

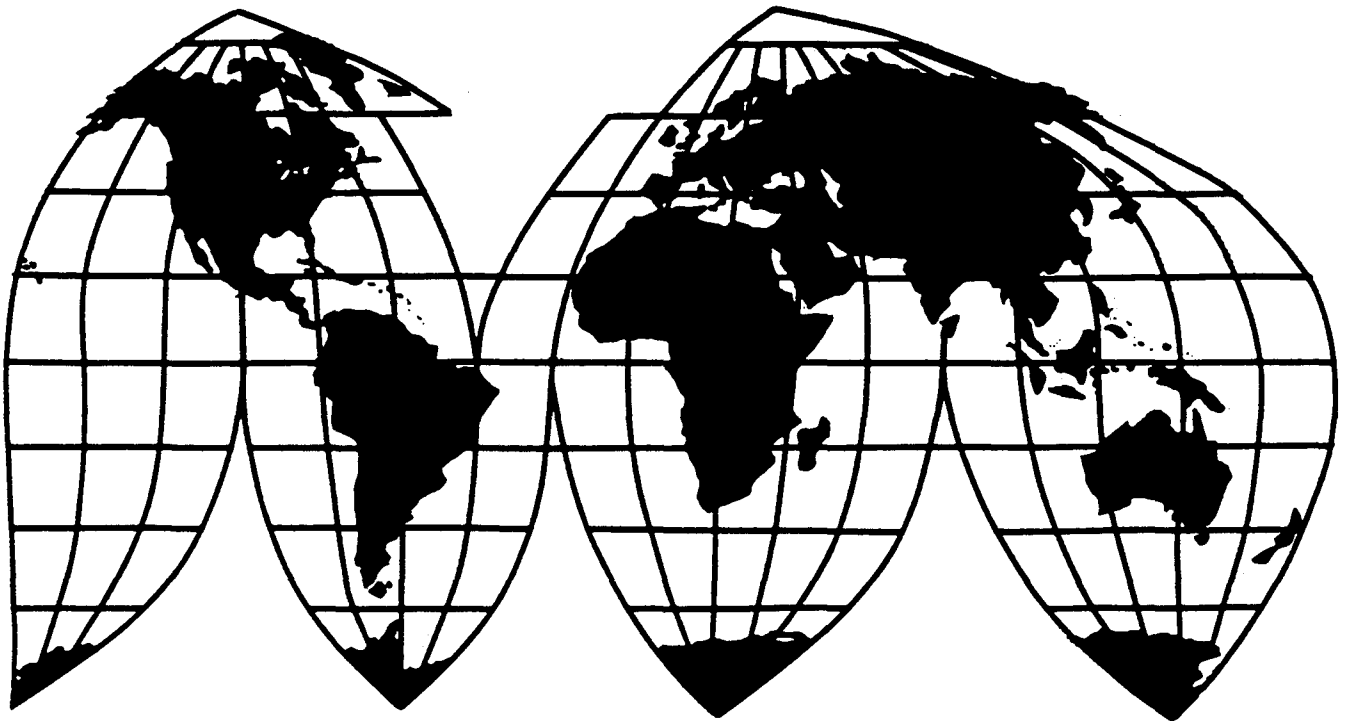
Collated Roofing Nails From China, Korea, and Taiwan

Investigations Nos. 731-TA-757-759 (Preliminary)

Publication 3010

January 1997

U.S. International Trade Commission



U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-757-759 (Preliminary)

COLLATED ROOFING NAILS FROM CHINA, KOREA, AND TAIWAN

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China, Korea, and Taiwan of collated roofing nails,² provided for in subheading 7317.00.55 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, as amended in 61 FR 37818 (July 22, 1996), the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On November 26, 1996, a petition was filed with the Commission and the Department of Commerce by the Paslode Division of Illinois Tool Works Inc., Vernon Hills, IL, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of collated roofing nails from China, Korea, and Taiwan. Accordingly, effective November 26, 1996, the Commission instituted antidumping investigations Nos. 731-TA-757-759 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of December 4, 1996 (61 FR 64364). The conference was held in Washington, DC, on December 17, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Collated roofing nails are nails made of steel, having a length of 13/16 inch to 1-13/16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of collated roofing nails (“CR nails”) from China, Korea and Taiwan that are alleged to be sold in the United States at less than fair value (“LTFV”).

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission first defines the “domestic like product” and the “industry.”³ Section 771(4)(A) of the Tariff Act of 1930 as amended (“the Act”) defines the relevant industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁴ In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”⁵

Our decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and we apply the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.⁶ No single factor is dispositive, and the Commission may consider other factors it deems

¹ 19 U.S.C. § 1673b(a); *see also* American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986).

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

³ 19 U.S.C. § 1677(4)(A).

⁴ Id.

⁵ 19 U.S.C. § 1677(10).

⁶ *See, e.g.,* Nippon Steel Corp. v. United States, Slip Op. 95-57 at 11 (Ct. Int’l Trade Apr. 3, 1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. *See id.* at n.4, 18; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

relevant based on the facts of a particular investigation.⁷ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.⁸ Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.⁹

B. Domestic Like Product Issues

In its notice of initiation, Commerce defined the articles subject to these investigations as follows:

CR nails made of steel, having a length of 13/16 inch to 1-13/16 inches (or 20.64 to 46.04 millimeters), head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.¹⁰

CR nails are used to fasten shingles to the peaked roofs found on many residential buildings.¹¹ The collating wires space and align the nails, allowing them to be applied with pneumatic nail-driving tools.¹²

At issue in these investigations is whether the domestic like product should be limited to CR nails, as the subject merchandise has been defined by Commerce, or whether it should also include hand-driven roofing nails (“bulk roofing nails”) and/or collated roofing staples (“CR staples”).

1. Bulk Roofing Nails

Physical Characteristics and Uses. CR nails and bulk roofing nails are both used to fasten shingles to roofs.¹³ Although they share the same shape and dimensions, there are important differences in physical characteristics.¹⁴ CR nails are collated with two wires, whereas bulk roofing nails are not.¹⁵ CR nails are required to be more uniform in size and shape compared to bulk roofing nails because they are required to

⁷ See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

⁸ Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991).

⁹ Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

¹⁰ Collated Roofing Nails from the People’s Republic of China, the Republic of Korea, and Taiwan, 61 Fed. Reg. 67306, 67306 (Dec. 20, 1996).

¹¹ Confidential Report (“CR”) at I-4, Public Report (“PR”) at I-4, and Petition at 12-13.

¹² CR at I-5, PR at I-4.

¹³ CR at I-4 and I-5, PR at I-4 and I-5.

¹⁴ CR at I-5, PR at I-5.

¹⁵ CR at I-4 and I-5, PR at I-4 and I-5.

perform smoothly in pneumatic nail drivers.¹⁶ For the same reason, the zinc coating is thinner and more uniform on some CR nails than it is on bulk roofing nails.¹⁷

Interchangeability and Customer and Producer Perceptions. CR nails and bulk roofing nails have limited interchangeability due to their differing physical characteristics. CR nails can be driven with a pneumatic nailer because they are collated and manufactured to relatively strict dimensional tolerances.¹⁸ Bulk roofing nails cannot be driven with pneumatic nailers.¹⁹ Conversely, although it is possible to drive CR nails with a hammer (the method of driving bulk roofing nails) it is impractical because the CR nails must first be detached from the collating wires.²⁰ Moreover, a roofing contractor's ability to switch from using bulk roofing nails to CR nails, or vice versa, is limited because of the cost of the pneumatic nailer, compressor and hoses necessary to use CR nails.²¹ Thus, CR nails and bulk roofing nails have only limited interchangeability.

These limits on interchangeability cause customers to perceive CR nails as distinct from bulk roofing nails. The record in these investigations indicates that a roofing contractor using CR nails would switch to bulk roofing nails only if CR nails became unavailable.²²

Channels of Distribution. CR nails and bulk roofing nails are generally sold through the same channels of distribution.²³ The primary channel of distribution is roofing supply houses, which sell not only the two types of nails, but all other roofing products as well.²⁴

Production Facilities, Processes, and Employees. No member of the domestic CR nail industry produces bulk roofing nails.²⁵ Consequently, CR nails and bulk roofing nails are not made at the same production facilities or by the same employees. The production processes for CR nails and bulk roofing nails are the same through the nail formation stage, although the galvanization process is often different, and bulk roofing nails do not undergo collation.

Price. The price of bulk roofing nails is roughly 50-60 percent of the price of CR nails.²⁶

Conclusion. Based on the record in the preliminary phase of these investigations, we find that the differences between CR nails and bulk roofing nails suggest a clear dividing line between the products.

¹⁶ CR at I-7 to I-8, PR at I-6.

¹⁷ CR at I-5, PR at I-4.

¹⁸ CR at I-5, PR at I-4.

¹⁹ CR at I-5, PR at I-5.

²⁰ CR at I-5, PR at I-5.

²¹ Transcript of December 17, 1996 conference ("Tr.") at 29-30, 50 (Heinlen) and 85-87 (Morrell).

²² CR at I-13, I-14, PR at I-9, I-10; and Tr. at 135-36 (Morrell).

²³ CR at I-10 to I-11, PR at I-7.

²⁴ CR at I-10 to I-11, PR at I-7.

²⁵ CR at I-8, and I-10, Table I-2, PR at I-6, and I-8, Table I-2; memorandum INV-U-003, Jan. 8, 1997.

²⁶ Tr. at 31 (Heinlen) and CR at I-14, PR at I-10.

Accordingly, we do not include bulk roofing nails in the definition of the domestic like product for purposes of the preliminary phase of these investigations.²⁷

2. Collated Roofing Staples

Physical Characteristics and Uses. Both CR nails and CR staples are used to fasten shingles to roofs.²⁸ The two products, however, have significant differences in physical characteristics. CR nails consist of a point, a shaft and a head, whereas CR staples consist of a wire bent into the shape of the letter “U.”²⁹ The gauge of the shaft of a CR nail is about twice the gauge of the wire used in a CR staple.³⁰ CR nails are collated with two wires, whereas CR staples are collated with glue.³¹

Interchangeability and Customer and Producer Perceptions. The differences in physical characteristics discussed above limit interchangeability between CR nails and CR staples. A pneumatic nailer can drive CR nails, but it cannot drive CR staples.³² Similarly, a pneumatic stapler can drive CR staples, but not CR nails.³³ These equipment considerations also limit interchangeability by restricting a roofing contractor’s ability to change from using one type of fastener to another. A roofing contractor wishing to switch from one product to the other must purchase the corresponding pneumatic tool.³⁴

These limits on interchangeability cause customers to perceive CR nails as distinct from CR staples. CR staples are perceived to have less holding power than CR nails and to be more difficult to apply.³⁵ In some parts of the country, building codes prohibit the use of CR staples.³⁶

Channels of Distribution. CR nails and CR staples are generally sold through the same channels of distribution.³⁷ Both products are sold primarily through roofing supply houses, which also sell other roofing supplies.³⁸

Production Facilities, Processes, and Employees. Two domestic producers manufacture CR nails and CR staples at the same production facilities, although one other producer does not.³⁹ Even where produced at the same facilities, however, CR nails and CR staples are not produced by the same process or on the same equipment. CR nails are formed by drawing wire into a machine, which cuts the wire, forms a head

²⁷ In any final phase of these investigations, Commissioner Crawford will seek additional information on this issue, including data from any U.S. producers of bulk roofing nails.

²⁸ CR at I-4 to I-5, PR at I-4, I-5.

²⁹ CR at I-3, I-6, I-9, PR at I-3, I-5, I-7.

³⁰ CR at I-6, PR at I-5.

³¹ CR at I-6, I-7, PR at I-5, I-6.

³² CR at I-13, PR at I-9.

³³ CR at I-13, PR at I-9.

³⁴ Tr. at 27 (Heinlen).

³⁵ CR at I-11, I-13, PR at I-8, I-10.

³⁶ CR at I-13, PR at I-10.

³⁷ CR at I-10 to I-11, PR at I-7; Tr. at 27 (Heinlen).

³⁸ CR at I-10 to I-11, PR at I-7.

³⁹ CR at I-10, Table I-2, PR at I-8, Table I-2.

on one end and cuts a point on the other.⁴⁰ The nails are then collated with two wires by several pieces of equipment.⁴¹ CR staples are formed by a wire cutting and bending apparatus.⁴² They are then collated with glue.⁴³ The equipment used to make CR nails and CR staples is not interchangeable, and there is no overlap in production workers used to make the two products.⁴⁴

Price. CR nails are significantly higher in price than CR staples.⁴⁵

Conclusion. We believe the differences between CR nails and CR staples indicate a clear dividing line between the two products. Accordingly, we do not include CR staples in the definition of the domestic like product.

C. Domestic Industry and Related Parties

The Commission is directed to consider the effect of the subject imports on the industry, defined as “the producers as a [w]hole of a domestic like product.”⁴⁶ In defining the domestic industry, the Commission’s general practice has been to include in the industry all producers of the domestic like product, including toll producers, whether the product is captively consumed, or sold in the domestic merchant market.⁴⁷

Related Parties. Stanley-Bostitch (“Bostitch”), a producer of the domestic like product, imported the subject merchandise during the period of investigation.⁴⁸ Thus, Bostitch is a “related party,” and the Commission may exclude it from the domestic industry if “appropriate circumstances” exist.⁴⁹ We do not find that appropriate circumstances exist to exclude Bostitch from the industry. Bostitch’s interests appear to

⁴⁰ CR at I-7, PR at I-6.

⁴¹ CR at I-7, PR at I-6.

⁴² CR at I-9, PR at I-7.

⁴³ CR at I-6, PR at I-5.

⁴⁴ CR at I-9, PR at I-7.

⁴⁵ CR at I-14, PR at I-10; Tr. at 27 (Heinlen) and 85 (Morrell).

⁴⁶ 19 U.S.C. §1677(4)(A).

⁴⁷ See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996); Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan, Invs. Nos. 731-TA-736 and 737 (Final), USITC Pub. 2988 (Aug. 1996) at 7-8.

⁴⁸ Postconference Brief of Bostitch at 4, Tr. at 111 (Chapman). Bostitch imported *** manufacturer. CR at III-2, PR at III-1.

⁴⁹ Factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the percentage of domestic production attributable to the importing producer; the reason the U.S. producer has decided to import the product subject to investigation; whether inclusion or exclusion of the related party will skew the data for the rest of the industry; the ratio of import shipments to U.S. production for related producers; and whether the primary interest of the related producer lies in domestic production or importation. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int’l Trade 1992), *aff’d without opinion*, 991 F.2d 809 (Fed. Cir. 1993). See also Open-End Spun Rayon Singles Yarn from Austria, Inv. No. 731-TA-751 (Preliminary), USITC Pub. 2999 (Oct. 1996) at 7 n.39.

be those of a producer rather than an importer.⁵⁰ Additionally, Bostitch does not appear to be benefiting from its imports of the subject merchandise, nor would its inclusion in the domestic industry skew the data for the rest of the domestic industry.⁵¹

For the reasons given above, we define the domestic industry for purposes of these preliminary determinations to include all producers of CR nails, including the Paslode Division of Illinois Tool Works Inc. (“Paslode”), Bostitch and the International Staple and Machine Co. (“International”).^{52 53}

III. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether there is a reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of allegedly LTFV imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁵⁴ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”^{55 56}

We consider the condition of the industry against the background of rising consumption. Apparent U.S. consumption rose *** percent from 1993 to 1994, and by another *** percent from 1994 to 1995, measured by quantity.⁵⁷ Consumption was also *** percent higher in interim (January-September) 1996 than in interim 1995.⁵⁸

⁵⁰ Bostitch’s ***. CR at III-2, PR at III-1.

⁵¹ Bostitch’s financial position is broadly similar to that of ***, which is the ***. CR at VI-4, Table VI-2, PR at VI-1, Table VI-2.

⁵² International ***. Moreover, International accounts for *** of domestic CR nail production. CR at VI-1, PR at VI-1.

⁵³ The Commission did not include a possible fourth producer, which accounts for less than *** percent of domestic production of CR nails. CR at III-1, n.1, PR at III-1, n.1. The company’s only U.S. operation is to ***. Id. The record in the preliminary phase of these investigations is insufficient to determine whether the company’s *** operation constitutes production of CR nails in the United States. The Commission will seek to obtain additional information regarding this company’s U.S. operations in any final phase of these investigations.

⁵⁴ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁵ Id.

⁵⁶ Much of the information regarding the factors considered in this section is business confidential. Accordingly, the public version of this opinion contains only nonnumerical characterizations of that information. 19 C.F.R. § 201.6(a)(1) and 61 Fed. Reg. 37818, 37820 (July 22, 1996).

⁵⁷ CR at I-2, Table I-1, PR at I-1, Table I-1.

⁵⁸ CR at I-2, Table I-1, PR at I-1, Table I-1.

The quantity of U.S. producers' shipments rose from 1993 to 1994 and from 1994 to 1995.⁵⁹ ⁶⁰ The quantity of shipments was lower, however, during interim 1996 than during interim 1995.⁶¹ By value, the performance of U.S. shipments was similar.⁶² Like shipments, the domestic industry's production increased both from 1993 to 1994 and from 1994 to 1995.⁶³ Production during interim 1995 was nearly the same as during interim 1996.⁶⁴ From 1993 to 1995, increases in domestic production outpaced domestic shipments, as evidenced by rising end-of-period inventories.⁶⁵ However, end-of-period inventories for interim 1996 were lower than for interim 1995.⁶⁶ ⁶⁷

The domestic industry's share of apparent consumption fell somewhat from 1993 to 1994, whether measured by quantity or value. It recovered some but not all of the lost market share from 1994 to 1995.⁶⁸ Its market share was lower during interim 1996 than during interim 1995.⁶⁹

⁵⁹ U.S. producers' shipments rose *** percent from 1993 to 1994, from *** to *** pounds. Shipments rose a further *** percent from 1994 to 1995, to *** pounds. CR at I-2, Table I-1, PR at I-2, Table I-1.

⁶⁰ Commissioner Crawford joins her colleagues in this investigation in a discussion of the "condition of the industry" even though she does not make her determination based on industry trends. Rather she views the discussion as a factual recitation of the data collected concerning the statutory impact factors.

⁶¹ U.S. producers' shipments were *** pounds in interim 1996, *** percent lower than the *** pounds shipped in interim 1995. CR at I-2, Table I-1, PR at I-2, Table I-1.

⁶² The value of U.S. shipments increased by *** percent from 1993 to 1994, from *** to ***. In 1995, the value of U.S. shipments increased a further *** percent to ***. The value of U.S. shipments was *** percent lower in interim 1996 (***) than in interim 1995 (***). CR at I-2, Table I-1, PR at I-2, Table I-1.

⁶³ Domestic production rose *** percent from 1993 to 1994, from *** pounds to *** pounds. From 1994 to 1995, production increased another *** percent, reaching *** pounds. CR at I-2, Table I-1, PR at I-2, Table I-1.

⁶⁴ Production was *** pounds during interim 1995 compared to *** pounds during interim 1996. CR at III-3, Table III-1, PR at III-2, Table III-1.

⁶⁵ From 1993 to 1994, end-of-period inventories rose *** percent, from *** to *** pounds. From 1994 to 1995, end-of-period inventories rose another *** percent, to *** pounds. CR at I-2, Table I-1, PR at I-2, Table I-1.

⁶⁶ End-of-period inventories were *** pounds in interim 1995, compared to *** pounds in interim 1996. CR at III-3, Table III-1, PR at III-2, Table III-1.

⁶⁷ In any final phase of these investigations, we will seek to gather additional information regarding a possible inconsistency in the data for interim 1995 and interim 1996. The data show that, comparing interim 1995 to interim 1996, shipments by the domestic industry were lower than domestic production, yet end-of-period inventories fell.

⁶⁸ The domestic industry's market share, measured by volume, fell from *** percent in 1993 to *** percent in 1994. It then rose *** to *** percent in 1995. By value, the domestic industry's share of apparent consumption fell from *** percent in 1993 to *** percent in 1994, but then increased to *** percent in 1995. CR at IV-4, Table IV-2, PR at IV-3, Table IV-2.

⁶⁹ Measured by quantity, the domestic industry's market share numbers for interim 1995 and interim 1996 were *** and *** percent, respectively. Measured by value, the interim 1995 and interim 1996 figures were *** and *** percent, respectively. CR at IV-4, Table IV-2, PR at IV-3, Table IV-2.

Production capacity rose during 1993-95.⁷⁰ Capacity figures were *** higher for interim 1996 than for interim 1995.⁷¹ Capacity utilization was only moderate during the period of investigation, although it rose during 1993-95.⁷² Capacity utilization was lower, however, in interim 1996 than in interim 1995.⁷³

The number of production and related workers (PRWs), hours worked, and wages moved in tandem, rising throughout 1993-95.^{74 75} All three measures were lower in interim 1996 than in interim 1995.⁷⁶ Productivity, measured by pounds produced per hour, increased from 1993 to 1994, but fell from 1994 to 1995. Productivity was higher in interim 1996 compared to interim 1995.⁷⁷

Sales revenues remained relatively flat during 1993-95. Sales revenues of producers that provided interim financial data were higher during interim 1996 than during interim 1995.⁷⁸ The average per-pound value of sales fluctuated slightly during 1993-95, and was *** lower in interim 1996 than in interim 1995.⁷⁹

⁷⁰ Production capacity rose by *** percent from 1993 to 1995, from *** pounds in 1993, to *** pounds in 1994, to *** pounds in 1995. CR at I-2, Table I-1, PR at I-2, Table I-1.

⁷¹ Production capacity was *** pounds in interim 1995 and *** pounds in interim 1996. CR at III-3, Table III-1, PR at III-2, Table III-1.

⁷² Capacity utilization was *** percent in 1993, *** percent in 1994, and *** percent in 1995. CR at III-3, Table III-1, PR at III-2, Table III-1.

⁷³ Capacity utilization was *** percent in interim 1995 and *** percent in interim 1996. CR at III-3, Table III-1, PR at III-2, Table III-1.

⁷⁴ All employment-related figures reported here are based on the responses of ***. *** did not provide this information. CR at III-3, Table III-1, PR at III-2, Table III-1. Bostitch *** for interim 1995 and interim 1996. Respondents urged the Commission to draw an inference adverse to Bostitch because of its *** these data and for other reasons. We do not find, however, that Bostitch failed to cooperate by not acting to the best of its ability to comply with Commission requests for information. Accordingly, we decline to draw an inference adverse to Bostitch. 19 U.S.C. § 1677e(b). We note, however, that Bostitch will have the opportunity to provide more complete data in any final phase of these investigations.

⁷⁵ The number of PRWs was *** in 1993, *** in 1994, and *** in 1995. Hours worked were *** in 1993, *** in 1994, and *** in 1995. Wages paid were *** in 1993, *** in 1994, *** in 1995. CR at III-3, Table III-1, PR at III-2, Table III-1.

⁷⁶ The number of PRWs during interim 1995 and 1996 was *** and *** respectively. Hours worked were *** in interim 1995 and *** in interim 1996. Wages paid were *** in interim 1995 and *** in interim 1996. CR at III-3, Table III-1, PR at III-2, Table III-1.

⁷⁷ Pounds produced per hour rose *** percent from 1993 to 1994, from *** to ***. Pounds produced per hour fell *** percent from 1994 to 1995, to ***. The productivity measure was *** in interim 1995 and *** in interim 1996. CR at I-2, Table I-1, PR at I-2, Table I-1.

⁷⁸ Sales revenues were *** in 1993, *** in 1994, *** in 1995, *** for interim 1995 and *** for interim 1996. CR at VI-3, Table VI-2, PR at VI-1, Table VI-2. Figures for interim 1995 and interim 1996 for sales revenues, unit sales values, unit cost of goods sold, and operating income do not include ***. CR at VI-3 to VI-4, Table VI-2, PR at VI-1, Table VI-2.

⁷⁹ Average per-pound values were *** in 1993, *** in 1994, *** in 1995, *** in interim 1995 and *** in interim 1996. CR at VI-4, Table VI-2, PR at VI-1, Table VI-2.

The per-pound cost of goods sold dropped from 1993 to 1994, then returned to the 1993 level in 1995.⁸⁰ The per-pound cost of goods sold was higher in interim 1996 than in interim 1995.⁸¹

The ratio of the cost of goods sold to net sales value remained fairly steady during 1993-95. This ratio was higher in interim 1996, however, than in interim 1995.⁸² The ratio of selling, general and administrative expenses to net sales value fell from 1993 to 1994, and held steady in 1995. This ratio in interim 1995 was approximately the same as in interim 1996.⁸³

The domestic industry had operating losses in 1993, operating income in 1994, and *** in 1995. The industry's improved performance in 1994 corresponded to the strong growth in apparent U.S. consumption from 1993 to 1994, although the industry experienced *** in 1995, despite ***. The producers reporting interim financial data experienced *** in interim 1996 than in interim 1995.⁸⁴

Capital expenditures fluctuated during the period of investigation. Capital expenditures rose overall from 1993 to 1995, although they dropped in 1994. Interim 1996 capital expenditures were *** lower than interim 1995 expenditures.⁸⁵ Spending on research and development dropped from 1993 to 1995 and was lower in interim 1996 than in interim 1995.^{86 87}

IV. CUMULATION

Section 771(7)(G)(i) requires the Commission to cumulate imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.⁸⁸ In assessing whether imports compete with each other and with the domestic like product,⁸⁹ the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the imports from different countries and between

⁸⁰ The per-pound cost of goods sold was *** in 1993, *** in 1994, and *** in 1995. CR at VI-4, Table VI-2, PR at VI-1, Table VI-2.

⁸¹ The per-pound cost of goods sold was *** in interim 1995 and *** in interim 1996. CR at VI-4, Table VI-2, PR at VI-1, Table VI-2.

⁸² The ratio of the COGS to value was *** percent in 1993, *** percent in 1994, *** percent in 1995, *** percent in interim 1995, and *** percent in interim 1996. CR at VI-3, Table VI-2, PR at VI-1, Table VI-2.

⁸³ The ratio of SG&A to net sales value was *** percent in 1993, *** percent in 1994, *** percent in 1995, *** percent for interim 1995, and *** percent in interim 1996. CR at VI-4, Table VI-2, PR at VI-1, Table VI-2.

⁸⁴ The producers reporting interim data had operating losses of *** in 1993, operating income of *** in 1994, operating losses of *** in 1995, and operating losses of *** and *** for interim 1995 and interim 1996, respectively. CR at VI-3, Table VI-2, PR at VI-1, Table VI-2.

⁸⁵ Capital expenditures were *** in 1993, *** in 1994, *** in 1995, *** in interim 1995, and *** in interim 1996. CR at VI-6, Table VI-4, PR at VI-2, Table VI-4.

⁸⁶ In 1993, R&D spending was ***, compared to *** in 1994, and *** in 1995. The figures for interim 1995 and 1996 were *** and ***, respectively. CR at VI-6, Table VI-4, PR at VI-2, Table VI-4.

⁸⁷ Based on the foregoing, Commissioner Newquist determines that there is a reasonable indication that the domestic CR nail industry is experiencing material injury.

⁸⁸ 19 U.S.C. § 1677(7)(G)(i).

⁸⁹ The SAA expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848 citing *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), *aff'd* 859 F.2d 915 (Fed. Cir. 1988).

imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;^{90 91}

(2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and

(4) whether the imports are simultaneously present in the market.⁹²

While no single factor is determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product.⁹³ Only a "reasonable overlap" of competition is required.⁹⁴

The parties do not dispute that each of the statutory criteria for cumulation is met in these investigations.⁹⁵ We find a significant degree of fungibility between the subject merchandise and the domestic like product. Domestic producers and importers reported that the subject merchandise and domestic like product were interchangeable.⁹⁶ We also find a high degree of fungibility among the CR nails produced in the three subject countries. All but one of 13 importers reported that CR nails from China, Korea and Taiwan were interchangeable.⁹⁷

⁹⁰ Commissioner Newquist notes that, in his view, once a like product determination is made, that determination establishes an inherent level of fungibility within that like product. Only in exceptional circumstances could Commissioner Newquist find products to be "like" and then turn around and find that, for purposes of cumulation, there is no "reasonable overlap of competition" based on some roving standard of substitutability. See Additional and Dissenting Views of Chairman Newquist in Flat-Rolled Carbon Steel Products, USITC Pub. 2664 (August 1993).

⁹¹ Commissioner Crawford finds that substitutability, not fungibility, is a more accurate reflection of the statute. In these investigations, she finds there is sufficient substitutability to conclude there is a reasonable overlap of competition between subject imports and domestic like product. Therefore, she concurs with her colleagues that subject imports from China, Korea and Taiwan should be cumulatively assessed. See Dissenting Views of Commissioner Carol T. Crawford in Stainless Steel Bar from Brazil, India, Japan and Spain, Invs. Nos. 731-TA-678, 679, 681, and 682 (Final), for a description of her views on cumulation.

⁹² See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff'd*, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988).

⁹³ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁹⁴ See Wieland Werke, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); United States Steel Group v. United States, 873 F. Supp. 673, 685-86 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996).

⁹⁵ Postconference briefs of Paslode at 9-11, Unicatch and K. Ticho at 2-3 (other parties did not present argument regarding cumulation for purposes of present material injury).

⁹⁶ CR at II-5, PR at II-3.

⁹⁷ CR at II-6, PR at II-4.

There is no dispute that the domestic like product and the subject imports from all three countries compete in the same geographical markets nationwide.⁹⁸

There is also an overlap in channels of distribution for the subject imports and domestic like product.⁹⁹ Most of the domestic like product is sold through distributors, although a small percentage is sold directly by the manufacturer and a still smaller percentage is sold through retail home centers.¹⁰⁰ The subject imported merchandise is sold through the same channels, although some may be distributed directly by importers.¹⁰¹

Subject merchandise from each of the three countries was simultaneously present in the U.S. market. Imports from all three countries were recorded during each complete year of the period of investigation, as well as during interim 1996.¹⁰²

Based on the fungibility of the subject imports with the domestic like product and among the subject imports from each country, competition in the same geographical markets, substantial overlap in sales in the same channels of distribution, and the simultaneous presence of the subject imports in the U.S. market during the period of investigation, we find a reasonable overlap of competition among imports from China, Korea and Taiwan and between subject imports and the domestic like product. Accordingly, we cumulate the subject imports from each of the subject countries for purposes of analyzing whether the domestic industry is materially injured by reason of the allegedly LTFV imports.

V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

In preliminary antidumping investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the allegedly LTFV imports under investigation.¹⁰³ In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.¹⁰⁴ Although the Commission may

⁹⁸ Postconference briefs of Paslode at 11 and Unicatch and K. Ticho at 2-3, Tr. at 79-80 (Deyman and Manfroni) and 119 (Morrell).

⁹⁹ CR at I-11, PR at I-7.

¹⁰⁰ CR at I-10, PR at I-7.

¹⁰¹ CR at I-11, PR at I-7.

¹⁰² CR at IV-2, Table IV-1, and at IV-4, Table IV-2, PR at IV-2, Table IV-1, and IV-3, Table IV-2.

¹⁰³ 19 U.S.C. § 1673b(a). The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant." 19 U.S.C. § 1677(7)(A).

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

consider causes of injury to the industry other than the allegedly LTFV imports,¹⁰⁵ it is not to weigh causes.¹⁰⁶

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For the reasons discussed below, we determine that there is a reasonable indication that the domestic CR nail industry is materially injured by reason of allegedly LTFV imports from China, Korea and Taiwan.

Volume of Subject Imports. The quantity and value of subject imports increased sharply during the period of investigation. By quantity, the subject imports rose 33.5 percent from 1993 to 1995, from 30.5 million pounds to 40.7 million pounds.¹⁰⁹ Imports were also 7.5 percent higher during interim 1996 than during interim 1995.¹¹⁰ Measured by value, the subject imports increased 22.4 percent from 1993 to 1995,

¹⁰⁵ Alternative causes may include the following:

[T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

¹⁰⁶ See, e.g., Gerald Metals, Inc. v. United States, Slip Op. 96-142 at 12 (Ct. Int'l Trade, Aug. 21, 1996); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

¹⁰⁷ Commissioner Newquist further notes that the Commission need not determine that imports are "the principal, a substantial, or a significant cause of material injury." S. Rep. No. 249, at 57, 74. Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, 704 F. Supp. at 1101.

¹⁰⁸ For a detailed description of Commissioner Crawford's analytical framework, see Polyvinyl Alcohol from China, Japan, and Taiwan, Invs. Nos. 731-TA-726, 727, and 729 (Final), USITC Pub. 2960 at 25-26 (May 1996). Both the Court of International Trade and the United States Court of Appeals for the Federal Circuit have held that the "statutory language fits very well" with Commissioner Crawford's mode of analysis, expressly holding that her mode of analysis comports with the statutory requirements for reaching a determination of material injury by reason of the subject imports. United States Steel Group v. United States, 96 F.3d 1352, 1361 (Fed. Cir. 1996), *aff'g* 873 F. Supp. 673, 694-95 (Ct. Int'l Trade 1994). Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the allegedly LTFV imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of LTFV imports, not by reason of the LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently are causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979). However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. *Id.* at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 96-249 at 74 (1979). Rather, it is to determine whether any injury "by reason of" the LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

¹⁰⁹ CR at I-2, Table I-1, PR at I-2, Table I-1.

¹¹⁰ CR at I-2, Table I-1, PR at I-2, Table I-1.

from \$19.7 million to \$24.1 million.¹¹¹ The value of the subject merchandise imported during interim 1996 was 7.2 percent higher than interim 1995 imports.^{112 113}

The subject imports held a major share of the market in 1993 and increased this share of the market during the remainder of the period of investigation.¹¹⁴ Because shipments of subject imports increased by a greater amount than did the shipments of the domestic like product, the subject imports captured greater market share at the expense of the domestic industry.¹¹⁵

Based on the foregoing, we find that both the volume of subject imports and the increase in that volume over the period of investigation are significant.

Price Effects of Subject Imports. Because CR nails are essentially commodity-type products, the degree of substitutability between the domestic like product and the subject imports is high; thus, large volumes of low-priced subject imports can have significant adverse price effects.^{116 117} All responding domestic producers and all but one responding importer agreed that domestic and subject CR nails are interchangeable.^{118 119} Only three of eleven importers reported non-price differences between the subject imports and the domestic like product.^{120 121}

¹¹¹ CR at I-2, Table I-1, PR at I-2, Table I-1.

¹¹² CR at I-2, Table I-1, PR at I-2, Table I-1.

¹¹³ The import figures reported above are estimates derived from official import data. CR at IV-1 to IV-3, PR at IV-1. Questionnaire responses received from importers suggest that the increase in subject imports during the period of investigation was even greater. CR at IV-3, PR at IV-1.

¹¹⁴ CR at IV-4, Table IV-2, PR at IV-3, Table IV-2.

¹¹⁵ CR at I-2, Table I-1, PR at I-2, Table I-1. The market share held by the subject merchandise increased from *** percent in 1993, to *** percent in 1995, measured by quantity. The subject merchandise's market share was also higher at *** percent in interim 1996 than at *** percent in interim 1995, measured by quantity. The domestic industry's market share fell from *** percent in 1993 to *** percent in 1995, in quantity. For interim 1995 and interim 1996, the domestic industry's market share was *** percent and *** percent respectively, by quantity. *Id.*

¹¹⁶ An issue we intend to explore during any final phase of these investigations is whether Petitioner Paslode's CR nails could be substituted for other domestic and imported CR nails. The parties provided conflicting testimony on this point. CR at I-12, PR at I-9.

¹¹⁷ Commissioner Newquist notes that, in his view, questions concerning substitutability between Paslode's CR nails and other CR nails based on characteristics and uses are most appropriately addressed in the like product determination. Accordingly, further assessment of substitutability for purposes of a causation analysis is generally not warranted.

¹¹⁸ CR at II-5, PR at II-3.

¹¹⁹ Commissioner Crawford considers interchangeability in her analysis of the like product. She is careful to distinguish substitutability, which she considers in her analysis of material injury by reason of less than fair value subject imports. She does not join her colleagues' treatment of these two different concepts. Nonetheless, Commissioner Crawford concurs with her colleagues' conclusion that subject imports are having significant price effects.

¹²⁰ CR at II-6, PR at II-4. Although importers reported longer average lead times between order and delivery than for domestic producers, some importers reported the difference was less where subject imports were ordered out of inventory. CR at II-6, PR at II-4. The record indicates importers had substantial inventories of subject imports during the period of investigation. CR at VII-4, PR at VII-2.

¹²¹ To evaluate the effects of the dumping on domestic prices, Commissioner Crawford compares domestic prices that existed when the imports were dumped with what domestic prices would have been if the subject imports had been fairly traded. In most cases, if the subject imports had not been traded unfairly, their prices in the U.S. market would have increased. In this investigation, the alleged dumping margins for subject imports are very high. Thus subject imports

(continued...)

Pricing data reported in response to the Commission's questionnaires did not exhibit clear trends during the period of investigation for product 1.¹²² However, for product 2, which accounted for over two-thirds of the volume of sales of CR nails examined, the domestic producers' price rose slightly into the last quarter of 1993, then gradually fell thereafter.¹²³ Over the course of the period of investigation, the price of this product fell *** percent.¹²⁴ Prices for the subject imports generally fell during the period of investigation.¹²⁵

The subject imports generally undersold domestic CR nails.¹²⁶ Instances of underselling outnumbered overselling by a factor of seven.¹²⁷ For product 2, there was uniform underselling, with margins ranging from *** to *** percent.¹²⁸ We find both the frequency and margins of underselling to be significant. We also confirmed a number of instances where the domestic industry lost sales to imports of the subject imports due to the lower price of the imports.¹²⁹

The stagnant or declining prices that prevailed during the period of investigation were particularly significant in light of the generally poor financial condition of the domestic industry. The industry was unable to raise prices despite sharp increases in apparent U.S. consumption and cost increases in the most recent interim period.¹³⁰

Accordingly, in light of evidence that subject imports compete with the domestic like product on the basis of price, evidence of consistent underselling by significant margins, and evidence of lost sales due to

¹²¹ (...continued)

likely would have been priced significantly higher had they been fairly traded. Subject imports and domestic collated roofing nails are fairly good substitutes, and thus a significant portion of the demand for subject imports likely would have shifted to domestic collated roofing nails had subject imports been fairly traded. Since subject imports held a market share of *** percent by quantity in 1995, the shift in demand away from subject imports and towards the domestic like product likely would have been substantial. Because the cost of collated roofing nails represents a very small cost share associated with the construction of houses, the demand elasticity is likely low, despite the presence of substitute products such as bulk roofing nails and collated roofing staples. The low elasticity of demand indicates that domestic suppliers likely would have been able to increase prices in response to this significant shift in demand. Because the domestic industry does not have available capacity to supply the entire demand served by the subject imports, at fairly traded prices subject imports would continue to be present in the domestic market. The domestic industry would be able to increase its prices at least to the level of the fairly traded subject imports. Consequently, Commissioner Crawford finds that subject imports are having significant effects on prices for domestic collated roofing nails.

¹²² CR at V-10, PR at V-6 to V-7.

¹²³ Product 1 is galvanized CR nails, 1-inch in length, price per 7,200 nail box. Product 2 is galvanized CR nails, 1-1/4 inches in length, price per 7,200 nail box. CR at V-6, PR at V-5. Prices reported on product 2 appear in CR at V-8, Table V-2, PR at V-6, Table V-2.

¹²⁴ CR at V-10, PR at V-7.

¹²⁵ The prices of products 1 and 2 imported from China fell by *** and *** percent, respectively. The prices of products 1 and 2 imported from Korea fell *** and *** percent, respectively. For imports from Taiwan, the price of product 1 fell *** percent, but on product 2 rose *** percent. CR at V-10 to V-11, PR at V-7.

¹²⁶ CR at V-12, PR at V-7.

¹²⁷ CR at V-7, Table V-1, and at V-8, Table V-2, PR at V-6, Tables V-1 and V-2.

¹²⁸ CR at V-8, Table V-2, PR at V-6, Table V-2.

¹²⁹ CR at V-12 to V-16, PR at V-8 to V-9.

¹³⁰ CR at I-2, Table I-1, PR at I-2, Table I-1 (rise in apparent U.S. consumption). The cost of goods sold as a percentage of net sales value was *** percent in interim 1996, compared to *** percent in interim 1995. CR at VI-3, Table VI-2, PR at VI-1, Table VI-2. As noted above, interim financial data do not include information from ***.

low subject import prices, we find that the large and increasing volume of allegedly LTFV imports from China, Korea and Taiwan that entered the United States during the period of investigation suppressed or depressed prices for the domestic like product to a significant degree.

Impact of Subject Imports.^{131 132 133 134} During the period of investigation, the volume and market share of allegedly LTFV imports were significant and increasing, while prices of those imports were generally falling.¹³⁵ The subject imports were also generally sold at lower prices than the domestic like product, and

¹³¹ As part of its consideration of the impact of imports, the statute as amended by the Uruguay Round Agreements Act (URAA) specifies that the Commission is to consider “the magnitude of the margin of dumping.” 19 U.S.C. § 1677(7)(C)(iii)(V). The URAA Statement of Administrative Action (SAA) indicates that the amendment “does not alter the requirement in current law that none of the factors which the Commission considers is necessarily dispositive in the Commission’s material injury analysis.” SAA at 850. New section 771(35)(C), 19 U.S.C. § 1677(35)(C), defines the “margin of dumping” to be used by the Commission in a preliminary determination as the margin or margins published by Commerce in its notice of initiation. The estimated dumping margins identified by Commerce in its notice of initiation of this investigation range from 106.08 to 118.41 percent for China, 75.17 to 103.45 percent for Korea, and 30.52 to 40.28 percent for Taiwan, ad valorem. 61 Fed. Reg. 67306, 67307-08 (Dec. 20, 1996).

¹³² Vice Chairman Bragg notes that she does not ordinarily consider the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. *See* Separate and Dissenting views of Commissioner Lynn M. Bragg in *Bicycles from China*, Inv. No. 731-TA-731(Final), USITC Pub. 2968 (June 1996).

¹³³ Commissioner Newquist notes that, in his analytical framework, “evaluation of the magnitude of the margin of dumping” is not generally helpful in answering the questions posed by the statute: whether there is a reasonable indication that the domestic industry is materially injured; and, if so, whether such material injury is by reason of the subject imports.

¹³⁴ As previously stated, Commissioner Crawford does not evaluate impact based on trends in statutory impact factors. In her analysis of material injury by reason of dumped imports, Commissioner Crawford evaluates the impact of subject imports on the domestic industry by comparing the state of the industry when the imports were dumped with what the state of the industry would have been had the imports been fairly traded. In assessing the impact of the subject imports on the domestic industry, she considers, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development and other relevant factors as required by 19 U.S.C. § 1677(7)(C)(iii). These factors together either encompass or reflect the volume and price effects of the dumped imports, and so she gauges the impact of the dumping through those effects. In this regard, the impact on the domestic industry’s prices, sales and overall revenues is critical, because the impact on the other industry indicators (e.g., employment, wages, etc.) is derived from this impact. As noted above, the domestic industry would have been able to increase its prices significantly if subject imports had been sold at fairly traded prices. The impact of the allegedly dumped imports on the domestic industry would have also been on the domestic industry’s output and sales. Had subject imports not been dumped, capacity restrictions would have prevented the domestic industry from capturing the entire demand satisfied by subject imports. Nonetheless, domestic suppliers could have increased their production and sales to satisfy a significant share of the demand served by subject imports. Accordingly, the domestic industry likely would have increased its prices and captured enough of the demand for subject imports that its output and sales, and therefore its revenues, would have increased significantly had subject imports not been dumped. Consequently, the domestic industry likely would have been materially better off if the subject imports had been fairly traded. Therefore, Commissioner Crawford determines that there is a reasonable indication that the domestic industry producing collated roofing nails is materially injured by reason of allegedly LTFV imports of collated roofing nails from China, Korea and Taiwan.

¹³⁵ CR at I-2, Table I-1, PR at I-2, Table I-1 (volume of subject imports) and at CR V-10 to V-11, PR at V-7 (price of subject imports).

gained market share at the expense of the domestic industry.¹³⁶ The presence of large and increasing quantities of subject imports sold at low and declining prices prevented the domestic industry from raising prices or increasing capacity utilization, despite increasing demand for CR nails and rising costs in the latter part of the period of investigation.¹³⁷ ¹³⁸ These effects are reflected in poor financial results during most of the period of investigation.¹³⁹ ¹⁴⁰ Further, the most recent data show that, although apparent U.S. consumption was higher in interim 1996 than in interim 1995, the domestic industry's shipments, as well as financial and employment measures, were all lower in the latter period than in the former.¹⁴¹

CONCLUSION

For the foregoing reasons, we determine that there is a reasonable indication that the domestic industry producing CR nails is materially injured by reason of allegedly LTFV imports from China, Korea and Taiwan.

¹³⁶ CR at V-12, PR at V-7 (price comparisons) and at IV-4, Table IV-2, PR at IV-3, Table IV-2 (market share).

¹³⁷ CR at V-12, and IV-4, Table IV-2, PR at V-7, IV-3, Table IV-2 (unfavorable price comparisons and loss of market share suggesting inability to raise prices); postconference brief of Bostitch at 2-3 (reason given by Bostitch for ***); CR at IV-3, IV-4, Table IV-2, PR at IV-1, IV-3, Table IV-2 (rise in apparent U.S. consumption); and CR at VI-3, Table VI-2, PR at VI-1, Table VI-2 (rising costs).

¹³⁸ In any final phase of these investigations, we intend to gather additional information regarding the effect that low price levels for CR nails during the period of investigation had on the domestic industry's ability to increase capacity utilization. The record indicates that Bostitch, accounting for over half of domestic production, did not ***, even though demand for its product exceeded supply during the period of investigation. Postconference brief of PrimeSource Building Products, Inc. at 1 and CR at III-1, PR at III-1 (Bostitch accounted for over half of domestic CR nail production); CR at II-1, PR at II-1 (demand for Bostitch CR nails exceeded supply); and Bostitch's questionnaire response at 5 (indicating that Bostitch's capacity utilization rate was *** percent in 1993, *** percent in 1994, *** percent in 1995, *** percent in interim 1995 and *** percent in interim 1996). Bostitch indicated that it would have been *** during the period of investigation. Postconference brief of Bostitch at 2-3.

¹³⁹ CR at VI-3, Table VI-2, PR at VI-1, Table VI-2.

¹⁴⁰ Commissioner Nuzum notes that the magnitude of the margins alleged in the petition is very large with respect to imports from both China and Korea, and significant for imports from Taiwan. Imports from China showed consistent underselling, while imports from both Korea and Taiwan showed a large majority of underselling. CR at V-7 to V-8, Tables V-1 and V-2, PR at V-6, Tables V-1 and V-2. For all three countries, the alleged dumping margins exceeded the magnitude of the observed underselling. Information provided in questionnaire responses and by purchasers indicates that price is an important consideration for purchasers, and that there are few significant differences between imported CR nails and the like product. CR at I-12, II-5 to II-6, and V-13 to V-16; PR at I-9, II-3 to II-4, and V-8 to V-9. In her view the magnitude of the dumping alleged in the petition likely contributed to the ability of the subject imports to undersell the domestic product, and to the inability of domestic producers to raise prices and improve profitability.

¹⁴¹ CR at IV-4, Table IV-2, PR at IV-3, Table IV-2 (shipments); CR at VI-3, Table VI-2, PR at VI-1, Table VI-2 (financial measures); and CR at III-3, Table III-1, PR at III-2, Table III-1 (employment measures).

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on November 26, 1996, by the Paslode Division of Illinois Tool Works Inc., Vernon Hills, IL, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of collated roofing nails¹ (CR nails) from China, Korea, and Taiwan. Information relating to the background of the investigations is provided below.²

<i>Date</i>	<i>Action</i>
November 26, 1996	Petition filed with Commerce and the Commission; ³ institution of Commission investigations (61 FR 64364, December 4, 1996)
December 17, 1996	Commission's conference ⁴
December 20, 1996	Commerce's notice of initiation (61 FR 67306, December 20, 1996)
January 9, 1997	Commission's vote
January 10, 1997	Commission determinations transmitted to Commerce

SUMMARY DATA

A summary of data collected in these investigations is presented in table I-1. Except as noted, U.S. industry data are based on questionnaire responses of 3 firms that accounted for at least 99 percent U.S. production of CR nails during the period for which data were collected (1993 through January-September 1996). U.S. imports are based on official statistics of the U.S. Department of Commerce.

¹ Collated roofing nails (CR nails), as defined by Commerce's scope, are nails made of steel, having a length of 13/16 inch to 1-13/16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires. For tariff classification purposes, CR nails (along with other types of nails) are provided for in subheading 7317.00.55 of the Harmonized Tariff Schedule of the United States (HTS). The most-favored-nation (column 1-general) tariff rate for this subheading, applicable to imports from all three countries, is 0.4 percent *ad valorem*.

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

³ The alleged LTFV margins (as revised by Commerce) range from 106.08 percent to 118.41 percent for China, 75.17 percent to 103.45 percent for Korea, and 30.52 percent to 40.28 percent for Taiwan.

⁴ A list of witnesses appearing at the conference is presented in app. B.

Table I-1

CR nails: Summary data concerning the U.S. market, 1993-95, Jan.-Sept. 1995, and Jan.-Sept. 1996

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

Item	Reported data					Period changes			
	1993	1994	1995	Jan.-Sept. 1995	1996	1993-95	1993-94	1994-95	Jan.-Sept. 1995-96
U.S. consumption quantity:									
Amount									
Producers' share									
Importers' share									
China									
Korea									
Taiwan									
Total imports	*	*	*	*	*	*	*	*	*
U.S. consumption value:									
Amount									
Producers' share									
Importers' share									
China									
Korea									
Taiwan									
Total imports									
U.S. imports from:									
China:									
Quantity	2,871	4,198	7,543	5,562	6,607	162.7	46.2	79.7	18.8
Value	1,078	1,698	3,475	2,604	2,897	222.4	57.5	104.6	11.3
Unit value	\$0.38	\$0.40	\$0.46	\$0.47	\$0.44	22.7	7.7	13.9	-6.3
Korea:									
Quantity	17,939	18,637	15,369	12,073	9,944	-14.3	3.9	-17.5	-17.6
Value	11,927	12,030	9,729	7,541	6,249	-18.4	0.9	-19.1	-17.1
Unit value	\$0.66	\$0.65	\$0.63	\$0.62	\$0.63	-4.8	-2.9	-1.9	0.6
Taiwan:									
Quantity	9,678	16,654	17,797	13,618	17,051	83.9	72.1	6.9	25.2
Value	6,663	10,179	10,862	8,357	10,680	63.0	52.8	6.7	27.8
Unit value	\$0.69	\$0.61	\$0.61	\$0.61	\$0.63	-11.3	-11.2	-0.1	2.1
Total:									
Quantity	30,487	39,489	40,709	31,253	33,602	33.5	29.5	3.1	7.5
Value	19,668	23,908	24,067	18,502	19,826	22.4	21.6	0.7	7.2
Unit value	\$0.65	\$0.61	\$0.59	\$0.59	\$0.59	-8.4	-6.2	-2.4	-0.3
U.S. producers:									
Average capacity quantity									
Production quantity									
Capacity utilization									
U.S. shipments:									
Quantity									
Value									
Unit value									
Export shipments:									
Quantity									
Value									
Unit value									
Ending inventory quantity									
Inventories/total shipments									
Production workers	*	*	*	*	*	*	*	*	*
Hours worked (1,000s)									
Wages paid (\$1,000s)									
Hourly wages									
Productivity (pounds per hour)									
Unit labor costs									
Net sales:									
Quantity									
Value									
Unit value									
Cost of goods sold (COGS)									
Gross profit or (loss)									
SG&A expenses									
Operating income or (loss)									
Capital expenditures									
Unit COGS									
Unit SG&A expenses									
Unit operating income or (loss)									
COGS/sales									
Operating income or (loss)/sales									

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

THE PRODUCT

The imported products subject to these investigations are CR nails. CR nails are made from steel wire, with a length of 13/16 inch to 1-13/16 inches (20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (8.38 to 10.54 mm), and a shank diameter of 0.100 inch to 0.125 inch (2.54 to 3.18 mm), whether or not galvanized, that are collated with two wires for application with pneumatic tools. This section presents information on both imported and domestically produced CR nails, as well as information related to the Commission's "domestic like product" determination.⁵

Other products that are potentially "like" CR nails are: (1) noncollated roofing nails (bulk roofing nails); (2) other types of steel wire products used to join shingles to a roof, such as collated roofing staples; (3) other types of collated nails; and (4) other types of bulk nails.⁶ (The primary focus will be on the first three items because of the large number of different types of bulk nails.) In the current investigations, Paslode argues that imports of CR nails from China, Korea, and Taiwan are fully fungible and interchangeable with CR nails produced by the U.S. industry; it further contends that CR nails constitute a unique product, easily and consistently distinguished from other types of steel wire products used for fastening, including other types of collated nails, bulk roofing nails, and staples.⁷ All but one of the respondents agreed with Paslode's definition of the domestic like product; Georgia-Pacific apparently advocates a domestic like-product definition that includes wide-crown staples and bulk roofing nails with CR nails.⁸

Physical Characteristics and Uses

CR nails are nails of one-piece construction manufactured from round steel wire with the dimensions listed. Two thin wires usually are welded to the shanks of the roofing nails, thus fastening the individual roofing nails together in a string of nails, and a coil of CR nails is formed from this string. Each of these coils usually is composed of 120 nails (the number of CR nails that fit most pneumatic roofing nail guns). CR

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

⁶ In the investigations conducted on all steel wire nails in 1985-86, the Commission adopted the definition that there was only a single like product that comprised all steel wire nails. The Commission found that while nails may differ in shape, finish, and principal uses, there existed substantial similarities in production, sufficient commonality in essential characteristics, and a broad overlap in uses for all steel wire nails. See, *Certain Steel Wire Nails from the People's Republic of China (Final)*, USITC Pub. No. 1986, May 1986, p. 4. "The imported products under investigation are steel wire nails of one-piece construction made of round steel wire, steel wire nails of two-piece construction, and steel wire nails with lead heads. These nails are available in a variety of heads, shanks, points, sizes, and finishes. Common coating materials include zinc (galvanized nails), cement, and vinyl. Finishes can be applied to the nails to improve their holding ability or to prevent rust and corrosion. Some of the nails also are collated (attached to strips of tape or other adhesive material) for use in pneumatic nailing guns." (Emphasis added.) However, the producers listed in the 1986 investigation differ from those currently participating and CR nails differ from those included in the previous investigation. Although CR nails were developed during 1981-82, their use was not widespread until after the 1986 investigation (Paslode did not begin producing CR nails until 1988, for example). Collated staples were excluded from the scope of the 1986 investigation.

⁷ Petition, p. 4 and p. 10.

⁸ Transcript of the staff conference (TR), pp. 85-87 and 116-117 (Mr. Morrell, National Product Manager for Metal Products, Georgia-Pacific Corp.)

nails are galvanized (coated with zinc) to retard corrosion,⁹ and may also have additional finishes (see description of manufacturing processes later). CR nails are used in pneumatically-operated nailing guns to attach asphalt and organic shingles to sheathing on roofs, and to fasten flashing materials around the edge of a roof. Nail length requirements stem from the thickness of the roof sheathing (the plywood that is nailed or screwed to the roof rafters) and the number of layers of roofing felt and shingles.¹⁰ The nail's head is flat and large relative to heads of other nails. This large flat head is designed to distribute pressure on the surface of an asphalt or fiberglass shingle, thus providing greater holding power compared with other types of nails.

CR nails have been developed for use in pneumatic nail guns, and collated nails have tended to become more interchangeable between nail guns of different manufacturers during the 1990s. This development has affected three aspects of the nail:

- Standard sizes (length, shank diameter, and head diameter) have been developed by a number of different companies, including Stanley Bostitch, Paslode, Hitachi, Makita, and Senco. Imports of CR nails generally are interchangeable with domestically-produced CR nails and can be used in the same pneumatic nailers as domestically-produced CR nails, with certain limitations. Nails for collation are manufactured to more demanding physical tolerance requirements than are bulk nails of the same size and designated end use; this need is driven by twin requirements that the nails not jam inside the nailing machine and that they can be collated.¹¹
- Galvanization method and coating weight affect collation by influencing the speed and cost at which the two wires are welded to each nail, and may prevent collation if the zinc coating is too thick.
- Collation allows use in a pneumatic nail gun, dramatically increasing labor productivity in fastening shingles to a roof. The two wires are welded at a specific angle and spacing on the shank of each nail. Welded-wire collation apparently is the preferred method of collating roofing nails and is the method used by at least four manufacturers of pneumatic CR nail guns. Using other methods to collate roofing nails (which include strips of tape, plastic web belting, and adhesive glues) or different spacing of the wires may hinder or prevent the interchangeability of one brand of CR nails in another manufacturer's nail guns.

⁹ Roofing nails are galvanized to increase the nail's resistance to corrosion. Petitioner states that "Federal Specification FF-N-105B" and ASTM designation A 641-92 "Standard Specification for Zinc-Coated (Galvanized) Carbon Steel Wire" are the industry standards for the use of zinc-coated roofing nails and the weight of zinc on each nail. This statement is supported by the residential building code developed under the aegis of the Council of American Building Officials that calls for the use of corrosion-resistant roofing nails or corrosion-resistant roofing staples in roofing applications.

¹⁰ The nail is supposed to be driven so that the tip protrudes through the sheathing. Plywood sheathing may be from 3/8 inch to 5/8 inch thick, the asphalt-impregnated roofing felt measures approximately 1/8 inch thick, and roofers are allowed to install up to two layers of shingles before they must remove existing shingles. Shingles, roofing felt, and sheathing collectively measure about one inch. Hence the most popular lengths of roofing nails are 1 inch and 1-1/4 inches.

¹¹ According to ***, collated nails are a precision-made product compared with bulk nails. One aspect of this is the need to meet more critical dimensional tolerances imposed by collating machines that run at high speed; another is that bulk nails must meet specifications only, and one bad nail out of 10,000 is considered acceptable compared with acceptable defect rates in production of collated nails of less than one per million. Telephone conversation on Nov. 7, 1996.

In regard to bulk roofing nails, there is a similarity to CR nails with respect to physical dimensions and end use. However, as noted earlier, bulk roofing nails are not manufactured to the same precise dimensions, may not possess the same exact coating weight, and are not collated. These factors prevent their use in pneumatic nailers and may even prevent bulk nails from being collated. Bulk roofing nails are designed to be driven by hand to fasten shingles onto roof decking; of course, it would be uneconomic to strip single nails from a coil to apply them singly by hand.¹²

Wide-crown collated staples also are used to fasten shingles and tarpaper to roof decking (other uses include attaching foam padding or corrugated paperboard to wood packaging). Collated staples differ from CR nails in terms of dimensions (which prevents their use in the pneumatic nailers used to apply CR nails), and production machinery, although there is overlap in use. Roofing staples measure from 3/4 inch to 1-1/2 inches long, have a 15/16-inch or 1-inch crown (the distance between the tangs), and are manufactured from 16-gauge (0.055 inch in diameter) wire which is lighter and thinner than the wire used to manufacture CR nails (generally, 0.120 inch in diameter). Collated staples typically are glued together to form a single string (or "stick") of 120 to 150 staples and are used in a pneumatic stapler, which differs in design from a CR nailer.

There are differences between CR nails and other types of collated nails in terms of physical dimensions, shank design, placement of the collating wires, and end uses.¹³ For the most part, other collated nails are longer (the smallest length of these other nails is approximately the longest length of a CR nail), and have smaller heads compared with CR nails. Other collated nails also may have ring or screw shanks, designed for greater holding power in wood, whereas CR nails have a smooth shank. There are differences in terms of finish as well: other collated nails may be plain (uncoated) or galvanized depending upon the desired end use and specification under building codes. Type of collation and the location on the shank of collating wires differ between CR nails and other types of collated nails; these others may be collated by use of a paper tape, plastic belting, glue, or use wires (CR nails typically use welded wires, although one U.S. producer uses a plastic belt to collate its CR nails). While CR nails are coiled, other collated nails may be either stick or coiled. These other collated nails are designed for a wider variety of uses than CR nails, including attaching pieces of wood together (framing, sheathing, attaching roof decking to framing or trusses, fencing, crating), wood to masonry, or metal to metal (for these last two uses, nails need to be hardened or of a different chemistry than CR nails). The length, head size, and type and location of collating wires prevent the use of CR nails in other types of nailing guns and vice versa.

¹² The petition, p. 10, lists several advantages of using CR nails instead of bulk roofing nails.

¹³ TR, pp. 22-24 (Mr. Heinlen, Paslode).

Common Manufacturing Facilities and Production Employees

CR nail production consists of several sequential steps within a continuous process:¹⁴ galvanized wire is fed into a nail-making machine in which the head is impact-formed, the point is cut, and the nail is ejected downward to a magnetic lift conveyor; the lift conveyor removes the nails from the nail-making machine and transports them to the top of the collator. The collator (which consists of several pieces of equipment) aligns each nail at the desired angle and distance apart; welds two small-diameter wires to the shank of each nail to form strings of nails; cuts each string at 120 nails; forms each string of 120 nails into a coil; and attaches an elastic strap around each coil to hold it together. Further, an operator places each coil onto a cardboard tray that holds 12 coils, and packs 5 trays to a cardboard box that is sealed with plastic tape. A conveyor system lifts the completed box out of the collating area and transports it to another area for pallet loading and shipment.

In the event bright wire is formed into nails, the nails can be galvanized by either of two methods, EG with a yellow iridescent coating, or glass-bead impacted galvanization, and the nails are collated after coating. As noted earlier, controlling zinc coating weight is important because it directly affects the wire welding; too much zinc may prevent the steel wire from being welded to the nail at all or cause significant variance in the quality of the welds or in the consumption of electricity used for welding, for example. Also, coating weight affects dimensional tolerances of the nails and collated nails are produced to precise dimensional tolerances, otherwise they jam in the pneumatic nailers. The EG process provides a better coating than does the HD galvanization process (the EG process, which is replacing the HD process for coating bulk roofing nails, is becoming more widely used for bulk roofing nails). ***.

It should be noted that design of the cold-header used for making nails is similar for most types of nails. However, CR nail production differs from the production of bulk nails (including bulk roofing nails) in terms of the precise dimensional tolerances imparted by this machinery and the use of a collator. U.S. producers of CR nails also produce other types of collated nails (there are several other U.S. producers of collated nails who also produce bulk nails, but these other producers do not make CR nails). Interchangeability between making CR nails and bulk roofing nails is limited because the bulk product cannot be used in a pneumatic nailer, such production does not enhance sales of nail guns (also, see discussion on the relative prices of CR nails and bulk roofing nails), and the manufacturer's process is set up for the collated product.

Interchangeability of equipment between CR nails and other collated nails also is limited by the need to change dies within the nail-making and collating machinery and make other adjustments to the machinery, and by the diseconomies of production that such changes would necessitate. Paslode and Bostitch produce other collated nails (non-subject products) at their facilities at Pontotoc, MS (Paslode produces CR nails at

¹⁴ This discussion focuses on the nail-making process. Producers of CR nails purchase steel wire rod or steel wire (the raw material input for making nails and staples) of the desired chemistry, bypassing the process steps of raw steel production, billet casting, rod rolling, and wire production. In these steps, low carbon steel is produced and cast into a billet, and the billet is hot-rolled into wire rod. The wire rod is heat-treated, descaled of its iron oxide coating, coated with phosphate or borax, and cold-drawn into wire of the desired gauge (or diameter). The wire may be heat-treated to relieve internal stress caused by cold-working, and it may be oiled as well to protect it against corrosion, but is termed a "bright" wire at this point. The wire is coated or plated with a metallic coating, such as by hot-dipping in zinc (HD galvanized) or passing it through an electrolyte solution containing zinc (EG, electrogalvanized). The vast majority of CR nails are coated by the EG process, while bulk roofing nails might be coated by the HD or EG process. Paslode, Bostitch, International Wire and Machine, and Tree Island do not produce steel, although several producers of bulk nails and other types of collated nails are considered integrated producers (produce steel, draw wire, and produce nails). Instead, Paslode purchases wire from which it produces nails (***), while Bostitch and Tree Island purchase wire rod and perform their own galvanizing and nail forming.

White River, AR) and East Greenwich, RI, respectively, but the machinery for making CR nails is separate from that used for making other types of collated nails. Although Paslode produces CR nails and collated siding nails at White River, AR, these products are produced on separate machines by different workers,¹⁵ Bostitch produces a wide range of collated nails (including CR nails) and collated staples at its East Greenwich, RI facility, but these products are manufactured on different equipment that is considered non-interchangeable. Bostitch does not consider transferring production workers from the production of one type of fastener to another without specialized training.¹⁶

The manufacturing process for making collated roofing staples differs significantly from CR nails: a wire bending and cutting process is used and because there is no head, the machinery does not perform a cold-heading process. The bending and forming machinery for making staples differs from that used to head nails and the collation process differs as well; hence, the machines that produce collated staples are not used to produce CR nails. Because of its different manufacturing process, there is no interchangeability of machinery for making collated roofing staples with that for the production of CR nails.

Table I-2 depicts the location of U.S. producers' facilities manufacturing CR nails, CR staples, other collated nails and staples, and bulk roofing nails. There is an overlap of production of CR nails and CR staples within the same facility for several of the U.S. producers, as well as an overlap of production of CR nails and other types of collated nails within the same facility, although there is no overlap in terms of equipment used or in terms of the employment of production workers.

Channels of Distribution

Roofing products are used primarily by professional roofing contractors and by do-it-yourselfers (DIY) who also may be homeowners. Professional roofing contractors purchase CR nails from distributors through roofing supply houses (accounting for approximately 80 percent of domestic shipments) or directly from the manufacturer (accounting for approximately 15 percent of domestic shipments). In addition, about 5 percent of CR nails are sold to home centers, which primarily serve the DIY segment of the residential building market, and from which roofing contractors also obtain a small percentage of their needs.¹⁷ According to information presented at the staff conference, roofing supply houses specialize in residential roofing product lines, providing a convenient source of one-stop shopping for the roofing contractor. Imported CR nails and bulk roofing nails also are distributed through these same channels, as are collated roofing staples. The distribution of imports apparently is similar, except that several of the importing firms act as distributors as well. However, it is less likely that other types of collated nails or bulk nails (other than roofing nails) are distributed through roofing supply houses or directly to roofing contractors because of the different end uses of these types of nails, and the different types of nail guns used by this segment of the building industry.¹⁸

Interchangeability, Customer and Producer Perceptions

Several model building codes specify the types of materials that can be used for roofing. Building codes are local laws, and while each municipality enforces a set of regulations, very few communities compose their own unique set of regulations. Most adopt all or part of one of the model codes: The Building Officials and Code Administrators International, Inc., The International Conference of Building Officials,

¹⁵ Telephone conversation with representatives of Paslode on Jan. 2, 1997.

¹⁶ Telephone conversation with a representative of Bostitch on Jan. 2, 1997.

¹⁷ Petition, p. 14.

¹⁸ TR, p. 25 (Mr. Heinlen, Paslode).

Table I-2

Manufacturers of CR nails, collated staples, other collated nails, and bulk nails by location and type of product

Manufacturer	CR Nails	Collated Roofing Staples	Other Collated Nails	Bulk Nails
Bostitch	East Greenwich, RI	East Greenwich, RI	East Greenwich, RI	Does not produce non-collated products.
International Staple and Machine	Butler, PA	Butler, PA	Butler, PA -- container staples; Herren, IL -- framing nails, pallet nails; Los Angeles, CA -- framing and pallet nails	Does not produce non-collated products.
Paslode	White River, AR	Pontotoc, MS	White River, AR - siding nails; Pontotoc, MS - crating staples Augusta, AR and Covington, TN - framing nails.	Does not produce non-collated products.
Tree Island	Ferndale, WA⁽¹⁾	Does not produce staples	Ferndale, WA	Richmond, BC

¹ This company does all its collating in Ferndale, WA, whereas its nail production is located in Richmond, BC (a suburb of Vancouver).

The Southern Building Code Congress International, Inc., and the Council of American Building Officials (CABO). CABO is an all-inclusive body of regulations covering building and other aspects of one- and two-family residential construction, and is accepted as an option within each of the other three model codes.¹⁹ The roofing nails and staples specified under each of the model codes and under CABO are corrosion-resistant 12-gauge wire nails with a minimum 3/8-inch-wide head, or corrosion-resistant 16-gauge wire staples with a minimum 15/16-inch-wide crown. The use of staples traditionally has been limited to geographic areas with little or no snow loading and, more recently, has been excluded from coastal areas and high-wind areas (updrafts apparently pull a staple out or cause a shingle to rip away from the roof more readily than when a nail is used). In addition, roofing industry associations publish technical bulletins that provide roofing contractors with recommended methods of application (the number of nails and location on each shingle, for example).²⁰ While such technical bulletins may not have the force of law, they provide guidance on accepted

¹⁹ Paul Fiset, "Decoding Building Codes," University of Massachusetts, Building Materials and Wood Technology.

²⁰ A copy of a technical bulletin from the Asphalt Roofing Manufacturers Association (ARMA) dated June 1996 was provided as exhibit 1 to Paslode's postconference brief. Mr. Heinlen, Paslode, states that because this technical bulletin does not mention CR staples at all, it would appear that ARMA no longer recommends the use of CR staples for roofing
(continued...)

industry practice and could be used in defense of a claim. Hence, the only products that are approved for use in fastening shingles to roofs are roofing nails and roofing staples. Use of any other product exposes the contractor to possible claims, including replacement of the roof and other damages.

There was agreement at the staff conference and in questionnaire responses that imported CR nails generally are interchangeable with domestic CR nails for the same end uses and for use in CR nail guns used or manufactured in the United States. However, there was disagreement regarding the interchangeability of CR nails manufactured by Paslode with imported and other domestic CR nails.²¹ Several of the respondents also indicated that other manufacturers' CR nails will not work in Paslode's CR nail guns; Paslode's representative disputed these statements and stated that other manufacturers' nails either work in Paslode's CR nail guns, or that their company's nail guns can easily be modified so that all manufacturers' CR nails will work in a Paslode nail gun.²²

As noted earlier, bulk roofing nails will not work in a pneumatic nail gun. The rationale for using a nail gun is the greater labor productivity and daily earnings compared with hand-nailing. Also there is less repetitive motion injury to the installer when using a pneumatic tool. These factors account for a broad movement within the roofing industry toward the use of pneumatic roofing nailers since they were introduced in the 1980s. According to one distributor, a roofing contractor would revert to using bulk roofing nails only if faced with an inability to obtain CR nails.²³

There is no interchangeability between collated roofing staples and CR nails in a pneumatic nail gun.²⁴ Pneumatic staplers differ from pneumatic CR nailers in design; the magazine, piston, and cutter head of a pneumatic stapler are built for a stick product that is lighter in weight, and pneumatic CR nailers cannot utilize collated staples. Although there is overlap with respect to end uses, reportedly there are several disadvantages to using collated roofing staples instead of CR nails, including prohibition by certain insurance and local building codes, different equipment needs (the interchangeability between pneumatic staplers of

²⁰ (...continued)
applications.

²¹ TR, pp. 90-93 (Mr. Ralph Morrell, National Product Manager for Metal Products, Georgia-Pacific Corp.). Mr. Morrell stated that the industry standard for the angle of collation (the angle by which the nail is welded to the collating wires, measured from perpendicular) is 15 degrees, but that Paslode's CR nails are manufactured to fit the company's new model CR nailer, 3175R, which accepts a 10-degree angle of collation, and that Paslode welds one of the two collating wires higher on the shank than other manufacturers. (TR, pp. 127-28.) Mr. Heinlen, Paslode, stated that his company's 3175R CR nailer accepts the industry standard, 15-degree collation, that Paslode's CR nails are collated at 15 degrees, and that his company's CR nails will work in other manufacturers' CR nail guns. (TR, p. 142.) It should be noted that no one argued for two domestic like products, one composed of the Paslode CR nails and the other composed of all other domestic CR nails.

²² See, petitioner's postconference brief, app. 2 for test results of other manufacturers' nails in Paslode's CR nail guns. Interchangeability is constrained by any tendency of CR nails to jam in the nail gun, caused by problems with the nails not fitting in the firing chamber or not feeding properly into firing position. This problem might be caused by one or both of the collating wires interfering with the nailer's feeder claws (small pads that push nails into position). Although Paslode's representatives stated their 3175R can easily be modified by filing one of the feeder pads, roofing contractors may be less likely to modify a tool that costs between \$300 and \$400 than they are to purchase one that works without modification for the same price.

²³ Telephone conversation with *** on Dec. 26, 1996.

²⁴ In pneumatic nail guns, air pressure drives a piston which drives the nail. The collating wires are sheared and expelled as the nail is driven. The magazine also is designed specifically for the types of collated products to be used in the nailer, i.e., the magazine for collated staples differs from that for collated coiled nails and from that for collated stick nails. The stroke of the piston is engineered and designed into the tool, which also is specialized for the type of nail and work to be done. According to industry officials, replacing the magazine will not enable a pneumatic nailer to be used to drive nails for which it was not manufactured.

different manufacturers apparently is limited,²⁵ even as there is no interchangeability between staplers and nailers), and greater difficulty in application.²⁶ As noted earlier, interchangeability between collated roofing staples and CR nails is limited by certain local ordinance and insurance requirements that limit the use of staples in roofing applications (the use of staples have been banned in some certain coastal areas of Texas, California, and Florida, for example). Also, the industry trend has been away from the use of staples, in part because of these concerns, and because skill levels required for installing roofing staples are higher than those required for the use of CR nails.

Interchangeability between CR nails and other collated nails for use in roofing applications is limited by legal restrictions, as noted earlier, and because pneumatic roofing nail guns are specialized to accept only CR nails. The building industry has become specialized and while other types of collated nails might supply the holding power necessary (with or without building inspection), it is unlikely that other collated nails would be used for roofing applications.

Price

Bulk roofing nails are generally priced by weight (per carton of 1, 5, 10, 25, or 50 pounds) whereas CR nails, collated staples, and other collated nails are priced by count (per box of 3,600 CR nails, box of 7,200 CR nails, or box of 10,000 CR staples, or these fasteners on a per-thousand basis). Because other collated nails include a wide assortment of nails, the range of prices for these nails is very wide, possibly as much as half the price of CR nails to more than double the price of CR nails.²⁷ Prices of imported bulk roofing nails are less than those of imported collated roofing staples which are less than those of imported CR nails (one supplier reported prices of \$13.65, \$19.10, and \$22.85, respectively, per box of 7,200 nails or box of 7,200 staples).²⁸ Another supplier reported differences in selling prices between CR nails and CR staples ranging from 20 to 30 percent and between CR nails and bulk roofing nails ranging from 64 to 89 percent.²⁹ The price of bulk roofing nails is considerably less than the price of CR nails, but according to industry sources, a roofing contractor will be unlikely to switch to using hand-driven roofing nails unless he is unable to obtain CR nails. The contractor also is unlikely to switch to collated roofing staples despite their lower price because of the capital investment needed to purchase a new set of pneumatic tools, possible limitations on the use of staples within the contractor's geographic area, and limited interchangeability between staplers. With respect to CR nails, the imported product from China, Taiwan, and Korea generally has been priced lower than the U.S. product (see discussion in section V, later).

²⁵ Telephone conversation with *** on Dec. 26, 1996. Reportedly, the manufacturers flatten their staples differently, limiting their use in other manufacturers' staplers.

²⁶ Petition, p. 11. Reportedly, one problem with using staples is that the pneumatic stapler may drive the staple through the shingle (because the staple's crown is thin and may cut into the shingle). Also, the staple needs to be driven parallel to the edge of the shingle, which may be difficult when working on an angled roof (it also implies the use of more skilled or experienced labor). Another potential problem is that the staple may be driven at an angle preventing full shingle-staple contact, lessening the staple's holding power while possibly damaging the overlying shingle.

²⁷ TR, p. 26 (Mr. Heinlen, Paslode).

²⁸ Telephone conversation with *** on Dec. 26, 1996. These prices have been adjusted by Commission staff to be on a comparable basis of a 7,200-nail box. These prices represent bulk roofing nails and CR nails imported from *** and collated roofing staples imported from *** and sold by a wholesaler to a retailer for resale to roofing contractors and should be viewed only as representative of relative price levels.

²⁹ Facsimile transmission from *** on Dec. 27, 1996.

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

MARKET SEGMENTS AND CHANNELS OF DISTRIBUTION

U.S. producers of CR nails primarily sell to distributors, some of which are also retailers.¹ Distributors sell to roofing supply companies, home centers, or contractors. Domestic manufacturers may also sell directly to roofing supply houses, home centers, or contractors. Importers may sell to the same distributors and retailers and, in addition, may sell some directly to roofers. Some larger distributors also act as importers. According to Paslode, ***.²

Imports from the subject countries comprised *** percent of the U.S. market in 1995, domestic production comprised *** percent of the market, and imports from non-subject countries were insignificant. The overall market has been growing steadily because roofers can apply CR nails more quickly than bulk nails and because demand has shifted from roofing staples to CR nails.

Manufacturers prefer to deal with large orders to lower marketing costs; however, representatives of two large purchasers/importers, Georgia-Pacific and PrimeSource Building Products, reported that they could not purchase all the CR nails they ordered from Bostitch, the largest domestic producer.³ PrimeSource reported 50-percent fill rates from Bostitch. Mr. Morrell of Georgia-Pacific reported that Bostitch could not produce as many nails as it could sell.⁴

The U.S. producers reported selling a broader product line than importers, having a large sales force, and having Buy American requirements that promote demand for their products. Both importers and domestic producers usually sell on a spot basis and have price lists, but prices are usually determined case-by-case. Volume discounts are common.

National and local building ordinances also influence demand for CR nails and some local ordinances require nails rather than staples. For example, two purchasers, ***, mentioned that Dade County, FL, had special requirements for nails.⁵ Some importers also reported that changes in building codes have increased demand for CR nails.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on the available information, staff believes that U.S. CR nail producers are likely to respond to changes in demand with relatively small changes in shipments of U.S.-produced CR nails to the U.S. market, and larger changes in prices. Factors contributing to the low responsiveness of supply are discussed below.

¹ None of the 3 domestic producers was able to clearly separate out sales to distributors from sales to retailers.

² Petition, app. 24, p. 1.

³ TR, pp. 88, 98-99.

⁴ TR, p. 90.

⁵ *** reported that only domestically-produced nails were Dade County approved. ***, however, reported that Dade County has approved both domestic and imported nails. Commission staff discussions with ***, Dec. 6, 1996; ***, Dec. 9, 1996; and ***, Jan. 2, 1997.

Capacity in the U.S. industry

High levels of reported excess capacity imply the industry can increase production by quite a large amount. Domestic producers reported low capacity utilization throughout the period of investigation; however, it rose from *** percent in 1993 to *** percent in 1995 (table III-1). While capacity utilization figures indicate the domestic producers may be able to increase production, purchasers have reported that the largest domestic producer is unable to provide the CR nails ordered. At the conference, Georgia-Pacific and PrimeSource reported that Bostitch did not have adequate production to fill their orders.⁶ They also claimed that Bostitch had informed them that the price for CR nails would increase by 16 percent in January 1997. Bostitch reports that it will *** in January 1997 and it will also institute a *** for customers ***.⁷ PrimeSource also reported that Paslode did not respond to its attempt to purchase CR nails.⁸

Production alternatives

Most of the equipment used to produce CR nails can also be used in the production of other collated nails or in the production of bulk roofing nails. Although domestic producers could switch production to bulk nails, according to Paslode these nails are less expensive and are usually produced using a less-expensive process; domestic producers of CR nails, therefore, may not be able to compete profitably with other bulk nail producers. Also, according to Paslode, different types of collated nails have different head sizes and different shank diameters. As a result, the equipment used to make the heads for CR nails cannot easily be converted to produce nails other than roofing nails. The collating and other equipment, however, could be used in the production of other collated nails if demand were adequate.

Inventory levels

The small inventories relative to total demand and low inventories at the end of the period indicate that U.S. producers have little ability to respond immediately to changes in demand with shipments from inventories. Inventories rose from *** pounds in 1993 to *** pounds in 1995 but fell to *** pounds in January-September 1996. The inventories increased from *** percent of annual shipments in 1993 to *** percent in 1995; however, in the first three quarters of 1996, inventories fell to *** percent of shipments. Paslode reported that its current inventories were *** months and target inventory was for *** months.⁹

Export markets

Domestic producers exported *** percent of their production in 1993 through 1995; this rose to *** percent in the first three quarters of 1996. The low level of exports indicates that domestic producers would find it difficult to shift shipments between the U.S. market and other markets.

U.S. Demand

The main factor influencing overall demand for CR nails is demand for new roofs and roof repairs. The interest rate is the main determinant of demand for new homes. The housing stock is the main

⁶ Bostitch reported that it has ***. Bostitch's postconference brief, p. 2.

⁷ Ibid, p. 4.

⁸ TR, p. 101.

⁹ Paslode's postconference brief, p. 26.

determinant of demand for roof repairs or re-roofing, although natural disasters can increase regional demand. Building codes also influence demand, because some codes require nails rather than staples. Roofers' choice to use CR nails rather than bulk nails or staples also influences demand. Demand for CR nails has been increasing over the period of investigation because CR nails are replacing bulk nails and staples.

Substitute Products

Substitutes for CR nails include bulk nails and staples. Bulk nails require more installation time. Staples require a more skilled worker and a growing number of building codes ban staples.¹⁰ In addition, Paslode reports that in some areas insurance companies may be unwilling to insure or may charge higher premiums for homes with stapled roofs.¹¹

According to the petition, purchasers seldom switch from CR nails to either bulk nails or staples. However, over time roofers have switched from bulk nails and staples to more expensive CR nails. The switch from bulk nails is mainly because CR nails reduce the labor cost of installation dramatically. The switch from staples is mainly because roofers and home owners view nails as better than staples at holding down roofing shingles. At the conference, Mr. Morrell of Georgia-Pacific reported that CR nails and staples were better substitutes than domestic producers reported; he reported that roofing nail guns only lasted about two years and when they wear out roofers can consider staples as an alternative. In addition, he alleged that the falling demand for bulk nails could be stopped or even reversed slightly if the price of CR nails rose dramatically.¹²

Cost Share

CR nails make up approximately 1 to 3 percent of the total cost of re-roofing¹³ and a much smaller share of the cost of a new home. Changes in the price of nails, therefore, will have little impact on demand for re-roofing or new homes.

SUBSTITUTABILITY ISSUES

Producers and importers were requested to provide information regarding the interchangeability of domestic, subject, and non-subject CR nails and differences between these CR nails. All domestic producers and 11 of the 12 responding importers reported that domestic and subject CR nails were interchangeable.¹⁴ At the conference, representatives of Georgia-Pacific and PrimeSource claimed that Paslode's nails tended to jam in nail guns from other manufacturers but that other domestic and imported CR nails did not.¹⁵ One domestic producer reported no non-price difference between domestic CR nails and imports from subject countries while the remaining domestic producers reported either differences in sales forces or greater customer loyalty to domestic brands. Georgia-Pacific and PrimeSource reported that unlike importers, domestic producers tend to bundle their nail guns and nails.¹⁶

¹⁰ Petition, p. 11.

¹¹ Ibid. One purchaser, ***, reported that staples did not have the holding power of nails. Staff discussion with *** on Dec. 9, 1996.

¹² TR, pp. 86-87.

¹³ TR, pp. 77-78

¹⁴ ***, an importer, reported that Paslode's nails were not interchangeable with all other nails.

¹⁵ TR, pp. 118-119, 127-128.

¹⁶ TR, pp. 131-133.

Non-price differences between domestic and imported nails were reported by 3 of the 11 responding importers. Of the 3 reporting availability differences, *** reported lower availability for domestic CR nails and *** did not specify if domestic or imported nails were less available.¹⁷ All domestic producers and 11 of the 13 responding importers reported that subject and non-subject imported CR nails were interchangeable.¹⁸

Three domestic producers reported the average lead time between a customer's order and delivery to be between *** and ***. According to the importers, the average lead times ranged from the same day to 120 days. Lead times over a month were reported by 7 of the 13 responding importers, although two of these also reported much shorter lead times for sales from inventory.

Importers do not always make distinctions in their inventories between CR nails imported from the subject countries and non-subject countries.¹⁹ Twelve of the 13 responding importers reported that nails from China, Taiwan, and Korea were interchangeable.²⁰ Five of 11 responding importers, however, reported that Chinese CR nails were of lower quality than those from Korea and Taiwan. In addition, 2 of the 11 responding importers reported that Korean CR nails were of better quality than those from Taiwan, although one of these reported that it had heard good nails could be purchased from Taiwan.

¹⁷ At the conference, PrimeSource reported difficulty obtaining some domestic nails. TR, p. 98.

¹⁸ *** reported that ***. *** reported that imported nails from the subject and non-subject countries were not interchangeable but it had "no idea" of why.

¹⁹ *** reported that its inventory records did not differentiate between imported and domestic CR nails. *** did not maintain figures on imports by country of origin.

²⁰ *** reported that nails from China, Taiwan, and Korea were not interchangeable but reported it had "no idea" of why.

PART III: CONDITION OF THE U.S. INDUSTRY

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in parts IV and V. Information on the other factors specified is presented in this section and/or part VI and (except as noted) is based on the questionnaire responses of three firms that accounted for at least 99 percent of U.S. production of CR nails during the period for which data were collected.

U.S. PRODUCERS

In addition to the petitioner, which operates a single plant in Augusta, AR, two other firms produce CR nails in the United States: Stanley-Bostitch Inc. (wholly owned by Stanley Works, New Britain, CT), at a plant in East Greenwich, RI; and International Staple and Machine Co. (wholly owned by ATRO, Italy), at plants in Butler, PA, Southgate, CA (Air Nail Co.), and Merrin, IL (Container Stapling Co.).¹ Both firms ***. Paslode's plant is relatively new, built in early 1995 to replace an older plant in Pontotoc, MS. With the exception of the heading equipment (equipment used to form the nails' heads), the equipment used in these plants for the production of CR nails is not strictly specific to CR nails, although for the most part these firms restrict the production of different types of nails and fasteners to different production lines. Of the subject product, each firm produces a complete line and markets its lines nationally.² In terms of production and U.S. shipments, Bostitch predominates--accounting for over *** percent of U.S. shipments (by quantity) in January-September 1996. Paslode accounted for all but about *** percent of the remainder. Bostitch and International ***.

U.S. PRODUCTION, CAPACITY, CAPACITY UTILIZATION, SHIPMENTS, INVENTORIES, AND EMPLOYMENT

Data for the U.S. producers are shown in table III-1. In most categories the data increase from 1993 to 1995 and then decline by varying degrees from January-September 1995 to January-September 1996. Capacity and productivity (in terms of CR nails produced per hour worked) continued to increase throughout the period as producers, particularly Paslode, continued to build in new efficiencies by reconfiguring their operations. In addition, Paslode installed new capacity in 1993 and built a new plant (replacing its old plant in Pontotoc, MS) in early 1995. The capacity of this plant continued to increase in 1996 as it became more fully on line and its work force became more efficient in its operation. Unlike most of the data shown, exports continued to increase in 1996; however, exports are small relative to domestic shipments. Although the trends in employment data are not unlike the rest, it should be noted that they do not include Bostitch--which reported it was unable to estimate this information nor report it accurately without several weeks added to the due date of its questionnaire response.

¹ Under a toll arrangement, a relatively small plant in Ferndale, WA--the Tree Island Fastener Division of Tree Island Industries Ltd., New Westminster, BC, Canada--collates small quantities of roofing nails produced by its parent firm in Canada. Its production (by quantity) amounts to less than *** percent of the domestic total.

² Bostitch and Paslode also produce the pneumatic tools for CR nail application, although they maintain that sales of these products are negotiated separately. As noted earlier, there appears to be considerable controversy as to whether Paslode's nails can be used reliably in other producers' pneumatic tools, and whether its tools will accept other producers' nails. (Paslode admits that its tools must use its nails, but contends that modifying them to accept other producers' nails is a relatively small operation and is widely practiced).

Table III-1

CR nails: U.S. production, average practical capacity, capacity utilization, domestic shipments, exports, end-of-period inventories, average number of U.S. production and related workers, and hours worked by and wages paid to such workers, 1993-95, Jan.-Sept. 1995, and Jan.-Sept. 1996

* * * * *

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

The overwhelming bulk of CR nails imported into the United States are produced in China, Korea, and Taiwan.¹ CR nails from other countries, such as Canada, Spain, Indonesia, and Mexico, have entered the United States, but to date only in small quantities and on a limited basis. The petitioner estimates that imports from countries other than China, Korea, and Taiwan account for less than 5 percent of the subject product's consumption in the United States.

As previously noted, the vast majority of foreign-produced CR nails are imported by large, independent distributors of fastener products which have also traditionally purchased from U.S. producers. Those that import from one or more of the countries under investigation include Georgia-Pacific Corp., Atlanta, GA; ***, PrimeSource Building Products, Carrollton, TX; ***. The distributors add no value to either the foreign- or U.S.-produced product.

U.S. imports, by sources, are shown in table IV-1.² In the aggregate, import quantities increased by 33.5 percent from 1993 to 1995 and by 7.5 percent from January-September 1995 to January-September 1996. As import quantities increased, average unit values decreased. Aggregate unit values remained considerably lower than the average unit value of U.S. producers' shipments throughout the period for which data were collected; however, the value data were based on the same 75-percent proportion as were the quantity data and this may not accurately reflect the value of the subject product. The quantity of subject imports based on questionnaires submitted by most of the largest importers is shown below (in 1,000 pounds):

<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>Jan.-Sept.--</u> <u>1995</u>	<u>1996</u>
18,431	23,575	25,414	18,987	22,527

The data show imports at an average of 37 percent below the levels shown in table IV-1; however, the increase in imports is more marked--37.9 percent from 1993 to 1995 and 18.6 percent from January-September 1995 to January-September 1996.

Apparent U.S. consumption and respective shares of imports and U.S. producers' shipments based on petitioner's 75-percent allocation of official import data are shown in table IV-2. The data show U.S. consumption of CR nails increasing by *** percent from 1993 to 1995 and by *** percent from January-September 1995 to January-September 1996, largely reflecting the increase in new housing starts

¹ Petitioners allege "critical circumstances" (massive imports and a history of dumping) with respect to China.

² Imports from sources other than the subject countries, known to exist but only in small quantities, have not been estimated and are excluded from the data. Imports for the subject countries are shown at 75 percent of the quantity and value of Commerce's official statistics for HTS subheading 7317.00.55.05, the statistical reporting number for all collated nails. The estimate respects the petitioner's estimate of the proportion of official data that relates to the subject product, based on an estimate of the total U.S. market for CR nails less U.S. producers' share. The petitioner's estimate of the total U.S. market was based on total domestic asphalt shingle sales, adjusted for the proportion of those estimated to be secured with CR nails (as opposed to bulk nails and staples). Respondents did not raise objection to the 75-percent factor as such. The data for China include Macau and Hong Kong--Chinese-produced CR nails are known to be exported through Macau and Hong Kong, and there are no known producers of CR nails in either of these countries.

Table IV-1

CR nails: U.S. imports, by sources,¹ 1993-95, Jan.-Sept. 1995, and Jan.-Sept. 1996

Item	1993	1994	1995	Jan.-Sept.-- 1995	1996
<i>Quantity (1,000 pounds)</i>					
China	2,871	4,198	7,543	5,562	6,607
Korea	17,939	18,637	15,369	12,073	9,944
Taiwan	9,678	16,654	17,797	13,618	17,051
Total	30,487	39,489	40,709	31,253	33,602
<i>Value (1,000 dollars)</i>					
China	1,078	1,698	3,475	2,604	2,897
Korea	11,927	12,030	9,729	7,541	6,249
Taiwan	6,663	10,179	10,862	8,357	10,680
Total	19,668	23,908	24,067	18,502	19,826
<i>Unit value (dollars per pound)</i>					
China	\$0.38	\$0.40	\$0.46	\$0.47	\$0.44
Korea	0.66	0.65	0.63	0.62	0.63
Taiwan	0.69	0.61	0.61	0.61	0.63
Average	0.65	0.61	0.59	0.59	0.59
<i>Share of total quantity (percent)</i>					
China	9.4	10.6	18.5	17.8	19.7
Korea	58.8	47.2	37.8	38.6	29.6
Taiwan	31.7	42.2	43.7	43.6	50.7
Total	100.0	100.0	100.0	100.0	100.0
<i>Share of total value (percent)</i>					
China	5.5	7.1	14.4	14.1	14.6
Korea	60.6	50.3	40.4	40.8	31.5
Taiwan	33.9	42.6	45.1	45.2	53.9
Total	100.0	100.0	100.0	100.0	100.0

¹ The data for China include Macau and Hong Kong.

Note.--Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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

since the early 1990s. Relative to consumption, imports from China, Korea, and Taiwan were large and increasing. Imports from these countries comprised the bulk of consumption throughout the investigative period, rising as a share of consumption from *** percent in 1993 to *** percent in January-September 1996. Concurrently, U.S. producers' share fell from *** percent to *** percent. U.S. consumption and the ratio of subject-country imports to consumption based on the aforementioned questionnaire returns are shown below (in 1,000 pounds and percent).

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>Jan.--Sept.--</u> <u>1995</u>	<u>1996</u>
U.S. consumption	***	***	***	***	***
Subject-countries' share	***	***	***	***	***

Table IV-2

CR nails: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 1993-95, Jan.-Sept. 1995, and Jan.-Sept. 1996

* * * * *

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

U.S. Inland Transportation Costs

Four of 8 responding importers of CR nails indicated that transportation costs are between 1 and 3 percent of the total delivered costs; the remaining importers reported higher transportation costs, up to 20 percent of total delivered costs.¹ The U.S. producers reported transportation costs of ***, ***, and *** percent of the total delivered costs of CR nails.

Exchange Rates

China

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese yuan depreciated by 30 percent in relation to the U.S. dollar during the period January-March 1993 through July-September 1996 (figure V-1). The yuan technically fell more than 30 percent between October-December 1993 and January-March 1994 due to a change in the way the People's Bank of China sets the exchange rate.² From January-March 1994 through July-September 1996, the yuan appreciated by 5 percent. Producer price information for China is unavailable; thus, real exchange rates cannot be calculated.

Taiwan

Quarterly data reported by the Central Bank of China indicate that the nominal value of the Taiwanese NT dollar depreciated relative to the U.S. dollar by 4 percent from January-March 1993 to January-March 1994, after which it appreciated by 4 percent from January-March 1994 to April-June 1995. From April-June 1995 to April-June 1996, it depreciated to 6 percent below its initial value. The real exchange rate depreciated by 3 percent from January-March 1993 to October-December 1993, appreciated by 8 percent from October-December 1993 to April-June 1995, then declined by 10 percent from April-June 1995 to April-June 1996 (figure V-2).³

Korea

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Korean won depreciated by 2 percent from January-March 1993 to October-December 1993. It then appreciated by 6 percent from October-December 1993 to April-June 1995. From April-June 1995 to July-September 1996, the value of the won fell by 8 percent. The real value of the Korean won rose by 0.3 percent between January-March 1993 and July-September 1996. From January-March 1993 to October-December 1993, it fell 1 percent and from October-December 1993 to July-September 1995 it rose by 8 percent. Between July-September 1995 and April-June 1996 it fell 7 percent (figure V-3).⁴

¹ These importers reported that transportation made up *** percent of total delivered costs.

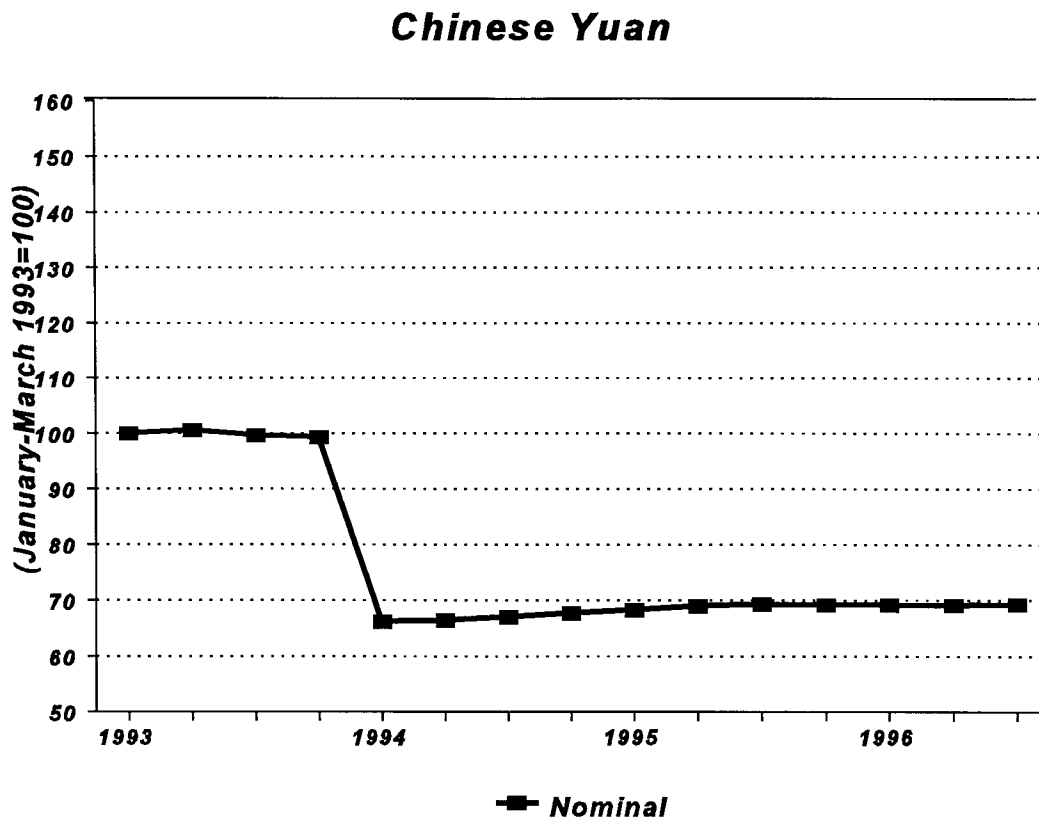
² International Monetary Fund, *International Financial Statistics*, Sept. 1995, p. 168.

³ Data for July-September 1996 are unavailable.

⁴ Data for the consumer price index for July-September 1996 are unavailable; therefore, exchange rates are not presented for this period.

Figure V-1

Exchange rates: Index of the nominal exchange rate between the Chinese yuan and the U.S. dollar, by quarters, Jan. 1993-Sept. 1996

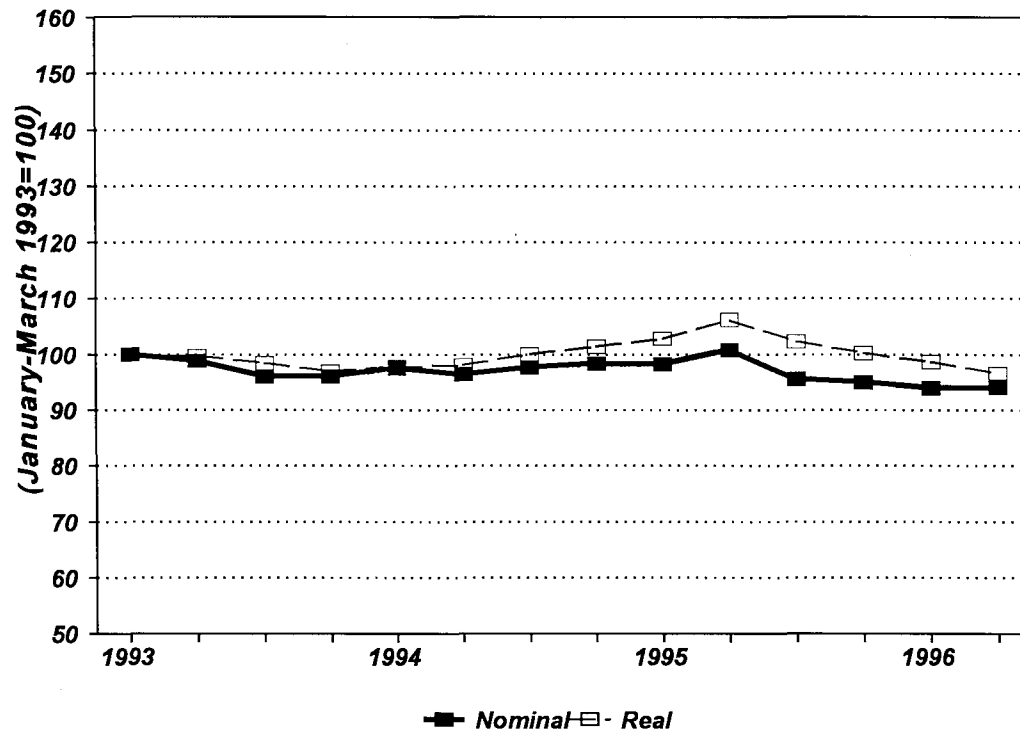


Source: International Monetary Fund, *International Financial Statistics*, December 1996.

Figure V-2

Exchange rates: Indices of the nominal and real exchange rates between the Taiwanese NT dollar and the U.S. dollar, by quarters, Jan. 1993-June 1996

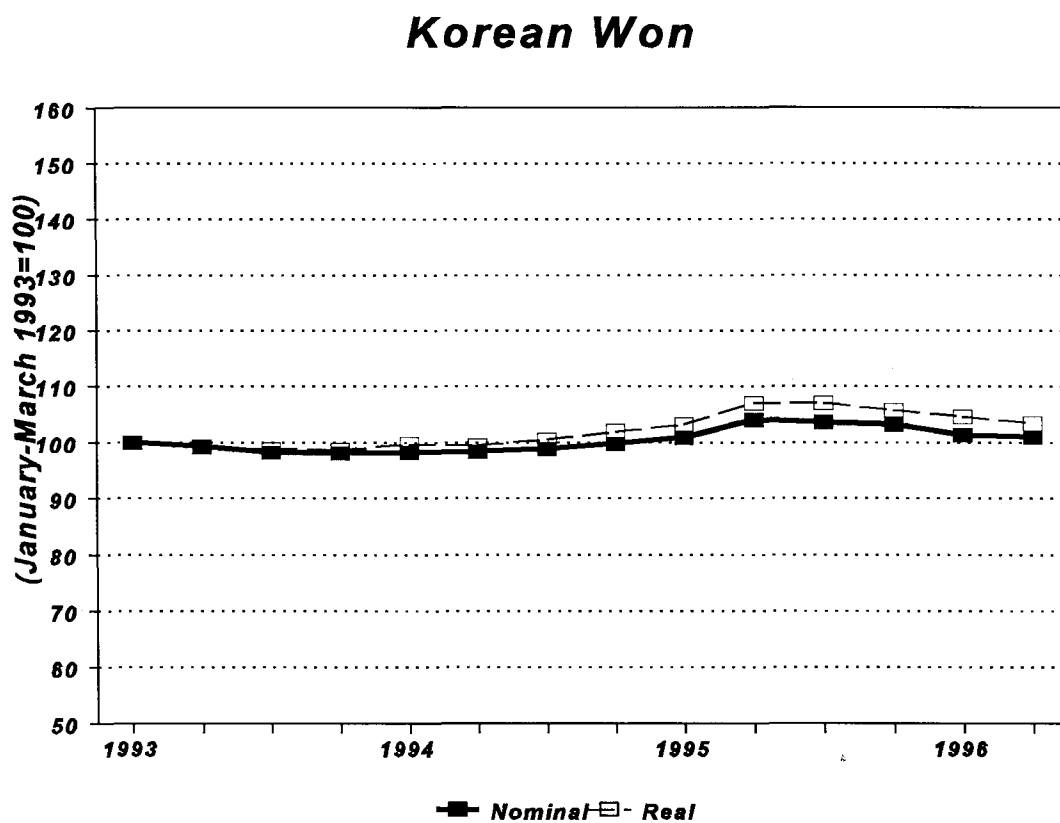
Taiwan NT Dollar



Source: The Central Bank of China, *Financial Statistics, Taiwan District, the Republic of China*, July 1996.

Figure V-3

Exchange rates: Indices of the nominal and real exchange rates between the Korean won and the U.S. dollar, by quarters, Jan. 1993-June 1996



Source: International Monetary Fund, *International Financial Statistics*, December 1996.

PRICING PRACTICES

All of the responding domestic producers and 8 of the 13 responding importers distribute price lists. *** responding domestic producers and 8 of the 12 responding importers reported offering quantity or full container/truckload discounts off list prices. *** domestic producers and 9 of 13 importers reported that they made all their sales of CR nails on a spot basis, or sold based on a price list. Three importers reported selling 15 percent or less of their CR nails on contract, and *** sold only on contract. All responding domestic producers and 5 of 11 responding importers reported selling on an f.o.b. basis. The remaining 6 importers reported selling on a delivered basis. Typical terms of sales are net 30 days; however, 3 of the 11 responding importers required payment within 15 days or sooner.⁵

PRICE DATA

The Commission requested U.S. producers and importers to report the total net U.S. delivered value and quantity shipped for sales of 1-inch and 1-1/4-inch CR nails to unrelated U.S. customers in each quarter. These data were used to determine the average price. Domestic producers were requested to provide quantity and value data separately for sales to distributors and to firms that sell to end users. This, however, proved difficult to do because many distributors are also retailers.⁶ Therefore, the price data for distributors and retailers are combined. Importers were requested to provide quantity and value data only for nails sold to U.S. firms that resell the nails, and not to report data for CR nails importers sold directly to end users. Quarterly quantity and value data were requested from January-March 1993 through July-September 1996, for the following products:

Product 1: galvanized CR nails, 1-inch in length, price per 7,200 nail box.

Product 2: galvanized CR nails, 1-1/4 inches in length, price per 7,200 nail box.

Three U.S. producers and 6 importers⁷ provided usable pricing data for sales of the requested products in the U.S. market, although not necessarily for both products or all quarters over the period examined. Two importers, ***, reported that they did not maintain separate inventories by country of origin and thus could not provide data in the manner requested by the Commission.⁸ Weighted-average price data are presented in tables V-1 and V-2 and figures V-4 and V-5. Usable pricing data reported are estimated to account for *** percent of U.S. shipments of domestic CR nails, and 31.1 percent of U.S. shipments of CR nails imported from China, Taiwan, and Korea combined.

The prices importers reported differed considerably among the importers, with some importers consistently charging much higher or lower prices than others. Prices for the same product, imported from the same country, and reported for the same quarter, varied by as much as 112 percent between importers. In any quarter, differences between the highest and lowest prices charged by the importers from Korea and Taiwan were usually more than \$10 per box. Most of the price variation for imports from quarter to quarter

⁵ ***.

⁶ ***.

⁷ *** reported only annual data on quantities and values. These have been allocated evenly among the quarters to be combined with other data.

⁸ *** combined U.S.-produced and imported CR nails when reporting quantity and value data; as a result, these data could not be used in the pricing data.

Table V-1

CR nails: Weighted-average net delivered prices (per 7,200-nail boxes) and quantities for sales to unrelated U.S. customers for product 1 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1993-Sept. 1996

* * * * *

Table V-2

CR nails: Weighted-average net delivered prices (per 7,200-nail boxes) and quantities for sales to unrelated U.S. customers for product 2 reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, Jan. 1993-Sept. 1996

* * * * *

Figure V-4

CR nails: Weighted-average net delivered prices for sales of product 1 to U.S. customers reported by U.S. producers and importers, by quarters, Jan. 1993-Sept. 1996

* * * * *

Figure V-5

CR nails: Weighted-average net delivered prices for sales of product 2 to U.S. customers reported by U.S. producers and importers, by quarters, Jan. 1993-Sept. 1996

* * * * *

reflects changes in quantities sold by individual importers rather than changes in the price individual importers charge.⁹

U.S. Producers' and Importers' Prices

U.S. Product

U.S. producers' prices for product 1 ranged from *** to *** per box. U.S. producers' prices for product 2 ranged from *** to *** per box. Prices for products 1 and 2 did not follow similar trends. The price of product 1 was at its lowest in the first two quarters of 1993 and rose to its peak in January-March

⁹ Price variation also does not appear to be due to sales in different regions since 9 of the 13 importing firms were national.

1995. In the first two quarters of 1996 prices fell below both 1994 and 1995 levels, although they remained above the lowest price of early 1993. Over the entire period of investigation, the price of product 1 rose by *** percent. The price of product 2 rose slightly in 1993, reaching its peak in the final quarter of that year. The price fell in April-June 1994 and then rose again in the remainder of 1994. Throughout 1995, the price was below 1994 prices. Prices continued to slide in 1996, reaching their lowest level during April-June 1996. Over the entire period of investigation, the price of product 2 fell by *** percent.

Chinese Product

No prices for Chinese product were reported for 1993 or the first quarter of 1994. Prices for product 1 fluctuated from a low of *** per box in the third quarter of 1995 to a high of *** per box in the third quarter of 1994. No discernable price trend can be identified for product 1, although the price fell by *** percent over the period for which data are available. Prices for product 2 ranged from a high of *** per box in the third quarter of 1994 to a low of *** per box in the third quarter of 1996. The price of product 2 tended to fall, although not steadily, and over the period of investigation it fell by *** percent.

Taiwanese Product

Prices reported by importers of product 1 ranged from *** to *** per box. No overall price trend could be seen in these data. The price was at its maximum in April-June 1995 and was at its minimum in January-March 1994. Prices fluctuated sharply from quarter to quarter, with the final price 13.7 percent below the initial price. Reported prices for product 2 ranged from *** to *** per box. Prices fell with some interruptions over the period of investigation, with the final price 17.2 percent below the initial price. The price was highest in April-June 1993 and lowest in January-March 1996.

Korean Product

Prices reported by importers of product 1 ranged from *** to *** per box, fluctuating a great deal from quarter to quarter. The highest price was in July-September 1994 and the lowest price was in April-June 1996. The prices in 1996 were generally below 1993-95 prices, with the final price 7.8 percent below the initial price. Reported prices for product 2 ranged from *** to *** per box, reaching their peak in the second quarter of 1993 and their minimum in the first quarter of 1996. The price did not follow a steady trend, with the peak price in April-June 1993 well above the prices for the quarters before and after. Prices in the first three quarters of 1996 were below prices in all but 3 quarters of 1993-95. Over the entire period of investigation, prices rose by 0.2 percent.

Price Comparisons

Tables V-1 and V-2 show the margins of underselling/(overselling) for CR nails from January-March 1993 through July-September 1996 for all countries. For China, margins of underselling ranged from 21.8 to 30.1 percent for product 1 and from 21.5 to 28.1 percent for product 2, with 19 instances of underselling and no overselling. For products 1 and 2 from Taiwan, there was 1 instance of overselling and 29 instances of underselling. The margin of overselling for product 1 was 1.7 percent and underselling margins ranged from 7.6 to 22.3 percent. Margins of underselling ranged from 6.1 to 20.4 percent for product 2 from Taiwan. For Korean product 1, there were 9 instances of overselling and 6 instances of underselling; margins of overselling ranged from 1.1 to 17.2 percent and underselling ranged from 1.0 to 13.3 percent. For Korean product 2, there was underselling in each of the 15 quarters; margins ranged from 6.4 to 17.7 percent.

LOST SALES AND LOST REVENUES

All of the responding producers alleged lost sales and/or lost revenues due to imports of CR nails from China, Taiwan, and/or Korea; however, only Paslode provided enough information to allow purchasers to verify the information. Paslode reported *** firms to which it allegedly lost sales;¹⁰ in *** of these cases it also reported information on lost revenues (tables V-3 and V-4). Staff obtained comments from *** of the *** purchasers named as detailed below.¹¹ Of 4 lost revenue allegations, it was not possible to get information in 3 instances, and 1 instance was denied. Of 13 specific lost sales allegations, 5 were confirmed or partially confirmed by the purchasers, 7 were denied by the purchasers, and in *** getting the information was not possible.

*** named *** in a lost revenue allegation. *** of *** reported that the price was low because *** was trying to unload a large quantity quickly, not because of competition from imports.¹² Furthermore, *** said that ***.

*** was named in *** lost sales allegations. *** reported that he purchases CR nails from Indonesia.¹³ In the past year he purchased ***¹⁴ of nails from Taiwan, which he purchased from an *** dealer; all other nails came from ***. He reported that CR nails from *** cost *** to *** per box.

*** was named in a lost sale allegation. According to ***, *** had switched from purchasing solely domestic CR nails to purchasing both domestic and Taiwanese CR nails in late ***.¹⁵ *** reported that *** had purchased approximately *** boxes of imported CR nails, rather than domestic CR nails, to remain price competitive and retain customers.

*** was named in a lost sales allegation claiming losses of ***. *** stated that *** sold about *** boxes of imported 1- and 1-1/4-inch nails so far this year.¹⁶ He reported that *** purchased nails from Taiwan because they were of comparable quality to *** nails and less expensive.

*** was named in a lost sale allegation of ***. *** of *** reported that he has been selling nails from only one domestic source for a number of years.¹⁷ He did not know whether these nails were imported or produced domestically.

*** was named in ***. *** stated that *** had sold only domestic (Paslode's) nails; however, customers requested other types of nails because Paslode's nails did not fit into other companies' nail guns.¹⁸ He reported that *** purchased CR nails imported from China, Taiwan, and Korea and that these nails cost *** to *** per box, and sometimes cost more than domestic nails. Price, he stated, was not the reason his firm switched to selling both imported and domestic nails.

*** was named in another allegation of lost sales of ***. *** reported that branches of *** sold imports, but that the *** cited in the allegation did not purchase any imported CR nails because *** building regulation required domestic CR nails.¹⁹

¹⁰ *** firms were listed under lost sales in app. 24 of the petition. In addition, *** firms were listed as lost customers in app. 25. All of these are included in the lost sales allegations covered in this section.

¹¹ ***.

¹² Discussion with Commission staff, Dec. 12, 1996.

¹³ Discussion with Commission staff, Dec. 12, 1996.

¹⁴ A container would contain approximately 1,000 boxes of nails.

¹⁵ Discussion with Commission staff, Dec. 12, 1996.

¹⁶ Discussion with Commission staff, Dec. 9, 1996.

¹⁷ Discussion with Commission staff, Dec. 9, 1996.

¹⁸ The wires used to collate Paslode's nails are placed closer to the head of the nail than those used to collate other nails. As a result, according to ***, Paslode's nails are the only ones that fit into its nail guns. Discussion with Commission staff, Dec. 12, 1996.

¹⁹ Discussion with Commission staff, Dec. 9, 1996.

Table V-3

CR nails: Lost revenue allegations reported by Paslode

* * * * *

Table V-4

CR nails: Lost sales allegations reported by Paslode

* * * * *

*** was cited in an instance of alleged lost sales of approximately ***. *** stated that *** is currently purchasing imported nails, chiefly from Korea.²⁰ He reported that *** sold approximately *** boxes per month, rather than the ***, and that *** now sold very few domestic nails because the price of imports was much lower.

*** was cited in a lost sales allegation. It reported that it had price quotes of *** from China and *** from Taiwan and that it purchased approximately *** boxes of CR nails from Korea and Taiwan.²¹ It reported that imported nails were purchased because the roofing business is extremely competitive and users purchased the cheapest possible nails that work. *** reported that it prefers to purchase domestic nails; however, the market dictates that it purchase less expensive, imported nails in order to remain competitive.

*** was alleged to be a lost customer with lost sales amounting to ***. *** of *** stated that he had stopped purchasing domestic nails for his branch because imports were priced so much lower.²² He reported that he purchased imported CR nails for *** per box or a little less and that domestic nails were *** per box. Before switching to selling mainly imports, he reported that *** had sold *** boxes per month of *** CR nails. *** reported that roofers used to request domestic nails by brand name but now the price difference was so great they were no longer interested in domestic nails. He did not know the country of origin of the imported nails his firm sold.

*** alleged that *** was a lost customer. *** of *** reported that in the last 7 years he had purchased *** of nails from ***.²³ *** purchases most of its nails from *** and these nails are mainly ***. *** reported that if *** sales to *** had fallen it may have been because ***.

²⁰ Discussion with Commission staff, Dec. 6, 1996.

²¹ Information provided in writing, Dec. 16, 1996.

²² Discussion with Commission staff, Dec. 9, 1996.

²³ Discussion with Commission staff, Dec. 12, 1996.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Three producers provided financial information on their operations producing CR nails. Paslode, the petitioner, accounted for *** percent of reported production in interim 1996, Bostitch *** percent, and International *** percent.

Paslode is a division of Illinois Tool Works, a large public company. Its Augusta, AR plant is the only Paslode plant that produces CR nails. The plant began operations in 1995 and is primarily dedicated to producing the subject product. Previously, Paslode produced CR nails at its Pontotoc, MS plant. Bostitch produces CR nails at its East Greenwich, RI plant. The plant is part of the fastener division of the Stanley Bostitch company, a wholly owned subsidiary of Stanley Works, a large public company. For both Paslode and Bostitch, CR nails represent an insignificant portion of their corporate parent companies' revenues. International is a wholly-owned subsidiary of ATRO, an Italian company.

OPERATIONS ON COLLATED ROOFING NAILS

Income-and-loss data on CR nails is shown in table VI-1. ***. Separate data for each firm, including the two interim periods, are presented in table VI-2

* * * * *

Table VI-1

Income-and-loss experience of U.S. producers their CR nail operations, fiscal years 1993-95

* * * * *

Table VI-2

Income-and-loss experience of U.S. producers (by firm) on their CR nail operations, 1993-95, Jan.-Sept. 1995, and Jan.-Sept. 1996

* * * * *

The variance analysis is shown in table VI-3. Because of the product-mix factors, the variance analysis may not provide a reasonable indication of the interaction of prices, costs, and volume on changes in profitability.

Table VI-3
Variance analysis of the results of U.S. producers' CR nail operations, fiscal years 1993-95

* * * * *

**INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES,
AND RESEARCH AND DEVELOPMENT EXPENSES**

The value of fixed assets (property, plant, and equipment), capital expenditures, and research and development costs are shown in table VI-4. ***.

Table VI-4
Value of assets, capital expenditures, and research and development expenses, by firm, of U.S. producers used for the production of CR nails, fiscal years 1993-95, Jan.-Sept. 1995, and Jan.-Sept. 1996

* * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of CR nails from China, Korea, and/or Taiwan on their growth, investment, ability to raise capital, and their development efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown below:

Actual Negative Effects

* * * * *

Anticipated Negative Effects

* * * * *

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(I)). Information on the volume and pricing of imports of the subject merchandise is presented in parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

Little is known of the Chinese industry. According to the petitioner, at least two firms (China Wuxi Zhenfen Screw Factory, Wuxi; and Shanghai Minmetals, Shanghai) and one industrial group (Zhejiang Material Industry Group, Hangzhou) manufacture and/or export CR nails.¹ Other known producers are Stanley-Bostitch Daxing, a Bostitch subsidiary and the ***, Beijing Central Top Metal M.E. Co. Ltd., Beijing, source of *** imports; Crown Champ Industries, owned by a Taiwanese producer (K. Ticho Industries Co., Ltd.) and the source of *** imports; and Shandong Industrial Co., source of *** imports. It is believed that all of the CR nails made in China are exported--there is no known market for their application in China.

Kabool Metals Inc., which estimates it accounts for *** percent of its country's production of CR nails, is the predominant producer in Korea. Data relating to its CR-nail operations, which account for about *** percent of its total sales, are shown in table VII-1. The data show capacity levels at about *** those of the U.S. industry. Kabool reported that its production exceeded its stated capacity throughout the investigative period because it operated its facility beyond the parameters of its capacity calculations (*** hours per week, *** weeks per year). As in the case of China, there is no market for CR nails in Korea. All of Kabool's production was exported and, as shown in table VII-1, most of its exports were to the United States. Between July and September of 1996, the firm shifted production to a new but smaller facility, resulting in a slight decline in stated capacity. Other producers in Korea known to have exported to the United States include Rewon Metals, Seoul; Koram Steel Co., Ltd., Taegu; Handuk Ind.; and Senco Korea, a joint venture between Senco and Korean interests.

The dominant producers of CR nails in Taiwan are Unicatch Industrial Co., Ltd., Nantou City, and K. Ticho Industries Co., Ltd., Kaohsiung. At least two other producers, however, were reported by distributors as the source of their imports: Basso Industrial Corp. and Trim International. For other than Unicatch, details of these producers' operations are currently unknown; however, it is likely that all of the CR nails they produce are exported since, like China and Korea, there is no known market for the subject product in Taiwan. Data related to Unicatch's CR-nail operations, which account for about *** percent of its total sales, are shown in table VII-2. Like Kabool, all of Unicatch's production was exported, and most of its exports were to the United States. Overtime working shifts were added in 1996 to meet increased demand, resulting in production levels in excess of reported capacity. The company did not estimate the percentage of total CR-nail production in Taiwan it accounted for.

¹ The Commission sent questionnaires to each of these firms, but no response has been received to date. No manufacturers or exporters in China retained counsel in these investigations.

Table VII-1

CR nails: Production, capacity, shipments, and exports of Kabool Metals Inc. (Korea), 1993-95, Jan.-Sept. 1995, and Jan.-Sept. 1996

* * * * *

Table VII-2

CR nails: Production, capacity, shipments, and exports of Unicatch (Taiwan), 1993-95, Jan.-Sept. 1995, and Jan.-Sept. 1996

* * * * *

As far as it is known, the subject product produced in China, Korea, and Taiwan is not subject to any antidumping-duty orders or any investigations thereof outside the United States.

Importers' end-of-period inventories of imported CR nails, summarized from questionnaire responses, are shown below (in 1,000 pounds):

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>Jan.-Sept.--</u> <u>1995</u>	<u>1996</u>
China	***	***	***	***	***
Korea	***	***	***	***	***
Taiwan	***	***	***	***	***
Total	806	722	646	400	347

Overall, the data show a general decline in inventories; however, the data reflect the operations of importers that represent only about 25 percent of the total imports reported in questionnaire responses. Most importers were unable to provide this information, either because it was not readily retrievable or because variously-sourced CR nails were not inventoried separately.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION**

**[Investigations Nos. 731-TA-757-759
(Preliminary)]**

**Collated Roofing Nails From China,
Korea, and Taiwan**

AGENCY: United States International
Trade Commission.

ACTION: Institution of antidumping
investigations and scheduling of
preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping Investigations Nos. 731-TA-757-759 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China, Korea, and Taiwan of collated roofing nails, provided for in subheading 7317.00.55 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. § 1673a(c)(1)(B)), the Commission must reach preliminary determinations in antidumping investigations in 45 days, or in this case by January 10, 1997. The Commission's views are due at the Department of Commerce within five business days thereafter, or by January 17.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207), as amended in 61 FR 37818 (July 22, 1996).

EFFECTIVE DATE: November 26, 1996.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-205-3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the

Commission may also be obtained by accessing its internet server (<http://www.usitc.gov> or <ftp://ftp.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on November 26, 1996, by the Paslode Division of Illinois Tool Works Inc., Vernon Hills, Illinois.

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

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

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on December 17, 1996, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-205-3185) not later than noon, December 16, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may

request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 20, 1996, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

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

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: November 27, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96-30823 Filed 12-03-96; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE
International Trade Administration

(A-570-850, A-580-827, and A-583-826)

Initiation of Antidumping Duty Investigations: Collated Roofing Nails From the People's Republic of China, the Republic of Korea, and Taiwan

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

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT:

Dorothy Tomaszewski at (202) 482-0631 or Everett Kelly at (202) 482-4194, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Initiation of Investigations
The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA").

The Petition

On November 26, 1996, the Department of Commerce ("the Department") received a petition filed in proper form by Paslode Division of Illinois Tool Works Inc. ("petitioner"). The Department received supplemental information to the petition on December 11, 1996, and December 16, 1996.

In accordance with section 732(b) of the Act, petitioner alleges that imports of Collated Roofing Nails ("CR nails") from the People's Republic of China ("PRC"), the Republic of Korea ("Korea"), and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that petitioner has standing to file the petition because it is an interested party as defined in section 771(9)(C) of the Act.

Scope of Investigations

The products covered by these investigations are CR nails made of steel, having a length of $1\frac{3}{16}$ inch to $1\frac{1}{2}$ inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.

CR nails within the scope of these investigations are classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 7317.00.55.05. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that petitions be filed on behalf of the domestic industry. In this regard, section 732(c)(4)(A) of the Act requires the Department to determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports the antidumping petition. A petition meets the minimum requirements if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the statute defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. However, while both the Department and the ITC must apply the same statutory definition of domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such

differences do not render the decision of either agency contrary to the law.¹

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

As noted earlier, the petition is limited to collated roofing nails. The Department has no basis on the record to find this definition clearly inaccurate. In this regard, we have found no basis on which to reject petitioner's representations that there are clear dividing lines, in terms of characteristics and uses, between the collated roofing nails under investigation on the one hand and, on the other hand, other collated nails and bulk roofing nails. (See December 16, 1996, Memorandum to the File). The Department has, therefore, adopted the like product definition set forth in the petition.

Our review of the production data provided in the petition and other production information obtained by the Department indicates that the petitioners and supporters of the petition account for more than 50 percent of the total production of the domestic like product, thus meeting the standard of section 732(c)(4)(A) of the Act. The Department received no expressions of opposition to the petition from any domestic producers or workers. Accordingly, the Department determines that the petition is supported by the domestic industry.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which our decisions to initiate are based. Should the need arise to use any of this information in our preliminary or final determinations, we will re-examine the information and may revise the margin calculations, if appropriate.

PRC

Petitioner based export price on FOB and CIF price quotations during August and September 1996 from PRC CR nails manufacturers for the sale of 1" and

1 1/4" CR nails. Absent more specific international freight and marine insurance data, CIF prices were reduced for insurance and freight based on the percentage difference between Customs and CIF values reported for U.S. imports of collated nails from PRC to Los Angeles using August 1996 IM-145 Import Statistics for collated nails entered under HTSUS subheading 7317.00.55.05.

With respect to normal value, petitioner asserts that the PRC is a non-market economy ("NME") within the meaning of section 771(18) of the Act. In previous investigations, the Department has determined that the PRC is an NME and, in accordance with section 771(18)(c)(I) of the Act, the presumption of NME status continues for the initiation of this investigation. See, e.g., *Final Determination of Sales at Less Than Fair Value: Bicycles from the PRC*, 61 FR 19026 (April 30, 1996). Accordingly, the normal value of the product should be based on the producer's factors of production, valued in a surrogate market economy country in accordance with section 773(c) of the Act.

In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters. See, e.g., *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the PRC*, 59 FR 22585 (May 2, 1994).

It is the Department's practice in NME cases to calculate NV based on the factors of production of the factories that produced CR nails sold to the United States during the period of investigation.

Petitioner based the PRC producers' factors of production as defined by section 773(c)(3) of the Act (i.e., raw materials, labor, energy, and packing) for CR nails on petitioner's own usage amounts, adjusted for known differences in production processes. In accordance with section 773(c)(4) of the Act, petitioner valued these factors, where possible, on publicly available published Indian data. Where this data was unavailable, petitioner used other acceptable sources of information.

Petitioner stated that because (1) the per-capita gross national product of India and the PRC are relatively close, and (2) the Department considered India and the PRC to be economically comparable in past investigations, the two countries may be considered economically comparable for purposes of this investigation. Further, petitioner stated that India is a producer of comparable merchandise.

Petitioner based surrogate values of material factors on Indian import statistics data and prices published in the Indian chemical trade publication, *Chemical Weekly*. Surrogate labor values were calculated from information on the public record of a previous antidumping duty investigation, *Final Determination of Sales at Less Than Fair Value: Heavy Forged Hand Tools, Finished or Un-Finished, With or Without Handles from the PRC*, 56 FR 241, 245 (January 3, 1991). The surrogate value of electricity was based on an average rate for Indian industries reported in the Confederation of Indian Industry publication, *Handbook of Statistics 1995*. Petitioner based the surrogate value of water on the Asian Development Bank's *Water Utilities Data Book for the Asian and Pacific Region*.

Petitioner based factory overhead, general expenses, and profit on data contained in the "Reserve Bank of India Bulletin," April 1995.

Based on comparisons of export price to normal value, the calculated dumping margins for CR nails from the PRC, after certain corrections deemed appropriate by the Department, range from 106.08 to 118.41 percent ad valorem.

Korea

Petitioner based export price on CNF price quotations from a CR nails manufacturer in Korea for sale of 1-inch and 1 1/4-inch CR nails. Petitioner adjusted the CNF price quotations by subtracting estimated freight charges based on a quotation that petitioner obtained from an international freight carrier.

With respect to normal value, petitioner provided information showing that the Korean market was not viable. Petitioner also provided evidence that Germany was the largest third country market. Therefore, petitioner based normal value on CNF price quotations for the sale of CR nails in Germany.

Based on comparisons of export price to normal value, the calculated dumping margin, revised by the Department to include an additional U.S. price quotation not originally used in the margin calculation in the petition, for CR nails from Korea range from 75.17 to 103.45 percent ad valorem.

Taiwan

Petitioner based export price on CIF price quotations for June 1996 from two Taiwan CR nail manufacturers for the sale of 1-inch and 1 1/4-inch CR nails to the United States. Absent more specific international freight and marine insurance data, petitioner adjusted the

¹ See *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 642-43 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 Fed. Reg. 32376, 32380-81 (July 16, 1991) ("Flat Panel Displays").

CIF price quotations based on the percentage difference between the Customs value and CIF value reported for U.S. imports of collated nails from Taiwan to Los Angeles using June 1996 IM-145 Import Statistics for collated nails entered under HTSUS subheading 7317.00.55.05.

With respect to normal value, petitioner provided information showing that the Taiwanese market was not viable. Additionally, although petitioner obtained a third country price for CR nails, petitioner provided evidence that no third country market is viable. Therefore, petitioner based normal value on CV.

Petitioner's calculation of CV included the cost of manufacturing ("COM"), selling, general and administrative ("SG&A") expenses, and U.S. packing expenses. The manufacturing costs contained in the petition were based on petitioner's own experience and publicly available industry data, adjusted for known differences between production costs incurred in the United States and production costs incurred in Taiwan. For SG&A expenses, petitioner used its own 1995 audited financial statements because it could not obtain financial statements for a Taiwan CR nail producer. Petitioner did not include an amount for CV profit.

Based on the Department's modifications to petitioner's methodology, the estimated dumping margins for Taiwan range from 30.52 to 40.28 percent ad valorem.

Fair Value Comparisons

Based on the data provided by petitioner, there is reason to believe that imports of CR nails from the PRC, Korea, and Taiwan are being, or are likely to be, sold at less than fair value.

Initiation of Investigations

We have examined the petition on CR nails and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating antidumping duty investigations to determine whether imports of CR nails from the PRC, Korea, and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determinations by May 5, 1997.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of the governments of Korea and PRC, as well as to the authorities of Taiwan. We will attempt to provide a copy of the public version of each petition to each exporter named in the petition (as appropriate).

ITC Notification

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

Preliminary Determination by the ITC

The ITC will determine by January 6, 1997, whether there is a reasonable indication that imports of CR nails from the PRC, Korea, and Taiwan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination in any of the investigations will result in that investigation being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

Dated: December 16, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-32406 Filed 12-19-96; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B

WITNESSES AT THE COMMISSION'S CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

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

**Subject : COLLATED ROOFING NAILS FROM
CHINA, KOREA, AND TAIWAN**

Invs. Nos. : 731-TA-757-759 (Preliminary)

Date and Time : December 17, 1996 - 9:30 a.m.

Sessions were held in the Main Hearing Room of the United States International Trade Commission, 500 E St., S.W., Washington, DC.

**In Support of the Imposition of
Antidumping Duties:**

**Creskoff, Doram & Hume
Washington, DC
On behalf of**

The Paslode Division of Illinois Tool Works Inc., Vernon Hills, IL

**Chuck Heinlen, Selling Unit Manager, Roofing Products
John Manfroni, Sales Mgr., Gotham Staple Co., Inc., Cleveland, OH**

**Robert T. Hume)--OF COUNSEL
Stephen M. Creskoff)--OF COUNSEL**

**Skadden, Arps, Slate, Meagher & Flom
Washington, DC
On behalf of**

Stanley-Bostitch, Inc., E. Greenwich, RI

Thomas Graham)--OF COUNSEL

(OVER)

**In Opposition to the Imposition of
Antidumping Duties:**

**White & Case
Washington, DC
On behalf of**

**Unicatch Industrial Co., Ltd., Nantou, Taiwan; and K. Ticho Ind. Co., Ltd.,
Kaohsiung, Taiwan**

John Reilly, Nathan Associates, Washington, DC

Richard G. King)--OF COUNSEL

**Shearman & Sterling
Washington, DC
On behalf of**

Kabool Metals, Seoul, Korea

**Jeff Winton)--OF COUNSEL
Michael Chapman)--OF COUNSEL**

**Graham & James
Washington, DC
On behalf of**

PrimeSource Building Products, Inc., Carrollton, TX

Peter Tolk, Vice President

Randi S. Turner)--OF COUNSEL

**Georgia-Pacific Corporation
Atlanta, GA**

Ralph Morrell, National Product Manager for Metal Products

Zygmunt Jablonsky)--OF COUNSEL