort to "best information" where "the party's failure to give information is because the information does not and could not exist."

Petitioner holds that in this case the Department should adopt its normal presumption that the data supplied by petitioner is the best information available. Citing the decision of the Federal Circuit Court in *Rhone Poulenc, Inc.* v. *United States*, 899 F.2d, at 1190 (Fed. Cir. 1990), petitioner argues that Department's practice of utilizing the most punitive information as best information is permissible under the Act because "it reflects a common sense inference that the highest margin is the most probative evidence of current margins because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less."

DOC Position

In deciding what to use as best information available, 19 CFR 353.37(b) provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is best information available. In these investigations, the only information on the record was that furnished by petitioner and by the respondent, CMC. We have already determined that CMC's questionnaire response is incomplete and unreliable both with regards to the two branches included in the response (Shandong and Tianjin), and the Henan branch. Because no other information exists on the record which would be more appropriate as best information available (*see* Comment 5), we have determined that petitioner's data is best information available.

In our determination of what constitutes best information available we did not simply resort to the use of information most adverse to CMC. Had we done so we could have used the highest margins for each such or similar category alleged in the petition, averaged for each class or kind as we have done in other cases (see, e.g., Final Determinations of Sales at Less Than Fair Value; Sodium Thiosulfate from the Federal Republic of Germany and the United Kingdom (Sodium) (55 FR 51749, December 17, 1990). For these determinations, we have used the average rather than the highest single, margin alleged in the petition because, although we found CMC's response to be substantially deficient and incomplete, we recognize that CMC did attempt to cooperate with the Department in these proceedings. In contrast, in the Sodium case, the producers/exporters received the highest single rate in the petition because they failed to respond to the questionnaire.

Comment 5

CMC contends that the information it submitted on labor and steel rates from India should not be dismissed when applying the best information available rule for calculating foreign market value. CMC claims that the labor rates it submitted for unskilled workers in India should be used in the Department's determinations rather than the labor rates for skilled workers in India included in the petition. CMC notes that, unlike petitioner, factories in China do not require the use of skilled labor.

CMC further argues that section 773(c)(4) of the Act (19 U.S.C. 1677b(c)(4)) requires that the Department value steel inputs at prices in the surrogate country, determined by the Department to be India for these investigations, rather than at Japanese export prices as set forth in the petition. CMC also contends that because it has not failed to comply with requests for steel and labor information, and because the information provided by CMC is useable, the Department should not dismiss its information.

Petitioner maintains that Indian labor rates contained in the petition represent the most accurate information on the record. Petitioner also holds that the steel price information contained in the petition represents the most accurate information on the record because the steel price information provided by CMC consists of unverified average Indian prices for unknown grades of steel bars.

DOC Position

We agree with petitioner. Petitioner's information regarding factors of production, including direct labor, is the best information available. We agree that the use of unskilled labor rates would be more appropriate in this case, but only if unskilled labor inputs were also used in the petitioner's factors of production model. However, apart from the questionnaire response, which we have already dismissed (see, the "Best Information Available" section of this notice), CMC failed to provide any publicly available information on the utilization of unskilled labor in the production of HFHTs. We have therefore applied skilled labor rates to the relatively low skilled labor input factor contained in the petition as the best information available.

Likewise, petitioner's data regarding steel inputs is the most accurate and reasonable and we have, therefore, relied on it as the best information available. Although we have rejected the response for purposes of this analysis, we note that CMC specified particular sizes and grades of steel in reporting steel input factors in its questionnaire response. Petitioner was also very specific, in valuing its steel input factors, using actual statistics for exports from Japan to the PRC of the same type and size of steel included in its description of the factor inputs. In contrast, CMC's proposal of applying an average rate comprising many different types and sizes of steel in India would result in a less accurate calculation, when applied to petitioner's specific factor inputs.

Additionally, because the petition was based on actual prices that would have been paid to market-economy suppliers, our reliance on the petition as best information available is consistent with our practice in other cases involving non-market economies. In such cases, we have an established preference for valuing the factors of production on the basis of prices paid to market-economy suppliers (see, e.g., Final Results of Antidumping Administrative Review: Tapered Roller Bearings from the Republic of Hungary (55 FR 21066, May 22, 1990)).

Comment 6

In challenging the Department's finding on critical circumstances, CMC contends that the Department erroneously concluded that there were unexplained inconsistencies concerning the quantity and value of data it submitted in response to the Department's request. As such, the

Department inappropriately resorted to best information available by using Bureau of Census import statistics which petitioner claims are notoriously inaccurate.

The Coalition of American Tool Distributors (CATD) argues that the time involved from the order of merchandise until entry in the United States is too long a period to allow importers or exporters to take advantage of their knowledge of the dumping investigations to increase exports to the United States without being subject to antidumping duties.

Petitioner argues that because of the unreliability of CMC's reported quantity and value data, it made no sense for the Department to request or use similar data simply because it was requested for use in determining critical circumstances. Petitioner also cites numerous other cases where the Department has relied upon import statistics as a source of best information available. Finally, petitioner notes that the Department was left with no choice but to assume that critical circumstances exist for picks/mattocks because this is the only possible conclusion the Department can draw based on the import statistics available for the other classes or kinds.

DOC Position

We agree with petitioner. We have relied on country-wide import statistics in our critical circumstances determinations (see, the "Critical Circumstances" section of this notice).

We cannot accept the claims by CATD that the time lag from order to entry is too long to allow importers to take advantage of knowledge of the dumping investigations because such information is unverified. However, we recognize that, due to the lag between export and import, the import statistics for April 1990 (the month the proceeding began) reflect exports made prior to April 1990. Therefore, as explained in the Critical Circumstances section of this notice, we have included April import statistics in our base period rather than in our comparison period.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of HFHTs from the PRC as defined in the "Scope of Investigations" section of this notice, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the final dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice.

All exports of HFHTs from the PRC	Weighted-average margin percentage	Critical circumstances
Hammers/sledges	45.42	Yes.
Bars/wedges	31.76	Yes.
Picks/mattocks	50.81	Yes.
Axes/adzes	15.02	No.

ITC Notification

In accordance with section 735(c) of the Act, we have notified the ITC of our determinations and findings. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine on or before February 4, 1991, whether these imports materially injure, or threaten material injury to, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist with respect to the product under investigation, the applicable proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing customs officials to assess antidumping duties on HFHTs from the PRC entered or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the FMV exceeds the United States price.

These determinations are published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: December 24, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-54 Filed 1-2-91; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

LIST OF PARTICIPANTS IN THE COMMISSION'S HEARING

CALENDAR OF PUBLIC HEARING

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

Subject	:	HEAVY FORGED HANDTOOLS FROM THE PEOPLE'S REPUBLIC OF CHINA
Inv. No.	:	731-TA-457 (Final)
Date and Time	:	January 3, 1991 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room of the United States International Trade Commission, 500 E Street, S.W., Washington, DC

In Support of Imposition of Antidumping Duties:

Wiley, Rein & Fielding
Washington, D.C.
On behalf of

Woodings-Verona Tool Works, Inc.

H. Phillip Kennedy, President

Robert L. Baiz, Director of Strategic Planning

Kenneth W. Sharding, Director of Manufacturing

Daniel A. Daniels, Sales Representative

Charles Pascarella, KMPG Peat Marwick

Charles Owen Verrill, Jr.
Alan H. Price
John R. Shane
Willis S. Martyn, III
Allen M. Shinn, Jr.
)--OF COUNSEL

In Opposition to the Imposition of
Antidumping Duties:

Skadden, Arps, Slate, Meagher & Flom
Washington, D.C.
On behalf of

Tianjin Machinery Import & Export Corporation

Wang Zhaoshun, Deputy Division Chief

Shandong Machinery Import & Export Corporation

Zhao Deliang, Manager, Agricultural
Handtools Division

Coalition of American Tool Distributors
(Madison Mill, Inc.)
(Kulkoni Inc.)
(Olympia Industrial Inc.)

Julian Scruggs, President,
Madison Mill, Inc.

Larry J. Martin, Regional Sales Manager,
Olympia Industrial Inc.

Andrew R. Wechsler, Economists, Inc.

Stephen E. Siwek, Economists, Inc.

Pieter T. VanLeeuwen, Economists, Inc.

Rodney O. Thorson)
John J. Burke)--OF COUNSEL
Handel C. Lee)

- end -

APPENDIX C

SALIENT INDUSTRY DATA ON U.S. PRODUCERS' OPERATIONS INVOLVING OTHER STRIKING AND BAR HANDTOOLS

Table C-1
Other striking and bar handtools: Salient industry data, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

APPENDIX D

SALIENT INDUSTRY DATA ON U.S. PRODUCERS' HFHT OPERATIONS INCLUDING AND EXCLUDING THE DATA FOR MANN EDGE

Table D-1
Heavy forged handtools: Salient industry data including Mann Edge, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Table D-2
Heavy forged handtools: Salient industry data excluding Mann Edge, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

APPENDIX E

U.S. PRODUCERS' HANDLE PURCHASES

Table E-1
Heavy forged handtool handles: U.S. producers' purchases, by firms, 1987-89, January-September 1989, and January-September 1990

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APPENDIX F

SALIENT INDUSTRY DATA ON U.S. HANDLE PRODUCERS

Table F-1
Salient industry data for selected U.S. handle manufacturers, 1987-89, January-September 1989, and January-September 1990

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APPENDIX G

INCOME-AND-LOSS DATA FOR WOODINGS-VERONA'S OPERATIONS ON GROUPS OF HANDTOOLS (STRIKING, HEWING, DIGGING, AND BAR TOOLS) AND TRACK TOOLS, SEPARATELY

WOODINGS-VERONA

January 17, 1991

Mr. James Stewart
U.S. International Trade Commission
Office of Investigation
Room 615-F
500 E Street, S.W.
Washington, DC 20436

Re: Heavy forged Hand Tools from the People's Republic if China
Case Number 731-TA-457(F)

Dear Mr. Stewart:

* * * * * * *

Sincerely:

Robert L. Baiz
Director of Strategic Planning

Enclosures

PO Box 126. Verona. PA 15147-0126 • Phone: (412) 828-7902 • 800-239-9889 • FAX: (412) 828-1145

Table G-1
Income-and-loss experience of Woodings-Verona on its operations producing striking tools, accounting years ended September 30, 1988-90

* * * * * * *

Table G-2
Income-and-loss experience of Woodings-Verona on its operations producing bar tools, accounting years ended September 30, 1988-90

* * * * * * *

Table G-3
Income-and-loss experience of Woodings-Verona on its operations producing digging tools, accounting years ended September 30, 1988-90

* * * * * * *

Table G-4
Income-and-loss experience of Woodings-Verona on its operations producing hewing tools, accounting years ended September 30, 1988-90

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Table G-5
Income-and-loss experience of Woodings-Verona on its operations producing track tools, accounting years ended September 30, 1988-90

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APPENDIX H

INCOME-AND-LOSS DATA FOR STANLEY TOOLS' OPERATIONS ON OTHER STRIKING TOOLS AND OTHER BAR TOOLS

Table H-1
Income-and-loss experience of Stanley Tools on its operations producing other striking tools, accounting years ended December 31, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Table H-2
Income-and-loss experience of Stanley Tools on its operations producing other bar tools, accounting years ended December 31, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

APPENDIX I

INCOME-AND-LOSS DATA FOR OPERATIONS ON HANDLES

Table I-1
Income-and-loss experience of U.S. producers on their operations producing heavy forged handtool handles, accounting years 1988-90

* * * * * * *

APPENDIX J

ASSETS, LIABILITIES, AND SHAREHOLDERS' EQUITY OF WOODINGS-VERONA

Table J-1
Assets, liabilities, and shareholders' equity of Woodings-Verona's overall U.S. establishment operations, as of September 30, 1987-90

* * * * * * *

APPENDIX K

COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS FROM THE PEOPLE'S REPUBLIC OF CHINA ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND DEVELOPMENT AND PRODUCTION EFFORTS

The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of heavy forged handtools from China on their firms' growth, investment, ability to raise capital, and development and production efforts (including efforts to develop a derivative or improved version of their products). Their responses are shown below:

Actual negative effects

Channellock, Inc.

* * *.

Council Tool Co.

"* * *."

Mann Edge Tool Co.

* * *.

Stanley Tools

* * *.

Warwood Tool Co.

"* * *."

Woodings-Verona Tool Works, Inc.

"* * *."

Anticipated negative effects

Channellock, Inc.

* * *.

Council Tool Co.

"* * *."

Mann Edge Tool Co.

* * *.

Stanley Tools

* * *.

Warwood Tool Co.

"* * *."

Woodings-Verona Tool Works, Inc.

"* * *."

Influence of imports on capital investment

Channellock, Inc.

* * *.

Council Tool Co.

"* * *."

Mann Edge Tool Co.

* * *.

Stanley Tools

* * *.

Warwood Tool Co.

* * *.

Woodings-Verona Tool Works, Inc.

"* * *." * * *.

APPENDIX L

NET SELLING PRICES OF SMALL FORGED STRIKING AND BAR HANDTOOLS

Table L-1
Price indexes and net U.S. f.o.b. selling prices of U.S.-produced small forged striking and bar handtools sold to the hardware market, by specified product and by quarter, January 1987-September 1990

* * * * * * *