

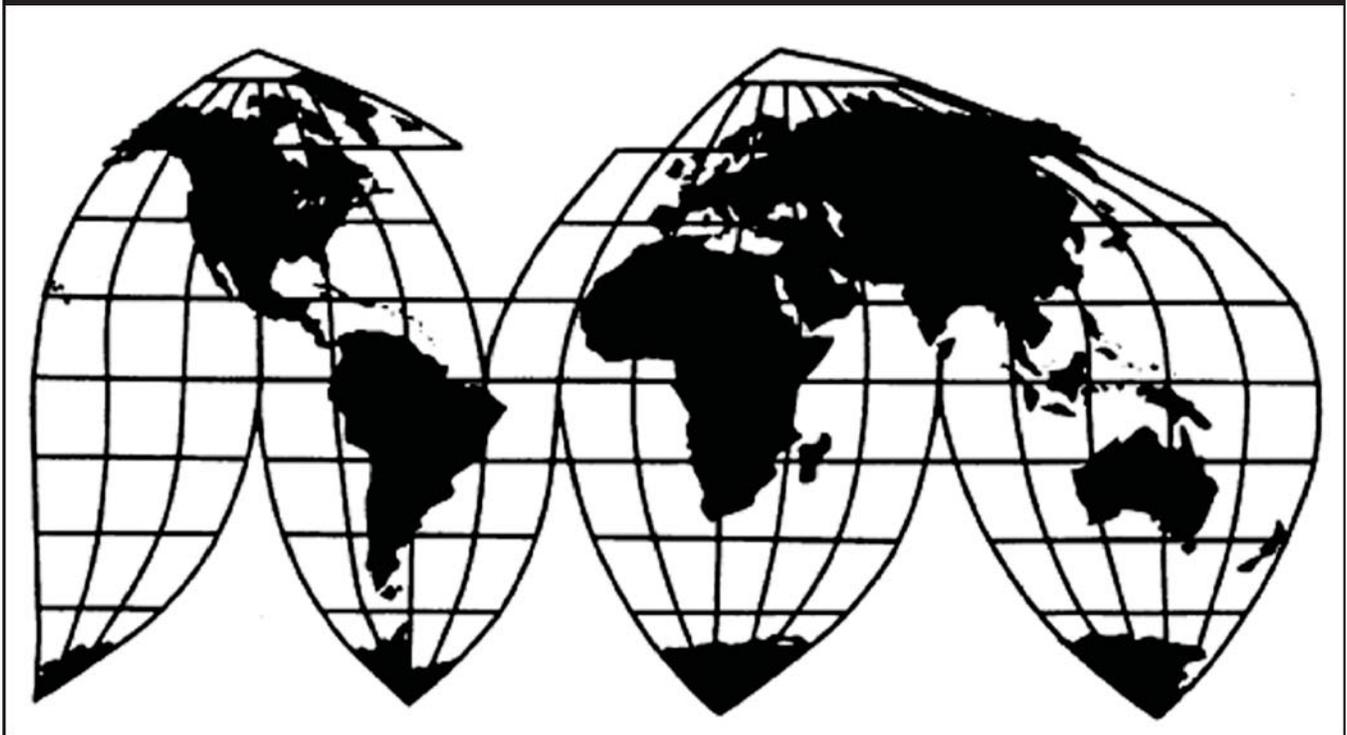
# Drawn Stainless Steel Sinks from China

Investigation Nos. 701-TA-489 and 731-TA-1201 (Preliminary)

Publication 4317

April 2012

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-489 and 731-TA-1201 (Preliminary)

## DRAWN STAINLESS STEEL SINKS FROM CHINA

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of drawn stainless sinks, provided for in subheading 7324.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of China.

Pursuant to section 207.18 of the Commission's rules, 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 sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 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 and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

### BACKGROUND

On March 1, 2012, a petition was filed with the Commission and Commerce by Elkay Manufacturing Company, Oak Brook, IL, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of drawn stainless sinks and subsidized imports of drawn stainless sinks from China. Accordingly, effective March 1, 2012, the Commission instituted countervailing duty investigation No. 701-TA-489 and antidumping duty investigation No. 731-TA-1201 (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 March 7, 2012 (77 FR 13631). The conference was held in Washington, DC, on March 22, 2012, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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



## VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of 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 drawn stainless steel sinks from China that are allegedly subsidized and 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 and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.<sup>1</sup> 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.”<sup>2</sup>

### II. BACKGROUND

The petition in these investigations was filed on March 1, 2012, by Elkay Manufacturing Company (“Petitioner” or “Elkay”), the largest U.S. producer of drawn stainless steel sinks.<sup>3</sup> Petitioner appeared at the staff conference and filed a postconference brief. A representative from Just Manufacturing Company (“Just”), a U.S. producer of drawn stainless steel sinks, also appeared at the staff conference in support of the petition.

A joint brief was filed on behalf of a number of U.S. importers of drawn stainless steel sinks: AmeriSink Inc.; International Concepts in Cabinetry; Nantucket Sinks, MAZI, Inc.; IPT Sink Company; Wells Sinkware Corp.; Empire Industries; Chemcore Industries, Inc.; Kraus USA, Soci LP; VIGO Industries LLC, Lenova Sinks (A&C Global Inc.); and Pelican Sinks International (collectively, “Respondents”). Representatives from several of these companies appeared at the staff conference in opposition to the petition. A representative from an additional U.S. importer of drawn stainless steel sinks, Compass Manufacturing International, LLC (“CMI”), also appeared at the staff conference in opposition to the petition.

Domestic industry data are based on questionnaire responses from five firms that accounted for a very high share of U.S. production of drawn stainless steel sinks between 2009 and 2011. Data for U.S. imports from China and nonsubject countries are based on official Commerce import statistics and questionnaire responses from 36 U.S. importers that are believed to have accounted for 37.2 percent of total subject imports from China and \*\*\* percent of total U.S. imports of drawn stainless steel sinks from nonsubject countries.<sup>4</sup> Foreign industry data are based on responses to the Commission’s foreign

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<sup>1</sup> 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

<sup>3</sup> Confidential Staff Report, “CR” at I-1, Public Staff Report, “PR” at I-1, CR/PR at Table III-2.

<sup>4</sup> Coverage was calculated using the quantity of U.S. imports reported by responding U.S. importers in 2011 compared to official Commerce import statistics, adjusted for fabricated stainless steel sinks. CR at I-4 n.6, PR at (continued...)

producer questionnaire. The Commission received questionnaire responses from six Chinese producers that are believe to have accounted for \*\*\* percent of total exports of drawn stainless steel sinks from China to the United States based on official Commerce import statistics.<sup>5</sup>

### III. DOMESTIC LIKE PRODUCT

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>6</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>7</sup> In turn, the Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . .”<sup>8</sup>

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

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<sup>4</sup>(...continued)  
I-3 n.6.

<sup>5</sup> Coverage was calculated using the quantity of U.S. exports reported by responding Chinese firms compared to official Commerce import statistics, adjusted for fabricated stainless steel sinks. CR at VII-4 n.5, PR at VII-3 n.5.

<sup>6</sup> 19 U.S.C. § 1677(4)(A).

<sup>7</sup> 19 U.S.C. § 1677(4)(A).

<sup>8</sup> 19 U.S.C. § 1677(10).

<sup>9</sup> See, e.g., Cleo Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Dep’t of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

<sup>10</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>11</sup> Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

merchandise that is subsidized or sold at less than fair value,<sup>12</sup> the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>13</sup>

#### **A. Scope Definition**

In its notice of initiation, the U.S. Department of Commerce (“Commerce”) defined the imported merchandise within the scope of these investigations as follows:

The products covered by the scope of this investigation are stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel (“Drawn Stainless Steel Sinks”). Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of the investigation if they are included within the sales price of the Drawn Stainless Steel Sinks.<sup>14</sup> For purposes of this scope definition, the term “drawn” refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Drawn Stainless Steel Sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple bowls that are joined through a welding operation to form one unit are covered by the scope of the investigation. Drawn Stainless Steel Sinks are covered by the scope of the investigation whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the investigation are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as “zero radius” or “near zero radius” sinks.<sup>15</sup>

#### **B. Product Description**

The primary raw material used in drawn stainless steel sinks is stainless steel, which provides a combination of strength, light weight, flexibility, toughness, stain and heat resistance, easy maintenance,

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<sup>12</sup> See, e.g., USEC, Inc. v. United States, 34 Fed. Appx., 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.2d 240 (Fed. Cir. 1989), cert. denied, 492 U.S. 919 (1989).

<sup>13</sup> Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); Torrington, 747 F. Supp. at 748-52 (affirming the Commission’s determination defining six like products in investigations in which Commerce found five classes or kinds).

<sup>14</sup> Mounting clips, fasteners, seals, and sound-deadening pads are not covered by the scope of this investigation if they are not included within the sales price of the Drawn Stainless Steel Sinks, regardless of whether they are shipped with or entered with Drawn Stainless Steel Sinks.

<sup>15</sup> 77 Fed. Reg. at 18,207 (Mar. 27, 2012).

and aesthetic appeal.<sup>16</sup> Drawn sinks are available in various grades (steel alloy compositions)<sup>17</sup> and gauges (sheet thicknesses).<sup>18</sup> Individual basins (bowls) in drawn sinks are seamless, with concave bottom surfaces for rapid drainage. Whether consisting of only a single basin or multiple basins joined together, these sinks are generally available in two different mounting configurations, for either top (drop-in) mounting above the countertop or for bottom (under) mounting beneath the countertop.<sup>19</sup> Drawn stainless steel sinks are found predominantly in residential kitchens, and only to a much lesser extent in commercial or institutional applications.<sup>20</sup> Both domestically produced and imported drawn stainless steel sinks are sold through wholesale plumbing-supply distributors, countertop fabricators, residential and commercial builders, manufactured-home builders, kitchen and bath showrooms, big-box retail home-improvement stores, and internet websites.<sup>21</sup>

The manufacturing process for drawn stainless steel sinks, although highly capital-intensive, is well established worldwide,<sup>22</sup> consisting of multiple steps to form steel blanks into the finished sink. The starting material is cold-rolled stainless steel sheet in coils of the desired gauge, from which rectangular blanks are cut to the proper size,<sup>23</sup> based on the final basin geometry, for the subsequent forming operations.<sup>24</sup> The blanks are then fitted between dies to form the steel, by a combination of drawing and stretching,<sup>25</sup> into the initial rim and basin shape. Depending on the basin's intended dimensions, subsequent annealing (heat treating)<sup>26</sup> and forming stages may be necessary to attain the final shape. Next, the drain hole is counter punched at the bottom of the basin. To assemble sinks with two or more basins, the side rims of adjoining individual basins are welded. Afterwards, the welded joints are flattened under a planisher (roll smoother) and machine sanded to produce flush joint surfaces. For top mounted sinks, subsequent stamping operations are required using suitably shaped dies and punches in hydraulic presses in order to form the deck (raised platform), pierce the holes for eventual mounting of

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<sup>16</sup> Petition at 9-11; Petitioner's Postconference Brief at 5.

<sup>17</sup> Stainless steel for drawn sinks worldwide is most commonly of 300 series chromium-nickel alloy steels. Among the two most common 300 series alloys, grade 304 is most commonly used worldwide for higher priced drawn sinks, whereas grade 301 is more typical for lower priced drawn sinks. Grade 316 is used in food service and laboratories applications that require high resistance to acids and chlorides. Drawn sinks produced with 200 series chromium-nickel-manganese alloy steels are more susceptible to rust due to the low nickel content. Petition at 4; Tr. at 60-62 (Rogers). Standard industry gauges for stainless steel sheet (and nominal English unit equivalents) are 22 gauge (0.0312"), 20 gauge (0.0375"), 18 gauge (0.0500"), and 16 gauge (0.0625"). Petition at 4.

<sup>18</sup> Commonly cited thicknesses for these sinks are, in ascending order of thickness, of 22, 20, 18, and 16 gauge stainless steel. Petition at 4; Respondents' Postconference Brief at 11-12.

<sup>19</sup> Petition at 4.

<sup>20</sup> Tr. at 32 (Sheehan).

<sup>21</sup> Petition, at 11; Petitioner's Postconference Brief at 14; Respondents' Postconference Brief at 9; Tr. at 74 (Sheehan).

<sup>22</sup> The extent of automation varies among individual operations, depending on local labor costs. Tr. at 59, 60 (Rogers).

<sup>23</sup> If the stainless steel blanks are not produced in-house by the sink manufacturer, they can be produced by a steel mill or by a steel service center. Petition at 5.

<sup>24</sup> Dies, punches, and other tooling for the forming operations are specific for the particular size and shape of the drawn stainless steel sink. Hence, separate sets of tooling are needed for each individual sink model produced by the manufacturer. Once purchased, the tooling can produce tens of thousands of sinks. Tr. at 16, 26 (Rogers).

<sup>25</sup> Forming a sink basin often requires both drawing and stretching of the steel. The distinction between these two processes is that drawing does not alter the thickness of the steel, but stretching does. Petition at 5 n.5.

<sup>26</sup> Because stainless steels tend to harden when deformed, annealing is required to release the accumulated work strains and restore formability to the steel prior to the subsequent forming step. CR at I-9 n.23, PR at I-8 n.23.

the faucet(s) and any accessories,<sup>27</sup> and form a raised lip around the outer rim to prevent water from spilling over the rim.<sup>28</sup> These latter stamping steps are not necessary for the flat rims of sinks designed for bottom mounting, because the faucet and accessory holes are drilled into the countertop beyond the outer edge of the sink.<sup>29</sup> Rims on both types of sinks are trimmed to final geometry. Interior basin surfaces (and rim surfaces for top mount sinks) are ground and buffed to remove irregularities and to impart the finish.<sup>30</sup> Finally, sound-dampening materials (pads, sprays, or both)<sup>31</sup> are applied to the exterior surface(s) of the basin(s) both to avoid collection of surface condensation and to minimize vibrations from kitchen utensils being dropped into the sink.<sup>32</sup>

### **C. Analysis**

There are two issues with respect to the definition of domestic like product that we must address in these investigations: (1) whether to expand the domestic like product beyond the scope to encompass fabricated stainless steel sinks; and (2) whether top mount and undermount sinks should be separate domestic like products. We address these two issues below.

#### **1. Whether to Expand the Domestic Like Product to Include Fabricated Stainless Steel Sinks**

Petitioner argues that the domestic like product should not be expanded beyond the scope of these investigations to include fabricated stainless steel sinks.<sup>33</sup> Respondents do not address this issue.

*Physical Characteristics and End Uses.* Stainless steel sinks produced by drawing have some different physical characteristics, features, and uses than those produced by fabricating. Drawn sinks do not have the deeper and larger basins of fabricated sinks. Likewise, they also do not have the “commercial,” “institutional,” or “industrial” appearance of fabricated sinks. Rather, drawn sinks have smooth corners and bottom radii that are not found in fabricated sinks.<sup>34</sup> Drawn sinks are more suited for residential use with more standardization among sizes, shapes, and depths.<sup>35</sup> Because fabricated sinks can be assembled into a wide variety of sizes and configurations, they are more prevalent in commercial and institutional settings where customization requirements and the prevalence of larger sizes justify their

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<sup>27</sup> Hole configuration is specified by the sink model number, and holes are punched during the manufacturing process. Although technically possible, it is more difficult to cut the holes afterwards due to the hardness of stainless steel and the need for the proper cutting tools. Petition at 4.

<sup>28</sup> Tr. at 18 (Rogers).

<sup>29</sup> Respondents’ Postconference Brief at 6, Exhibit 4.

<sup>30</sup> Tr. at 19 (Rogers).

<sup>31</sup> Petition at 4-5.

<sup>32</sup> Tr. at 19 (Rogers).

<sup>33</sup> Fabricated stainless steel sinks are characterized by their tight cornered, welded-together basins, for they are assembled by notching and bending several cut sheets of stainless steel, and welding together and finishing the vertical corners to form the basins. Fabricated stainless steel sinks can be assembled into a wide variety of basin sizes and configurations, and may include additional welded-on accessories. Petitioner’s Postconference Brief at 6; Tr. at 33 (Sheehan); Tr. at 20 (Rogers).

<sup>34</sup> Petitioner’s Postconference Brief at 5; Tr. at 33–34 (Sheehan).

<sup>35</sup> Petitioner’s Postconference Brief at 6; Tr. at 33 (Sheehan).

higher unit prices.<sup>36</sup> Hence, “virtually all stainless steel sinks that are used in residential kitchens are drawn sinks.”<sup>37</sup> In contrast to drawn sinks, fabricated sinks are predominantly found in commercial settings where large bowls are required<sup>38</sup> and are rarely found in residential settings.<sup>39</sup>

*Common Manufacturing Facilities, Production Processes, and Production Employees.* Although both drawn and fabricated stainless steel sinks can be produced within the same facility,<sup>40</sup> manufacturing occurs on separate and distinct production lines,<sup>41</sup> each with dedicated equipment, different production processes, and employees using differing production skills.<sup>42</sup> Drawn sink manufacturing is highly capital-intensive,<sup>43</sup> with hydraulic forming presses necessary for the various production steps and separate and dedicated tooling sets required for the specific size and shape of each individual sink model.<sup>44</sup> By contrast, fabricated sink manufacturing is more labor-intensive, requiring the folding, assembly, and welding together of several cut sheets of stainless steel to form the sink basin, and attaching of legs and any accessories.<sup>45</sup> Because of the labor-intensive and customized assembly required, fabricated sinks are also produced by numerous small-scale metal fabrication shops that do not need the hydraulic forming presses and tooling sets required for producing drawn sinks.<sup>46</sup>

*Interchangeability.* For residential uses, fabricated sinks are not generally interchangeable with drawn sinks for they are perceived as an “institutional” product,<sup>47</sup> with an “industrial” appearance and larger basins,<sup>48</sup> and because they are harder to clean due to their tighter corners and welded seams.<sup>49</sup> Similarly, for commercial, institutional, and industrial uses, drawn sinks are not generally interchangeable with fabricated sinks for they are not available in larger sizes and customized configurations.<sup>50</sup>

*Producer and Customer Perceptions.* Customers and producers do not perceive drawn and fabricated sinks as interchangeable due to differences in their physical characteristics, end uses, appearances, and prices.<sup>51</sup>

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<sup>36</sup> Petitioner’s Postconference Brief at 6; Tr. at 33 (Sheehan).

<sup>37</sup> Tr. at 32 (Sheehan).

<sup>38</sup> Tr. at 32 (Sheehan).

<sup>39</sup> An exception is the very high-end residential customer who desires a “commercial kitchen” look or a very large sink volume. Tr. at 34 (Sheehan).

<sup>40</sup> Tr. at 17 (Rogers); Tr. at 42-43 (Just).

<sup>41</sup> Tr. at 17 (Rogers); Tr. at 31 (Sheehan).

<sup>42</sup> Petitioner’s Postconference Brief at 5–6 and 8; Tr. at 31-32 (Sheehan).

<sup>43</sup> Petitioner’s Postconference Brief at 6; Tr. at 16 (Rogers).

<sup>44</sup> Each hydraulic press costs over \$1 million and a single dedicated tooling set costs on average from \$130,000 to more than \$200,000. Tr. at 17, 26 (Rogers).

<sup>45</sup> Petitioner’s Postconference Brief at 6; Tr. at 33 (Sheehan).

<sup>46</sup> Petition at 13.

<sup>47</sup> Petitioner’s Postconference Brief at 9.

<sup>48</sup> Petitioner’s Postconference Brief at 6, 9; Tr. at 33 (Sheehan).

<sup>49</sup> Petitioner’s Postconference Brief at 6; Tr. at 33 (Sheehan).

<sup>50</sup> Petitioner’s Postconference Brief at 6-7.

<sup>51</sup> Petitioner’s Postconference Brief at 6, 9.

*Channels of Distribution.* The record indicates that domestically produced drawn stainless steel sinks are typically sold for residential use, while fabricated stainless steel sinks are typically sold for commercial use. Virtually all U.S. producers' U.S. shipments of both drawn stainless steel sinks and fabricated stainless steel sinks are sold to distributors (\*\*% percent of drawn stainless steel sinks and \*\*% percent of fabricated stainless steel sinks in 2011).<sup>52</sup> Drawn stainless steel sinks are sold through retailers, wholesale plumbing distributors, kitchen and bath showrooms, countertop fabricators, residential and commercial builders, and manufactured home builders. Fabricated stainless steel sinks, in contrast, are typically sold through food service equipment vendors and to commercial and institutional purchasers.<sup>53</sup>

*Price.* Fabricated stainless steel sinks are generally higher priced than drawn stainless steel sinks due to the labor-intensive folding and welding manufacturing process used to produce fabricated stainless steel sinks. Drawn stainless steel sinks, due to the drawing and stretching process, also require less steel to produce.<sup>54</sup> The data gathered in these investigations show that the average unit values ("AUVs") of U.S. producers' U.S. shipments of fabricated stainless steel sinks were ten times greater than the AUVs of U.S. producers' U.S. shipments of drawn stainless steel sinks in 2011.<sup>55</sup>

*Conclusion.* The record in these preliminary investigations does not support an expansion of the domestic like product to include fabricated stainless steel sinks. Fabricated stainless steel sinks do not share many of the same physical characteristics and end uses as drawn stainless steel sinks, they are not interchangeable, and while both types of sinks can be made in the same production facilities, they are produced on separate and distinct production lines by different employees. Although both drawn and fabricated stainless steel sinks are sold almost exclusively through distributors, they are generally sold to different customers. Finally, the prices of fabricated stainless steel sinks are much higher than those of drawn stainless steel sinks.

Based on the evidence in the record, we do not expand the definition of domestic like product beyond the scope to include fabricated stainless steel sinks.

## **2. Whether the Domestic Like Product Should be Divided Into Top Mount and Undermount Drawn Stainless Steel Sinks**

### **a. Parties' Arguments**

*Petitioner.* According to the petitioner, all drawn stainless steel sinks have similar physical characteristics, features, and uses, regardless of design for top mounting or undermounting. All drawn stainless steel sinks are available in the same basin sizes, shapes, and gauges; with either single or multiple basin configurations.<sup>56</sup> Petitioner emphasizes that the similar basin shapes and configurations for top mount and undermount sinks of drawn stainless steel are produced using the same raw materials, production line, employees, and dedicated tooling to shape the basin.<sup>57</sup>

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<sup>52</sup> CR at I-14, PR at I-11.

<sup>53</sup> Tr. at 34-35 (Sheehan).

<sup>54</sup> Petitioner's Postconference Brief at 10.

<sup>55</sup> CR/PR at Table I-1.

<sup>56</sup> Petitioner's Postconference Brief at 11 and 12-13.

<sup>57</sup> Petitioner's Postconference Brief at 12-13 and 14-15.

According to the Petitioner, customers and producers perceive top mount and undermount sinks as having similar physical characteristics and features from the drawing of the stainless steel basins,<sup>58</sup> with the only difference being the mounting method.<sup>59</sup> Petitioner’s “dual-mount” sinks are designed for either top mounting or undermounting.<sup>60</sup> Petitioner also argues that all drawn stainless steel sinks, including top mount, undermount, and dual-mount, move through the same channels of distribution, namely plumbing wholesalers, big-box retailers, manufactured housing producers and builders, and over the Internet.<sup>61</sup> Finally, Petitioner contends that there is a broad price range for all drawn stainless steel sinks, with overlapping price points for top mount, dual-mount, and undermount drawn stainless steel sinks.<sup>62</sup>

*Respondents.* Respondents urge the Commission to find that top mount and undermount drawn stainless steel sinks are separate domestic like products. They note that top mount sinks are characterized by a shaped rim designed to fit over the countertop and by hole(s) punched into the ledge (the wider back side of the rim) for the faucet(s), and include either eight mounting tabs or four mounting rails.<sup>63</sup> These sinks are designed to be dropped into a near universal-sized countertop hole that will fit most top mount sink models, and can be readily installed as a “do-it-yourself” remodeling project by the homeowner.<sup>64</sup> Because the rim of a top mount sink overlaps the top surface of the counter, such a sink is most commonly installed onto countertops with laminated surfaces, rather than those of more expensive natural stone or other materials, for which undermounting of the sink is more common.<sup>65</sup> Undermount sinks do not feature holes for faucets or for any other accessory fixtures since the holes for these fixtures are drilled into the countertop beyond the outer edge of the sink. Another characteristic of an undermount sink is its flat rim that is designed to fit flush against the bottom surface of the countertop.<sup>66</sup> Respondents assert that undermount sinks must be installed on-site by skilled craftsmen, usually the countertop fabricators.<sup>67</sup>

Respondents also assert that top mount sinks are not interchangeable with undermount sinks due to differences in terms of sizes, shapes, mounting requirements, and applications.<sup>68</sup> Respondents assert that top mount models are interchangeable with each other, as they are more likely to fit into a countertop hole of near-universal dimensions, and they have a wide enough rim for the sink to be positioned without

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<sup>58</sup> Petitioner’s Postconference Brief at 15.

<sup>59</sup> Petitioner’s Postconference Brief at 15.

<sup>60</sup> Petitioner’s Postconference Brief at 3.

<sup>61</sup> Petitioner’s Postconference Brief at 14.

<sup>62</sup> Petitioner’s Postconference Brief at 16.

<sup>63</sup> Respondents’ Postconference Brief at 6, Exhibit 4

<sup>64</sup> Respondents’ Postconference Brief at 6; Tr. at 116 (Olson).

<sup>65</sup> In any final phase of these investigations, we will examine whether it is impracticable to install an undermount drawn stainless steel sink in a laminate countertop.

<sup>66</sup> Respondents’ Postconference Brief at Exhibit 4.

<sup>67</sup> The countertop fabricator transports both the countertop and the undermount sink to the job site where the sink is installed beneath the countertop by fastening with clips, and the joint is sealed with silicone to prevent leakage. Tr. at 151 (Spicher). Fabricators rely on three different methods to install an undermount sink: 1) T-bolts set into slots pre-cut into the rim of countertop hole, 2) epoxy glued-on clips with studs, and 3) sink rails spanning from the front to the back of the cabinet with bolts to hold the sink against the countertop. Tr. at 169-170 (Spicher).

<sup>68</sup> Respondents’ Postconference Brief at 8.

revealing any gaps.<sup>69</sup> Conversely, Respondents argue that undermount sinks are not considered interchangeable due to the unique hole shape that must be cut into the countertop to fit the specific sink.<sup>70</sup> Respondents also characterize end-users' perceptions of top mount sinks as being lesser priced and lesser quality products than undermount sinks.<sup>71</sup>

Moreover, Respondents contend that top mount and undermount sinks are sold through different channels of distribution. They argue that top mount sinks are sold primarily to plumbing supply stores and big-box retailers, whereas undermount sinks are sold primarily to granite countertop fabricators.<sup>72</sup> Finally, Respondents argue that undermount sinks are higher priced than top mount sinks.<sup>73</sup>

## **b. Analysis and Conclusion**

*Physical Characteristics and End Uses.* Top mount, undermount, and dual-mount sinks, which are all within the scope of these investigations, all have drawn stainless steel bowls, which are identically shaped in many cases.<sup>74</sup> The main difference between top mount and undermount sinks is in how they are installed, although dual-mount sinks can be mounted either on top of or under a counter. Most drawn sinks of whatever type are used in residential kitchens where they serve the same purpose.<sup>75</sup>

*Common Manufacturing Facilities, Production Processes, and Production Employees.* All styles of drawn stainless steel sinks can be produced in the same manufacturing facility, on the same equipment, and by the same employees.<sup>76</sup> The production processes are very similar for all drawn stainless steel sinks; the only major differences are that there is a "rim forming operation" and a faucet hole-punching operation for top mounts, neither of which is performed in undermount production.<sup>77</sup> A witness for Respondents acknowledged that "there is not much difference" in how top mount and undermount sinks are made.<sup>78</sup> Dual-mount sinks, which can be used as either top mounts or undermounts, do undergo a rim forming operation, but the apex of the rim is flattened and wider than a typical top mount sink so that it can be installed as an undermount.<sup>79</sup>

*Interchangeability.* Generally, all drawn stainless steel sinks are available in single and multiple bowl configurations. The fact that undermount sinks require a fabricator to install the product in a solid surface countertop limits their interchangeability with top mount sinks; top mount sinks are more

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<sup>69</sup> Respondents' Postconference Brief at Exhibit 4.

<sup>70</sup> Respondents' Postconference Brief at Exhibit 4.

<sup>71</sup> Respondents' Postconference Brief at 8.

<sup>72</sup> Respondents' Postconference Brief at 9.

<sup>73</sup> Respondents' Postconference Brief at 13-15.

<sup>74</sup> Petitioner's Postconference Brief at 13.

<sup>75</sup> Petitioner's Postconference Brief at 12-13.

<sup>76</sup> Petitioner's Postconference Brief at 14.

<sup>77</sup> CR at I-17, PR at I-13. Respondents also state that undermount sinks do not require the added installation of a top flange and either mounting tabs or rails as for top mount sinks. Respondents' Postconference Brief at 12.

<sup>78</sup> Tr. at 213-214 (Levi).

<sup>79</sup> Petitioner's Postconference Brief at 15.

commonly marketed and sold to the “do-it-yourself” home improvement customers than undermount sinks, and they are used with less costly countertops.<sup>80</sup>

*Producer and Customer Perceptions.* The extent to which customers perceive top mount and undermount drawn stainless steel sinks to be variations of a single product or separate products is disputed by the parties.<sup>81</sup> In any final phase of these investigations, we will seek additional information on this issue.

*Channels of Distribution.* All drawn countertop sinks move through similar channels of distribution. Virtually all drawn stainless steel sinks, including both top mount and undermount sinks, are sold to distributors rather than end users.<sup>82</sup> They are all sold through plumbing wholesalers, big-box retailers, manufactured housing producers and builders, and over the Internet.<sup>83</sup> We intend to explore the extent to which domestically produced undermount sinks are sold directly to fabricators in any final phase of these investigations.

*Price.* The pricing product data collected by the Commission indicate the prices for domestically produced undermounts sinks are approximately \*\*\* the prices of domestically produced top mount sinks.<sup>84</sup>

*Conclusion.* The limited evidence on the record shows an overlap in physical characteristics and end uses, channels of distribution, manufacturing facilities, production processes, and production employees. Evidence regarding customer and producer perceptions and interchangeability is mixed. There are differences in the prices of top mount sinks and undermount sinks. Based on the limited record in the preliminary phase of these investigations, the differences between top mount and undermount drawn stainless steel sinks do not warrant separating them into distinct like products. We therefore decline to divide the domestic like product into top mount and undermount sinks. We will explore this like product issue further in any final phase investigations.<sup>85</sup>

For the reasons discussed above, for purposes of these preliminary investigations we define a single domestic like product that is coextensive with the scope of these investigations as defined by Commerce.

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<sup>80</sup> Respondents’ Postconference Brief at 8-10; Tr. at 170 (Spicher) (“maybe one job in a thousand might do a top mount sink in granite.”)

<sup>81</sup> Petitioner indicates that customers and producers perceive all drawn sinks are the same except that the mounting process is different. Petitioner’s Postconference Brief at 15. Respondents report that consumers perceive top mount sinks as being lower priced and lesser quality products than undermount sinks. Respondents’ Postconference Brief at 8.

<sup>82</sup> CR at I-18, PR at I-14.

<sup>83</sup> The fact that some importers specializing in the distribution of granite for countertop fabrication have chosen to directly import undermount sinks to bundle with their granite sales is not relevant to how the domestic industry distributes its production. In any final phase investigations, we will seek information on whether some big-box retailers such as Home Depot should also be considered fabricators, as well as information on the percentage of domestic producers’ sales of drawn stainless steel sinks that are made directly to the fabricator market.

<sup>84</sup> CR/PR at Tables V-1 to V-6 (pricing products 1-3 are top mount sinks whereas pricing products 4-6 are undermount sinks). The Commission did not request pricing data on dual-mount sinks.

<sup>85</sup> We will seek additional information on dual-mount sinks in any final phase of these investigations.

#### IV. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>86</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

Petitioner argues that the domestic industry should be defined as all U.S. producers of drawn stainless steel sinks.<sup>87</sup> Respondents argue that top mount sinks and undermount sinks are separate like products being sold in separate markets, and, therefore, the production of top mount sinks and undermount sinks should be considered separate industries in these investigations.<sup>88</sup> Based on our finding regarding the appropriate domestic like product definition, we find there is a single domestic industry producing drawn stainless steel sinks.

##### A. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or are themselves importers.<sup>89</sup> Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each investigation.<sup>90</sup>

Four domestic producers are subject to possible exclusion under the related parties provision. Domestic producers \*\*\*, \*\*\*, \*\*\*,<sup>91</sup> and \*\*\* are related parties because each imported subject

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<sup>86</sup> 19 U.S.C. § 1677(4)(A).

<sup>87</sup> Petitioner’s Postconference Brief at 16-17.

<sup>88</sup> Respondents’ Postconference Brief at 15.

<sup>89</sup> 19 U.S.C. § 1677(4)(B).

<sup>90</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int’l Trade 1992), aff’d without opinion, 991 F.2d 809 (Fed. Cir. 1993).

The Commission has also concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist where the domestic producer was responsible for a predominant proportion of an importer’s purchases, and the importer’s purchases were substantial. See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (September 2001) at 8-9.

<sup>91</sup> We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry producing drawn stainless steel sinks. \*\*\* was \*\*\* largest domestic producer in 2011, accounting for \*\*\* percent of domestic  
(continued...)

merchandise during the period of investigation,<sup>92</sup> and additionally because (\*\*\*) are related to an importer, exporter, and/or foreign producer of subject merchandise.<sup>93</sup> No party to these investigations argues that appropriate circumstances exist for excluding any of these producers from the domestic industry.

\*\*\*.<sup>94</sup> \*\*\*, the \*\*\* in these investigations, accounted for \*\*\* percent of reported domestic production in 2011.<sup>95</sup> \*\*\* imports of subject merchandise amounted to \*\*\* units in 2009, \*\*\* units in 2010, and \*\*\* units in 2011.<sup>96</sup> As a ratio of its domestic production, the company's imports of subject merchandise were \*\*\* percent in 2009, \*\*\* percent in 2010, and \*\*\* percent in 2011.<sup>97</sup> Based on this information, we conclude that \*\*\* interests lie more in domestic production than with importation of the subject merchandise.<sup>98 99</sup>

We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry producing drawn stainless steel sinks. Not only were \*\*\* imports \*\*\* relative to its domestic production throughout the period of investigation, there is no clear indication that its imports or its corporate relationship with a Chinese producer of drawn stainless steel sinks have benefitted its financial operations. \*\*\* stated that it imported subject merchandise \*\*\*.<sup>100</sup> \*\*\* ratio of operating income to net sales was \*\*\*.<sup>101</sup> While its operating performance was \*\*\* the industry average from 2009 to 2011,<sup>102</sup> its operating margins in 2009 and 2011 were the \*\*\*. Moreover, no party has argued that \*\*\* should be excluded from the domestic industry.

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<sup>91</sup>(...continued)

production. CR/PR at Table III-2. It \*\*\* the petition in these investigations. CR/PR at Table III-2. \*\*\* ratio of subject imports to domestic production was exceedingly low (below \*\*\*) from 2009 to 2011. CR/PR at Table III-6.

<sup>92</sup> See 19 U.S.C. § 1677(4)(B)(I); CR/PR at Tables III-2, III-6.

<sup>93</sup> CR/PR at Tables III-2, III-6.

<sup>94</sup> \*\*\*. Petitioner's Postconference Brief at Appendix A, p. 1.

<sup>95</sup> CR/PR at Table III-2.

<sup>96</sup> CR/PR at Table III-6.

<sup>97</sup> CR/PR at Table III-6.

<sup>98</sup> Consistent with her practice in past investigations and reviews, Commissioner Aranoff does not rely on individual-company operating income margins, which reflect a domestic producer's financial operations related to production of the domestic like product, in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic production and whether its primary interests lie in domestic production or importation.

<sup>99</sup> For purposes of these preliminary investigations, Commissioner Pinkert does not rely upon related parties' financial performance as a factor in determining whether there are appropriate circumstances to exclude them from the domestic industry. For any final phase investigations, Commissioner Pinkert invites the parties to provide any information they may have with respect to whether related parties are benefitting financially from their status as related parties.

<sup>100</sup> CR/PR at Table III-6 n.1.

<sup>101</sup> CR/PR at Table VI-2.

<sup>102</sup> CR/PR at Table VI-2.

\*\*\*.<sup>103</sup> \*\*\* the petition<sup>104</sup> and was \*\*\* domestic producer in 2011, accounting for \*\*\* percent of reported domestic production in that year.<sup>105</sup> Imports of subject merchandise by \*\*\* increased from \*\*\* units in 2009 to \*\*\* units in 2010, and declined to \*\*\* units in 2011.<sup>106</sup> \*\*\* subject imports as a ratio to its domestic production increased from \*\*\* percent in 2009 to \*\*\* percent in 2010, and then to \*\*\* percent in 2011.<sup>107</sup> Based on these data, \*\*\* interests lie more in domestic production than the importation of subject merchandise.

We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry. In addition to its low subject import-to-domestic production ratio, the company stated that it imports drawn stainless steel sinks from China \*\*\*.<sup>108</sup> \*\*\* ratio of operating income to net sales was \*\*\*. These margins were \*\*\* the industry average from 2009 to 2011.<sup>109</sup> It also does not appear that \*\*\* derived a significant benefit from its importation of the subject merchandise or its corporate relationship with a producer and an exporter of drawn stainless steel sinks from China as its financial results were \*\*\* the industry average from 2009 to 2011.<sup>110</sup> Finally, no party has argued that \*\*\* should be excluded from the domestic industry.

\*\*\*.<sup>111</sup> \*\*\* the petition<sup>112</sup> and was the \*\*\* largest domestic producer of drawn stainless steel sinks in \*\*\*. In 2009, \*\*\* imports of subject merchandise were \*\*\* units, or \*\*\* percent as a ratio to its domestic production.<sup>113</sup> Accordingly, we find that \*\*\* interests lay more in domestic production than in the importation of the subject merchandise.

We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry. In addition to its \*\*\* volume of subject imports, the company \*\*\*.<sup>114</sup> \*\*\* ratio of operating income to net sales was \*\*\* percent in 2009, which was \*\*\* the industry average in that year.<sup>115</sup> Although \*\*\* operating margins were \*\*\* in 2009, its imports were \*\*\* that its U.S. operations also do not appear to have benefitted financially from them.<sup>116</sup> It also does not appear that \*\*\* domestic operations benefitted from its relationship with a producer of drawn stainless steel sinks in China as \*\*\* reported that it was forced to \*\*\* due to large volumes of subject imports. Moreover, no party has argued that \*\*\* should be excluded from the domestic industry.

*Conclusion.* For the reasons stated above, we find that appropriate circumstances do not exist for the exclusion of any of the related party producers from the domestic industry, and therefore we define the domestic industry to include all U.S. producers of drawn stainless steel sinks.

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<sup>103</sup> \*\*\* is affiliated with \*\*\*, a producer of subject merchandise in China. Moreover, \*\*\* and \*\*\* an exporter of subject merchandise, are \*\*\*. CR/PR at Table III-2.

<sup>104</sup> CR/PR at Table III-2.

<sup>105</sup> CR/PR at Table III-2.

<sup>106</sup> CR/PR at Table III-6.

<sup>107</sup> CR/PR at Table III-6.

<sup>108</sup> CR/PR at Table III-6 n.2.

<sup>109</sup> CR/PR at Table VI-2.

<sup>110</sup> CR/PR at Table VI-2.

<sup>111</sup> \*\*\*, CR/PR at Table III-2.

<sup>112</sup> CR/PR at Table III-2.

<sup>113</sup> CR/PR at Table III-6.

<sup>114</sup> \*\*\* U.S. Producer's Questionnaire Response at Questions III-14 & IV-16.

<sup>115</sup> CR/PR at Table VI-2.

<sup>116</sup> CR/PR at Table VI-2.

## V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA<sup>117</sup>

### A. Legal Standard

In the preliminary phase of antidumping duty or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.<sup>118</sup> In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>119</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>120</sup> In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>121</sup> No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>122</sup>

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is “materially injured by reason of” unfairly traded imports,<sup>123</sup> it does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.<sup>124</sup> In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the “by reason of” standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.<sup>125</sup>

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<sup>117</sup> Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations. During the most recent 12-month period prior to the filing of the petitions for which adjusted import data are available, subject imports from China accounted for \*\*\* percent of total imports. CR at IV-5, PR at IV-3 .

<sup>118</sup> 19 U.S.C. §§ 1671b(a), 1673b(a).

<sup>119</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each {such} factor ... {a}nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

<sup>120</sup> 19 U.S.C. § 1677(7)(A).

<sup>121</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>122</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>123</sup> 19 U.S.C. §§ 1671b(a), 1673b(a).

<sup>124</sup> Angus Chem. Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“{T}he statute does not ‘compel the commissioners’ to employ {a particular methodology}.”), aff’g 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

<sup>125</sup> The Federal Circuit, in addressing the causation standard of the statute, has observed that “{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was re-affirmed in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), in which the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that “this court requires evidence in the record ‘to show that the harm occurred “by reason of” the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.’” See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.<sup>126</sup> In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.<sup>127</sup> Nor does the “by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.<sup>128</sup> It is clear that the existence of injury caused by other factors does not compel a negative determination.<sup>129</sup>

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure{s} that it is not attributing injury from other sources to the subject imports.”<sup>130 131</sup> Indeed, the

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<sup>126</sup> Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (“URAA”), H.R. Rep. 103-316, Vol. I at 851-52 (1994) (“{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, 542 F.3d at 877.

<sup>127</sup> SAA at 851-52 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports.”); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports . . . . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

<sup>128</sup> S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

<sup>129</sup> See Nippon Steel Corp., 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

<sup>130</sup> Mittal Steel, 542 F.3d at 877-78; see also id. at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination . . . . {and has} broad discretion with respect to its choice of methodology.”) citing United States Steel Group v. United States, 96 F.3d

(continued...)

Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”<sup>132</sup>

The Federal Circuit’s decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases in which the relevant “other factor” was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit’s guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.<sup>133</sup> The additional “replacement/benefit” test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission’s interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the Court requires the Commission to have “evidence in the record ‘to show that the harm occurred ‘by reason of’ the LTFV imports,’” and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.<sup>134</sup> Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.<sup>135</sup>

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<sup>130</sup>(...continued)

1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

<sup>131</sup> Commissioner Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in Bratsk and Mittal, held that the Commission is required, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of nonsubject imports, albeit without reliance upon presumptions or rigid formulas. Mittal explains as follows:

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

542 F.3d at 878.

<sup>132</sup> Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

<sup>133</sup> Mittal Steel, 542 F.3d at 875-79.

<sup>134</sup> Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission’s alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

<sup>135</sup> To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject

(continued...)

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual and subject to review under the substantial evidence standard. Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.<sup>136</sup>

## **B. Conditions of Competition and the Business Cycle**

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

### **1. Demand Conditions**

Because drawn stainless steel sinks are sold primarily for residential kitchen applications, U.S. demand for drawn stainless steel sinks is closely tied to U.S. residential housing construction and remodeling. The parties agree that the housing market collapse in 2008 caused significant contraction of the U.S. market for drawn stainless steel sinks, and that demand for drawn stainless steel sinks has been recovering.<sup>137</sup> Apparent U.S. consumption of drawn stainless steel sinks, by quantity, increased from 5.1 million units in 2009 to 5.4 million units in 2010, and was 5.4 million units in 2011.<sup>138</sup> As a share of apparent U.S. consumption, the majority of sinks sold in the U.S. market are top mount sinks.<sup>139</sup>

Respondents and Petitioner offer differing views on the development of the U.S. market for drawn stainless steel sinks over the period examined. Respondents argue that at the time of the economic downturn in late 2008, the domestic industry was focused on the top mount sinks sold primarily to plumbing wholesalers, big-box retailers, and builders, and was not focused on fabricators<sup>140</sup> or internet

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<sup>135</sup>(...continued)

import suppliers). In order to provide a more complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

<sup>136</sup> Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

<sup>137</sup> CR at II-6 to II-8, PR at II-4 to II-6. Petitioner argues that demand for drawn stainless steel sinks is price inelastic. Petitioner's Postconference Brief at 20. Drawn stainless steel sinks represent a relatively small share of the total cost of a kitchen countertop or a complete kitchen renovation, and, therefore, changes in the price level of drawn stainless steel sinks will result in moderate change in the quantity of drawn stainless sinks demanded. CR at II-6, PR at II-4.

<sup>138</sup> CR/PR at Table IV-3.

<sup>139</sup> Tr. at 211-212 (Perry) (estimating that top mounts account for approximately 75 percent of the total market for drawn stainless steel sinks, whereas undermount sinks account for approximately 25 percent of the total market.)

<sup>140</sup> Respondents' witnesses refer to "fabricators" as firms that sell countertops of stone or other materials. These countertop fabricators also cut the holes into the countertop for undermount drawn stainless steel sink, and install the undermount sink at the job site. Tr. at 100, 141, 151 (Spicher); Tr. at 115-117, 152 (Olson); Tr. at 120 (Simpson); Tr. at 125 (Mu); and Tr. at 149-150 (Perry). Further, according to Respondents' witnesses, countertop fabricators switched approximately 10 years ago to stocking and offering undermount drawn stainless steel sink as part of the countertop installation package, not only for their customers' one-stop shopping convenience (of selecting both the countertop material and the sink from the same source) but also to avoid delivery delays and potential damage to the delivered sink. Tr. at 101, 165, 167-168 (Spicher); Tr. at 115-116 (Olson); Tr. at 120-121 (Simpson); and Tr. at 125-126 (Mu).

companies.<sup>141</sup> U.S. importers, however, focused on the fabricator market and the sale of undermount sinks. Respondents argue that a drop in the price of granite after the recession stimulated demand for granite countertops from a much larger group of purchasers, and in turn, simulated demand for undermount drawn stainless steel sinks. Respondents assert that fabricators turned to importers of the product because the domestic industry had no interest in the undermount sinks and instead relied upon the much larger market for top mount drawn stainless steel sinks.<sup>142</sup> Petitioner asserts that it competes with subject imports in all channels of distribution for drawn stainless steel sinks. Petitioner states that it has had numerous opportunities and the capacity to compete in the direct to fabricator market, but that the price points established by the subject imports are so low that it is virtually impossible for it to compete in this market.<sup>143</sup>

## **2. Supply Conditions in the U.S. Market**

The U.S. market is supplied by domestic producers, subject imports, and nonsubject imports. Six firms accounted for virtually all U.S. production of drawn stainless steel sinks in 2011.<sup>144</sup> One major U.S. producer, \*\*\*.<sup>145</sup> The Petitioner indicated that there are 90 or more producers of drawn stainless steel sinks in China.<sup>146</sup> The following six producers of drawn stainless steel sinks in China responded to the Commission's questionnaire in these investigations: Elkay China, Foshan Shunde Minghao Kitchen Utensils ("Minghao"), Guangdong Dongyuan Kitchenware, Jiangmen Jin Ke Ying, Shenzhen Ke Hua Xing, and Zhongshan Superte Kitchenware.<sup>147</sup> The leading U.S. importers of drawn stainless steel sinks from China are \*\*\*. Leading importers of drawn stainless steel sinks from nonsubject countries include \*\*\*.<sup>148</sup>

The domestic industry's share of apparent U.S. consumption, by quantity, decreased from \*\*\* percent in 2009 to \*\*\* percent in 2010 and \*\*\* percent in 2011.<sup>149</sup> The market share of subject imports, based on quantity, increased from 40.0 percent in 2009 to 49.4 percent in 2010 and 58.4 percent in 2011.<sup>150</sup> The market share of imports from nonsubject countries, based on quantity, increased from \*\*\* percent in 2009 to \*\*\* percent in 2010, before declining to \*\*\* percent in 2011.<sup>151</sup>

## **3. Substitutability and Other Conditions of Competition**

The record in the preliminary phase of these investigations indicates that subject imports and the domestically produced drawn stainless steel sinks are highly substitutable. All five responding U.S. producers reported that subject imports and the domestic like product are "always" interchangeable, and

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<sup>141</sup> Respondents' Postconference Brief at 16-17.

<sup>142</sup> Respondents' Postconference Brief at 18.

<sup>143</sup> Tr. at 70, 85 (Sheehan).

<sup>144</sup> CR/PR at Table III-2. Petitioner accounted for \*\*\* percent of domestic drawn stainless steel production in 2011.

<sup>145</sup> CR/PR at Table III-1. \*\*\*.

<sup>146</sup> CR at I-3, PR at I-3.

<sup>147</sup> CR at I-3, PR at I-3.

<sup>148</sup> CR at I-3, PR at I-3.

<sup>149</sup> CR/PR at Table IV-4.

<sup>150</sup> CR/PR at Table IV-4.

<sup>151</sup> CR/PR at Table IV-4.

26 of 32 responding importers reported that subject imports and the domestic like product are either “always” or “frequently interchangeable.”<sup>152</sup>

Petitioner argues that competition in the U.S. market between subject imports and domestic sinks is based on price, and that subject imports takes sales from the domestic industry based solely on underselling.<sup>153</sup> Respondents argue that while top mount sinks are a high volume commodity product, the market for undermount sinks is a niche market where quality is more important than price.<sup>154</sup> Respondents assert that Petitioner is not interested in the undermount drawn stainless steel sinks market because it is low in sales volumes. Respondents claim that the low volume of undermount drawn stainless steel sinks that Petitioner does offer are marked up so high in price that no fabricator can afford these sinks.<sup>155</sup>

Although the parties disagree as to the importance of price, we find that the record in these investigations indicates that price is important in purchasing decisions.<sup>156</sup> All five of the responding U.S. producers reported that differences other than price between subject imports and the domestic like product are only sometimes or never a significant factor.<sup>157</sup> Responses from importers were more mixed, with 14 of 29 responding importers reporting that differences other than price between U.S.-produced drawn stainless steel sinks and subject imports are “sometimes” or “never” a significant factor and 15 of 29 reporting that such differences were “always” or “frequently” a factor.<sup>158</sup>

The main raw input of drawn stainless steel sinks is cold-rolled stainless steel coils. Between January 2009 and March 2012, prices for cold-rolled stainless steel coils were volatile and increased overall.<sup>159</sup> The cost of raw materials increased from \*\*\* percent to \*\*\* percent of the U.S. producers’ total cost of goods sold (“COGS”) from 2009 to 2011.<sup>160</sup> Raw materials were the largest single component of the COGS during 2009 to 2011.<sup>161</sup>

Drawn stainless steel sinks are commonly sold on a spot basis and, to a lesser extent, short- and long-term contract basis. Three of the four responding U.S. producers and 23 of 29 reporting importers sell the majority of their product on a spot basis.<sup>162</sup>

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<sup>152</sup> CR/PR at Table II-2. The majority of responding U.S. producers and importers also reported that the domestic like product and subject imports are either “always” or “frequently” interchangeable with nonsubject imports. CR/PR at Table II-2.

<sup>153</sup> Petitioner’s Postconference Brief at 17-19.

<sup>154</sup> Respondents’ Postconference Brief at 12-15.

<sup>155</sup> Respondents’ Postconference Brief at 22. Respondent Kraus indicates that they found that “eliminating the middleman between the importer and the final retailer in the distribution cycle will enable us to offer our vendors healthier profit margins so they can finally offer an affordable price to their consumer.” Tr. at 110-11 (Magarik).

<sup>156</sup> CR/PR at Table II-3.

<sup>157</sup> CR/PR at Table II-3.

<sup>158</sup> CR/PR at Table II-3.

<sup>159</sup> CR/PR at Figure V-1.

<sup>160</sup> CR at VI-9, PR at VI-2 and VI-3.

<sup>161</sup> CR at VI-9, PR at VI-2 and VI-3.

<sup>162</sup> CR at V-2-3, PR at V-1 and V-2.

### C. Volume of Subject Imports from China

Section 771(7)(C)(I) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”<sup>163</sup>

Subject imports accounted for a significant portion of apparent U.S. consumption at the beginning of the period in 2009. These imports then increased dramatically in the U.S. market throughout the period of investigation. The volume of subject imports, by quantity, rose from 2.0 million units in 2009 to 2.7 million units in 2010 and to 3.2 million units in 2011.<sup>164</sup> This 57.0 percent increase in subject import volume from 2009 to 2011 far outpaced the 7.4 percent increase in apparent U.S. consumption for the same period.<sup>165</sup> Moreover, the volume of subject imports increased substantially relative to the domestic industry’s production levels during the period of investigation. The ratio of subject imports to domestic production increased from \*\*\* percent in 2009 to \*\*\* percent in 2010 and \*\*\* percent in 2011.<sup>166</sup>

Subject imports steadily increased their share of the U.S. market from 2009 to 2011. Subject imports’ share of apparent U.S. consumption, measured by quantity, increased from 40.0 percent in 2009 to 49.4 percent in 2010 and 58.4 percent in 2011.<sup>167</sup> The bulk of the increase in subject import market penetration from 2009 to 2011 came at the expense of the domestic industry.<sup>168</sup> During that period, their market share increased by 18.4 percentage points, while the domestic industry’s market share declined by \*\*\* percentage points.<sup>169</sup> By comparison, the market share of nonsubject imports declined irregularly by \*\*\* percentage points, from \*\*\* percent in 2009 to \*\*\* percent in 2011.<sup>170</sup>

Respondents argue that competition between subject imports and domestically produced drawn stainless steel sinks is too attenuated to cause injury to the domestic industry. Specifically, they contend that the subject imports generally go through different distribution channels, often internet sales or granite fabricators, where domestic producers have chosen not to sell their products.<sup>171</sup> Based on the record of the preliminary phase of these investigations, we reject this contention. Respondents’ arguments focused on undermount drawn sinks, which Respondents estimate account for only approximately 25 percent of the total U.S. market for drawn stainless steel sinks; in contrast the record in these investigations established that the market share of subject imports from China was 58.4 percent in 2011.<sup>172</sup> Accordingly, even if it were true that domestic producers were not active in the direct to fabricator market, we find that the majority of subject imports were not undermount sinks sold directly to the fabricator market, but rather consisted of drawn stainless steel sinks that competed directly with the domestic like product. Petitioner does not agree with Respondents’ characterization of the U.S. market and alleges that subject

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<sup>163</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>164</sup> CR/PR at Table C-1.

<sup>165</sup> CR/PR at Table C-1.

<sup>166</sup> CR/PR at Table IV-5.

<sup>167</sup> CR/PR at Table IV-4.

<sup>168</sup> The domestic industry’s market share, measured by quantity, declined from \*\*\* percent in 2009 to \*\*\* percent in 2010 and \*\*\* percent in 2011. CR/PR at Table IV-4.

<sup>169</sup> CR/PR at Table IV-4.

<sup>170</sup> CR/PR at Table IV-4.

<sup>171</sup> Respondents’ Postconference Brief at 41.

<sup>172</sup> CR/PR at Table C-1; Tr. at 211-212 (Perry).

imports include direct copies of its domestically produced sinks.<sup>173</sup> We intend to further examine the degree of competition between subject imports and domestically produced drawn stainless steel sinks in any final phase of these investigations.<sup>174</sup>

Respondents also suggest that domestic producers do not have the capacity to supply the entire U.S. drawn stainless steel sink market.<sup>175</sup> We find that U.S. producers are capable of supplying a larger share of the U.S. market than they do currently as their capacity utilization rates declined over the period of investigation. Moreover, as the Commission previously has noted, “there is no short supply provision in the statute” and “the fact that the domestic industry may not be able to supply all of demand does not mean the industry may not be materially injured or threatened with material injury by reason of subject imports.”<sup>176</sup> For purposes of the preliminary phase of these investigations, we conclude that the volume of subject imports from China and the increase in that volume are significant both in absolute terms and relative to consumption and production in the United States.

#### **D. Price Effects of the Subject Imports from China**

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>177</sup>

As addressed above in the discussion of the conditions of competition, the evidence on the record indicates that there is a high degree of substitutability between drawn stainless steel sinks produced domestically and those imported from China. The record supports the fact that price is an important – though not exclusive – consideration in U.S. purchasers’ sourcing decisions.<sup>178</sup>

In the preliminary phase of these investigations, the Commission collected quarterly pricing data on six products.<sup>179</sup> Pricing data accounted for \*\*\* percent of the value of U.S. producers’ U.S. shipments

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<sup>173</sup> Petitioner’s Postconference Brief at 17.

<sup>174</sup> Petitioner states that it does sell undermount drawn stainless steel sinks direct to fabricators, but in “most instances” it has been “completely locked out of the channel due to low prices” of subject imports. Petitioner’s Postconference Brief at 31; Tr. at 71 (Sheehan).

<sup>175</sup> Respondents’ Postconference Brief at 19.

<sup>176</sup> Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Article 1904 NAFTA Remand) at 108, n.310 (Dec. 2003). See also Certain Activated Carbon from China, Inv. No. 731-TA-1103 (Preliminary), USITC Pub. 3852 (May 2006) at 19, n. 134; Certain Orange Juice from Brazil, Inv. No. 731-TA-1089 (Final), USITC Pub. 3838 (Mar. 2006) at 20 n.143; Certain Lined Paper School Supplies, Inv. Nos. 701-TA-442-443 (Preliminary) and 731-TA-1095-1097 (Preliminary), USITC Pub. 3811 (Oct. 2005) at 23, n.155; Metal Calendar Slides from Japan, Inv. No. 731-TA-1094 (Preliminary), USITC Pub. 3792 (Aug. 2005) at 9 n.45 (“To the extent that Respondents claim that the Commission is legally unable to make an affirmative finding of material injury by reason of subject imports because the domestic industry is incapable of supplying domestic demand, they are incorrect.”).

<sup>177</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>178</sup> CR/PR at Table II-3.

<sup>179</sup> The products for which pricing data were requested were as follows: Product 1 - 300 series stainless steel, regardless of finish, top mount with overall dimensions of 33 inches x 22 inches, two bowls with both bowls 14 inches x 15¾ inches, and each bowl depth 6 inches. Gauge 20-24. All dimensions plus/minus 2 inches, except  
(continued...)

from 2009 to 2011, 16.1 percent of the value of U.S. imports from China, and 0.9 percent of imports from Mexico, which accounts for the largest nonsubject importer share of drawn stainless steel sinks.<sup>180</sup>

The subject imports were priced lower than the domestic like product in 61 out of 72 quarterly pricing comparisons.<sup>181</sup> Underselling margins ranged from 1.2 percent to 60.5 percent and averaged 32.7 percent.<sup>182</sup> Because price is an important consideration in purchasing decisions, we find this widespread underselling at frequently high margins to be significant.<sup>183</sup> We also find that the observed underselling allowed subject imports to gain significant sales volume and market share at the expense of the domestic industry.

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<sup>179</sup>(...continued)

bowl depth plus/minus 1 inch; Product 2 - 300 series stainless steel, regardless of finish, top mount with overall dimensions of 25 inches x 22 inches, one bowl 21 inches x 15¾ inches, and bowl depth 6 inches. Gauge 20-24. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch; Product 3 - 300 series stainless steel, regardless of finish, top mount with overall dimensions of 33 inches x 22 inches, two bowls with both bowls 14 inches x 15¾ inches, and each bowl depth 8<sup>1</sup>/<sub>16</sub> inches. Gauge 20-24. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch; Product 4 - 300 series stainless steel, regardless of finish, undermount with overall dimensions of 31¼ inches x 17¾ inches (with flange), two bowls with both bowls 14 inches x 15¾ inches, and each bowl depth 8 inches. Gauge 16-20. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch; Product 5 - 300 series stainless steel, regardless of finish, undermount with overall dimensions of 23 inches x 17¾ inches (with flange), one bowl 21 inches x 15¾ inches, and bowl depth 8 inches. Gauge 16-20. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch; and Product 6 - 300 series stainless steel, regardless of finish, undermount with overall dimensions of 31¾ inches x 20½ inches (with flange), two bowls with one bowl 14 inches x 15¾ inches and one bowl 13½ inches x 18 inches, and bowl depths of 8 and 10 inches respectively. Gauge 16-20. All dimensions except bowl depth plus/minus 2 inches (but each bowl must be a different size), bowl depth plus/minus 1 inch (each bowl may be the same or a different depth).

<sup>180</sup> CR at V-4, PR at V-3. \*\*\*.

<sup>181</sup> CR at Table V-7 at V-18, PR at Table V-7b. Prices for imported drawn stainless steel sinks from China undersold prices for U.S.-produced drawn stainless steel sinks for products 1, 2, 4, 5 and 6 in all quarters where both prices were reported with a single exception. CR at V-18, PR at V-7. Product from China undersold the domestic like product for product 3 in only 2 instances, while it oversold in the remaining 10 quarters where both prices were reported. CR at V-18, PR at V-7. Prices for imported drawn stainless steel sinks from China were lower than prices from Mexico in all 15 possible instances in 2009 for products 3-6 where both prices were reported. CR at V-18, PR at V-7.

<sup>182</sup> CR/PR at Table V-7 at V-18, PR at Table V-7b.

<sup>183</sup> The pricing data in these investigations reflect the Commission's usual practice of collecting data representing the first arms' length transaction in the United States for both subject imports and the domestic like product. The pricing data collected represented significant quantities of both subject imports and the domestic like product from which quarterly comparisons could be made to determine if there was underselling by subject imports in the U.S. market.

Respondents allege that the underselling by subject imports may be due to differences in the channels of distribution and market segments in which the subject imports and domestic like product are concentrated. Respondents assert that they are able to sell subject merchandise at lower prices because they have essentially cut out the middlemen, such as plumbing wholesalers and big-box retailers who mark up the product, and have been able to sell to customers directly via internet sales and direct sales to fabricators. We observe that our pricing data do not include any direct sales from the foreign producer to a U.S. customer; nevertheless, the pricing data cover a significant quantity of subject imports. Respondents also claim that the Elkay brand name commands a price premium over a private label brand, and that domestic producers refuse to sell their product to any private label customers, so subject imports have filled the demand for that type of product. See Respondents' Postconference Brief at 35-36; Tr. at 110-113 (Magarik); Tr. at 97 (Perry); Tr. at 146 (Olson).

In any final phase of these investigations, we intend to examine further the impact of producers' and importers' distribution channels.

We also examined evidence concerning the domestic industry's allegations of lost sales and lost revenues.<sup>184</sup> Despite the relatively small share of confirmed lost sales and lost revenue allegations at this stage, we note that four of five responding purchasers named by domestic producers in their lost sales and lost revenue allegations reported switching purchases of drawn stainless steel sinks from U.S. producers to suppliers of imports from China during the period of investigation.<sup>185</sup> Three of these four purchasers reported that price was at least part of the reason for the shift.<sup>186</sup> In addition, four of the five responding purchasers named in lost sales and lost revenue allegations indicated that U.S. producers reduced their prices in order to compete with prices of subject imports from China during the period of investigation.<sup>187</sup> This provides further evidence of the significance of the low prices of subject imports from China and leads us to conclude that subject imports gained market share during the period examined at the expense of the domestic industry through aggressive pricing.

We have also considered movement in U.S. and subject prices over the period of investigation. Prices for U.S.-produced drawn stainless steel sinks generally fluctuated from 2009 to 2011. Specifically, prices for domestically produced products 1 and 2 increased, prices for products 3 and 4 decreased, and prices for products 5 and 6 decreased slightly during the period.<sup>188</sup> Prices for imports from China fluctuated, although they were lower at the end of the period than they were at the beginning of it with one exception.<sup>189</sup> Given these trends in the reported domestic prices, for the purpose of the preliminary phase of these investigations, we do not find significant price depression.

There is more evidence that subject import competition suppressed domestic prices during the period examined. Although domestic producers were able to increase prices to some extent over the period examined, they were not able to increase them sufficiently to cover the increased cost of goods sold despite improvements in apparent U.S. consumption. The domestic industry's COGS to net sales ratio increased from \*\*\* percent in 2009 to \*\*\* percent in 2010 and then to \*\*\* percent in 2011, when subject import volumes were at their highest levels for the period.<sup>190</sup> Accordingly, while we do not find significant price suppression, we do find some evidence of price suppression.

The record in the preliminary phase of these investigations indicates pervasive underselling by subject imports and evidence of adverse price effects. We find that the underselling allowed subject imports to take significant sales volume and market share from the domestic industry during the period of investigation.

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<sup>184</sup> \*\*\*. \*\*\*.

<sup>185</sup> CR at V-24 and staff interview with \*\*\* on April 10, 2012, PR at V-8.

<sup>186</sup> CR at V-24 and staff interview with \*\*\* on April 10, 2012, PR at V-8.

<sup>187</sup> CR at V-24 and staff interview with \*\*\* on April 10, 2012, PR at V-8.

<sup>188</sup> CR at V-17, PR at V-5.

<sup>189</sup> CR at V-17, PR at V-5.

<sup>190</sup> CR/PR at Table C-1.

## **E. Impact of the Subject Imports from China**<sup>191</sup>

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”<sup>192</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>193</sup>

Nearly all domestic industry performance indicators declined between 2009 and 2011, despite an increase in apparent U.S. consumption of 7.4 percent over that period. Production fell by \*\*\* percent, from \*\*\* units in 2009 to \*\*\* units in 2010 and then to \*\*\* units in 2011.<sup>194</sup> \*\*\* production of drawn stainless steel sinks, which resulted in a \*\*\* percent reduction of the industry’s average capacity from 2009 to 2010; there was \*\*\* to average capacity in 2011.<sup>195</sup> Despite the decline in capacity, capacity utilization decreased from \*\*\* percent in 2009, \*\*\* percent in 2010, and to \*\*\* percent in 2011.<sup>196</sup>

Domestic producers’ U.S. shipments followed a similar trend of overall decline,<sup>197</sup> falling from \*\*\* units in 2009 to \*\*\* units in 2010 and to \*\*\* units in 2011.<sup>198</sup> From 2009 to 2011 the total quantity and value of the domestic industry’s U.S. shipments fell by \*\*\* and \*\*\* percent respectively over the

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<sup>191</sup> In its notice initiating the antidumping investigation on drawn stainless steel sinks from China, Commerce reported estimated dumping margins ranging from 22.81 percent to 76.53 percent. 77 Fed. Reg. at 18,207 (Mar. 27, 2012). Commerce also initiated a countervailing duty investigation on drawn stainless steel sinks covering 45 alleged subsidy programs, specifically 13 grant programs, four loan and directed credit programs, 12 income tax programs, seven other tax programs, four government provision of goods or services for less than adequate remuneration programs, and five subsidies to enterprises located in industrial cluster zones programs. 77 Fed. Reg. at 18,211 (Mar. 27, 2012).

<sup>192</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”).

<sup>193</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

<sup>194</sup> CR/PR at Table C-1, CR/PR at Table III-3.

<sup>195</sup> CR/PR at III-3, PR at III-2, CR/PR at Table C-1.

<sup>196</sup> CR/PR at Table III-3.

<sup>197</sup> U.S. shipments constitute the majority of the domestic industry’s shipments; however, export shipments also declined by \*\*\* percent by quantity and \*\*\* percent by value over the period. CR/PR at Table III-4, CR/PR at Table C-1.

<sup>198</sup> CR/PR at Table III-4. The value of U.S. shipments fell from \$\*\*\* in 2009 to \$\*\*\* in 2010 to \$\*\*\* in 2011. CR/PR at Table III-4. End-of-period inventories decreased each year, falling from \*\*\* units in 2009 to \*\*\* units in 2010 to \*\*\* units in 2011. CR/PR at Table III-5. Ending inventory quantities fell by \*\*\* percent overall and decreased moderately relative to total shipments. CR/PR at Table III-5.

same period.<sup>199</sup> The domestic industry's share of apparent U.S. consumption declined from \*\*\* percent in 2009 to \*\*\* percent in 2011 by quantity and from \*\*\* percent to \*\*\* percent by value.<sup>200</sup>

The industry's employment indicators also suffered. The number of production and related workers decreased from \*\*\* in 2009 to \*\*\* in 2010 and to \*\*\* in 2011, an overall decrease of \*\*\* percent.<sup>201</sup> Over the same period, total hours worked and wages paid declined by \*\*\* percent and \*\*\* percent respectively.<sup>202</sup> Hours worked per worker increased by \*\*\* percent, while productivity, unit labor costs, and hourly wages remained relatively constant.<sup>203</sup>

The domestic industry's declines in output and market share corresponded with declines in its sales revenues. The domestic industry's net sales decreased from \$\*\*\* in 2009 to \$\*\*\* in 2010 to \$\*\*\* in 2011, an overall reduction of \*\*\* percent.<sup>204</sup> This decline is a result of the domestic industry's reduced shipments, as unit values were constant from 2009 to 2010 and increased by \*\*\* percent from 2010 to 2011.<sup>205</sup>

The domestic industry's operating income declined from \$\*\*\* in 2009 to \$\*\*\* in 2010 and then dropped to \$\*\*\* in 2011, resulting in an overall decrease of \*\*\* percent.<sup>206</sup> The domestic industry's operating margins increased slightly at the beginning of the period, from \*\*\* percent in 2009 to \*\*\* percent in 2010, but then decreased to \*\*\* percent in 2011.<sup>207</sup> Between 2009 and 2011, \*\*\*.<sup>208</sup>

For purposes of these preliminary phase investigations, we find that there is a causal nexus between the subject imports and the deteriorating condition of the domestic industry. Significant and increasing volumes of subject imports undersold the domestic like product and displaced domestic production in market share, leading to significant declines in the domestic industry's production, shipments, capacity utilization, employment, and profitability.

We have also considered whether there are other factors that may have had an adverse impact on the domestic industry during the period examined to ensure that we are not attributing injury from such other factors to the subject imports. We recognize that the depressed state of the economy generally and the housing market specifically, particularly when measured by housing starts, had a role in the domestic industry's performance at the start of the period. Nevertheless, as previously noted, apparent U.S. consumption improved from 2009 to 2011 while virtually all of the domestic industry's financial performance and other indicators deteriorated. Consequently, given the improvement in apparent U.S.

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<sup>199</sup> CR/PR at Table C-1. Respondents argue that \*\*\* has injured itself via its own imports of drawn stainless steel sinks from China. Respondents' Postconference Brief at 40-41. In 2011, \*\*\* imports from China of \*\*\* units was equal to only \*\*\* percent of total imports from China in that year. CR/PR at Table III-6, CR/PR at Table C-1. Moreover, \*\*\* increase in imports from China of \*\*\* units from 2009 to 2011 accounted for only \*\*\* percent of the increase in subject imports from China during that period. CR/PR at Table III-6, CR/PR at Table C-1.

<sup>200</sup> CR/PR at Table IV-4.

<sup>201</sup> CR/PR at Table III-7.

<sup>202</sup> CR/PR at Table C-1. Hours worked fell from \*\*\* in 2009 to \*\*\* in 2010 to \*\*\* in 2011. CR/PR at Table III-7. Wages paid were \$\*\*\* in 2009, \$\*\*\* in 2010, and \$\*\*\* in 2011. CR/PR at Table III-7.

<sup>203</sup> CR/PR at Table III-7. Hourly wages decreased by \*\*\* percent, productivity decreased by \*\*\* percent, and unit labor costs rose by \*\*\* percent. CR/PR at Table C-1.

<sup>204</sup> CR/PR at Table VI-1.

<sup>205</sup> See CR/PR at Table VI-2. Unit sales values were \$\*\*\* in 2009, \$\*\*\* in 2010, \$\*\*\* in 2011. CR/PR at Table C-1.

<sup>206</sup> CR/PR at Table VI-1.

<sup>207</sup> CR/PR at Table VI-2. Capital expenditures declined from \$\*\*\* in 2009 to \$\*\*\* in 2010 to \$\*\*\* in 2011. CR/PR at Table VI-4. Research and development expenses increased from \$\*\*\* in 2009 to \$\*\*\* in 2010 before decreasing slightly to \$\*\*\* in 2011. CR/PR at Table VI-4.

<sup>208</sup> CR/PR at Table VI-1, CR/PR at Table VI-2.

consumption during the period, the domestic industry's deteriorating performance during this time cannot reasonably be attributed to any alleged depressed conditions in the economy.

We have also examined the impact of non-subject imports.<sup>209</sup> On this issue, we disagree with Respondents' reading of the Bratsk and Mittal court decisions and their progeny. Respondents argue that the Commission needs to make a counterfactual showing – if subject imports from China were absent from the marketplace, would the domestic drawn stainless steel sink industry be in the same position today or would it have been better off.<sup>210</sup> The statute and the case law, however, do not presume any such notion nor is there any requirement for the Commission to demonstrate an order would be effective.<sup>211</sup>

In any event, we have closely examined the role of nonsubject imports in these investigations. Mexico is the second largest source of U.S. imports of drawn stainless steel sinks, representing \*\*\* percent of total U.S. imports of subject merchandise.<sup>212</sup> Unlike subject imports, nonsubject imports declined overall from 2009 to 2011, both in absolute and relative terms. Additionally, although limited, available quarterly price comparisons show that prices for nonsubject imports from Mexico were higher than U.S. prices and prices for subject imports in all 15 quarterly price comparisons. Thus, nonsubject imports do not appear to have played a role in the deterioration of the domestic industry's condition during 2009 to 2011.<sup>213</sup>

Consequently, the record in the preliminary phase of these investigations indicates a causal nexus between the subject imports and the declines in the condition of the domestic industry and thus demonstrates a reasonable indication of material injury by reason of subject imports. We therefore conclude, for purposes of the preliminary phase of these investigations, that subject imports have had an adverse impact on the domestic industry.

## CONCLUSION

For the above-stated reasons, and based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly dumped and subsidized imports of drawn stainless steel sinks from China.

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<sup>209</sup> Commissioner Pinkert does not join this paragraph. Based on the record evidence in these preliminary phase investigations, he finds that price-competitive nonsubject imports were a significant factor in the U.S. market for drawn stainless steel sinks. He also finds, however, that regardless of whether drawn stainless steel sinks constitute a commodity product, nonsubject imports would not have replaced the subject imports without benefit to the domestic industry had the subject imports exited the market during the period under examination. The majority of nonsubject imports were from Mexico, and reported prices for those imports were higher than the prices of the subject imports. CR/PR at Tables V-3-V-6. Moreover, average unit values for imports from Mexico and all other nonsubject sources were higher than average unit values for the subject imports. CR/PR at Table C-1. These data indicate that any replacement of subject imports by nonsubject imports would have been at increased prices, thus providing a benefit to the domestic industry. In any final phase investigations, however, Commissioner Pinkert would invite the parties to submit additional information on this issue.

<sup>210</sup> Respondents' Postconference Brief at 23-29.

<sup>211</sup> See, e.g., Mittal, 543 F.3d at 876-77 and the discussion in Section V.A *supra*.

<sup>212</sup> CR at VII-10, PR at VII-8. \*\*\*. Elkay noted that \*\*\* produces sinks for Mexican home market consumption, and does not export any subject merchandise. Tr. at 55 (Rogers).

<sup>213</sup> CR/PR at Tables V-4 to V-6.

## PART I: INTRODUCTION

### BACKGROUND

These investigations result from a petition filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by Elkay Manufacturing Company (“Elkay”), Oak Brook, IL, on March 1, 2012, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value (“LTFV”) imports of drawn stainless steel sinks<sup>1</sup> from China. Information relating to the background of the investigations is provided below.<sup>2</sup>

Effective date	Action
March 1, 2012	Petition filed with Commerce and the Commission; institution of Commission investigation (77 FR 13631, March 7, 2012)
March 22, 2012	Commission’s conference <sup>1</sup>
March 27, 2012	Commerce’s notice of initiation of antidumping and countervailing duty investigations (77 FR 18207 and 18211)
April 13, 2012	Commission’s vote
April 16, 2012	Commission’s determinations transmitted to Commerce
April 23, 2012	Commission’s views transmitted to Commerce

<sup>1</sup> A list of witnesses appearing at the conference is presented in app. B.

### STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

#### Statutory Criteria

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

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

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

*In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any*

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

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

*increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*

...

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

...

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

...

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

### **Organization of the Report**

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

## MARKET SUMMARY

There are four principal U.S. firms currently producing drawn stainless steel sinks in the United States: (1) Elkay, (2) Franke Consumer Products Inc. (“Franke”), (3) Just Manufacturing Company (“Just Manufacturing”), and (4) Moen Incorporated (“Moen”).<sup>3</sup> These firms are believed to account for virtually all U.S. production of drawn stainless steel sinks in the United States in 2011. The petitioner indicated that there are 90 or more producers of drawn stainless steel sinks in China. The following six producers of drawn stainless steel sinks in China responded to the Commission’s questionnaire in these investigations: Elkay China, Foshan Shunde Minghao Kitchen Utensils (“Minghao”), Guangdong Dongyuan Kitchenware, Jiangmen Jin Ke Ying, Shenzhen Ke Hua Xing, and Zhongshan Superte Kitchenware. The leading U.S. importers of drawn stainless steel sinks from China are \*\*\*. Leading importers of drawn stainless steel sinks from nonsubject countries include \*\*\*.

Apparent U.S. consumption of drawn stainless steel sinks totaled approximately 5.4 million sinks (\$303.9 million) in 2011. U.S. producers’ U.S. shipments of drawn stainless steel sinks totaled \*\*\* sinks (\$\*\*\*) in 2011, and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value. U.S. imports of drawn stainless steel sinks from China totaled 3.2 million sinks (\$119.1 million) in 2011 and accounted for 58.4 percent of apparent U.S. consumption by quantity and 39.2 percent by value. U.S. imports from nonsubject sources totaled \*\*\* sinks (\$\*\*\*) in 2011 and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value.

## SUMMARY DATA AND DATA SOURCES

Appendix C presents a summary of data collected in these investigations.<sup>4</sup> U.S. industry data are based on questionnaire responses of five firms that accounted for virtually all U.S. production of drawn stainless steel sinks during the period for which data were collected (2009-11). Data for U.S. imports from China and nonsubject countries are based on official Commerce import data and from questionnaire responses from 36 U.S. importers<sup>5</sup> that are believed to have accounted for 37.2 percent of total subject imports from China and \*\*\* percent of total U.S. imports of drawn stainless steel sinks from nonsubject countries in 2011.<sup>6</sup>

## PREVIOUS AND RELATED INVESTIGATIONS

There have been no previous antidumping or countervailing duty investigations on drawn stainless steel sinks in the United States.

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<sup>3</sup> Kohler Company (“Kohler”) also produced drawn stainless steel sinks in the United States \*\*\*. In addition, Advance Tabco and Eagle Group produce drawn stainless steel sinks; the combined production of those two firms accounted for \*\*\* of total drawn stainless steel sink production in 2011.

<sup>4</sup> Table C-1 presents data concerning the U.S. market for drawn stainless steel sinks; table C-2 presents data concerning fabricated stainless steel sinks; and table C-3 presents data concerning drawn and fabricated stainless steel sinks. Data for fabricated stainless steel sinks is based on questionnaires responses from \*\*\* producers of drawn stainless steel sinks who also produce fabricated stainless steel sinks, and from 23 importers of fabricated stainless steel sinks. According to the Petitioner, there may be hundreds of domestic producers of fabricated stainless steel sinks. Petition, p. 13.

<sup>5</sup> Three U.S. importers provided limited data.

<sup>6</sup> Coverage was calculated using the quantity of U.S. imports from China reported by responding U.S. importers in 2011 (1,181,928) compared to official Commerce import statistics, adjusted for fabricated stainless steel sinks (3,179,282); coverage for imports from nonsubject countries was calculated using the quantity reported by responding U.S. importers (\*\*\*) compared to adjusted Commerce import statistics (\*\*\*)

## NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

### Alleged Subsidies

On March 27, 2012, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on drawn stainless steel sinks from China.<sup>7</sup> In its notice, Commerce identified the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of drawn stainless steel sinks in China:

#### A. Grant Programs

1. The State Key Technology Renovation Fund
2. “Famous Brands” Awards
3. Grants to Cover Legal Fees in Trade Remedy Cases
4. Special Fund for Energy Saving Technology Reform
5. The Clean Production Technology Fund
6. Grants for Listing Shares
7. Export Assistance Grants
8. Guangdong Province Science and Technology Bureau Project Fund (aka Guangdong Industry, Research, University Cooperating Fund)
9. Export Rebate for Mechanic, Electronic, and High-tech Products
10. Funds for Outward Expansion of Industries in Guangdong Province
11. Fund for Small and Medium Enterprises (“SME”) Bank-enterprise Cooperation Projects
12. Special Fund for Fostering Stable Growth of Foreign Trade
13. Local Government Deposits Into Bank Accounts

#### B. Loans and Directed Credit

1. Policy Loans
2. Preferential Export Financing
3. Treasury Bond Loans or Grants
4. Preferential Loans for State-owned Enterprises (“SOEs”)

#### C. Income Tax Programs

1. “Two Free, Three Half” Program
2. Provincial Tax Exemptions and Reductions for “Productive” Foreign Invested Enterprises (“FIEs”)
3. Tax Reductions for FIEs Purchasing Chinese-made Equipment
4. Tax Reductions for FIEs in Designated Geographic Locations
5. Tax Reductions for Technology- or Knowledge-intensive FIEs
6. Tax Reductions for FIEs that are also High or New Technology Enterprises (“HNTEs”)
7. Tax Reductions for HNTEs Involved in Designated Projects
8. Tax Offsets for Research and Development at FIEs
9. Tax Credits for Domestically Owned Companies Purchasing Chinese-made Equipment
10. Tax Reductions for Export-oriented FIEs

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<sup>7</sup> *Drawn Stainless Steel Sinks from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 77 FR 18211, March 27, 2012.

11. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
12. Tax Reduction for High-tech Industries in Guangdong Province

D. Other Tax Programs

1. Import Tariff and Value Added Tax (“VAT”) Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
2. VAT Rebates on FIE Purchases of Domestically Produced Equipment
3. City Tax and Surcharge Exemptions for FIEs
4. Exemptions from Administrative Charges for Companies in Industrial Zones
5. Export Subsidies Characterized as “VAT Rebates”
6. VAT and Import Duty Exemptions on Imported Material
7. VAT Rebates on Domestically Produced Equipment

E. Government Provision of Goods or Services For Less Than Adequate Remuneration (“LTAR”)

1. Land to SOEs
2. Lands to Companies Located in Industrial or Other Special Economic Zones
3. Electricity
4. Stainless Steel Coils

F. Subsidies to Enterprises Located in Industrial Cluster Zones

1. Exemptions from Land Development Fees
2. Land Purchase Grants
3. Grants to Hire Post-doctoral Workers
4. Financial Subsidies: Interest Subsidies, Preferential Loans, and Lowered Interest Rates
5. Tax Reductions or Exemptions

Commerce also indicated in its initiation notice that it is not including in its investigation the following programs alleged to benefit producers and exporters of the subject merchandise in China:

1. Tax Exemptions and Reductions for Enterprises That Utilize Recycled Materials
2. The State Science and Technology Support Scheme
3. Provincial Loan Discount Special Fund for SMEs
4. Tax Preferences Available to Companies That Operate at a Small Profit

**Alleged Sales at LTFV**

On March 27, 2012, Commerce published a notice in the *Federal Register* of the initiation of its antidumping duty investigation on drawn stainless steel sinks from China.<sup>8</sup> Commerce initiated an antidumping duty investigation based on estimated dumping margins ranging from 22.81 percent to 76.53 percent for drawn stainless steel sinks from China.

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<sup>8</sup> *Drawn Stainless Steel Sinks From the People’s Republic of China: Initiation of Antidumping Duty Investigation*, 77 FR 18207, March 27, 2012.

## THE SUBJECT MERCHANDISE

### Commerce's Scope

Commerce has defined the scope of this investigation as follows:

*The products covered by the scope of this investigation are stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel ("Drawn Stainless Steel Sinks"). Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of the investigation if they are included within the sales price of the Drawn Stainless Steel Sinks.<sup>9</sup> For purposes of this scope definition, the term "drawn" refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Drawn Stainless Steel Sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple bowls that are joined through a welding operation to form one unit are covered by the scope of the investigation. Drawn Stainless Steel Sinks are covered by the scope of the investigation whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.*

*Excluded from the scope of the investigation are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as "zero radius" or "near zero radius" sinks.<sup>10</sup>*

### Tariff Treatment

Drawn stainless steel sinks are classified in the Harmonized Tariff Schedule of the United States ("HTS") under subheading 7324.10.00. These sinks are currently subject to a column-1 general rate of duty of 3.4 percent ad-valorem.

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<sup>9</sup> Mounting clips, fasteners, seals, and sound-deadening pads are not covered by the scope of this investigation if they are not included within the sales price of the Drawn Stainless Steel Sinks, regardless of whether they are shipped with or entered with Drawn Stainless Steel Sinks.

<sup>10</sup> *Drawn Stainless Steel Sinks From the People's Republic of China: Initiation of Antidumping Duty Investigation*, 77 FR 18207, March 27, 2012.

## THE DOMESTIC LIKE PRODUCT

### Description and Applications

The product subject to these investigations is drawn stainless steel sinks. The stainless steel provides a combination of strength, light weight, flexibility, toughness, stain and heat resistance, easy maintenance, and aesthetic appeal.<sup>11</sup> Drawn sinks are available in various grades (steel alloy compositions)<sup>12</sup> and gauges (sheet thicknesses).<sup>13</sup> Individual basins (bowls) in drawn sinks are seamless, with concave bottom surfaces for rapid drainage. Whether consisting of only a single basin or multiple basins joined together, these sinks are available in two different mounting configurations, for either top (drop-in) mounting above the countertop or for bottom (under) mounting beneath the countertop.<sup>14</sup> Drawn stainless steel sinks are found predominantly in residential kitchens, and only to a much lesser extent in commercial or institutional applications.<sup>15</sup> Both domestically produced and imported drawn stainless steel sinks are sold through wholesale plumbing-supply distributors, countertop fabricators, residential and commercial builders, manufactured-home builders, kitchen and bath show rooms, countertop fabricators, big-box retail home-improvement stores, and Internet websites.<sup>16</sup>

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<sup>11</sup> Petition, pp. 9–11; and petitioner’s postconference brief, p. 5.

<sup>12</sup> Stainless steel for drawn sinks worldwide is most commonly of 300 series chromium-nickel alloy steels (more commonly, grades 301, 302, 304, 304L, 309, 316, and 321). Among the two most common 300 series alloys, grade 304 is most commonly used worldwide for higher priced drawn sinks, whereas grade 301 is more typical for lower priced drawn sinks. Grade 316 is used in food service and laboratories applications that require high resistance to acids and chlorides. Drawn sinks produced with 200 series chromium-nickel-manganese alloy steels (more commonly, grades 201 and 201LN) are more susceptible to rust due the low nickel content. The 400 series chromium alloy steels are used in some parts of the world (more commonly, grades 409, 430, 439, 441, and 444), particularly in Brazil, as grades 440 martensitic and 430 ferritic are easier to draw than other 400 series alloys. Petition, p. 4; conference transcript, pp. 60-62 (Rogers); and counsel and consultant for petitioner, e-mail correspondence with Commission staff, March 29 and April 9, 2012. For more information about the metallurgical and physical properties of these alloys, see: Stainless Steel Information Center, “Stainless Steel Overview Alloy Classifications;” and Design Guidelines for the Selection and use of Stainless Steel, pp. 2-5.

<sup>13</sup> Commonly cited thicknesses (and the corresponding ranges in fractions of an inch) for drawn stainless steel sinks are: 22 gauge (0.0291"-0.0320"), 20 gauge (0.0351"-0.0400"), 18 gauge (0.0461" -0.0520"), and 16 gauge (0.0581"-0.0650"). Note that the higher the numerical gauge designation, the thinner the walls of the sink basin. Petition, p. 4; respondents' postconference brief, pp. 11-12; and counsel and consultant for petitioner, e-mail correspondence with Commission staff, March 29 and April 9, 2012.

<sup>14</sup> Petition, p. 4.

<sup>15</sup> Conference transcript, p. 32 (Sheehan).

<sup>16</sup> Petition, p. 11; petitioner’s postconference brief, p. 14; respondents’ postconference brief, p. 9; and conference transcript, p. 74 (Sheehan).

## Manufacturing Processes<sup>17</sup>

The manufacturing process for drawn stainless steel sinks, although highly capital intensive, is well established worldwide,<sup>18</sup> consisting of multiple steps (each with its own dedicated hydraulic presses, other equipment, and tooling)<sup>19</sup> to form steel blanks into the finished sink. The starting material is cold-rolled, stainless steel sheet in coils of the desired gauge, from which rectangular blanks are cut to the proper size,<sup>20</sup> based on the final basin geometry, for the subsequent forming operations.<sup>21</sup> The blanks are then fitted between dies to form the steel, by a combination of drawing and stretching,<sup>22</sup> into the initial rim and basin shape. Depending on the basin's intended dimensions, subsequent annealing (heat treating)<sup>23</sup> and forming stages may be necessary to attain the final shape. Next, the drain hole is counter punched at the bottom of the basin. To assemble sinks with two (or more) basins, the side rims of adjoining individual basins are welded together. Afterwards, the welded joints are flattened under a planisher (roll smoother) and machine sanded to produce flush joint surfaces. Subsequent stamping operations with suitably shaped dies and punches in hydraulic presses form the deck (raised platform) and pierce the holes for eventual mounting of the faucet(s) and any accessories,<sup>24</sup> and form a raised lip around the outer rim of sinks designed for top mounting in the countertop to prevent water from spilling over the sink rim.<sup>25</sup> By contrast, these two steps are not necessary for the flat rims of sinks designed for undermounting, because the faucet and accessory holes are drilled into the countertop beyond the outer edge of the sink.<sup>26</sup> Rims on both types of sinks are trimmed to final geometry. Interior basin surfaces (and rim surfaces for top mount sinks) are ground and buffed to remove irregularities and to impart the

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<sup>17</sup> In addition to the references cited, information in this section is compiled from petition, pp. 5, 12, and 13; and comments during the showing of an Elkay video by a witness for petitioner. Conference transcript, pp. 18–20 (Rogers).

<sup>18</sup> The extent of automation varies among individual operations, depending on local labor costs. Conference transcript, pp. 59 and 60 (Rogers).

<sup>19</sup> The constraint on facility production capacity is both the number of presses and their individual capacities. Questionnaire responses of \*\*\*.

<sup>20</sup> If the stainless steel blanks are not produced in-house by the sink manufacturer, they can be produced by a steel mill or by a steel service center. Petition, p. 5.

<sup>21</sup> Dies, punches, and other tooling for the forming operations are specific for the particular size and shape of the drawn stainless steel sink. Hence, separate sets of tooling are needed for each individual sink model produced by the manufacturer. Once purchased, the tooling can produce tens of thousands of sinks. Conference transcript, pp. 16 and 26 (Rogers).

<sup>22</sup> Forming a sink basin often requires both drawing and stretching of the steel. The distinction between these two processes is that drawing does not alter the thickness of the steel but stretching does reduce the thickness of the steel. Petition, p. 5 and footnote 5.

<sup>23</sup> Because stainless steels tend to harden during the forming process, annealing is required to release the accumulated work strains and restore formability to the steel prior to the subsequent forming step.

<sup>24</sup> Hole configuration is specified by the sink model number and holes are punched during the manufacturing process. Although technically possible, it is more difficult to cut the holes afterwards due to the hardness of stainless steel and the need for the proper cutting tools. Petition, p. 4.

<sup>25</sup> Conference transcript, p. 18 (Rogers).

<sup>26</sup> Respondents' postconference brief, p. 6; and Cohn, International Concepts in Cabinetry (ICCI) Inc., exhibit 4 of respondents' postconference brief.

finish.<sup>27</sup> Finally, sound-dampening materials (pads, sprays, or both)<sup>28</sup> are applied to the exterior surface(s) of the basin(s) both to avoid collection of surface condensation and to minimize vibrations from kitchen utensils being dropped into the sink.<sup>29</sup>

## **DOMESTIC LIKE PRODUCT ISSUES**

The petitioner contends that the Commission should find one domestic like product that is co-extensive with the scope of the investigation, including all drawn stainless steel sinks, but excluding sinks with fabricated bowls.<sup>30</sup> While respondents do not contest whether fabricated stainless steel sinks should be included in the domestic like product, they do argue that top mount and undermount drawn stainless steel sinks should constitute two separate domestic like products.<sup>31 32</sup>

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

### **EXPANDING THE DOMESTIC LIKE PRODUCT TO INCLUDE FABRICATED STAINLESS STEEL SINKS**

#### **Physical Characteristics and Uses**

Stainless steel sinks produced by drawing have different physical characteristics, features, and end uses than those produced by fabricating. Drawn sinks do not have the deeper and larger basins characteristic of fabricated sinks. Likewise, they also do not have the "commercial," "institutional," or "industrial" appearance of fabricated sinks. Rather, drawn sinks have smooth corners and bottom radii that are not found in fabricated sinks.<sup>33</sup> Drainage is slower and less complete from fabricated sinks with flat bottoms, as opposed to the pitched bottoms of drawn sinks. Mass-produced drawn sinks of the same model type are more consistent in appearance, with multiple units being produced from the same tooling, than are individually assembled fabricated sinks.<sup>34</sup> The stainless steel is of uniform thickness throughout<sup>35</sup> and is generally thicker for fabricated sinks, which will not dent as readily as that found in drawn sinks, when a heavy object is dropped into the sink. Conversely, the drawing, stretching, and annealing operations impart flexibility to the extent that the stainless steel flexes when a heavy object is dropped into a drawn sink; and by contrast, a drinking glass or plate is more likely to shatter when

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<sup>27</sup> Conference transcript, p. 19 (Rogers).

<sup>28</sup> Petition, pp. 4-5.

<sup>29</sup> Conference transcript, p. 19 (Rogers).

<sup>30</sup> Conference transcript, pp. 6-7 (Dorn) and Petition, March 1, 2012, p. 9.

<sup>31</sup> Respondents' postconference brief, pp. 3-15.

<sup>32</sup> In addition, respondent importer Compass Manufacturing International, LLC ("Compass") contends that 200 series and 300 series grade stainless steel sinks constitute different products, and urges the Commission to collect data on such products. Conference transcript, pp. 105-106 (Wolfe). The Compass witness did not elaborate further and the company did not submit a postconference brief.

<sup>33</sup> Petitioner's postconference brief, p. 5; and conference transcript, pp. 33-34 (Sheehan).

<sup>34</sup> \*\*\* questionnaire response.

<sup>35</sup> Throughout the assembly process, the bending, forming, and welding operations do not alter the thickness of the stainless steel sheet in fabricated stainless steel sinks. \*\*\* questionnaire response.

dropped into a fabricated sink in which the stainless steel is not as flexible.<sup>36</sup> Because drawn sinks require large production volumes to justify the initial tooling costs, they are more suited for residential use with more standardization among sizes, shapes, and depths.<sup>37</sup> Rather than being designed for countertop installation, fabricated sinks are always free-standing floor units, supported by attached legs,<sup>38</sup> which are not found on drawn sinks. Fabricated sinks can also feature other accessories, including front panels, back splash panels, drain boards, side work surfaces, etc. Because fabricated sinks can be assembled into a wide variety of different sizes and configurations, they are more prevalent in commercial and institutional settings where customization requirements and the prevalence for larger sizes justify their higher unit prices.<sup>39</sup> Hence, “virtually all stainless steel sinks that are used in residential kitchens are drawn sinks.... In contrast to drawn sinks, fabricated sinks are predominantly found in commercial settings where large bowls are required.”<sup>40</sup> In contrast, “fabricated sinks are rarely found in residential settings.”<sup>41</sup>

### **Manufacturing Facilities and Production Employees**

Although both drawn and fabricated stainless steel sinks can be produced within the same facility,<sup>42</sup> manufacturing occurs on separate and distinct production lines—<sup>43</sup> each with dedicated equipment, with different production processes, and employees using differing production skills.<sup>44</sup> Drawn sink manufacturing is highly capital intensive,<sup>45</sup> with hydraulic forming presses necessary for the various production steps and separate and dedicated tooling sets required for the specific size and shape of each individual sink model.<sup>46</sup> The automated stamping and drawing processes not only promote rapid production of drawn sinks, but also provide the flexibility to quickly change the tooling necessary to switch production over to a different sink model.<sup>47</sup> By contrast, fabricated sink manufacturing is more labor intensive, requiring the folding, assembly, and welding together of several cut sheets of stainless steel to form the sink basin, and the attachment of legs and any accessories.<sup>48</sup> With assembly of fabricated sinks generally requiring more highly skilled labor<sup>49</sup> and being accomplished substantially by hand, the process is less likely to be automated.<sup>50</sup> Likewise, additional labor is required to increase

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<sup>36</sup> \*\*\* questionnaire response.

<sup>37</sup> Petitioner’s postconference brief, p. 6; and conference transcript, p. 33 (Sheehan).

<sup>38</sup> Conference transcript, p. 20 (Rogers).

<sup>39</sup> Petitioner’s postconference brief, p. 6; and conference transcript, p. 33 (Sheehan).

<sup>40</sup> Conference transcript, p. 32 (Sheehan).

<sup>41</sup> An exception is the very high-end residential customer who desires a “commercial kitchen” look or a very large sink volume. Conference transcript, p. 34 (Sheehan).

<sup>42</sup> Conference transcript, p. 17 (Rogers) and pp. 42–43 (Just). Both \*\*\* produce fabricated sinks in their facilities that produce drawn sinks. \*\*\* questionnaire responses.

<sup>43</sup> Conference transcript, p. 17 (Rogers) and p. 31 (Sheehan).

<sup>44</sup> Petitioner’s postconference brief, pp. 5–6 and 8; and conference transcript, pp. 31–32 (Sheehan).

<sup>45</sup> Petitioner’s postconference brief, p. 6; and conference transcript, p. 16 (Rogers).

<sup>46</sup> Each hydraulic press costs over \$1 million and a single dedicated tooling set costs on average from \$130,000 to more than \$200,000. Conference transcript, pp. 17 and 26 (Rogers).

<sup>47</sup> \*\*\* questionnaire response.

<sup>48</sup> Petitioner’s postconference brief, p. 6; and conference transcript, p. 33 (Sheehan).

<sup>49</sup> \*\*\* questionnaire response.

<sup>50</sup> \*\*\* questionnaire response.

production of fabricated sinks.<sup>51</sup> Because of the labor-intensive and customized assembly required, fabricated sinks are also produced by numerous (possibly hundreds, according to the petitioner) small-scale, metal fabrication shops that do not need the hydraulic forming presses and tooling sets required for producing drawn sinks.<sup>52</sup>

### **Interchangeability and Customer and Producer Perceptions**

Customers and producers do not perceive drawn versus fabricated stainless steel sinks as interchangeable due to differences in their physical characteristics, end uses, appearances, and prices.<sup>53</sup> For residential uses, fabricated sinks are not generally interchangeable with drawn sinks, as they are harder to clean due to their tighter corners, have welded seams, greater unit costs,<sup>54</sup> and typically larger basin sizes;<sup>55</sup> further, they are perceived as an “institutional” product<sup>56</sup> and as having an “industrial” appearance.<sup>57</sup> Nevertheless, there is a small, high-end “niche” market for fabricated sinks sold to customers who desire to have, and are willing to pay a price premium for, an “up-scale,” “commercial,” or “gourmet” look to their residential kitchens.<sup>58</sup> Finally, for commercial, institutional, and industrial uses, drawn sinks are not generally considered as interchangeable with fabricated sinks, because they are not available in larger sizes and customized configurations.<sup>59</sup>

### **Channels of Distribution**

Domestically produced drawn stainless steel sinks are typically sold for residential use, while fabricated stainless steel sinks are typically sold for commercial use. Virtually all U.S. producers’ domestic shipments of both drawn stainless steel sinks and fabricated stainless steel sinks are sold to distributors (\*\*\*) percent of drawn stainless steel sinks and \*\*\* percent of fabricated stainless steel sinks in 2011).<sup>60</sup> Drawn stainless steel sinks are sold through retailers, wholesale plumbing distributors, kitchen and bath show rooms, countertop fabricators, residential and commercial builders, and manufactured home builders. Fabricated stainless steel sinks are typically sold through food service channels of distribution.<sup>61</sup> Additional details regarding the channel structure of domestically produced and imported drawn stainless steel sinks are presented in Part II of this report, *Conditions of Competition in the U.S. Market*.

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<sup>51</sup> \*\*\* questionnaire response.

<sup>52</sup> Petition, p. 13.

<sup>53</sup> Petitioner’s postconference brief, pp. 6 and 9. Another domestic producer elaborates further that customer perceptions are affected by thicker wall thicknesses (thinner stainless steel gauges), deeper basins, and a more uniform surface polish, which are all valued as signs of higher product quality. \*\*\* questionnaire response.

<sup>54</sup> Petitioner’s postconference brief, pp. 6 and 9; and conference transcript, p. 33 (Sheehan).

<sup>55</sup> Conference transcript, p. 34 (Sheehan).

<sup>56</sup> Petitioner’s postconference brief, p. 9.

<sup>57</sup> Petitioner’s postconference brief, p. 6; and conference transcript, p. 33 (Sheehan).

<sup>58</sup> \*\*\* questionnaire responses.

<sup>59</sup> Petitioner’s postconference brief, pp. 6–7.

<sup>60</sup> U.S. producers’ questionnaire at II-8a and II-8b.

<sup>61</sup> Conference transcript, pp. 34-35 (Sheehan).

## Price

Fabricated stainless steel sinks are generally higher priced than drawn stainless steel sinks due to the labor-intensive folding and welding manufacturing process used to produce fabricated stainless steel sinks. Drawn stainless steel sinks, due to the drawing and stretching process, also require less steel to produce. Fabricated stainless steel sinks also have higher prices because of their customized configurations and larger sizes than drawn stainless steel sinks.<sup>62</sup>

Table I-1 presents average unit values for U.S. producers' U.S. shipments of drawn stainless steel sinks and fabricated stainless steel sinks in the United States. Pricing practices and prices reported for domestically produced and imported drawn stainless steel sinks in response to the Commission's questionnaires are presented in Part V of this report, *Pricing and Related Information*.

**Table I-1**  
**Stainless steel sinks: Average unit values of U.S. producers' U.S. shipments of drawn and fabricated stainless steel sinks, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Average unit value (dollars per sink)</b>			
U.S. producers' U.S. shipments of drawn stainless steel sinks	***	***	***
U.S. producers' U.S. shipments of fabricated stainless steel sinks	***	***	***

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

## DIVIDING THE DOMESTIC LIKE PRODUCT INTO TOP MOUNT AND UNDERMOUNT DRAWN STAINLESS STEEL SINKS<sup>63</sup>

### Physical Characteristics and Uses

According to the petitioner, all drawn stainless steel sinks have similar physical characteristics, features, and uses, regardless of design for top mounting or undermounting. All drawn stainless steel sinks are available in the same basin sizes, shapes, and gauges; and either single or multiple basin configurations;<sup>64</sup> with the only distinction being the mounting method.<sup>65</sup> Petitioner also offers a "dual-mount" sink, with a shallow shaped rim, designed to be suitable for either top mounting or undermounting.<sup>66</sup>

The respondents note that top mount sinks are characterized by a shaped rim designed to fit over the countertop and by hole(s) punched into the ledge (the wider back side of the rim) for the faucet(s), and

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<sup>62</sup> Petitioner's postconference brief, p. 10.

<sup>63</sup> The market share for top mount drawn stainless steel sinks is estimated to be 75 percent of the market for drawn stainless steel sinks, while the market share for undermount drawn stainless steel sinks is estimated to be 25 percent. Conference transcript, pp. 211-212 (Perry).

<sup>64</sup> Petitioner's postconference brief, pp. 11 and 12-13.

<sup>65</sup> Petitioner's postconference brief, p. 3.

<sup>66</sup> Petitioner's postconference brief, p. 3; and conference transcript, pp. 53-54 (Sheehan).

include either eight mounting tabs or four mounting rails.<sup>67</sup> These sinks are designed to be dropped into a near universally sized hole, that will fit most top mount sink models, in the countertop, and can be readily installed as a “do-it-yourself” remodeling project by the homeowner.<sup>68</sup> Because the rim of a top mount sink overlaps the top surface of the counter, such a sink is most commonly installed onto countertops with laminated surfaces, rather than those of more-expensive natural stone or other materials, for which undermounting of the sink is more common. Undermount sinks do not feature hole(s) for faucet(s) or for any other accessory fixtures, because the holes are drilled into the countertop beyond the outer edge of the sink. Another characteristic of an undermount sink is its flat rim that is designed to fit flush against the bottom surface of the countertop.<sup>69</sup> Further, the hole in the countertop must be cut precisely for the specific profile of the undermount sink.<sup>70</sup> Hence, such sinks must be installed, on-site, by skilled craftsmen— usually the countertop fabricators.<sup>71 72</sup> In contrast to the top mount sinks more common to the “do-it-yourself” home-improvement market, undermount sinks are utilized with countertops of stone or other materials in both the new construction and remodeling markets.<sup>73</sup>

### **Manufacturing Facilities and Production Employees**

The petitioner emphasizes that the similar basin shapes and configurations for top mount and undermount sinks of drawn stainless steel are produced using the same raw materials, production line, employees, and dedicated tooling to shape the basin.<sup>74</sup> By contrast, respondents highlight differences between top mount and undermount sinks. A distinction raised by respondents is the additional tooling required in the faucet hole-punching and rim-forming operations for top mount sinks. By contrast, hole punching and rim forming are not needed for undermount sinks.<sup>75</sup> Further, undermount sinks do not require the added installation of a top flange and either mounting tabs or rails for top mount sinks.<sup>76</sup>

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<sup>67</sup> Respondents’ postconference brief, p. 6; and Cohen, “Statement of International Concepts in Cabinetry (ICCI Inc.,” p. 1, exhibit 4 of respondents’ postconference brief.

<sup>68</sup> Respondents’ postconference brief, p. 6; and conference transcript, p. 116 (Olson).

<sup>69</sup> Cohen, “Statement of International Concepts in Cabinetry (ICCI Inc.,” p. 1, exhibit 4 of respondents’ postconference brief.

<sup>70</sup> Most manufacturers of undermount sinks provide the countertop fabricator with DFX files for the computer numerical control (CNC) machine that bores the holes for both the sink and the faucet(s) and any accessory attachment(s). Conference transcript, p. 150 (Spicher).

<sup>71</sup> The countertop fabricator transports both the countertop and the undermount sink to the job site where the sink is installed beneath the countertop by fastening with clips, and the joint is sealed with silicone to prevent leakage. Conference transcript, p. 151 (Spicher).

<sup>72</sup> Fabricators rely on three different methods to install an undermount sink: 1) T-bolt set into slots pre-cut into the rim of countertop hole, 2) epoxy glued-on clips with studs, and 3) sink rails spanning from the front to the back of the cabinet with bolts to hold the sink against the countertop. Conference transcript, pp. 169–170 (Spicher).

<sup>73</sup> Cohn, “Statement of International Concepts in Cabinetry (ICCI Inc.,” p. 1, exhibit 4 of respondents’ postconference brief.

<sup>74</sup> Petitioner’s postconference brief, pp. 12–13 and pp. 14–15.

<sup>75</sup> Cohn, “Statement of International Concepts in Cabinetry (ICCI Inc.,” p. 2, exhibit 4 of respondents’ postconference brief.

<sup>76</sup> Respondents’ postconference brief, p. 12.

## Interchangeability and Customer and Producer Perceptions

According to the petitioner, customers and producers perceive top mount and undermount sinks as having similar physical characteristics and features from the drawing of the stainless steel basins<sup>77</sup> (even to the extent of identically shaped basins in many cases<sup>78</sup>), with the only difference being the mounting method.<sup>79</sup> Petitioner's "dual-mount" sinks are designed for either top mounting or undermounting.<sup>80</sup>

The respondents assert that top mount sinks are not interchangeable with undermount sinks, due to differences in terms of sizes and shapes, mounting requirements, and applications.<sup>81</sup> To the respondents, top mount models are interchangeable with each other, for they are more likely to fit into a countertop hole of near-universal dimensions and they have a wide enough rim for the sink to be positioned without revealing any gaps.<sup>82</sup> Conversely, undermount sinks produced by different manufacturers are not considered interchangeable, due to the unique hole shape that must be cut into the countertop to fit the specific sink.<sup>83</sup> The respondents also characterize end-users' perceptions of top mount sinks as being lesser priced and lesser quality products (due to both lighter (22-gauge) stainless steel<sup>84</sup> and few style changes over time<sup>85</sup>) used in less costly countertops.<sup>86</sup> Likewise, the top mount sink market is described by the respondents as a "mass merchandise market" that is very price sensitive, given the importance of sales volumes, with price being more important than quality.<sup>87</sup> By contrast, the respondents consider the bottom-mount sink market as consisting of a higher quality product (due to heavier 18- or 16-gauge stainless steel), that is less price sensitive for customers that are seeking, and are willing to pay more for a sink to match a high-quality countertop.<sup>88</sup>

## Channels of Distribution

Virtually all domestically produced drawn stainless steel sinks, inclusive of both top mount and undermount sinks, are sold to distributors rather than end users.<sup>89</sup> Petitioner argues that all drawn stainless steel sinks, including top mount, undermount, and dual mount, move through similar channels of distribution, namely plumbing wholesalers, big-box retailers, manufactured housing producers and

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<sup>77</sup> Petitioner's postconference brief, p. 15.

<sup>78</sup> Petitioner's postconference brief, p. 13.

<sup>79</sup> Petitioner's postconference brief, p. 15.

<sup>80</sup> Petitioner's postconference brief, p. 3.

<sup>81</sup> Respondents' postconference brief, p. 8.

<sup>82</sup> Cohn, "Statement of International Concepts in Cabinetry (ICCI) Inc.," p. 1, exhibit 4 of respondents' postconference brief.

<sup>83</sup> Cohn, "Statement of International Concepts in Cabinetry (ICCI) Inc.," p. 1, exhibit 4 of respondents' postconference brief.

<sup>84</sup> Conference transcript, p. 154 (Drew).

<sup>85</sup> Cohn, "Statement of International Concepts in Cabinetry (ICCI) Inc.," p. 2, exhibit 4 of respondents' postconference brief.

<sup>86</sup> Respondents' postconference brief, p. 11.

<sup>87</sup> Respondents' postconference brief, p. 8.

<sup>88</sup> Respondents' postconference brief, pp. 7-8.

<sup>89</sup> U.S. producers' questionnaire at II-8a and II-8b.

builders, and over the internet.<sup>90</sup> An Elkay witness also stated that granite fabricators predominately purchase undermount sinks.<sup>91</sup> Respondents contend that top mount sinks are sold to plumbing supply store and big box retailers, while undermount sinks are sold to granite countertop fabricators.<sup>92</sup>

### **Price**

The petitioner contends that there is a broad price range for all drawn stainless steel sinks, with overlapping price points for top mount, dual mount, and undermount drawn stainless steel sinks.<sup>93</sup> Respondents argue that there is a significant price difference between top mount and undermount sinks. They state that top mount sinks are sold in large volumes where price is important, and that undermount sinks are sold through fabricators to the higher end of the market.<sup>94</sup> Pricing practices and prices reported for domestically produced and imported top mount and undermount drawn stainless steel sinks in response to the Commission's questionnaires are presented in Part V of this report, *Pricing and Related Information*.

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<sup>90</sup> Petitioner's postconference brief, p. 14.

<sup>91</sup> Conference transcript, p. 54 (Sheehan).

<sup>92</sup> Respondents' postconference brief, p. 9.

<sup>93</sup> Petitioner's postconference brief, p. 16.

<sup>94</sup> Respondents' postconference brief, pp. 12-15.



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

### **MARKET CHARACTERISTICS**

Drawn stainless steel sinks are designed for various installation methods (top mount, undermount, and flush with countertop) and can be finished in numerous ways and combinations to address aesthetic and wear requirements. Finishes can be applied through a combination of grinding and polishing operations. The steel used in drawn stainless steel sinks is commonly the 300 series austenitic grades, although stainless steel falling within the 200 series and the 400 series can also be used. Designation 20, 18, and 16 are common gauges of steel used to produce stainless steel sinks.<sup>1</sup>

Drawn stainless steel sinks are produced for a variety of customers. The product is not sold directly to end users, e.g. homeowners, but to retailers, wholesale plumbing distributors, kitchen and bath show rooms, countertop fabricators, residential and commercial builders, and manufactured home builders.

Overall, a substantial share of all drawn stainless steel sinks are used in residential applications.<sup>2</sup> All five responding U.S. producers sell the product nationally. Twenty-two of the 34 responding U.S. importers also supply the product nationally, while four of the remaining importers supply only one region.

U.S. inland shipping distances for drawn stainless steel sinks were reported by U.S. producers and importers. Three producers and 13 importers reported that the majority of their drawn stainless steel sinks were sold within distances of 101 to 1,000 miles from their facility and their U.S. point of shipment respectively. One producer and 10 importers reported that the majority of their drawn stainless steel sinks were sold within 100 miles of their facility and their U.S. point of shipment respectively, while one producer and two importers sell the majority of their product to distances greater than 1,000 miles of their facility and their U.S. point of shipment respectively.<sup>3</sup> While most sales are from inventory, U.S. producers reported delivery lead times of 1-10 days. Twenty-one of 28 responding importers reported delivery lead times of a week or less, while five purchasers reported lead times of 45 to 120 days.

### **CHANNELS OF DISTRIBUTION**

Domestically produced and imported drawn stainless steel sinks are sold to distributors and end users (table II-1).<sup>4</sup> Between 2009 and 2011 U.S. producers shipped virtually all drawn stainless steel sinks to distributors. Importers of Chinese product shipped the majority of their drawn stainless steel sinks to distributors in 2009 and 2010, while only one-half of their shipments went to distributors in 2011. The bulk of the increase in shipments of imports from China to end users was due to \*\*\*.

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<sup>1</sup> Petition, pp. 4, 11.

<sup>2</sup> Petition, p. 11.

<sup>3</sup> One importer, \*\*\* reported selling 50 percent of its product within 100 miles of its point of shipment and 50 percent of its product to distances within 101 and 1,000 miles.

<sup>4</sup> The petitioner reported in its postconference brief that “all drawn sinks move through the same channels of distribution. Top mount, dual mount, and undermount sinks are sold through plumbing wholesalers, large box retailers, manufactured housing producers and builders, and over the internet. That some importers specializing in distribution of granite for countertop fabrication have chosen to directly import undermount sinks to bundle their granite sales has no impact on the channels of distribution criterion, as the activities of importers are not relevant to how the domestic industry distributes its production. Petitioner’s postconference brief, p. 14. The respondents reported in their postconference brief that \*\*\*. Respondents’ postconference brief, p. 9.

**Table II-1**

**Drawn stainless steel sinks: U.S. producers' and U.S. importers' shares of reported U.S. shipments, by sources and channels of distribution, 2009-11**

Item	2009	2010	2011
	Share of reported shipments ( <i>percent</i> )		
<b>Domestic producers' shipments:</b>			
To distributors	***	***	***
To end users	***	***	***
<b>Shipments of imports from China:</b>			
To distributors	71.5	62.2	48.4
To end users	28.5	37.8	51.6
<b>Shipments of imports from Mexico:</b>			
To distributors	***	***	***
To end users	***	***	***
<b>Shipments of imports from all other sources:</b>			
To distributors	***	***	***
To end users	***	***	***
<b>Total imports:</b>			
To distributors	***	***	***
To end users	***	***	***

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

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. Supply

#### Domestic Industry

The sensitivity of the domestic supply of drawn stainless steel sinks to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced drawn stainless steel sinks, inventory levels, and the ability to shift to the manufacture of other products. The record in the preliminary phase of these investigations suggests that domestic producers have a high degree of flexibility in expanding output and U.S. shipments in response to an increase in price, primarily due to low industry capacity utilization rates.

#### *Industry capacity*

U.S. producers' capacity utilization decreased from \*\*\* percent in 2009 to \*\*\* percent in 2010 and to \*\*\* percent in 2011.

### *Alternative markets*

Exports, as a share of total shipments, were \*\*\* percent in 2009, decreased to \*\*\* in 2010, and were \*\*\* percent in 2011.

### *Inventory levels*

The ratio of U.S. producers' end-of-period inventories to their total shipments decreased from \*\*\* percent in 2009 to \*\*\* percent in 2010 and increased to \*\*\* percent in 2011.

### *Production alternatives*

U.S. producers of drawn stainless steel sinks were asked to report production of other products on the same equipment and machinery used in the production of drawn stainless steel sinks. All five producers reported no production of alternative products on shared equipment.

### **Supply of Subject Imports from China**

The responsiveness of the supply of imports from China to changes in price in the U.S. market is affected by factors such as capacity utilization rates, the availability of home markets and other export markets, and inventories. Based on available information, suppliers of subject imports have the ability to respond in changes in demand with relatively substantial changes in the quantity of shipments of drawn stainless steel sinks to the U.S. market mainly due to the existence of excess capacity and large shipments to non-U.S. export markets.

### *Industry capacity*

The capacity utilization rate for the producers of drawn stainless steel sinks in China was 60.9 percent in 2009, increased to 73.1 percent in 2010 and to 83.8 percent in 2011; capacity utilization is projected to decrease to 82.8 percent in 2012 and then increase to 84.1 percent in 2013.

### *Alternative markets*

Subject producers' shipments to the Chinese home market were 10.1 percent in 2009 and decreased to 5.2 percent in 2011; home market shipments are projected to be 6.9 percent in 2012 and 7.6 percent in 2013. Exports to non-U.S. markets, as a share of its shipments, ranged from 23.3 percent in 2009 to 28.1 percent in 2011; they are projected to increase slightly to 29.2 percent in 2012 and then decrease to 28.9 percent in 2013.

### *Inventory levels*

Foreign producers' inventories, as a ratio to total shipments, increased from 4.1 percent in 2009 to 6.2 percent in 2010 and then decreased to 2.7 percent in 2011; the ratio is projected to decrease to 2.4 percent in 2012 and to 2.1 percent in 2012.

### *Production alternatives*

Chinese producers of drawn stainless steel sinks were asked to report production of other products on the same equipment and machinery used in the production of drawn stainless steel sinks.

None of the six responding Chinese producers reported producing other products on the same equipment and machinery used in the production of drawn stainless steel sinks.

## **U.S. Demand**

Based on available information it is likely that changes in the price level of drawn stainless steel sinks will result in moderate change in the quantity of drawn stainless steel sinks demanded. The main contribution to the moderate degree of responsiveness of demand is availability of substitute products and they account for a relatively small share of the total cost of a kitchen countertop or a complete kitchen renovation.

### **Demand Characteristics and Business Cycle**

Four of five U.S. producers and 15 of 30 importers reported that the drawn stainless steel sinks industry is subject to business cycles. In addition to the linkage between drawn stainless steel sink industry new construction, some of the companies provided additional examples of seasonality. One importer indicated that business increases steadily throughout the year and declines drastically in January and two importers indicated that business increases during the summer months. One U.S. producer, \*\*\*, and 15 of 30 responding importers reported that there is no business cycle specific to the drawn stainless steel sinks industry. The petitioner indicates that the overall demand for drawn stainless steel sinks is directly linked to the demand for new home construction and residential kitchen remodeling, but that there is virtually no seasonality in demand.<sup>5</sup> The respondents reported that the industry is cyclical because it is tied to housing starts.<sup>6</sup> Moreover, the respondents reported that sales increase in the fall for homeowners who want their kitchen renovated for Thanksgiving or Christmas.<sup>7</sup>

Construction spending decreased during 2009, then fluctuated for the next two years showing signs of recovery in the latter half of 2011 and into 2012 (Figure II-1).

### **Apparent Consumption**

Data on apparent U.S. consumption of drawn stainless steel sinks indicate an increase from 5,066,238 units in 2009 to 5,442,521 units in 2011. U.S. apparent consumption was 7.4 percent higher in 2011 compared with 2009.<sup>8</sup>

### **Demand Trends**

When asked how the U.S. demand for drawn stainless steel sinks had changed since January 1, 2009, two U.S. producers and six importers reported that U.S. demand for drawn stainless steel sinks decreased over the period of investigation mainly due to the downturn in the housing market and devaluation of existing homes. One producer and six importers reported no change in demand, while seven importers reported that demand fluctuated, six importers reported that demand decreased, while one producer reported that it both decreased and fluctuated. The latter producer also added that while “the overall demand for stainless steel sinks decreased, the stimulus money helped to offset some of this decrease in demand; the healthcare industry as well as some school construction has also helped offset

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<sup>5</sup> Conference transcript, pp. 35, 58 (Sheehan).

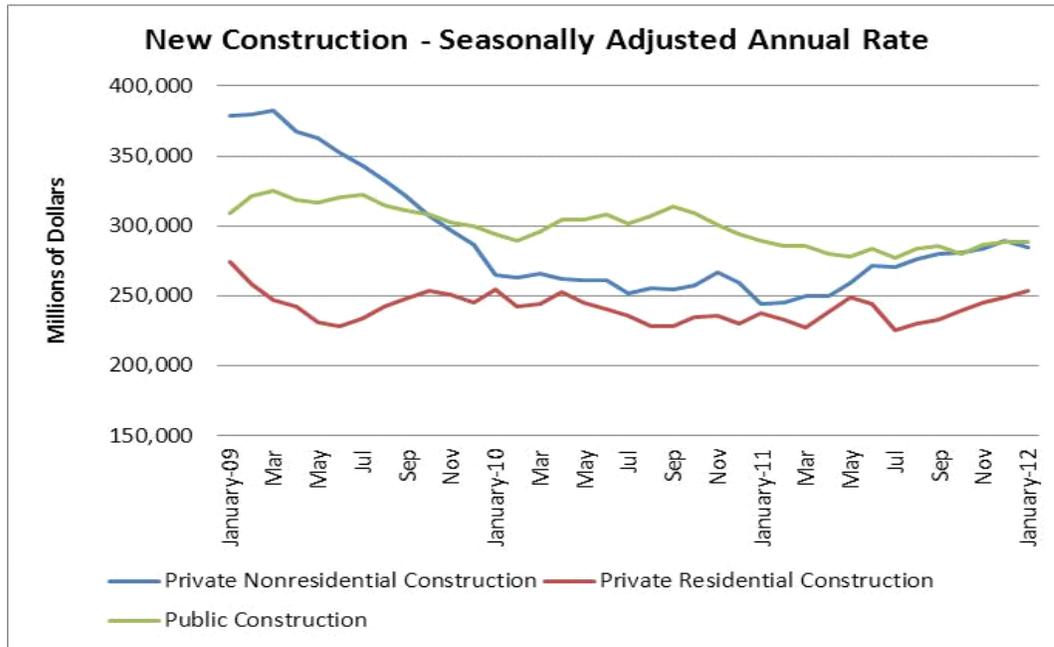
<sup>6</sup> Conference transcript, p. 162 (Perry).

<sup>7</sup> Conference transcript, pp. 162-63 (Spicher).

<sup>8</sup> See table C-1.

some of the decrease in demand.”<sup>9</sup> The petitioner also reported that “the economic recession of 2008 and resulting housing crash caused significant contraction of the U.S. market for drawn stainless steel sinks.

**Figure II-1**  
**Construction spending: Public, private residential and nonresidential construction spending in the United States, seasonally adjusted annual rate, deflated by the producer price index, monthly, January 2009-January 2012**



Source: U.S. Census Bureau, Manufacturing, Mining and Construction Statistics, Construction Spending. <http://www.census.gov/econ/construction.html> (retrieved March 29, 2012).

New residential construction remains depressed . . . and the renovation market is also weak because of lower levels of investor activity in the market. In addition, homeowners have postponed projects due to employment uncertainty and the lack of available home equity loans to finance kitchen renovation.”<sup>10</sup> A respondent also reported that demand is “very very slowly coming back up. And the confidence that it will ever hit the market that it was in 2008 is extremely low.”<sup>11</sup> While the overall demand is currently flat, the respondents reported that demand is up in the repair and remodel sectors, along with “new home sales being up in certain sectors of the United States.”<sup>12</sup>

<sup>9</sup> U.S. producer \*\*\* questionnaire.

<sup>10</sup> Conference transcript, p. 35 (Sheehan).

<sup>11</sup> Conference transcript, p. 57 (Sheehan).

<sup>12</sup> Conference transcript, p. 160 (Wolfe).

## **Substitute Products**

U.S. producers and importers were asked to discuss the existence of any substitute products for drawn stainless steel sinks. Four of the five U.S. producers reported that there are no substitutes, while 18 of 23 responding importers reported that there are substitutes for drawn stainless steel sinks, such as cast iron sinks, fabricated sinks, copper sinks, composite sinks, fiberglass sinks, porcelain sinks, granite sinks, and quartz sinks. The vast majority of responding importers reported that the price of these substitutes do not affect the price of drawn stainless steel sinks.

## **Cost Share**

Based on available information, drawn stainless steel sinks account for at least 84 percent of the share of the total cost of a sink or about 3 percent of the total cost of a countertop in the kitchen.

## **Product Changes**

U.S. producers and importers were asked if there have been any significant changes in product range, product mix, or marketing of drawn stainless steel sinks since January 1, 2009. One producer, \*\*\*, reported that there has been an increase in sales of 16-gauge drawn stainless steel sinks versus 18-gauge when traditionally only high-end fabricated sinks and commercial product would have been marketed as 16 gauge. One importer, \*\*\*, reported that \*\*\*. Moreover, \*\*\* also reported that private label brands supplied plumbing wholesalers have lowered the price levels in the industry by a large degree. Another importer, \*\*\*, reported two major factors that changed sink sales considerably since 2009. One is the annealed sink that allows a double bowl sink to be machine pressed with almost no labor involved; the downside is that the sink is at its thinnest at the bottom and thickest at the top and does not have good quality. A second major change is the 201 series stainless steel produced in China that is \*\*\* percent less costly than the 304 series produced in Korea and Japan due to the much lower nickel content. An additional importer, \*\*\*, reported the introduction of “all in one sinks,” with faucets and grids contained in the package. Importer \*\*\* reported that they \*\*\*. Importer \*\*\* reported that stainless steel sinks have “turned into more of a commodity item while premium products such a quartz, copper, stone, porcelain, and glass sinks are demanding more of a profit because of current trends and uniqueness. Because of this there has been downward pressure on steel sinks in general.”

## **SUBSTITUTABILITY ISSUES**

The extent of substitutability between domestic products and subject and nonsubject imports, between subject imports from different sources, and between subject and nonsubject imports is examined in this section. The discussion is based upon the results of questionnaire responses from U.S. producers and importers.

### **Factors Affecting Price**

The petitioner reported that drawn stainless steel sinks are commodity products “sold primarily on the basis of price and Chinese and domestic sinks compete head to head.”<sup>13</sup> Respondents argue that while top mount/drop-in sinks are a commodity product, the market for undermount sinks is a niche

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<sup>13</sup> Conference transcript, p. 8 (Dorn).

market where quality is more important than price.<sup>14</sup> Respondent Kraus indicates that they found that by “eliminating the middleman between importer and the final retailer in the distribution cycle” enabled them to offer their vendors healthier profit margin so they can finally offer an affordable price to their consumer.”<sup>15</sup>

### **Comparisons of Domestic Products and Subject Imports**

To determine whether U.S.-produced drawn stainless steel sinks can generally be used in the same applications as imports from China and Mexico, U.S. producers and importers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably (table II-2).

U.S. producers reported that U.S. products and those from China and Mexico can always be used interchangeably. Similarly, most importers reported that the products from the United States and China and Mexico can always or frequently be used interchangeably. Several companies mentioned that a stainless steel sink is a stainless steel sink, with very slight variations from one another.

U.S. producers and importers were also asked to compare U.S.-produced products with imports from China and Mexico in terms of product differences other than price such as quality, availability, product range, and technical support. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant (table II-3).

When U.S. producers compared the U.S. product with product from China and nonsubject Mexico, they reported that differences other than price are sometimes or never significant. When importers compared the U.S. product with that from China and nonsubject Mexico, about half of the firms reported that differences other than price are always or frequently significant, while the other half reported that these differences are sometimes or never significant. U.S. producer \*\*\*<sup>16</sup> added that many stainless steel sinks look the same and, while supply chain disruptions in China might cause vendors to supply locally, imports from China are priced significantly lower and other factors have not been a major factor in the sale of sinks. Three importers reported that quality is a distinguishing characteristic, including finish and sound-pad material.

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<sup>14</sup> Respondents’ postconference brief, pp. 12-15.

<sup>15</sup> Conference transcript, p. 110 (Magarik).

<sup>16</sup> \*\*\*.

**Table II-2****Drawn stainless steel sinks: Interchangeability of product from different sources<sup>1</sup>**

Country comparisons	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	5	-	-	-	12	14	3	3
U.S. vs. Mexico (nonsubject)	4	-	-	-	5	4	3	-
China vs. Mexico (nonsubject)	4	-	-	-	4	3	3	1

<sup>1</sup> Producers and importers were asked if drawn stainless steel sinks produced in the United States and in other countries are used interchangeably.

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

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

**Table II-3****Drawn stainless steel sinks: Differences other than price between products from different sources<sup>1</sup>**

Country comparisons	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	-	-	1	4	9	6	8	6
U.S. vs. Mexico (nonsubject)	-	-	1	3	3	2	3	3
China vs. Mexico (nonsubject)	-	-	1	3	3	1	3	3

<sup>1</sup> Producers and importers were asked if differences other than the price between drawn stainless steel sinks produced in the United States and in other countries are a significant factor in their firms' sales of drawn stainless steel sinks.

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

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

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged subsidies and margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of five responding firms.<sup>1</sup>

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

The Commission sent producer questionnaires to four current and one former U.S. producer of drawn stainless steel sinks. The Commission received questionnaire responses from all of these firms, which accounted for nearly all drawn stainless steel sink production in the United States in 2011.

\*\*\*.<sup>2</sup> During the period 2009–11, the domestic industry \*\*\*. Table III-1 summarizes the changes in operations of the domestic industry since January 2009.

**Table III-1**  
**Drawn stainless steel sinks: Changes in domestic industry operations since January 1, 2009**

\* \* \* \* \*

Presented in table III-2 is a list of current domestic producers of drawn stainless steel sinks and each company's position on the petition, production location(s), related and/or affiliated firms, and share of reported production of drawn stainless steel sinks in 2011.

As indicated in table III-2, two current or former U.S. producers are related to foreign producers of the subject merchandise and three are related to U.S. importers of the subject merchandise. In addition, as discussed in greater detail below, four U.S. producers directly import the subject merchandise.

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<sup>1</sup> Two additional firms, Advance Tabco and Eagle Group, were also identified as U.S. producers. The firms were identified late in the investigation process and did not complete a U.S. producer questionnaire; however, the firms have provided 2011 production and capacity data for drawn stainless steel sinks. These firms are not included throughout this report with the exception of tables III-2 and III-3.

<sup>2</sup> \*\*\*'s U.S. producer questionnaire, question II-2. \*\*\*.

**Table III-2**

**Drawn stainless steel sinks: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and 2011 reported U.S. production and shares of production**

Firm	Position on petition	U.S. production location(s)	Related and/or affiliated firms in the United States	2011 production (sinks)	Share of production (percent)
Advance Tabco	( <sup>1</sup> )	Edgewood, NY	( <sup>1</sup> )	***	***
Eagle Group	( <sup>1</sup> )	Clayton, DE	( <sup>1</sup> )	***	***
Elkay <sup>2</sup>	Petitioner	Broadview IL, Lumberton, NC, and Ogden, UT	***	***	***
Franke <sup>3</sup>	***	Rouston, LA	***	***	***
Just Manufacturing	***	Franklin Park, IL	***	***	***
Moen	***	Pine Grove, PA	***	***	***
Kohler <sup>4</sup>	***	Searcy, AR	***	***	***
Total				***	100.0
<sup>1</sup> Not available. Advance Tabco and Eagle Group did not complete U.S. producer questionnaires. <sup>2</sup> ***. <sup>3</sup> ***. <sup>4</sup> ***.					
Source: Compiled from data submitted in response to Commission questionnaires and from responses to Commission staff follow-up data requests.					

**U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION**

U.S. producers' capacity, production, and capacity utilization data for drawn stainless steel sinks between 2009 and 2011 are presented in table III-3. Kohler operated only in 2009. Reported production decreased from \*\*\* drawn stainless steel sinks in 2009 to \*\*\* drawn stainless steel sinks in 2010 when Kohler had ceased its operations, to \*\*\* drawn stainless steel sinks in 2011. Reported capacity decreased from \*\*\* drawn stainless steel sinks in 2009, to \*\*\* drawn stainless steel sinks in 2010 after Kohler had ceased its operations in late 2009, and \*\*\* in 2011.

**Table III-3**  
**Drawn stainless steel sinks: U.S. producers' capacity, production, and capacity utilization, 2009-11**

\* \* \* \* \*

**U.S. PRODUCERS' SHIPMENTS**

Data on U.S. producers' shipments of drawn stainless steel sinks are presented in table III-4. U.S. shipments of drawn stainless steel sinks by quantity decreased by \*\*\* percent from 2009 to 2011. The unit value of U.S. shipments of drawn stainless steel sinks increased by \*\*\* percent, from \$\*\*\* to \$\*\*\*, from 2009 to 2011. \*\*\* reported exporting to Canada, \*\*\* reported exporting to \*\*\*, \*\*\* reported exporting \*\*\*, \*\*\* reported exporting to \*\*\*, and \*\*\* reported exporting to \*\*\*. There were \*\*\* of drawn stainless steel sinks.

**Table III-4**  
**Drawn stainless steel sinks: U.S. producers' shipments, by types, 2009-11**

\* \* \* \* \*

**U.S. PRODUCERS' INVENTORIES**

Table III-5 presents U.S. producers' end-of-period inventories of drawn stainless steel sinks. Overall, such inventories declined by \*\*\* percent in terms of quantity from 2009 to 2011, while decreasing moderately relative to the U.S. producers' reduced levels of production and shipments.

**Table III-5**  
**Drawn stainless steel sinks: U.S. producers' end-of-period inventories, 2009-11**

\* \* \* \* \*

**U.S. PRODUCERS' IMPORTS AND PURCHASES**

U.S. producers' imports and purchases of drawn stainless steel sinks are presented in table III-6. The reasons for importing are presented in the notes of table III-6. \*\*\* reported purchasing drawn stainless steel sinks from domestic producers. \*\*\* stated its purchases were because of the \*\*\*,<sup>3</sup>

**Table III-6**  
**Drawn stainless steel sinks: U.S. producers' imports, 2009-11**

\* \* \* \* \*

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<sup>3</sup> \*\*\*'s U.S. producer questionnaire, question II-10.

## U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for drawn stainless steel sinks are presented in table III-7. Production-related workers (PRWs) decreased from 2009 to 2011 by \*\*\* percent. Hours worked per PRW increased by \*\*\* percent from 2009 to 2011, while productivity during the same period remained relatively constant.

**Table III-7**  
**Drawn stainless steel sinks: U.S. producers' employment-related data, 2009-11**

\* \* \* \* \*

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

### U.S. IMPORTERS

Importer questionnaires were sent to 51 firms believed to be importers of subject drawn stainless steel sinks, as well as to five U.S. producers of drawn stainless steel sinks. Questionnaire responses were received from 36 companies,<sup>1</sup> representing 37.2 percent of total imports from China and \*\*\* percent of total U.S. imports of drawn stainless steel sinks from nonsubject countries in 2011.<sup>2</sup> Table IV-1 lists all responding U.S. importers of drawn stainless steel sinks from China and other sources, their locations, and their shares of reported U.S. imports, in 2011.

**Table IV-1  
Drawn stainless steel sinks: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2011**

Firm	Headquarters	Source of imports	Share of imports (percent)		
			China	Other	Total
Alpha International	Silver Spring, MD	***	***	***	***
Amerisink	San Leandro, CA	***	***	***	***
Artisan Manufacturing Corp.	Newark, NJ	***	***	***	***
Badaro Group Corp. (DBA Pelican Sinks International)	Pinellas Park, FL	***	***	***	***
BLANCO America, Inc.	Lumberton, NJ	***	***	***	***
Chemcore Industries	Austin, TX	***	***	***	***
Compass Manufacturing	Louisville, KY	***	***	***	***
Dawn Kitchen & Bath Products, Inc.	Hayward, CA	***	***	***	***
Dowell Kitchen & Bath	College Point, NY	***	***	***	***
Elkay Manufacturing Company	Oak Brook, IL	***	***	***	***
Empire Industries	Paterson, NJ	***	***	***	***
EZ Sink Supply, Inc.	Worcester, MA	***	***	***	***
Ferguson Enterprises	Newport News, VA	***	***	***	***
Franke Consumer Products	Ruston, LA	***	***	***	***

Table continued on next page.

<sup>1</sup> \*\*\*'s importer questionnaire data were unusable, except for their 2012 arranged imports. \*\*\* was established in 2012 and only provided data on 2012 arranged imports.

<sup>2</sup> Coverage was calculated using the quantity of U.S. imports from China reported by responding U.S. importers in 2011 (1,181,928) compared to official Commerce import statistics, adjusted for fabricated stainless steel sinks (3,179,282); coverage for imports from nonsubject countries was calculated using the quantity reported by responding U.S. importers (\*\*\*) compared to adjusted Commerce import statistics (\*\*\*) .

**Table IV-1--Continued**

**Drawn stainless steel sinks: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2011**

Firm	Headquarters	Source of imports	Share of imports (percent)		
			China	Other	Total
Global Builder Supply	Temperance, MI	***	***	***	***
Hajoca Corp.	Ardmore, PA	***	***	***	***
Heng's Industries USA, LLC	Elkhart, IN	***	***	***	***
Home Depot	Atlanta, GA	***	***	***	***
Houzer Inc.	Hamilton, NJ	***	***	***	***
IKEA	Westampton, NJ (and Switzerland for 2011)	***	***	***	***
Int'l Concepts in Cabinetry (DBA Eclipse Stainless)	Mill Valley, CA	***	***	***	***
Kamisa Construction Inc. (DBA KL2 Diamond Tools)	Dallas, TX	***	***	***	***
Kohler Co.	Kohler, WI	***	***	***	***
KPAX	Hialeah, FL	***	***	***	***
Kraus USA	Port Washington, NY	***	***	***	***
Leedo Manufacturing	Westampton, NJ	***	***	***	***
Moen Inc.	North Olmstead, OH	***	***	***	***
MR Direct	Toledo, OH	***	***	***	***
Nikon Manufacturing	Hollywood, FL	***	***	***	***
Plexicor (USA), Inc.	Millersville, MD	***	***	***	***
Posey Supply	Double Springs, AL	***	***	***	***
Royal USA, Inc.	Sterling, VA	***	***	***	***
Seena Stone (Nantucket Sinks)	North Kingstown, RI	***	***	***	***
Soci LP	McKinney, TX	***	***	***	***
Waterway International, Inc.	Gardena, VA	***	***	***	***
WesPac International, LLC	Fort Lauderdale, FL	***	***	***	***
Total			100.0	100.0	100.0

1\*\*\*  
2\*\*\*

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

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

## **U.S. IMPORTS**

Table IV-2 presents data for U.S. imports of drawn stainless steel sinks from China and all other sources. As shown in table IV-2, imports from China increased from 2009 to 2011 by 57.0 percent. Mexico was the second largest source; U.S. imports from Mexico peaked in 2010 and decreased in 2011. Imports from all other sources combined peaked in 2010 and decreased in 2011.

## **NEGLIGENCE**

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.<sup>3</sup> Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.<sup>4</sup> Imports from China accounted for \*\*\* percent of total imports of drawn stainless steel sinks by quantity during 2011.

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

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

**Table IV-2**  
**Drawn stainless steel sinks: U.S. imports, by sources, 2009-11**

Source	Calendar year		
	2009	2010	2011
<b>Quantity (sinks)</b>			
China	2,025,125	2,686,397	3,179,282
Mexico	***	***	***
All others	***	***	***
subtotal (nonsubject)	***	***	***
Total	***	***	***
<b>Value (1,000 dollars)<sup>1</sup></b>			
China	73,160	101,721	119,071
Mexico	***	***	***
All others	***	***	***
subtotal (nonsubject)	***	***	***
Total	***	***	***
<b>Unit value (dollars per sink)<sup>1</sup></b>			
China	\$36.13	\$37.87	\$37.45
Mexico	***	***	***
All others	***	***	***
subtotal (nonsubject)	***	***	***
Average	***	***	***
<b>Share of quantity (percent)</b>			
China	***	***	***
Mexico	***	***	***
All others	***	***	***
subtotal (nonsubject)	***	***	***
Total	100.0	100.0	100.0
<b>Share of value (percent)</b>			
China	***	***	***
Mexico	***	***	***
All others	***	***	***
subtotal (nonsubject)	***	***	***
Total	100.0	100.0	100.0
<sup>1</sup> Landed, U.S. port of entry, duty-paid. Source: Compiled from official Commerce statistics and adjusted to exclude imports of fabricated stainless steel sinks as reported in data submitted in response to Commission questionnaires.			

## APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of drawn stainless steel sinks during 2009-11 are shown in table IV-3 and figure IV-1.

**Table IV-3**  
**Drawn stainless steel sinks: U.S. shipments of domestic product, U.S. imports by sources, and apparent U.S. consumption, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Quantity (sinks)</b>			
U.S. producers' U.S. shipments	***	***	***
U.S. imports from-- China	2,025,125	2,686,397	3,179,282
Mexico	***	***	***
All other sources	***	***	***
Subtotal (nonsubject)	***	***	***
Total U.S. imports	***	***	***
Apparent U.S. consumption	5,066,238	5,435,484	5,442,521
<b>Value (1,000 dollars)</b>			
U.S. producers' U.S. shipments	***	***	***
U.S. imports from-- China	73,160	101,721	119,071
Mexico	***	***	***
All other sources	***	***	***
Subtotal (nonsubject)	***	***	***
Total U.S. imports	***	***	***
Apparent U.S. consumption	300,442	298,326	303,924
Note.--Because of rounding, figures may not add to the totals shown.			
Source: Compiled from official Commerce import statistics and data submitted in response to Commission questionnaires.			

**Figure IV-1**  
**Drawn stainless steel sinks: Apparent U.S. consumption, by sources, 2009-11**

\* \* \* \* \*

## U.S. MARKET SHARES

U.S. market share data are presented in table IV-4.

**Table IV-4**

**Drawn stainless steel sinks: U.S. consumption and market shares, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Quantity (sinks)</b>			
Apparent U.S. consumption	5,066,238	5,435,484	5,442,521
<b>Value (1,000 dollars)</b>			
Apparent U.S. consumption	300,442	298,326	303,925
<b>Share of quantity (percent)</b>			
U.S. producers' U.S. shipments	***	***	***
U.S. imports from-- China	40.0	49.4	58.4
Mexico	***	***	***
All other sources	***	***	***
Subtotal (nonsubject)	***	***	***
Total U.S. imports	***	***	***
<b>Share of value (percent)</b>			
U.S. producers' U.S. shipments	***	***	***
U.S. imports from-- China	24.4	34.1	39.2
Mexico	***	***	***
All other sources	***	***	***
Subtotal (nonsubject)	***	***	***
Total U.S. imports	***	***	***
<p>Note.—Because of rounding, figures may not add to the totals shown.</p> <p>Source: Compiled from official Commerce import statistics and data submitted in response to Commission questionnaires.</p>			

## RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of drawn stainless steel sinks is presented in table IV-5.

**Table IV-5**  
**Drawn stainless steel sinks: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2009-11**

Item	Calendar year		
	2009	2010	2011
<b>Quantity (<i>sinks</i>)</b>			
U.S. production	***	***	***
U.S. imports from— China	2,025,125	2,686,397	3,179,282
Mexico	***	***	***
All other sources	***	***	***
Subtotal (nonsubject)	***	***	***
Total U.S. imports	***	***	***
<b>Ratio of U.S. imports to production (<i>percent</i>)</b>			
U.S. imports from— China	***	***	***
Mexico	***	***	***
All other sources	***	***	***
Subtotal (nonsubject)	***	***	***
Total U.S. imports	***	***	***
<p>Note.—Because of rounding, figures may not add to the totals shown.</p> <p>Source: Compiled from official Commerce import statistics and data submitted in response to Commission questionnaires.</p>			



## PART V: PRICING AND RELATED INFORMATION

### FACTORS AFFECTING PRICES

#### Raw Material Costs

The major costs to manufacture drawn stainless steel sinks are raw materials, other factory costs, and labor. During the period examined, raw materials represented the largest share of the cost of goods sold (\*\*% percent), followed by other factory costs (\*\*% percent) and direct labor (\*\*% percent).<sup>1</sup>

Prices for stainless cold-rolled steel coils, the main raw material for drawn stainless steel sinks, were volatile between January 2009 and March 2012 and increased overall (figure V-1).

#### Figure V-1

**Material costs: Cold-rolled stainless coils, monthly average U.S. negotiated domestic transaction prices by stainless steel grades, January 2009-March 2012**

\* \* \* \* \*

When asked to discuss changes in raw material costs since January 2009, most responding firms indicated that prices for stainless steel, the most significant raw material in drawn stainless steel sinks have increased. One producer, \*\*\*, added that from 2009-11, stainless steel prices increased approximately 30 percent. This increase was partially driven by stainless steel components materials, such as nickel (\*\*% percent), chrome (\*\*% percent), and iron (\*\*% percent). All five U.S. producers expect these trends to continue. Ten importers reported similar trends as U.S. producers, although four importers reported that prices either fluctuated or remained fairly steady over the period, while four importers reported that prices have come down in the past few months and reduced their overall costs.

#### U.S. Inland Transportation Costs

Most U.S. producers reported that transportation costs accounted for 2.0-9.4 percent of the delivered price.<sup>2</sup> All five producers reported that they arrange for transportation, while one producer reported that sometimes the purchaser arranges for it. For importers, these costs ranged between 0.7 percent and 30 percent of the delivered price.

### PRICING PRACTICES

U.S. producers varied in their pricing practices: two producers determine prices transaction by transaction as well as by setting price lists, one producer uses contracts and sets price lists, and one producer uses all pricing methods. Importers also varied in their pricing practices: 13 firms set price lists, six firms determine prices transaction by transaction, three firms use contracts, three firms use all pricing practices, while nine firms use a combination of two or more pricing practices.

One U.S. producer and 17 U.S. importers quote prices on an f.o.b. basis. Of the remaining responding producers and importers, one producer and 12 importers usually quote prices on a delivered basis, and two producers and two importers quote prices on both methods.

Drawn stainless steel sinks are commonly sold on a spot basis and, to a lesser extent, short- and long-term contract basis. Three of the four responding U.S. producers and 23 of 29 reporting importers

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<sup>1</sup> See Part VI.

<sup>2</sup> U.S. producer \*\*\* reported that its inland transportation costs are \*\*% percent of the delivered price.

producers sell the majority of their product on a spot basis. One producer and five importers sell the majority of their product on short-term contracts. One importer reported selling on only long-term contracts, and one importer reported selling on a spot basis and through long- and short-term contracts.

When asked if they offer discounts, current and former U.S. producers reported they offer discounts: three producers offer quantity discounts, while of the remaining two producers, one offers quantity, annual and other discounts methods, while the other offers discounts on qualifying large jobs. Twelve importers offer quantity discounts, 14 importers a combination of discounts practices or other discount methods, while nine importers offer no discounts.

## PRICE DATA

The U.S. producers and importers of drawn stainless steel sinks were asked to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of selected products that were shipped to unrelated customers in the U.S. market from January 2009-December 2011. The products for which pricing data were requested were as follows:

- Product 1.*** — 300 series stainless steel, regardless of finish, top mount with overall dimensions of 33 inches x 22 inches, two bowls with both bowls 14 inches x 15<sup>3</sup>/<sub>4</sub> inches, and each bowl depth 6 inches. Gauge 20-24. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch.
- Product 2.*** — 300 series stainless steel, regardless of finish, top mount with overall dimensions of 25 inches x 22 inches, one bowl 21 inches x 15<sup>3</sup>/<sub>4</sub> inches, and bowl depth 6 inches. Gauge 20-24. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch.
- Product 3.*** — 300 series stainless steel, regardless of finish, top mount with overall dimensions of 33 inches x 22 inches, two bowls with both bowls 14 inches x 15<sup>3</sup>/<sub>4</sub> inches, and each bowl depth 8<sup>1</sup>/<sub>16</sub> inches. Gauge 20-24. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch.
- Product 4.*** — 300 series stainless steel, regardless of finish, undermount with overall dimensions of 31<sup>1</sup>/<sub>4</sub> inches x 17<sup>3</sup>/<sub>4</sub> inches (with flange), two bowls with both bowls 14 inches x 15<sup>3</sup>/<sub>4</sub> inches, and each bowl depth 8 inches. Gauge 16-20. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch.
- Product 5.*** — 300 series stainless steel, regardless of finish, undermount with overall dimensions of 23 inches x 17<sup>3</sup>/<sub>4</sub> inches (with flange), one bowl 21 inches x 15<sup>3</sup>/<sub>4</sub> inches, and bowl depth 8 inches. Gauge 16-20. All dimensions plus/minus 2 inches, except bowl depth plus/minus 1 inch.
- Product 6.*** — 300 series stainless steel, regardless of finish, undermount with overall dimensions of 31<sup>3</sup>/<sub>4</sub> inches x 20<sup>1</sup>/<sub>2</sub> inches (with flange), two bowls with one bowl 14 inches x 15<sup>3</sup>/<sub>4</sub> inches and one bowl 13<sup>1</sup>/<sub>2</sub> inches x 18 inches, and bowl depths of 8 and 10 inches respectively. Gauge 16-20. All dimensions except bowl depth plus/minus 2 inches (but each bowl must be a different size), bowl depth plus/minus 1 inch (each bowl may be the same or a different depth).

Five U.S. producers and 27 importers provided price data.<sup>3</sup> Pricing data accounted for \*\*\* percent of the value of U.S. producers' U.S. shipments during January 2009-December 2011 and 16.1 percent of the value of U.S. imports from China, and \*\*\* percent of imports from nonsubject Mexico. Quarterly weighted-average sales prices for U.S. producers and importers for the above products are shown in tables V-1 through V-6 and figure V-2. \*\*\*.

**Table V-1**

**Drawn stainless steel sinks: Weighted-average f.o.b. selling prices and quantities for product 1,<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2009-December 2011**

\* \* \* \* \*

**Table V-2**

**Drawn stainless steel sinks: Weighted-average f.o.b. selling prices and quantities for product 2,<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2009-December 2011**

\* \* \* \* \*

**Table V-3**

**Drawn stainless steel sinks: Weighted-average f.o.b. selling prices and quantities for product 3,<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2009-December 2011**

Period	United States		China			Mexico (nonsubject)	
	Price (per sink)	Quantity (sinks)	Price (per sink)	Quantity (sinks)	Margin (percent)	Price (per sink)	Quantity (sinks)
<b>2009:</b>							
January-March	\$***	***	\$***	***	***	--	0
April-June	***	***	***	***	***	\$***	***
July-September	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***
<b>2010:</b>							
January-March	***	***	66.57	17,291	***	--	0
April-June	***	***	69.32	16,642	***	--	0
July-September	***	***	64.10	25,455	***	--	0
October-December	***	***	71.37	11,397	***	--	0
<b>2011:</b>							
January-March	***	***	70.22	12,085	***	--	0
April-June	***	***	70.38	13,612	***	--	0
July-September	***	***	70.74	14,652	***	--	0
October-December	***	***	74.15	12,671	***	--	0

<sup>1</sup> 300 series stainless steel, regardless of finish, top mount with overall dimensions of 33 inches x 22 inches, two bowls with both bowls 14 inches x 15¾ inches, and each bowl depth 8<sup>1</sup>/<sub>16</sub> inches. Gauge 20-24.

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

<sup>3</sup> Twenty-six importers reported price data for imports from China, while one importer, \*\*\*, reported price data for imports from Mexico. In addition, importer \*\*\* reported price data that was not used because it was not valued at the wholesale level of competition.

**Table V-4**

**Drawn stainless steel sinks: Weighted-average f.o.b. selling prices and quantities for product 4,<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2009-December 2011**

Period	United States		China			Mexico (nonsubject)	
	Price (per sink)	Quantity (sinks)	Price (per sink)	Quantity (sinks)	Margin (percent)	Price (per sink)	Quantity (sinks)
<b>2009:</b>							
January-March	\$***	***	\$98.54	13,936	***	\$***	***
April-June	***	***	88.20	22,560	***	***	***
July-September	***	***	89.06	22,770	***	***	***
October-December	***	***	67.33	35,278	***	***	***
<b>2010:</b>							
January-March	***	***	90.91	23,030	***	--	0
April-June	***	***	78.55	43,233	***	--	0
July-September	***	***	82.05	41,135	***	--	0
October-December	***	***	85.06	36,207	***	--	0
<b>2011:</b>							
January-March	***	***	81.43	34,388	***	--	0
April-June	***	***	80.81	39,041	***	--	0
July-September	***	***	80.63	31,392	***	--	0
October-December	***	***	79.00	33,578	***	--	0

<sup>1</sup> 300 series stainless steel, regardless of finish, undermount with overall dimensions of 31¼ inches x 17¾ inches (with flange), two bowls with both bowls 14 inches x 15¾ inches, and each bowl depth 8 inches. Gauge 16-20.

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

**Table V-5**

**Drawn stainless steel sinks: Weighted-average f.o.b. selling prices and quantities for product 5,<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2009-December 2011**

Period	United States		China			Mexico (nonsubject)	
	Price (per sink)	Quantity (sinks)	Price (per sink)	Quantity (sinks)	Margin (percent)	Price (per sink)	Quantity (sinks)
<b>2009:</b>							
January-March	\$***	***	\$70.88	9,934	***	\$***	***
April-June	***	***	65.44	11,050	***	***	***
July-September	***	***	70.29	14,334	***	***	***
October-December	***	***	59.55	16,619	***	***	***
<b>2010:</b>							
January-March	***	***	67.11	12,016	***	--	0
April-June	***	***	66.55	17,670	***	--	0
July-September	***	***	63.50	17,931	***	--	0
October-December	***	***	57.21	20,571	***	--	0
<b>2011:</b>							
January-March	***	***	68.38	16,850	***	--	0
April-June	***	***	63.87	19,887	***	--	0
July-September	***	***	64.46	17,966	***	--	0
October-December	***	***	58.57	20,668	***	--	0

<sup>1</sup> 300 series stainless steel, regardless of finish, undermount with overall dimensions of 23 inches x 17¾ inches (with flange), one bowl 21 inches x 15¾ inches, and bowl depth 8 inches. Gauge 16-20.

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

**Table V-6**

**Drawn stainless steel sinks: Weighted-average f.o.b. selling prices and quantities for product 6,<sup>1</sup> and margins of underselling/(overselling), by quarters, January 2009-December 2011**

Period	United States		China			Mexico (nonsubject)	
	Price (per sink)	Quantity (sinks)	Price (per sink)	Quantity (sinks)	Margin (percent)	Price (per sink)	Quantity (sinks)
<b>2009:</b>							
January-March	\$***	***	\$110.67	13,814	***	\$***	***
April-June	***	***	97.88	20,397	***	***	***
July-September	***	***	102.98	22,472	***	***	***
October-December	***	***	85.24	28,148	***	***	***
<b>2010:</b>							
January-March	***	***	98.43	24,019	***	--	0
April-June	***	***	90.36	32,959	***	--	0
July-September	***	***	90.11	31,957	***	--	0
October-December	***	***	87.94	28,894	***	--	0
<b>2011:</b>							
January-March	***	***	88.72	28,260	***	--	0
April-June	***	***	84.80	35,640	***	--	0
July-September	***	***	91.31	26,451	***	--	0
October-December	***	***	82.32	29,813	***	--	0

<sup>1</sup> 300 series stainless steel, regardless of finish, undermount with overall dimensions of 31¼ inches x 20½ inches (with flange), two bowls with one bowl 14 inches x 15¾ inches and one bowl 13½ inches x 18 inches, and bowl depths of 8 and 10 inches respectively. Gauge 16-20.

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

**Figure V-2**

**Drawn stainless steel sinks: Weighted-average f.o.b. selling prices for products 1-6, January 2009-December 2011**

\* \* \* \* \*

**Price Trends**

Prices for U.S.-produced drawn stainless steel sinks generally fluctuated during January 2009-December 2011. Prices for domestically produced products 1 and 2 increased and prices for products 3 through 6 decreased overall throughout the period. Prices for imports from China fluctuated, although they were lower at the end of the period than they were at the beginning with one exception. A summary of price trends is shown in table V-7a.

**Table V-7a**

**Drawn stainless steel sinks: Summary of weighted-average prices for product 1-6 from the United States and China**

\* \* \* \* \*

## Price Comparisons

Prices for imported drawn stainless steel sinks from China undersold prices for U.S.-produced drawn stainless steel sinks for products 1, 2, 4, 5, and 6 in all quarters where both prices were reported with a single exception. Product from China undersold domestic product 3 in only 2 instances, while it oversold in the remaining 10 of the quarters where both prices were reported (see table V-7b).

Prices for imported drawn stainless steel sinks from China were lower than prices from Mexico in all 15 possible instances where both prices were reported.

**Table V-7b**

**Drawn stainless steel sinks: Instances of underselling/overselling and the range and average of margins, January 2009-December 2011**

Item	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
Product 1	11	7.5-27.5	15.7	1	2.6-2.6	2.6
Product 2	12	8.0-23.1	16.2	0	--	--
Product 3	2	1.2-1.3	1.2	10	4.7-13.7	10.1
Product 4	12	33.1-49.2	37.1	0	--	--
Product 5	12	45.2-58.6	50.5	0	--	--
Product 6	12	33.9-60.5	48.1	0	--	--
<b>Total</b>	<b>61</b>	<b>1.2-60.5</b>	<b>32.7</b>	<b>11</b>	<b>2.6-13.7</b>	<b>9.5</b>

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

## LOST SALES AND LOST REVENUES

The Commission requested that U.S. producers of drawn stainless steel sinks report any instances of lost sales and lost revenues experienced due to competition from imports from China since January 1, 2009. One U.S. producer, \*\*\*, reported having lost sales or revenues to imports from China during this time period. Also, \*\*\* reported that they had reduced prices and one, \*\*\*, reported rolling back announced price increases, allegedly due to imports from China. Moreover, \*\*\* also alleged that they had lost sales due to low-priced imports from China. All of the lost sales and lost revenue allegations are presented in tables V-9 and V-10. More detail is provided for some of the allegations thereafter.

Staff contacted 29 purchasers, of which five purchasers responded. There were \*\*\* lost sales allegations totaling \$\*\*\* and \*\*\* lost revenue allegations totaling \$\*\*\*.<sup>4</sup> The bulk of the value of the allegations involved purchaser \*\*\*, representing \*\*\* percent of the value of lost sales and \*\*\* percent of value of lost revenues.

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<sup>4</sup> The lost revenue and lost sales allegations were made by \*\*\*.

**Table V-8**  
**Drawn stainless steel sinks: U.S. producers' lost sales allegations**

\* \* \* \* \*

**Table V-9**  
**Drawn stainless steel sinks: U.S. producers' lost revenue allegations**

\*\*\* of \*\*\* disagreed with the \*\*\* allegations involving his company. Regarding the lost sales, he indicated that purchases are based on annual volume projections and that his company switched to sourcing from China due to \*\*\*.

\*\*\* agreed with one \*\*\* allegation involving his company.

\*\*\* indicated his company purchased product imported from China as alleged \*\*\*, but decided switch back to purchasing U.S.-produced product due to the long lead times and because his company was purchasing smaller volumes.<sup>5</sup>

\*\*\* agreed with the \*\*\* allegations involving his company.

\*\*\* agreed with the \*\*\* allegations involving his company.

Three of four responding purchasers reported that they had shifted purchases of drawn stainless steel sinks from U.S. producers to subject imports since January 1, 2009.<sup>6</sup> Two of these three purchasers reported that price was a reason for the shift. Purchaser \*\*\* indicated that it switched due to \*\*\*.

In addition, three of four responding purchasers reported that since January 1, 2009, U.S. producers reduced their prices in order to compete with the prices of subject imports. Purchaser \*\*\* commented that “prices were more comparable.” Additionally, purchaser \*\*\* commented that “U.S. producers reduced prices on many occasions and eventually were not able to sell at the very low Chinese prices, even with manufacturing plants in our state.”

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<sup>5</sup> Staff interview with \*\*\* of \*\*\* on April 6, 2012.

<sup>6</sup> One these three purchasers (\*\*\*) indicated that it had “partially” shifted purchases.

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

### BACKGROUND

Five U.S. producers reported financial results on their operations on drawn stainless steel sinks.<sup>1 2</sup> The majority of the industry's operations is accounted for by Elkay which on a cumulative basis represents \*\*\* percent of total revenue. As noted in part III of this report, Kohler ceased U.S. manufacturing operations at the end of 2009 with no subsequent sales activity reported after that year.

### OPERATIONS ON DRAWN STAINLESS STEEL SINKS

Income-and-loss data for operations on drawn stainless steel sinks are presented in table VI-1. Table VI-2 presents selected company-specific financial information. A variance analysis of the financial results of drawn stainless steel sinks is presented in table VI-3.<sup>3</sup>

**Table VI-1**  
**Drawn stainless steel sinks: Results of operations, 2009-11**

\* \* \* \* \*

**Table VI-2**  
**Drawn stainless steel sinks: Results of operations, by firm, 2009-11**

\* \* \* \* \*

**Table VI-3**  
**Drawn stainless steel sinks: Variance analysis of financial results, 2009-11**

\* \* \* \* \*

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<sup>1</sup> The majority of U.S. producers reported their annual financial results based on calendar-year periods and on the basis of generally accepted accounting principles ("GAAP"). \*\*\*. E-mail with attachment from Just Manufacturing to USITC auditor, March 29, 2012.

<sup>2</sup> Financial results on fabricated stainless steel sinks are presented on a stand-alone basis in table C-2. Table C-3 presents combined financial results on fabricated sinks and drawn sinks.

<sup>3</sup> The Commission's variance analysis is calculated in three parts: sales variance, cost of goods sold ("COGS") variance, and sales, general and administrative ("SG&A") expenses variance. Each part consists of a price variance (in the case of the sales variance) or a cost variance (in the case of the COGS and SG&A variances) and a volume (quantity) variance. The sales or cost variance is calculated as the change in unit price/cost times the new volume, while the volume variance is calculated as the change in volume times the old unit price/cost. Summarized at the bottom of the variance analysis table, the price variance is from sales, the net cost/expense variance is the sum of those items from COGS and SG&A, respectively, and the net volume variance is the sum of the sales, COGS, and SG&A volume variances. All things being equal, a stable overall product mix generally enhances the utility of the Commission's variance analysis. As noted below, \*\*\*.

## Revenue

As shown in table VI-1, the industry's total sales volume and corresponding revenue declined in each period; the above-referenced closure of Kohler's U.S. sink operations magnifying the overall sales decline between 2009-10. Testimony at the staff conference indicates that prior to the period examined, in 2008 specifically, demand for stainless steel sinks contracted sharply due to the recession and corresponding housing crisis.<sup>4</sup>

Table VI-2 shows that \*\*\* U.S. producer whose sales volume and corresponding revenue increased in each year. In contrast \*\*\* U.S. producers reported consecutive declines in sales volume and revenue.<sup>5</sup>

Consistent with the relatively narrow range within which average sales moved during the period examined, the table VI-3 variance analysis shows that the period-to-period declines in total revenue were principally due to negative volume variances; increased somewhat by a negative price variance between 2009-10 and partially offset by a positive price variance between 2010-11.

As shown in table VI-2, changes in company-specific average sales value (i.e., which collectively yielded the negative and positive price variances referenced above) were not uniform; e.g., \*\*\*.<sup>6</sup>

Directionally and \*\*\* changes in average sales value followed the same basic pattern as corresponding changes in average raw material costs. In general, this appears to be consistent with testimony at the staff conference indicating that base sales prices reflect negotiations for the cost of stainless steel, as well as adjustments for the commodity price of nickel, chrome, and iron.<sup>7</sup> As shown in table VI-1, however, average sales value for the industry as a whole was marginally lower in 2010 compared to 2009, while average raw material cost increased; i.e., only between 2010-11 were the directional changes in overall average sales value and average raw material cost the same.

## Cost of Goods Sold

The cost of raw materials makes up the largest share of COGS, ranging from a low of \*\*\* percent of total COGS in 2009 to a high of \*\*\* percent in 2011, and primarily represents stainless steel and corresponding surcharges.<sup>8</sup> Consistent with a production process which the largest producer, Elkay, described as capital intensive, highly automated, and with low labor input,<sup>9</sup> the second largest component of COGS is other factory costs, ranging from a low of \*\*\* percent of total COGS in 2011 to a high of \*\*\* percent in 2009, followed by direct labor ranging from a low of \*\*\* percent of total COGS in 2011 to a high of \*\*\* percent in 2009. As shown in table VI-2, company-specific average raw material costs, direct labor, and other factory costs were not uniform. In addition to factors including variations in product mix, company-specific average direct labor and other factory costs, in particular, also likely reflect differences in manufacturing such as the degree to which each producer's plant(s) is/are automated.

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<sup>4</sup> Conference transcript, p. 35 (Sheehan).

<sup>5</sup> \*\*\*. E-mail with attachment from Moen to USITC auditor, March 29, 2012. \*\*\*.

<sup>6</sup> \*\*\*. E-mail with attachment from Just Manufacturing to USITC auditor, March 29, 2012.

<sup>7</sup> Conference transcript, p. 24 (Rogers). Notwithstanding the incorporation of a stainless steel component in the base price, the inability to pass through increases in raw material costs, due to Chinese import competition, was also noted at the staff conference. Ibid.

<sup>8</sup> Conference transcript, pp. 24-25 (Rogers). As described by an Elkay company official, "{s}tainless steel producers apply a variety of surcharges for certain key raw material inputs such as nickel, chrome and iron that they use to make their steel. These surcharges effectively transfer the cost variances of those raw materials to the manufacturer, such as Elkay." Conference transcript, p. 24 (Rogers).

<sup>9</sup> Conference transcript, p. 16, p. 60 (Rogers).

## **Gross Profit or (Loss)**

As shown in table VI-1, direct labor and other factory costs at the end of the period were somewhat lower as a share of sales value compared to the beginning of the period. As such, the decline in the industry's period-to-period gross profit margin can be attributed in large part to the increase in raw material costs relative to changes in corresponding revenue; e.g., the positive spread between average sales value and average raw material cost on a unit basis declined in 2010 and then increased somewhat in 2011 (\*\*\*)<sup>10</sup>, while this same spread as a share of sales value declined from a high of \*\*\* percent of sales in 2009 to a low of \*\*\* percent in 2011.<sup>10</sup> As indicated in the table VI-3 variance analysis and consistent with the fact that gross profit margin was only somewhat lower in 2010 compared to 2009 (see table VI-1), the large decline in the industry's absolute gross profit between 2009-10 was primarily due to lower sales volume. In contrast, the somewhat smaller decline in absolute gross profit between 2010-11 was the result of both a negative volume variance and a more pronounced deterioration in the industry's gross profit margin.

## **SG&A Expenses and Operating Income or (Loss)**

In conjunction with lower sale quantity, the absence of a substantial increase in SG&A expense ratios, or average SG&A expenses on a unit basis, indicates that the industry's SG&A expenses primarily reflect variable costs, as opposed to fixed costs. In addition to describing the nature of their SG&A expenses, \*\*\*.<sup>11 12</sup>

Table VI-2 shows that company-specific SG&A expense ratios varied with \*\*\* company-specific SG&A expense ratios.<sup>13</sup> As also shown in table VI-2 \*\*\*.<sup>14 15</sup>

To the extent that overall SG&A expense ratios remained within a relatively narrow range throughout the period, changes in the industry's operating income margin in large part reflect corresponding changes in gross profit, as discussed above. On a company-specific basis, \*\*\*.<sup>16</sup> In 2009, the only year of the period examined when it had U.S. manufacturing operations, Kohler reported \*\*\* company-specific operating margin (see table VI-2).

## **CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, TOTAL NET ASSETS, AND RETURN ON INVESTMENT**

Data on capital expenditures and research and development ("R&D") expenses related to drawn stainless steel sinks are presented in table VI-4. Corresponding data on total net assets and return on investment ("ROI") are presented in table VI-5.

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<sup>10</sup> As noted above, the industry's average raw material cost followed the same directional pattern as average sales value between 2010-11 only. In contrast, between 2009-10, average sales value declined while average raw material cost increased.

<sup>11</sup> E-mail with attachment from Elkay to staff, March 29, 2012. \*\*\*. Ibid.

<sup>12</sup> E-mail correspondence with attachment between Franke to USITC auditor, April 3, 2012. \*\*\*. Ibid.

<sup>13</sup> \*\*\*. E-mail with attachment from Just Manufacturing to USITC auditor, March 29, 2012. \*\*\*. Ibid.

\*\*\*. E-mail with attachment from Moen to USITC auditor, March 29, 2012.

<sup>14</sup> Ibid.

<sup>15</sup> \*\*\*.

<sup>16</sup> At the Commission's staff conference, an Elkay company official stated that "{b}ecause of its aggressive cost reduction efforts and productivity improvements, Elkay has managed to maintain positive operating income margins in its drawn stainless steel sink operations as a whole." Conference transcript p. 25 (Rogers).

**Table VI-4**  
**Drawn stainless steel sinks: Capital expenditures and R&D expenses, 2009-11**

\* \* \* \* \*

**Table VI-5**  
**Drawn stainless steel sinks: Total net assets and return on investment by firm, 2009-11**

\* \* \* \* \*

Notwithstanding its status as the \*\*\* producer in terms of sales volume, \*\*\* share of total capital expenditures: \*\*\* percent on a cumulative basis.<sup>17</sup> \*\*\*.<sup>18</sup> For the industry as a whole, as well as each producer individually, depreciation expense \*\*\* corresponding capital expenditures during the period examined.

As shown in table VI-4, \*\*\*. As described by \*\*\*.<sup>19</sup> \*\*\*.<sup>20</sup> \*\*\*.<sup>21</sup>

**CAPITAL AND INVESTMENT**

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of drawn stainless steel sinks from China on their firms' growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments. The U.S. producers' responses are presented below.

**Actual Negative Effects**

Elkay	***.
Franke	***.
Just Manufacturing	***.
Kohler	***.
Moen	***.

**Anticipated Negative Effects**

Elkay	***.
Franke	***.
Just Manufacturing	***.
Kohler	***.
Moen	***.

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<sup>17</sup> \*\*\*. E-mail correspondence with attachment from Franke to USITC auditor, April 3, 2012.

<sup>18</sup> \*\*\*. E-mail with attachment from Elkay to staff, March 29, 2012.

<sup>19</sup> Ibid.

<sup>20</sup> E-mail with attachment from Franke to USITC auditor, April 3, 2012.

<sup>21</sup> E-mail with attachment from Moen to USITC auditor, March 29, 2012.

## **PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES**

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors<sup>1</sup>--

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

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

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

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

(V) inventories of the subject merchandise,

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

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission

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<sup>1</sup> Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider \*\*\* . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).<sup>2</sup>

Information on the nature of the alleged subsidies was presented in *Part I*; information on the volume and pricing of imports of the subject merchandise is presented in *Part IV* and *Part V*, respectively; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in *Part VI*. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

## **THE INDUSTRY IN CHINA**

### **Overview**

The petitioner indicated that there are at least 90 producers of drawn stainless steel sinks in China.<sup>3</sup> The petitioner identified five companies whose combined production capacity of stainless steel sinks totaled 10.16 million sinks. Those companies are: Guangdong Yingao Kitchen Utensils (5.4 million sets); Jiangmen Newstar Hi-tech Enterprise (1.3 million sinks); Zhongshan Superte Kitchenware (960,000 sets); Bonke Kitchen & Sanitary Industrial (2.0 million sinks); and Minghao Kitchen Utensils (500,000 sinks).

### **Operations on Drawn Stainless Steel Sinks**

The Commission sent foreign producer questionnaires to all 90 firms identified by petitioners as possible producers/exporters of drawn stainless steel sinks in China.<sup>4</sup> Six producers of drawn stainless steel sinks in China provided responses to the Commission's request for information. Table VII-1 presents 2011 capacity, production, and export shipment data for the responding Chinese firms.

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<sup>2</sup> Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

<sup>3</sup> Petition, p. 7 and exh. I-2.

<sup>4</sup> Commission staff attempted to contact all 90 foreign producers; however, 19 questionnaires were returned as undeliverable emails and/or failed fax transmissions.

**Table VII-1**  
**Drawn stainless steel sinks: Responding Chinese manufacturers' reported production capacity, production, and U.S. exports, by firm, 2011**

<b>Producer</b>	<b>Capacity (sinks)</b>	<b>Production (sinks)</b>	<b>Share of reported 2011 production in China (percent)</b>	<b>Exports to the U.S. (sinks)</b>	<b>Share of reported 2011 exports to the U.S. (percent)</b>
Elkay China	***	***	***	***	***
Foshan Shunde Minghao Kitchen Utensils	***	***	***	***	***
Guangdong Dongyuan Kitchenware	***	***	***	***	***
Jiangmen Jin Ke Ying	***	***	***	***	***
Shenzhen Ke Hua Xing	***	***	***	***	***
Zhongshan Superte Kitchenware	***	***	***	***	***
<b>Total</b>	<b>1,605,500</b>	<b>1,345,260</b>	<b>100.0</b>	<b>914,809</b>	<b>100.0</b>

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

The six responding Chinese producers reported that they together exported 914,809 drawn stainless steel sinks to the United States during 2011, which staff believes accounts for 28.8 percent of total exports of drawn stainless steel sinks from China to the United States based on official Commerce import statistics reported under HTS statistical reporting number 7324.10.0000.<sup>5</sup>

The Commission asked the Chinese producers to indicate whether they or any related firms, have the capability to produce, or have any plans to produce drawn stainless steel sinks in the United States or other countries and whether their firm or any related firms import or have any plans to import drawn stainless steel sinks into the United States. \*\*\* is related to the U.S. importer \*\*\*, and \*\*\* is related to the U.S. importer \*\*\*; however, \*\*\*. In addition, \*\*\* is owned by \*\*\*. Elkay stated that \*\*\*.<sup>6</sup>

In response to a question concerning changes in the character of operations concerning the production of drawn stainless steel sinks January 1, 2009, two firms reported purchasing additional manufacturing equipment. \*\*\* stated it is \*\*\*, and \*\*\* reported \*\*\*. All responding Chinese producers reported that they do not produce and do not anticipate producing other products on the same equipment and machinery used in the production of drawn stainless steel sinks.

Table VII-2 presents data for reported capacity, production, and shipments of drawn stainless steel sinks for all reporting producers in China. Producers indicated that limitations in skilled workers, machinery and equipment space, as well as electricity supply outages in peak periods, and currency exchange loss were the constraints limiting production capacity.

<sup>5</sup> Coverage was calculated using the quantity of U.S. exports reported by responding Chinese firms (914,809) compared to official Commerce import statistics, adjusted for fabricated stainless steel sinks (3,179,282).

<sup>6</sup> Petitioner's postconference brief, app. A, p. 1.

**Table VII-2**  
**Drawn stainless steel sinks: Responding Chinese manufacturers' production capacity, production, shipments, and inventories, 2009-11 and projected 2012-13**

Item	Calendar year			Projected	
	2009	2010	2011	2012	2013
<b>Quantity (sinks)</b>					
Capacity	1,435,500	1,435,500	1,605,500	1,605,500	1,605,500
Production	873,697	1,048,738	1,345,260	1,330,055	1,350,027
End of period inventories	35,800	63,170	36,823	31,787	28,179
Shipments:					
Home market	87,772	67,428	70,725	92,493	103,118
Exports to-- The United States	577,698	729,327	914,809	852,823	858,900
All other markets	201,838	224,613	386,073	389,775	391,617
Total exports	779,536	953,940	1,300,882	1,242,598	1,250,517
Total shipments	867,308	1,021,368	1,371,607	1,335,091	1,353,635
<b>Ratios and shares (percent)</b>					
Capacity utilization	60.9	73.1	83.8	82.8	84.1
Inventories to production	4.1	6.0	2.7	2.4	2.1
Inventories to total shipments	4.1	6.2	2.7	2.4	2.1
Share of total quantity of shipments:					
Home market	10.1	6.6	5.2	6.9	7.6
Exports to-- The United States	66.6	71.4	66.7	63.9	63.5
All other markets	23.3	22.0	28.1	29.2	28.9
All export markets	89.9	93.4	94.8	93.1	92.4
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

## U.S. IMPORTERS' INVENTORIES

Table VII-3 presents data on U.S. importers' reported inventories of drawn stainless steel sinks.

**Table VII-3**  
**Drawn stainless steel sinks: U.S. importers' end-of-period inventories of imports, by source, 2009-11**

Source	Calendar year		
	2009	2010	2011
<b>Quantity (sinks)</b>			
China:			
Inventories ( <i>sinks</i> )	208,633	284,509	370,086
Ratio to imports ( <i>percent</i> )	32.1	29.6	31.3
Ratio to U.S. shipments of imports ( <i>percent</i> )	38.9	35.9	36.4
Mexico:			
Inventories ( <i>sinks</i> )	***	***	***
Ratio to imports ( <i>percent</i> )	***	***	***
Ratio to U.S. shipments of imports ( <i>percent</i> )	***	***	***
Other sources:			
Inventories ( <i>sinks</i> )	***	***	***
Ratio to imports ( <i>percent</i> )	***	***	***
Ratio to U.S. shipments of imports ( <i>percent</i> )	***	***	***
All sources:			
Inventories ( <i>sinks</i> )	***	***	***
Ratio to imports ( <i>percent</i> )	***	***	***
Ratio to U.S. shipments of imports ( <i>percent</i> )	***	***	***
Note.—Because of rounding, figures may not add to the totals shown. *** was not able to report end-of-period inventories because the data was not available.			
Source: Compiled from data submitted in response to Commission questionnaires.			

## U.S. IMPORTERS' CURRENT ORDERS

The Commission requested U.S. importers to indicate whether they imported or arranged for the importation of drawn stainless steel sinks after December 31, 2011. Thirty-three U.S. importers stated that they had imported or arranged for importation of drawn stainless steel sinks after December 31, 2011. Table VII-4 presents aggregate data reported by U.S. importers concerning their orders of drawn stainless steel sinks.

**Table VII-4**  
**Drawn stainless steel sinks: U.S. importers' orders for imports of drawn stainless steel sinks after December 31, 2011**

Source	2012						
	Jan	Feb	Mar	Apr	May	Jun	Total
<b>Quantity (sinks)</b>							
China	77,392	77,797	64,706	77,586	68,077	44,012	409,570
Mexico	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***

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

## ANTIDUMPING INVESTIGATIONS IN THIRD-COUNTRY MARKETS

In October 2011, Canada initiated investigations into the alleged dumping and subsidizing of drawn stainless steel sinks from China.<sup>7</sup> On December 28, 2011, the Canadian International Trade Tribunal (“CITT”) made a preliminary finding of material injury. On January 25, 2012, the Canada Border Services Agency (“CBSA”) announced its affirmative preliminary antidumping and subsidy findings. The CBSA found dumping margins ranging from 21.1 to 55 percent, and found subsidy margins ranging from 0.1 to 19.5 percent. The CBSA will make its final decisions by April 24, 2012 and the CITT is expected to issue its final finding by May 24, 2012.<sup>8</sup>

In addition, South Africa imposed antidumping duties on imports of stainless steel sinks from China effective April 9, 2009. The International Trade Administration Commission of South Africa found dumping margins ranging from 10.84 to 62.41 percent.<sup>9</sup>

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<sup>7</sup> For the purpose of the Canadian investigations, the scope was defined as: stainless steel sinks with a single drawn bowl having a volume between 1,600 and 5,000 cubic inches (26,219.30 and 81,935.32 cubic centimetres) or with multiple drawn bowls having a combined volume between 2,200 and 6,800 cubic inches (36,051.54 and 111,432.04 cubic centimetres), excluding sinks fabricated by hand.

<sup>8</sup> Canadian International Trade Tribunal, *Stainless Steel Sinks, Preliminary Injury Inquiry No. PI-2011-002*, December 28, 2011 and January 12, 2012; Canada Border Services Agency, *Statement of reasons concerning the preliminary determinations with respect to the dumping and subsidizing of certain stainless steel sinks originating in or exported from the People's Republic of China*, February 9, 2012; and Petition, pp. 23-24, and exh. I-29 and I-30.

<sup>9</sup> International Trade Administration Commission of South Africa, *Report No. 314, Investigation into alleged dumping of stainless steel kitchen sinks originating in or imported from the People's Republic of China; Dumping and subsidisation of stainless steel kitchen sinks originating in or imported from Malaysia: Final Determination*, (continued...)

## INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury “by reason of subject imports,” the legislative history states “that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) ‘to ensure that it is not attributing injury from other sources to the subject imports.’”<sup>10</sup>

Although detailed information was not readily available from industry-wide sources about the manufacturing capabilities of nonsubject foreign producers,<sup>11</sup> both the petitioner and the respondents provided lists, with varying degrees of detail, of source companies for stainless steel sinks.

The petitioner provided estimates of annual capacities for known producers of drawn stainless steel sinks in nonsubject sources. Known worldwide capacity for drawn stainless steel sinks in nonsubject countries was estimated at \*\*\* sinks.<sup>12</sup> According to the petitioner, its estimates do not suggest production capacity of any nonsubject source to significantly increase exports to the U.S. market.<sup>13</sup> Moreover, the high level of capital investment required to open a new production facility and the time frame required to reach acceptable product quality levels do not indicate that new export sources could be developed in the near future.<sup>14</sup> Likewise, the petitioner does not consider the Chinese producers as being able to readily relocate their production abroad, in-part, given the sheer cost (estimated in the millions of dollars by an importer<sup>15</sup>) of moving the large-scale equipment required to manufacture drawn stainless steel sinks.<sup>16</sup>

The respondents provided sample pages that list suppliers of “stainless steel kitchen sinks” located in Bangladesh, Greece, India, Japan, Korea, Pakistan, Singapore, and Turkey.<sup>17 18</sup> According to witnesses for the respondents, importers have already sought nonsubject suppliers of drawn stainless steel

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<sup>9</sup> (...continued)

September 17, 2009; and Petition, p. 24, and exh. I-32.

<sup>10</sup> Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006).

<sup>11</sup> Existence of industry associations for drawn stainless steel sinks, either within or outside the United States, was not readily known to hearing witnesses. Conference transcript, p. 63 (Rogers and Just).

<sup>12</sup> Petitioner’s postconference brief, exh. 17.

<sup>13</sup> Petitioner’s postconference brief, p. 35.

<sup>14</sup> Conference transcript, p. 193 (Levi).

<sup>15</sup> Conference transcript, p. 149 (Mu).

<sup>16</sup> Petitioner’s postconference brief, p. 35.

<sup>17</sup> Respondents’ postconference brief, p. 28 and exh. 12: “Third-Country Suppliers.”

<sup>18</sup> The total number of suppliers (in all countries worldwide) of “stainless steel kitchen sinks” found by respondents could not be determined, for only the first page (29 suppliers listed) of 50 pages total was provided in exh. 12 of their post-conference brief. Commission staff ran an advanced search of the *Alibaba.com* website of global suppliers (cited by respondents in exh. 12) with the “manufacturers” option, which resulted in a listing of 301 manufacturers that list the exact word sequence “stainless steel kitchen sinks” among their product descriptions, of which 182 are located in China but none located in Mexico. Repeating this search found 1,402 manufacturers that list all of these four words among their product descriptions, of which 1,025 are located in China, and two that are located in Mexico.

sinks outside of China, including those located in Korea, Taiwan, and Turkey.<sup>19 20</sup> Finally, respondents argue that there is no indication that these nonsubject producers would have difficulty replacing any production lost from China.<sup>21</sup>

Table VII-5 presents world exports of stainless steel sinks from 2009-11. China was the world's leading exporter of stainless steel sinks in 2011, accounting for 38.7 percent of world exports. The next largest exporters were Germany, Italy, and Turkey. According to the petitioner, the German producers with capacity to produce drawn stainless steel sinks are \*\*\*; the Italian producers include \*\*\*; and \*\*\* Turkish producers \*\*\*.<sup>22</sup> In addition respondents identified \*\*\*. U.S. importer Amerisink indicated \*\*\* is a potential new vendor to replace Chinese supply if necessary.<sup>23</sup>

While Mexico is the seventh largest world exporter of stainless steel sinks, Mexico is the second largest source of U.S. imports of drawn stainless steel sinks, representing 9.3 percent of total U.S. imports of subject merchandise. \*\*\*.<sup>24</sup> The petitioner also identified \*\*\*.<sup>25</sup> The Elkay facility in Mexico produces sinks for home market consumption, and does not export any subject merchandise.<sup>26</sup>

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<sup>19</sup> Conference transcript, p. 145 (Magarik) and pp. 148-149 (Mu).

<sup>20</sup> See also respondents' postconference brief, exhs. 13 and 14: \*\*\*, respectively; and exh. 15: Statement of Amerisink \*\*\*.

<sup>21</sup> Respondents' postconference brief, pp. 31 and 33.

<sup>22</sup> Petitioner's postconference brief, exh. 17.

<sup>23</sup> Respondents' postconference brief, p. 34 and exh. 15. Respondents also identified \*\*\* as a potential new vendor to replace Chinese supply.

<sup>24</sup> \*\*\*.

<sup>25</sup> Petitioner's postconference brief, exh. 17.

<sup>26</sup> Conference transcript, p. 55 (Rogers).

**Table VII-5**  
**Stainless steel sinks: World exports, 2009-11**

Source	Year		
	2009	2010	2011
<i>Value (1,000 dollars)</i>			
China	218,090	319,300	421,047
Germany	132,258	121,877	138,226
Italy	82,050	84,429	83,678
Turkey	51,106	60,700	67,985
Switzerland	45,107	45,995	50,867
Greece	35,300	36,103	42,018
Mexico	30,049	29,059	28,915
Spain	24,250	24,205	25,062
United States	17,452	19,739	20,809
Canada	8,006	9,374	17,573
All other	188,285	192,970	190,831
Total exports	831,954	943,752	1,087,011
Source: Compiled from Global Trade Atlas, HS 7324.10 "Sinks And Wash Basins Of Stainless Steel." Retrieved March 30, 2012.			



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



sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of drawn stainless steel sinks, provided for in subheading 7324.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by April 16, 2012. The Commission's views are due at Commerce within five business days thereafter, or by April 23, 2012.

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

**DATES:** *Effective Date:* March 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Stefania Pozzi Porter (202-205-3177) or Amy Sherman (202-205-3289), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background.* These investigations are being instituted in response to a petition filed on March 1, 2012, by Elkay Manufacturing Company, Oak Brook, IL.

*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

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**INTERNATIONAL TRADE  
COMMISSION**

[Investigation Nos. 701-TA-489 and 731-TA-1201 (Preliminary)]

**Drawn Stainless Steel Sinks From  
China; Institution and Scheduling of  
Preliminary Phase Antidumping and  
Countervailing Duty Investigations**

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

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701-TA-489 and 731-TA-1201 (Preliminary) under

sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective 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 the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.* The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on March 22, 2012, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be filed with the Office of the Secretary ([William.Bishop@usitc.gov](mailto:William.Bishop@usitc.gov) and [Sharon.Bellamy@usitc.gov](mailto:Sharon.Bellamy@usitc.gov)) on or before March 20, 2012. Parties in support of the imposition of countervailing and 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 March 27, 2012, 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. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at <http://edis.usitc.gov>.

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.

Issued: March 1, 2012.

By order of the Commission.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012-5480 Filed 3-6-12; 8:45 am]

**BILLING CODE 7020-02-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-983]

**Drawn Stainless Steel Sinks From the People's Republic of China: Initiation of Antidumping Duty Investigation**

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

**DATES:** *Effective Date:* March 27, 2012.

**FOR FURTHER INFORMATION CONTACT:** Frances Veith or Eve Wang at (202) 482-4295 or (202) 482-6231, respectively, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**The Petition**

On March 1, 2012, the Department of Commerce ("Department") received an antidumping duty ("AD") petition (hereafter, "Petition") concerning imports of drawn stainless steel sinks from the People's Republic of China ("PRC") filed in proper form on behalf of Elkay Manufacturing Company ("Petitioner").<sup>1</sup> On March 6, 2012, the Department issued a request for additional information and clarification of certain areas of the Petition. On March 9, 2012, Petitioner filed a response with respect to general questions about information in the Petition ("General Issues Supplement"). On March 9, 2012, Petitioner also filed responses specific to the AD Petition ("Supplement to AD Petition"). On March 15, 2012, Petitioner also filed a revision to the proposed scope language.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the "Act"), Petitioner alleges that imports of drawn stainless steel sinks from the PRC 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. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that the Petition was filed on behalf of the domestic industry because Petitioner is

an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner has demonstrated sufficient industry support with respect to the antidumping duty investigation that Petitioner is requesting that the Department initiate (see "Determination of Industry Support for the Petition" section below).

**Period of Investigation**

The period of investigation ("POI") is July 1, 2011, through December 31, 2011.<sup>2</sup>

**Scope of the Investigation**

The product covered by this investigation is drawn stainless steel sinks from the PRC. For a full description of the scope of the Investigation, please see the "Scope of the Investigation," in Appendix I of this notice.

**Comments on Scope of the Investigation**

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations. The Department encourages all interested parties to submit such comments by April 10, 2012, twenty calendar days from the signature date of this notice. All comments must be filed on the records of both the PRC antidumping and countervailing duty investigations. Comments should be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/Dockets Unit in Room 1870 and stamped with the date and time of receipt by the deadline noted above.

**Comments on Product Characteristics for Antidumping Questionnaires**

We are requesting comments from interested parties regarding the appropriate physical characteristics of drawn stainless steel sinks to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as (1) general product characteristics and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe drawn stainless steel sinks, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping questionnaires, we must receive comments by April 10, 2012. Additionally, rebuttal comments must be received by April 17, 2012. All comments and submissions to the Department must be filed electronically using IA ACCESS, as referenced above.

**Determination of Industry Support for the Petition**

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the

<sup>1</sup> See "Petitions for the Imposition of Antidumping Duties And Countervailing Duties Against Drawn Stainless Steel Sinks From The People's Republic of China," filed on March 1, 2012 ("Petition").

<sup>2</sup> See 19 CFR 351.204(b)(1).

domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>3</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>4</sup>

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

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the

investigation. Based on our analysis of the information submitted on the record, we have determined that drawn stainless steel sinks constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Drawn Stainless Steel Sinks from the PRC ("AD Initiation Checklist") at Attachment II dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation," in Appendix I of this notice. To establish industry support, Petitioner provided its own 2011 production of the domestic like product, and compared this to the total production of the domestic like product for the entire domestic industry.<sup>5</sup>

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support.<sup>6</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>7</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>8</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to,

the Petition.<sup>9</sup> Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping duty investigation that it is requesting the Department initiate.<sup>10</sup>

#### Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act. Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; decline in financial performance; lost sales and revenue; and production, capacity, capacity utilization, shipment, and employment data.<sup>11</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>12</sup>

#### Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of drawn stainless steel sinks from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production ("FOPs") are also discussed in the initiation checklists.<sup>13</sup>

#### Export Price

Petitioner calculated export price ("EP") based on price quotes of certain drawn stainless steel sinks obtained from Chinese producers, as identified in affidavits regarding price offers and U.S.

<sup>9</sup> *See id.*

<sup>10</sup> *See id.*

<sup>11</sup> *See* Volume I of the Petition, at 8–25 and Exhibits I–4 through I–32, and General Issues Supplement, at 4.

<sup>12</sup> *See* AD Initiation Checklist, at Attachment III.

<sup>13</sup> *See* AD Initiation Checklist at 5.

<sup>5</sup> *See* Volume I of the Petition at 3 and Exhibit I–1, and General Issues Supplement at 4; *see also* AD Initiation Checklist at Attachment II.

<sup>6</sup> *See* AD Initiation Checklist at Attachment II.

<sup>7</sup> *See* section 732(c)(4)(D) of the Act; *see also* AD Initiation Checklist at Attachment II.

<sup>8</sup> *See* AD Initiation Checklist at Attachment II.

<sup>3</sup> *See* section 771(10) of the Act.

<sup>4</sup> *See* *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988)), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

price.<sup>14</sup> Based on the price quotes and delivery terms, Petitioner deducted from these prices the charges and expenses associated with exporting and delivering the product to the U.S. customer (brokerage and handling and domestic inland freight).<sup>15</sup> Petitioner made no other adjustments.<sup>16</sup>

### Normal Value

Petitioner states that the Department has long treated the PRC as a non-market economy (“NME”) country and this designation remains in effect today.<sup>17</sup> In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of the PRC investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on FOPs valued in a surrogate market-economy (“ME”) country in accordance with section 773(c) of the Act. In the course of the investigation, all parties will have the opportunity to provide relevant information related to the issue of the PRC’s NME status and the granting of separate rates to individual exporters.

Petitioner claims that Thailand is an appropriate surrogate country under 19 CFR 351.408(a) because it is an ME country that is at a comparable level of economic development to the PRC and surrogate values data from Thailand are available and reliable. Petitioner also believes that Thailand is a significant producer of comparable merchandise. Based on the information provided by Petitioner, we believe that it is appropriate to use Thailand as a surrogate country for initiation purposes. In the course of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 40

days after the date of publication of the preliminary determination.

Petitioner calculated the NV and dumping margins for the U.S. price, as discussed above, using the Department’s NME methodology as required by section 773(c) of the Act, 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioner calculated NV based on its own consumption rates.<sup>18</sup> Petitioner asserts that, to the best of Petitioner’s knowledge, these consumption rates are very similar to the consumption rates of the PRC producers.<sup>19</sup>

Petitioner valued by-products and most FOPs based on reasonably available, public surrogate country data, specifically, Thai import statistics from the Global Trade Atlas (“GTA”).<sup>20</sup> Petitioner excluded from these import statistics values from countries previously determined by the Department to be NME countries, and from India, Indonesia, and the Republic of Korea, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. Finally, the import statistics average unit value excludes imports that were labeled as originating from an “unspecified” country, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.<sup>21</sup> For valuing other FOPs, Petitioner used sources selected by the Department in recent proceedings involving the PRC or publicly available sources from Thailand.<sup>22</sup> In addition, Petitioner made Thai Baht/U.S. dollar (“USD”) currency conversions. The Department recalculated average exchange rates for the POI, based on Federal Reserve exchange rates, to use data for all months of the POI.<sup>23</sup>

Petitioner determined labor costs using the labor consumption rates derived from a U.S. producer.<sup>24</sup>

Petitioner valued labor costs using Thai wage rates for manufacturing industries, as reported by the International Labor Organization (“ILO”) in Table 6A of its *Yearbook of Labor Statistics*.<sup>25</sup> Petitioner inflated the wage rate to be contemporaneous with the POI using the International Financial Statistics’ consumer price index inflators, consistent with the Department’s practice.<sup>26</sup>

Petitioner used information published by the “Board of Investment of Thailand” (“BOI”), available on the Government of Thailand’s official Web site, to value electricity and water.<sup>27</sup> Since the water rates are not contemporaneous with the POI, Petitioner used Thai CPI as the inflating factor. However, Petitioner inadvertently calculated a deflator when they meant to calculate an inflator. We recalculated the inflator for water and revised the margin calculation, where appropriate.<sup>28</sup>

Petitioner determined natural gas costs using Indian gas prices from the Indian Gas Utility Gail and substantiated these prices by Chemical Weekly in February 2005.<sup>29</sup>

Petitioner based factory overhead, selling, general and administrative expenses (“SG&A”), and profit on data from the financial statements of Siam Stainless Steel Co., Ltd. (“Siam”) and Green Power Engineering Co., Ltd. (“Green Power”), both of which Petitioner asserts are Thai producers of comparable merchandise.<sup>30</sup> We determined that Siam’s statements best reflect the U.S. producer’s production experience. In our examination of Green Power’s financial statements, we found no indication that Green Power produced merchandise comparable to the merchandise under investigation.<sup>31</sup> Therefore, for purposes of initiation, we have relied solely on the financial statements of Siam to calculate factory overhead, selling, SG&A, and profit.<sup>32</sup>

Petitioner determined packing material costs using the consumption

<sup>14</sup> See Volume II of the Petition at 4.

<sup>15</sup> See *id.*

<sup>16</sup> See Volume II of the Petition at 6–8 and Exhibit II–5; see also Supplement to AD Petition at 2–3.

<sup>17</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039 (September 24, 2008); see also Volume II of the Petition at Exhibit II–5.

<sup>18</sup> See Volume II of the Petition at 5–8 and Exhibits II–4, II–6–7, II–10–12, II–15 and II–17; see also Supplement to AD Petition at Exhibit II–S6.

<sup>19</sup> See Volume II of the Petition at Exhibit II–9; see also AD Initiation Checklist at Attachment V.

<sup>20</sup> See Volume II of the Petition at 6 and Exhibit II–2 and II–6; see also Supplement to AD Petition at Exhibit II–S8.

<sup>25</sup> See AD Initiation Checklist at 7.

<sup>26</sup> See *id.*

<sup>27</sup> See AD Initiation Checklist at 8.

<sup>28</sup> See Supplement to the PRC AD Petition at 7 and Exhibit II–S3. See also AD Initiation Checklist at 8.

<sup>29</sup> For purposes of this Petition, the Petitioner conservatively relied on the Gail India rate because it is not aware of any case where the Department specified a Thai industrial natural gas rate for surrogate value purposes. See Volume II of the Petition at 7 and Exhibit II–12. See also AD Initiation Checklist at 8.

<sup>30</sup> See Volume II of the Petition at II–13 and Supplement to AD Petition at 3–4; see also AD Initiation Checklist at Attachment V.

<sup>31</sup> See Supplement to the PRC AD Petition at 4.

<sup>32</sup> See 19 CFR 351.408(4).

<sup>14</sup> See AD Initiation Checklist at 6; see also Supplement to AD Petition at 7–8 and Exhibit II–S9.

<sup>15</sup> See AD Initiation Checklist at 5–6; see also Volume II of the Petition at 10 and Exhibits II–4; see also Supplement to AD Petition at 4–6 and Exhibits II–S1, II–S2, II–S3, II–S5 and II–S6.

<sup>16</sup> See AD Initiation Checklist at 6 for additional details.

<sup>17</sup> See Volume II of the Petition at I–2; see also *Utility Scale Wind Towers From the People’s Republic of China and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 77 FR 3440 (January 24, 2012).

rates derived from U.S. producer's experience, adjusted to reflect certain differences between U.S. and Chinese packing structures.<sup>33</sup> Petitioner valued packing materials using GTA Thai import statistics.<sup>34</sup>

### Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of drawn stainless steel sinks from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of EPs and NV calculated, in accordance with section 773(c) of the Act, the estimated dumping margins for drawn stainless steel sinks from the PRC range from 22.81 percent to 76.53 percent.<sup>35</sup>

### Initiation of Antidumping Investigation

Based upon the examination of the Petition on drawn stainless steel sinks from the PRC, the Department finds that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping investigation to determine whether imports of drawn stainless steel sinks from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

### Targeted Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted dumping allegations, 19 CFR 351.301(d)(5).<sup>36</sup> The Department stated that “{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.”<sup>37</sup>

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in either of these investigations pursuant to

section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the preliminary determination.

### Respondent Selection and Quantity and Value Questionnaire

The Department will request quantity and value information from all known exporters and producers identified with complete contact information in the Petition.<sup>38</sup> The quantity and value data received from Chinese exporters/producers will be used as the basis for selecting the mandatory respondents. The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines, as discussed below and in the Separate Rate section, in order to receive consideration for separate-rate status.<sup>39</sup>

In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration Web site (<http://ia.ita.doc.gov/ia-highlights-and-news.html>). Exporters and producers of drawn stainless steel sinks that do not receive quantity and value questionnaires but intend to submit a response can obtain a copy from the Import Administration Web site. The quantity and value questionnaire must be submitted by all Chinese exporters/producers no later than April 11, 2012, 21 days after the signature date of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at <http://ia.ita.doc.gov/apo>.

### Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate status application.<sup>40</sup> The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's Web site

<sup>38</sup> See General Issues Supplement.

<sup>39</sup> See, e.g., *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); see also *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005).

<sup>40</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving Non-Market Economy Countries (April 5, 2005) (“Separate Rates and Combination Rates Bulletin”), available on the Department's Web site at <http://trade.gov/ia/policy/bull05-1.pdf>.

at <http://trade.gov/ia/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the “Respondent Selection” section above, the Department requires that the PRC respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. The quantity and value questionnaire will be available on the Department's Web site at <http://trade.gov/ia-highlights-and-news.html> on the date of the publication of this initiation notice in the **Federal Register**.

### Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>41</sup>

### Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the Chinese Government. Because of the particularly large number of producers/exporters identified in the Petition, the

<sup>41</sup> See Separate Rates and Combination Rates Bulletin, at 6 (emphasis added).

<sup>33</sup> See Volume II of the Petition at 8 and Exhibit II-2; see also Supplement to AD Petition at Exhibit II-S8.

<sup>34</sup> See Volume II of the Petition at Exhibit II-5.

<sup>35</sup> See AD Initiation Checklist at 9 and Attachment V.

<sup>36</sup> See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigation*, 73 FR 74930 (December 10, 2008).

<sup>37</sup> See *id.*, 73 FR at 74931.

Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version of the Petition to the PRC Government, consistent with 19 CFR 351.203(c)(2).

#### ITC Notification

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

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than April 16, 2012, whether there is a reasonable indication that imports of drawn stainless steel sinks from the PRC are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination with respect to any country will result in the investigation being terminated for that country; otherwise, this investigation will proceed according to statutory and regulatory time limits.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.<sup>42</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceeding initiated on or after March 14, 2011.<sup>43</sup> The formats for the revised certifications are provided at the end of the *Interim Final Rule* and the *Supplemental Interim Final Rule*. The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting

party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: March 21, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

#### Appendix I

#### Scope of the Investigation

The products covered by the scope of these investigations are stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel ("Drawn Stainless Steel Sinks"). Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of these investigations if they are included within the sales price of the Drawn Stainless Steel Sinks.<sup>44</sup> For purposes of this scope definition, the term "drawn" refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Drawn Stainless Steel Sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple drawn bowls that are joined through a welding operation to form one unit are covered by the scope of the investigations. Drawn Stainless Steel Sinks are covered by the scope of the investigations whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the investigations are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as "zero radius" or "near zero radius" sinks.

The products covered by these investigations are currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under statistical reporting number 7324.10.0000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the products under investigation is dispositive of its inclusion as subject merchandise.

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<sup>42</sup> See section 782(b) of the Act.

<sup>43</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) ("Interim Final Rule") (amending 19 CFR 351.303(g)(1) & (2)), as supplemented by *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011) ("Supplemental Interim Final Rule").

<sup>44</sup> Mounting clips, fasteners, seals, and sound-deadening pads are not covered by the scope of these investigations if they are not included within the sales price of the Drawn Stainless Steel Sinks, regardless of whether they are shipped with or entered with Drawn Stainless Steel Sinks.

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[C-570-984]

**Drawn Stainless Steel Sinks From the People's Republic of China: Initiation of Countervailing Duty Investigation**

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

**DATES:** *Effective Date:* March 27, 2012.

**FOR FURTHER INFORMATION CONTACT:** Shane Subler and Hermes Pinilla, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0189 and (202) 482-3477, respectively.

**SUPPLEMENTARY INFORMATION:**

**The Petition**

On March 1, 2012, the Department of Commerce ("Department") received a countervailing duty ("CVD") petition concerning imports of drawn stainless steel sinks from the People's Republic of China ("PRC") filed in proper form by Elkay Manufacturing Company ("Petitioner"). *See* Petition for the Imposition of Antidumping and Countervailing Duties Against Drawn Stainless Steel Sinks from the People's Republic of China, dated March 1, 2012 ("the Petition"). On March 6 and 7, 2012, the Department issued requests to Petitioner for additional information and for clarification of certain areas of the CVD Petition. Based on the Department's requests, Petitioner filed a supplement to the Petition on March 9, 2012.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended ("Act"), Petitioner alleges that producers/exporters of drawn stainless steel sinks from the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the investigation that it requests the Department to initiate (*see* "Determination of Industry Support for the Petition" below).

### Period of Investigation

The period of investigation is January 1, 2011, through December 31, 2011.

### Scope of Investigation

The products covered by the scope of this investigation are stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel (“Drawn Stainless Steel Sinks”). Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of the investigation if they are included within the sales price of the Drawn Stainless Steel Sinks.<sup>1</sup> For purposes of this scope definition, the term “drawn” refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Drawn Stainless Steel Sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple bowls that are joined through a welding operation to form one unit are covered by the scope of the investigation. Drawn Stainless Steel Sinks are covered by the scope of the investigation whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the investigation are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as “zero radius” or “near zero radius” sinks.

The products covered by the investigation are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under statistical reporting number 7324.10.000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the products under investigation is dispositive of its inclusion as subject merchandise.

<sup>1</sup> Mounting clips, fasteners, seals, and sound-deadening pads are not covered by the scope of this investigation if they are not included within the sales price of the Drawn Stainless Steel Sinks, regardless of whether they are shipped with or entered with Drawn Stainless Steel Sinks.

### Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As a result, the “Scope of Investigation” language has been modified from the language in the Petition to reflect these clarifications. See March 15, 2012 letter from Petitioner regarding Drawn Stainless Steel Sinks from the People’s Republic of China: Petitioner’s Revision to the Proposed Scope of Investigations.

Moreover, as discussed in the preamble to the regulations (see *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period of time for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by 5 p.m. DST on Tuesday, April 10, 2012, which is twenty calendar days from the signature date of this notice. All comments must be filed on the records of both the PRC antidumping duty investigation as well as the PRC CVD investigation.

### Filing Requirements

All submissions to the Department must be filed electronically using Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, IA ACCESS, by the time and date set by the Department. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Import Administration’s APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.<sup>2</sup>

### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on March 5, 2012, the Department invited representatives of the Government of the PRC (“GOC”) for consultations with respect to the CVD petition. Those consultations were held

<sup>2</sup> See <http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf> for details of the Department’s Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

on March 15, 2012. See Ex-Parte Memorandum on Consultations with Officials from the Government of the People’s Republic of China on the Countervailing Duty Petition regarding Drawn Stainless Steel Sinks, dated March 19, 2012.

### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct.

Int'l Trade 2001), *citing Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that drawn stainless steel sinks constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* "Countervailing Duty Investigation Initiation Checklist: Drawn Stainless Steel Sinks from the People's Republic of China" (CVD Initiation Checklist) at Attachment II, dated concurrently with this notice and on file electronically via IA ACCESS. Access to IA ACCESS is available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation" section of this notice. To establish industry support, Petitioner provided its own 2011 production of the domestic like product, and compared this to the total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petition, at 3 and Exhibit I-1, and General Issues Supplement, at 4; *see also* CVD Initiation Checklist at Attachment II.

Our review of the data provided in the Petition, supplemental submission, and other information readily available to the Department indicates that Petitioner has established industry support. *See* CVD Initiation Checklist at Attachment II. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in

order to evaluate industry support (*e.g.*, polling). *See* section 702(c)(4)(D) of the Act; *see also* CVD Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. *See* CVD Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. *See id.* Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See id.*

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. *See id.*

#### **Injury Test**

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

#### **Allegations and Evidence of Material Injury and Causation**

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; decline in financial performance; lost sales and revenue; and production, capacity, capacity utilization, shipment, and employment data. *See* Volume I of the Petition, at 8-25 and Exhibits I-4

through I-32, and General Issues Supplement, at 4. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* CVD Initiation Checklist, at Attachment III.

#### **Initiation of Countervailing Duty Investigation**

Section 702(b)(1) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner(s) supporting the allegations. The Department has examined the Petition on drawn stainless steel sinks from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of drawn stainless steel sinks in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

##### *A. Grant Programs*

1. The State Key Technology Renovation Fund.
2. "Famous Brands" Awards.
3. Grants to Cover Legal Fees in Trade Remedy Cases.
4. Special Fund for Energy Saving Technology Reform.
5. The Clean Production Technology Fund.
6. Grants for Listing Shares.
7. Export Assistance Grants.
8. Guangdong Province Science and Technology Bureau Project Fund (aka Guangdong Industry, Research, University Cooperating Fund).
9. Export Rebate for Mechanic, Electronic, and High-tech Products.
10. Funds for Outward Expansion of Industries in Guangdong Province.
11. Fund for Small and Medium Enterprises ("SME") Bank-enterprise Cooperation Projects.
12. Special Fund for Fostering Stable Growth of Foreign Trade.

13. Local Government Deposits Into Bank Accounts.

*B. Loans and Directed Credit*

1. Policy Loans.
2. Preferential Export Financing.
3. Treasury Bond Loans or Grants.
4. Preferential Loans for State-owned Enterprises (“SOEs”).

*C. Income Tax Programs*

1. “Two Free, Three Half” Program.
2. Provincial Tax Exemptions and Reductions for “Productive” Foreign Invested Enterprises (“FIEs”).
3. Tax Reductions for FIEs Purchasing Chinese-made Equipment.
4. Tax Reductions for FIEs in Designated Geographic Locations.
5. Tax Reductions for Technology- or Knowledge-intensive FIEs
6. Tax Reductions for FIEs that are also High or New Technology Enterprises (“HNTEs”).
7. Tax Reductions for HNTEs Involved in Designated Projects.
8. Tax Offsets for Research and Development at FIEs.
9. Tax Credits for Domestically Owned Companies Purchasing Chinese-made Equipment.
10. Tax Reductions for Export-oriented FIEs.
11. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises.
12. Tax Reduction for High-tech Industries in Guangdong Province.

*D. Other Tax Programs*

1. Import Tariff and Value Added Tax (“VAT”) Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries.
2. VAT Rebates on FIE Purchases of Domestically Produced Equipment.
3. City Tax and Surcharge Exemptions for FIEs.
4. Exemptions from Administrative Charges for Companies in Industrial Zones.
5. Export Subsidies Characterized as “VAT Rebates”.
6. VAT and Import Duty Exemptions on Imported Material.
7. VAT Rebates on Domestically Produced Equipment.

*E. Government Provision of Goods or Services for Less Than Adequate Remuneration (“LTAR”)*

1. Land to SOEs.
2. Lands to Companies Located in Industrial or Other Special Economic Zones.
3. Electricity.
4. Stainless Steel Coils.

*F. Subsidies to Enterprises Located in Industrial Cluster Zones*

1. Exemptions from Land Development Fees.
2. Land Purchase Grants.
3. Grants to Hire Post-doctoral Workers.
4. Financial Subsidies: Interest Subsidies, Preferential Loans, and Lowered Interest Rates.
5. Tax Reductions or Exemptions.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. Tax Exemptions and Reductions for Enterprises That Utilize Recycled Materials.
2. The State Science and Technology Support Scheme.
3. Provincial Loan Discount Special Fund for SMEs.
4. Tax Preferences Available to Companies That Operate at a Small Profit.

For further information explaining why the Department is not investigating these programs, see CVD Initiation Checklist.

**Respondent Selection**

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the period of investigation. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this **Federal Register** notice.

**Distribution of Copies of the Petition**

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the GOC. Because of the particularly large number of producers/exporters identified at Exhibit I–2 of the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

**ITC Notification**

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

**Preliminary Determination by the ITC**

The ITC will preliminarily determine, within 45 days after the date on which the Petition is filed, whether there is a reasonable indication that imports of subsidized drawn stainless steel sinks from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. See section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

**Notification to Interested Parties**

Interested parties must submit applications for disclosure under protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD or CVD proceedings initiated on or after March 14, 2011. See *Certification of Factual Information for Import Administration during Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule*. Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule*, or in the format provided in the *Interim Final Rule*. See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011). The Department intends to reject factual information submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

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This notice is issued and published pursuant to section 777(i) of the Act.

Dated: March 21, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012-7331 Filed 3-26-12; 8:45 am]

**BILLING CODE 3510-DS-P**

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**APPENDIX B**  
**CONFERENCE WITNESSES**



## CALENDAR OF PUBLIC PRELIMINARY CONFERENCE

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

**Subject:** Drawn Stainless Steel Sinks from China  
**Inv. Nos.:** 701-TA-489 and 731-TA-1021 (Preliminary)  
**Date and Time:** March 22, 2012 - 9:30 a.m.

Sessions were held in connection with these preliminary investigations in the ALJ Courtroom A (room 110), 500 E Street, S.W., Washington, D.C.

### **OPENING REMARKS:**

Petitioner (**Joseph W. Dorn**, King & Spalding LLP)  
Respondents (**William Perry**, Dorsey & Whitney LLP)

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

King & Spalding LLP  
Washington, D.C.  
on behalf of

Elkay Manufacturing Company

**Stephen Rogers**, Chief Operating Officer, Elkay  
Manufacturing Company

**Angie Sheehan**, Director, Product Marketing, Elkay  
Manufacturing Company

**Paul Just**, President, Just Manufacturing Company

**In Support of the Imposition of  
Antidumping and Countervailing Duty Orders (continued):**

**Michael G. Szustakowski**, Consultant, King & Spalding LLP

**Joseph W. Dorn** )  
 ) – OF COUNSEL  
**Brian E. McGill** )

**In Opposition to the Imposition of  
Antidumping and Countervailing Duty Orders:**

Mayer Brown LLP  
Washington, D.C.  
on behalf of

Compass Manufacturing International LLC (“CMI”)

**Mike Wolfe**, President, CMI

**Matthew J. McConkey** ) – OF COUNSEL

Dorsey & Whitney LLP  
Seattle, WA  
on behalf of

AmeriSink Inc; International Concepts in Cabinetry;  
Nantucket Sinks; MAZI, Inc.; IPT Sink Company;  
Wells Sinkware Corp.; Empire Industries;  
Chemcore Industries, Inc.; Kraus USA; Soci LP;  
VIGO Industries LLC; Lenova Sinks (A&C Global, Inc.);  
and Pelican Sinks Int’l

**Todd Simpson**, President and Owner, Soci, LP

**Ian Drew**, Office Manager, Nantucket Sinks, LLC

**Jim Olson**, President, ANO, Inc.

**Russell Levi**, Vice President, Kraus USA, Inc.

**In Opposition to the Imposition of  
Antidumping and Countervailing Duty Orders (continued):**

**Sergio Magarik**, Vice President, Kraus USA, Inc.

**David Spicher**, Co-Owner, Eclipse

**Thomas Mu**, Vice President of Operations,  
International Concepts in Cabinetry

**William Perry**

)

) – OF COUNSEL

**Derek Bishop**

)

**REBUTTAL/CLOSING REMARKS:**

Petitioner (**Joseph W. Dorn**, King & Spalding LLP)

Respondents (**Matthew J. McConkey**, Mayer Brown LLP *and*

**William Perry**, Dorsey & Whitney LLP)

**-END-**



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



**Table C-1**  
**Drawn SS sinks: Summary data concerning the U.S. market, 2009-11**

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

Item	Reported data			Period changes		
	2009	2010	2011	2009-11	2009-10	2010-11
<b>U.S. consumption quantity:</b>						
Amount	5,066,238	5,435,484	5,442,521	7.4	7.3	0.1
Producers' share (1)	***	***	***	***	***	***
<b>Importers' share (1):</b>						
China	40.0	49.4	58.4	18.4	9.5	9.0
Mexico	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
<b>U.S. consumption value:</b>						
Amount	300,442	298,326	303,925	1.2	-0.7	1.9
Producers' share (1)	***	***	***	***	***	***
<b>Importers' share (1):</b>						
China	24.4	34.1	39.2	14.8	9.7	5.1
Mexico	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
<b>U.S. imports from:</b>						
<b>China:</b>						
Quantity	2,025,125	2,686,397	3,179,282	57.0	32.7	18.3
Value	73,160	101,721	119,071	62.8	39.0	17.1
Unit value	\$36.13	\$37.87	\$37.45	3.7	4.8	-1.1
Ending inventory quantity	208,633	284,509	370,086	77.4	36.4	30.1
<b>Mexico:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>All other sources:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>All sources:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>U.S. producers:</b>						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
<b>U.S. shipments:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
<b>Export shipments:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid (\$1,000s)	***	***	***	***	***	***
Hourly wages	\$***	\$***	\$***	***	***	***
Productivity (units/1,000 hours)	***	***	***	***	***	***
Unit labor costs	\$***	\$***	\$***	***	***	***
<b>Net sales:</b>						
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 (1)	***	***	***	***	***	***
Operating income or (loss)/sales (1)	***	***	***	***	***	***

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

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

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

**Table C-2**  
**Fabricated SS sinks: Summary data concerning the U.S. market, 2009-11**

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

Item	Reported data			Period changes		
	2009	2010	2011	2009-11	2009-10	2010-11
<b>U.S. consumption quantity:</b>						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Mexico	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
<b>U.S. consumption value:</b>						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Mexico	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
<b>U.S. imports from:</b>						
China:						
Quantity	23,999	72,079	107,612	348.4	200.3	49.3
Value	2,679	7,597	11,108	314.7	183.6	46.2
Unit value	\$111.61	\$105.40	\$103.22	-7.5	-5.6	-2.1
Ending inventory quantity	(2)	(2)	(2)	(2)	(2)	(2)
Mexico:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>U.S. producers':</b>						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
<b>U.S. shipments:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
<b>Export shipments:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid (\$1,000s)	***	***	***	***	***	***
Hourly wages	\$***	\$***	\$***	***	***	***
Productivity (units/1,000 hours)	***	***	***	***	***	***
Unit labor costs	\$***	\$***	\$***	***	***	***
<b>Net sales:</b>						
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 (1)	***	***	***	***	***	***
Operating income or (loss)/sales (1)	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.  
 (2) Not available/not applicable.

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

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

**Table C-3**  
**Drawn + fabricated SS sinks: Summary data concerning the U.S. market, 2009-11**

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

Item	Reported data			Period changes		
	2009	2010	2011	2009-11	2009-10	2010-11
<b>U.S. consumption quantity:</b>						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China (drawn)	***	***	***	***	***	***
Mexico (drawn)	***	***	***	***	***	***
All other sources (2)	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
<b>U.S. consumption value:</b>						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China (drawn)	***	***	***	***	***	***
Mexico (drawn)	***	***	***	***	***	***
All other sources (2)	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
<b>U.S. imports from:</b>						
<b>China (drawn):</b>						
Quantity	2,025,125	2,686,397	3,179,282	57.0	32.7	18.3
Value	73,160	101,721	119,071	62.8	39.0	17.1
Unit value	\$36.13	\$37.87	\$37.45	3.7	4.8	-1.1
Ending inventory quantity	208,633	284,509	370,086	77.4	36.4	30.1
<b>Mexico:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>All other sources (2):</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>All sources:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>U.S. producers':</b>						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
<b>U.S. shipments:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
<b>Export shipments:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid (\$1,000s)	***	***	***	***	***	***
Hourly wages	\$***	\$***	\$***	***	***	***
Productivity (sinks/1,000 hours)	***	***	***	***	***	***
Unit labor costs	\$***	\$***	\$***	***	***	***
<b>Net sales:</b>						
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 (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***

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

(2) Includes imports of fabricated sinks from China.

(3) Not available/not applicable.

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

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

