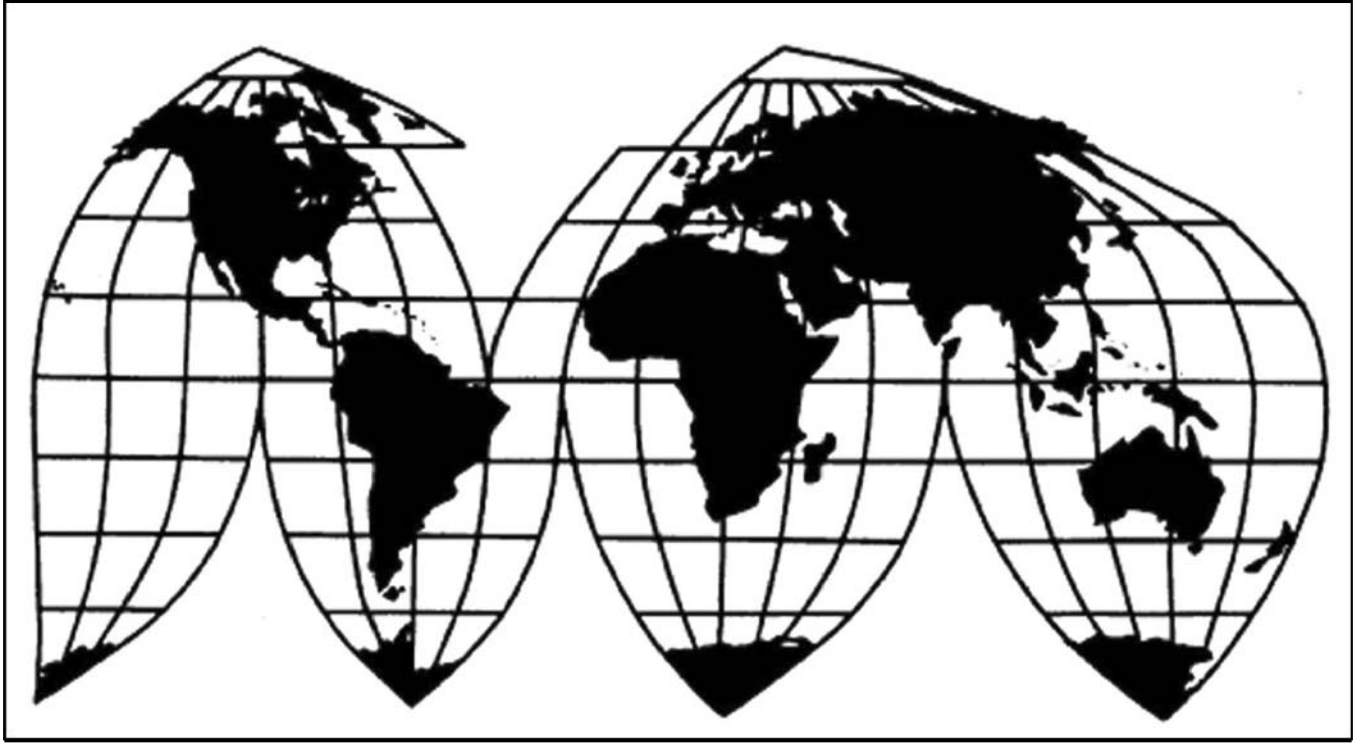
Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan

Investigation Nos. 701-TA-506 & 508 and 731-TA-1238-1243 (Final)

Publication 4502 **November 2014**

U.S. International Trade Commission



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U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-506 and 508 and 731-TA-1238-1243 (Final)

NON-ORIENTED ELECTRICAL STEEL FROM CHINA, GERMANY, JAPAN, KOREA, SWEDEN, AND TAIWAN

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) and (19 U.S.C. § 1673d(b)) ("the Act"), that an industry in the United States is materially injured by reason of imports of non-oriented electrical steel from China, Germany, Japan, Korea, Sweden, and Taiwan, provided for in subheadings 7225.19.00, 7226.19.10, and 7226.19.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value ("LTFV"), and by reason of imports from China and Taiwan that have been found by Commerce to be subsidized by the governments of China and Taiwan.[2] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of those countervailing and antidumping duty orders to be issued on non-oriented electrical steel from China, Germany, Japan, and Sweden.

BACKGROUND

The Commission instituted these investigations effective September 30, 2013, following receipt of a petition filed with the Commission and Commerce by AK Steel Corp., West Chester, Ohio. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of non-oriented electrical steel from China and Taiwan were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and that imports of non-oriented electrical steel from China, Germany, Japan, Korea, Sweden, and Taiwan were sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. § 1673b(b)).[3] Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission,

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

[2] Chairman Meredith M. Broadbent dissented.

[3] In its preliminary countervailing duty determination, Commerce found that imports of non-oriented electrical steel were not being and not likely to be subsidized by the government of Korea (79 FR 16295, March 25, 2014). Following a final negative countervailing duty determination by Commerce with respect to non-oriented electrical steel from Korea (79 FR 61605, October 14, 2014), the Commission terminated investigation No. 701-TA-507 (79 FR 64408, October 29, 2014).

Washington, DC, and by publishing the notice in the *Federal Register* on July 11, 2014 (79 FR 40143). The hearing was held in Washington, DC, on October 8, 2014, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

Based on the record in these investigations, we find that an industry in the United States is materially injured by reason of imports of non-oriented electrical steel (NOES) from China, Germany, Japan, Korea, Sweden, and Taiwan that are sold in the United States at less than fair value and imports of NOES that are subsidized by the governments of China and Taiwan.[1] We also find that critical circumstances do not exist with respect to imports of NOES from China, Germany, Japan, or Sweden for which the Department of Commerce (Commerce) made affirmative critical circumstances determinations.

I. Background

The petitions in these investigations were filed on September 30, 2013, by AK Steel Corporation (AK Steel or Petitioner), the sole domestic producer of NOES. Petitioner appeared at the hearing and submitted prehearing and posthearing briefs.

Several respondent entities participated in these investigations. The following entities appeared at the hearing and submitted prehearing and posthearing briefs:

- China Iron and Steel Association (CISA), whose members are producers of subject merchandise from China (Chinese Respondents).
- C.D. Walzholz KG, a producer of subject merchandise from Germany, and CDW Service Center D&B, Ltd., an importer of subject merchandise from Germany (collectively, CDW) and ThyssenKrupp Steel Europe AG, a producer of subject merchandise from Germany, and ThyssenKrupp Steel North American, an importer of subject merchandise from Germany (collectively ThyssenKrupp).[2]
- JFE Steel Corporation and Nippon Steel & Sumimoto Metal Corporation (collectively Japanese Respondents), producers of subject merchandise from Japan.[3]
- Cogent Power Inc. (Cogent) and Surahammars Bruk AB (Surahammars) (collectively Swedish Respondents), respectively an importer of subject merchandise from Sweden and a producer of the subject merchandise from Sweden.[4]

China Steel Corporation (China Steel), a producer of subject merchandise from Taiwan, and Metallia USA, LLC (Metallia), an importer of subject merchandise from Taiwan (collectively

[1] Chairman Broadbent has made negative determinations on NOES from China, Germany, Japan, Korea, Sweden, and Taiwan. *See* Separate and Dissenting Views of Chairman Broadbent. She joins sections I-V.B. of these Views. Commissioner Kieff did not participate in these investigations.

[2] CDW and ThyssenKrupp are also referred to collectively as German Respondents.

[3] Metal One America, Inc., a U.S. importer of the subject merchandise from Japan, submitted a prehearing brief arguing against a critical circumstances finding for imports from Japan.

[4] Cogent is ***. Confidential Report (CR) & Public Report (PR) at Table IV-3.

Taiwan Respondents), submitted a posthearing brief and appeared at the hearing. Chinese Respondents, German Respondents, Japanese Respondents, Swedish Respondents, and Taiwan Respondents (collectively, Joint Respondents) also filed joint prehearing and posthearing briefs addressing common issues.

Curtiss-Wright Electro-Mechanical Corporation, a U.S. purchaser of NOES, submitted a prehearing brief and appeared at the hearing. Siemens Industry Inc. (Siemens), a U.S. purchaser of NOES, submitted an information statement. The following U.S. purchasers of NOES also appeared at the hearing on respondents' panel: Toyota Tsusho America's Steel Trading Unit; American MITSUBA Corporation; Emerson Electric (Emerson); Lamination Specialties Corp.; and Nidec Motor Company (Nidec).

U.S. industry data are based on the questionnaire response of AK Steel, the sole producer of NOES in the United States.[5] Except as noted, U.S. import data are based on official import statistics and questionnaire responses from 24 U.S. importers, representing 89.7 percent of total subject imports (79.8 percent of imports from China, 101.4 percent of imports from Germany, 81.4 percent of imports from Japan, 88.8 percent of imports from Korea, 104.0 percent of imports from Sweden, and 95.6 percent of imports from Taiwan) during 2011-13.[6]

The Commission received responses to its questionnaires from eleven foreign producers/exporters of subject merchandise: two producers of NOES in China, accounting for *** percent of U.S. imports of NOES from China; three producers of NOES in Germany, accounting for *** of U.S. imports of NOES from Germany; three producers/exporters of NOES from Japan, accounting for *** percent of U.S. imports of NOES from Japan; one producer of NOES in Korea, accounting for *** percent of U.S. imports of NOES from Korea; one producer of NOES in Sweden, accounting for *** percent of U.S. imports of NOES from Sweden; and one producer of NOES in Taiwan, accounting for *** percent of U.S. imports from Taiwan during 2011-2013.[7]

II. Domestic Like Product

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of subject merchandise, the Commission first defines the "domestic like product" and the "industry."[8] 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

[5] CR at I-4, III-1, PR at I-3, III-1.

[6] CR/PR at IV-1. Coverage was calculated based on official import statistics compared to the quantity of imports, in short tons, reported in questionnaire data during 2011-13. CR/PR at IV-1 n.2.

[7] CR at VII-3, VII-6, VII-11, VII-12, VII-17, VII-21, PR at VII-3-VII-4 and VII-6-VII-9.

[8] 19 U.S.C. § 1677(4)(A).

the product."[9] 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."[10]

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.[11] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[12] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[13] Although the Commission must accept Commerce's determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,[14] the Commission determines what domestic product is like the imported articles Commerce has identified.[15]

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[9] 19 U.S.C. § 1677(4)(A).

[10] 19 U.S.C. § 1677(10).

[11] *See, e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. *See Nippon*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

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

[13] *Nippon*, 19 CIT at 455; *Torrington*, 747 F. Supp. at 748-49; *see also* S. Rep. No. 96-249 at 90-91 (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.").

[14] *See*, *e.g., USEC, Inc. v. United States*, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

[15] *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).

B. The Product

In its final determinations, Commerce defined the imported merchandise within the scope of these investigations as follows:

> The merchandise subject to these investigations consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term "substantially equal" in the prior sentence means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oesteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B_{800} value). NOES contains by weight at least 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.
>
> NOES is subject to these investigations whether it is fully processed (*i.e.*, fully annealed to develop final magnetic properties) or semi-processed (*i.e.*, finished to final thickness and physical form but not fully annealed to develop final magnetic properties); whether or not it is coated (e.g., with enamel, varnish, natural oxide surface, chemically treated or phosphate surface, or other non-metallic materials). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of these investigations is not limited to merchandise meeting the specifications noted above.
>
> NOES is sometimes referred to as cold-rolled non-oriented electrical steel (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO). These terms are interchangeable.
>
> Excluded from the scope of these investigations are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff

Schedule of the United States (HTSUS) as part (*i.e.*, lamination) for use in a device such as a motor, generator, or transformer. [16]

NOES is a flat-rolled, alloy steel product that is used to manufacture laminations that are assembled in stacks to produce magnetic cores for alternating-current electrical apparatus. NOES has desirable magnetic properties that are similar in all directions (non-oriented), in contrast to grain-oriented electrical steel (GOES), which has superior magnetic properties in the lengthwise direction of the sheet, but less favorable properties in other directions. Thus, NOES is used primarily to produce laminations for which the direction of the magnetic flux in the apparatus is constantly changing, such as for rotating machinery including motors and generators, whereas GOES is used primarily in static equipment, such as transformers, for which the laminations can be produced in such a way as to take advantage of the favorable directionality of the steel. NOES is also used in small static apparatus, such as small, low-voltage transformers and lighting ballasts, if the higher cost of GOES cannot be justified by potential savings in improved energy efficiency.[17]

NOES is sold in sheet or strip form, either in coils or in straight lengths. Two types of NOES are produced: fully processed NOES, for which the producer performs the final annealing; and semi-processed NOES, which, although it is annealed by the producer, must be annealed again by the consumer after being stamped or otherwise formed into laminations, in order to achieve its potential magnetic properties. Both domestic and imported NOES are produced in compliance with specifications issued by ASTM International (ASTM), or proprietary or international specifications.[18]

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[16] *Non-Oriented Electrical Steel From the People's Republic of China, the Republic of Korea, and Taiwan: Final Determinations of Countervailing Duty Investigations*, 78 Fed. Reg. 61607, 61609 (Dep't of Commerce Oct. 14, 2013); *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Final Determinations of Antidumping Duty Investigations*, 79 Fed. Reg. 61609, 61611 (Dep't of Commerce Oct. 14, 2014). On November 22, 2013, Petitioner requested that Commerce revise the scope language to define more precisely the intended scope of the investigations to cover subject imports of NOES and to avoid covering cold-rolled motor lamination electrical steel. Petition Amendment To Clarify the Proposed Scope Definition, November 22, 2013. On April 10, 2014, Commerce accepted Petitioner's proposed scope revisions. *Antidumping Duty Investigations of Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan and Countervailing Duty Investigations of Non-Oriented Electrical Steel from the People's Republic of China, Korea and Taiwan: Scope Modification Requests* (Dep't of Commerce Apr. 10, 2014). Accordingly, the following differences exist between the current scope and the scope definition in the preliminary determinations: the threshold for the silicon level was changed from 1.25 percent to 1.00 percent; the sentence "NOES has a surface oxide coating, to which an insulation coating may be applied" was added to the first paragraph and the phrase "whether or not it is coated (e.g., with enamel varnish, natural oxide surface, chemically treated or phosphate surface, or other non-metallic materials)" was removed from the second paragraph; and the final paragraph, which excludes certain products, was added to the scope. CR at I-11 n.11, PR at I-9 n.11.

[17] CR at I-12, PR at I-11.

[18] CR at I-12–I-13, PR at I-11.

NOES is produced of steel that is alloyed with 1.00 percent but less than 3.5 percent of silicon, with aluminum usually added in lesser amounts. Both silicon and aluminum increase the electrical resistivity of steel, resulting in lower loss of energy in finished motors or apparatus produced using NOES.

C. Domestic Like Product Analysis

In the preliminary determinations, the Commission defined a single domestic like product consisting of NOES described by the scope definition. The Commission considered whether to define the domestic like product to include cold rolled motor lamination steel (CRML), as certain respondents advocated at the time, but found that there were several differences between NOES and CRML.[19] The following discussion summarizes the Commission's like product analysis in the preliminary phase of these investigations.

Physical Characteristics and Uses. The record established that NOES and CRML are both produced from steel alloyed with silicon.[20] CRML is typically produced from steel having a somewhat lower content of silicon.[21] NOES derives its magnetic properties primarily from its silicon content, with semi-processed NOES requiring additional annealing to achieve its potential magnetic properties after it is stamped or otherwise formed into laminations to remove the strains caused by stamping or forming, which are harmful to magnetic properties.[22] NOES is not normally temper rolled.[23] The magnetic properties of CRML are developed as a result of heavy temper mill extension rolling at the producing mill followed by a decarburizing anneal of the stamped laminations by the customer.[24] Both NOES and CRML have magnetic properties that are not oriented in a particular direction, and both NOES and CRML are used to produce laminations that are assembled to produce magnetic cores for electrical apparatus, although the extent to which CRML may be used in the same applications as NOES is unclear.[25]

Manufacturing Facilities, Production Processes and Employees. The record established that NOES production begins with the melting of steel in either an electric-arc furnace or a basic oxygen furnace, with the molten steel then being subjected to various procedures such as argon-oxygen refining, ladle metallurgy treatment, and vacuum degassing, all of which act to reduce undesirable contaminants and refine the chemistry of the steel.[26] Alloys including silicon and aluminum are added. The steel is next continuously cast into slabs that are rolled on

[19] *Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan*, Inv. Nos. 701-TA-505-508 and 731-TA-1238-1243 (Preliminary), USITC Pub. 4441 (Dec. 2013) at 7-11 ("Preliminary Determinations").

[20] Preliminary Determinations, USITC Pub. 4441, at 8.

[21] Preliminary Determinations, USITC Pub. 4441, at 8.

[22] Preliminary Determinations, USITC Pub. 4441, at 8.

[23] Preliminary Determinations, USITC Pub. 4441, at 8.

[24] Preliminary Determinations, USITC Pub. 4441, at 8.

[25] Preliminary Determinations, USITC Pub. 4441, at 8.

[26] Preliminary Determinations, USITC Pub. 4441, at 9.

a continuous hot strip mill to produce hot-rolled coils, which are then uncoiled for additional processing and recoiled.[27]

CRML is produced from steel that has been refined to a low carbon content, through vacuum or other processing, followed by continuous casting, hot rolling, pickling, cold rolling, annealing, and temper rolling.[28] The annealing process is typically performed on coils in batch annealing furnaces, although some producers may use continuous annealing.[29] Petitioner reported that it produces GOES and NOES, which involve distinct production processes, but that it does not produce CRML.[30]

Channels of Distribution. The record suggested that both NOES and CRML are sold to end users, service centers, and distributors, although Petitioner contended that NOES and CRML are typically sold in distinct market segments.[31]

Interchangeability. The record established that there is at least some interchangeability between NOES and CRML, but the parties disagreed as to the extent and frequency of any actual overlap in end uses.[32]

Producer and Customer Perceptions. Petitioner perceived NOES and CRML to be distinct products, with very little overlap in end uses. Moreover, *** and 17 importers reported that there were no substitutes for NOES, while only three importers named CRML as a substitute for NOES in laminations, transformers, and motors.[33]

Price. The record indicated that NOES is typically sold at a higher price than CRML.[34]

Thus, in the preliminary phase of these investigations, the Commission found that the record indicated that there are differences between NOES and CRML in physical characteristics, production processes, and prices and that the *** along with a majority of importers reported that there were no products that could serve as substitutes for NOES. The record also suggested that there was at least some degree of interchangeability between the two products. Although the parties presented divergent views regarding this issue, they appeared to agree that CRML may be able to replace NOES in some applications.[35]

In the final phase of these investigations, Petitioner argued that the Commission should again define a single domestic like product that is coextensive with the scope.[36] Respondents did not contest Petitioner's position on this issue.[37]

The record pertinent to the definition of the domestic like product contains little information that is different from the information generated in the preliminary phase of these

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[27] Preliminary Determinations, USITC Pub. 4441, at 9.

[28] Preliminary Determinations, USITC Pub. 4441, at 9.

[29] Preliminary Determinations, USITC Pub. 4441, at 9.

[30] Preliminary Determinations, USITC Pub. 4441, at 10; Petitioner's Postconference Brief at 7, 11 & Exhibit 1.

[31] Preliminary Determinations, USITC Pub. 4441, at 10.

[32] Preliminary Determinations, USITC Pub. 4441, at 10.

[33] Preliminary Determinations, USITC Pub. 4441, at 10.

[34] Preliminary Determinations, USITC Pub. 4441, at 11.

[35] Preliminary Determinations, USITC Pub. 4441, at 8-11.

[36] Petitioner's Prehearing Brief at 4-19.

[37] Joint Respondents' Prehearing Brief at 6.

investigations, or that would call into question the domestic like product analysis that the Commission conducted in the preliminary determinations.[38] As stated above, Petitioner agrees with the like product finding the Commission made in the preliminary determinations, and no Respondent has argued for a different definition in the final phase of these investigations. Accordingly, we again define a single domestic like product that is coextensive with the scope definition.

III. Domestic Industry

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[39] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

The Commission received a questionnaire response from Petitioner, accounting for all U.S. production of NOES during the January 2011-June 2014 period of investigation (POI).[40] There are no related parties or other domestic industry issues in these investigations. Accordingly, based on our definition of the domestic like product, we define the domestic industry as AK Steel, the only known U.S. producer of NOES.

[38] *See, e.g.,* CR at I-13-I-20, PR at I- 10-I-15 & CR/PR at Appendix E.
[39] 19 U.S.C. § 1677(4)(A).
[40] CR/PR at III-1.

IV. Cumulation[41]

A. Background

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

(1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
(4) whether the subject imports are simultaneously present in the market.[42]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for

[41] Pursuant to Section 771(24) of the Tariff Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible. 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i), 1677(24)(B); *see also* 15 C.F.R. § 2013.1 (developing countries for purposes of 19 U.S.C. § 1677(36)). Negligibility is not an issue in these investigations. The data available, based on official Commerce statistics, indicate that subject imports from each subject country exceed the requisite 3 percent statutory negligibility threshold. From September 2012 to August 2013, the most recent 12-month period prior to the filing of the petitions for which data are available, U.S. imports from China accounted for 20.1 percent of the total imports of NOES by quantity, U.S. imports from Germany accounted for 12.4 percent of the total imports of NOES by quantity, U.S. imports from Japan accounted for 22.3 percent of the total imports of NOES by quantity, U.S. imports from Korea accounted for 7.3 percent of the total imports of NOES by quantity, U.S. imports from Sweden accounted for 11.0 percent of the total imports of NOES by quantity, and U.S. imports from Taiwan accounted for 21.7 percent of the total imports of NOES by quantity. *See* EDIS Document #544614 (Import Statistics).

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

determining whether the subject imports compete with each other and with the domestic like product.[43] Only a "reasonable overlap" of competition is required.[44]

B. Arguments of the Parties

Petitioner argues that, because the relevant criteria for cumulation are satisfied, the Commission should cumulate subject imports from China, Germany, Japan, Korea, Sweden, and Taiwan.[45] Swedish Respondents argue that the Commission should not cumulate subject imports from Sweden with imports from the other subject countries because of differences in the form of the product sold from Sweden, channels of distribution, and non-price factors, which it contends are of paramount importance to its customers. They also contend that imports from Sweden serve a niche market and a limited number of long-time customers in discrete geographic locations and consequently do not participate in the larger market for NOES.[46]

C. Analysis

In these investigations, the threshold criterion for cumulation is satisfied because Petitioner filed the antidumping duty and countervailing duty petitions with respect to the subject countries on the same day, September 30, 2013.[47] We thus examine whether there is a reasonable overlap of competition between subject imports from China, Germany, Japan, Korea, Sweden, and Taiwan and between subject imports from each source and the domestic like product.

Fungibility. The record indicates that NOES is at least moderately fungible, regardless of source.[48] The U.S. producer described NOES from all sources as *** interchangeable while responding importers were more likely to describe NOES from the various sources as "frequently" or "sometimes" interchangeable.[49] A majority of responding purchasers indicated that U.S. product was "always" or "frequently" interchangeable with product from all subject

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

[44] The Statement of Administrative Action (SAA) to the Uruguay Round Agreements Act (URAA), expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." H.R. Rep. No. 103-316, Vol. I at 848 (1994) (*citing Fundicao Tupy, S.A. v. United States*, 678 F. Supp. at 902; *see Goss Graphic Sys., Inc. v. United States*, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); *Wieland Werke, AG*, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[45] Petitioner's Prehearing Brief at 23-27.

[46] Swedish Respondents' Prehearing Brief at 4-15.

[47] None of the statutory exceptions to cumulation applies.

[48] CR at II-31, PR at II-19 (stating that there is a moderate-to-high degree of substitutability between domestically produced NOES and NOES imported from subject sources).

[49] CR at II-48–II-50, PR at II-29-II-30 & CR/PR at Table II-11.

countries.[50] Majorities or pluralities of purchasers found the domestic like product and subject imports comparable in most non-price purchasing factors.[51]

Although Swedish Respondents contend that subject imports from Sweden are not fungible with the domestic like product and imports from other subject countries, the record indicates that market participants' perceptions of interchangeability of subject imports from Sweden with the domestic like product and imports from other subject countries were not appreciably different from their perceptions of the interchangeability of imports from the other five subject countries.[52] Furthermore, with respect to the assertion that imports from Sweden are not fungible with imports from other sources because imports from Sweden are sold in slit form rather than wide coils, the record indicates that imports from Sweden consisted of both wide coils and slit material.[53] Although Swedish Respondents assert that they were unaware of such shipments and that the shipments ceased in March 2013, they acknowledge that *** percent of Swedish material was sold into the U.S. market during the POI in wide coil form.[54] Moreover, Swedish Respondents acknowledge that all coils 600 mm or less are slit coils,[55] and according to official import data, all six subject countries exported appreciable volumes of coils to the United States that entered under both the "less than 600 mm but not less than 300 mm" tariff classification and under the "less than 300 mm" tariff classification.[56]

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[50] CR/PR at Table II-11.

[51] CR/PR at Table II-10. There were some exceptions: majorities of purchasers found the domestic like product inferior in "availability" to subject imports from Sweden, inferior in "product range" to subject imports from China, Germany, Japan, Sweden, and Taiwan, and inferior in "quality exceeds standards" to subject imports from Germany, Japan, Sweden, and Taiwan.

[52] CR/PR at Table II-11. We also note that ***. *** U.S. Purchaser Questionnaire Response at III-13 & III-14. ***. *Id.* at IV-1 & IV-2.

[53] CR/PR at Tables V-3-V-12 (showing pricing data on imports of NOES from Sweden for ***).

[54] Swedish Respondents' Prehearing Brief at 5 n.7. Swedish Respondents also cite *Certain Thermal Lightweight Paper from China and Germany*, Inv. Nos. 701-TA-451 and 731-TA-1127-1127 (Final), USITC Pub. 4043 (Nov. 2008) at 13-14, as an investigation in which the Commission was faced with very similar facts to the present investigations. They assert that in that investigation the Commission recognized that sales of slit material versus jumbo coils established that subject imports from China and Germany were not functionally interchangeable upon importation, and therefore the Commission declined to cumulate subject imports from the two countries. In *Thermal Lightweight Paper*, however, the record evidence established that, "{a}ll subject imports from Germany during the period of investigation were jumbo rolls, and all subject imports from China during the period of investigation were slit rolls. No party has disputed the Commission's finding in the preliminary determinations that slit rolls and jumbo rolls are not interchangeable in any application." *Id.* By contrast, the record in these investigations indicates that imports from Sweden consisted of both wide coils and slit coils, and market participants' perception of the interchangeability of subject imports from Sweden with the domestic like product and imports from other subject countries were not appreciably different from their perceptions of the interchangeability of imports from other countries. CR/PR at Table II-11 & CR/PR at Tables V-3 to V-12.

[55] Tr. at 212 (Harper).

[56] Petitioner's Prehearing Brief at Exhibit 15 (showing that approximately 7,100 short tons from China, 3,900 short tons from Germany, 5,900 short tons from Japan, 840 short tons from Korea, and (Continued…)

Channels of Distribution. The record indicates some overlap in the channels of distribution. The U.S. producer of NOES sold ***.[57] Importers of NOES from *** sold almost exclusively to stampers/laminators until interim 2014 when they sold exclusively to end users. Importers of NOES from *** sold to both distributors and end users. Importers of NOES from *** reported selling to distributors and end users, as well as to stampers/laminators in 2013 and interim 2014.[58] Importers of NOES from *** sold primarily to end users, although both sold smaller quantities of NOES to stampers/laminators throughout the POI.[59] Importers of NOES from *** sold mainly to distributors, but also sold to end users in each year and interim period of the POI, with non-trivial shares of import shipments being directed to end users in 2013 and interim 2014.[60]

Geographic Overlap. The record indicates an overlap in sales of the domestic like product and sales of the subject imports from all sources in the same geographic markets. The U.S. producer reported selling NOES to ***, and all importers of NOES from each of the subject countries, except for ***, reported selling NOES to at least four regions of the contiguous United States.[61] Importers of subject NOES from *** reported selling only to the *** region, and importers from all of the other subject countries reported selling ***.[62]

Simultaneous Presence in Market. Official import statistics indicate that imports of NOES from Japan and Sweden entered the United States every month during the POI, that imports of NOES from Germany and Taiwan entered in every month but one, that imports from China entered in every month but two, while imports of NOES from Korea entered the United States in 34 out of 42 months.[63]

Conclusion. The record demonstrates a reasonable overlap of competition between subject imports from Sweden and the domestic like product and between subject imports from Sweden and other subject imports, notwithstanding Swedish Respondents' contrary arguments. There is some level of fungibility between subject imports from Sweden and imports from other subject countries and the domestic like product. As previously discussed, market participants' perceptions of the interchangeability of subject imports from Sweden paralleled those for other

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6,300 short tons from Taiwan of NOES with a width of less than or equal to 600 mm entered the United States during the POI). During the POI, AK Steel reported that approximately *** percent of its sales of NOES were in wide coils, and that it offers coils in widths up to 48 inches as well as slit coils in any width and any grade. CR/PR at III-2. AK Steel also stated that it typically charges about $*** per short ton to slit coils and that outside slitters might charge up to $*** per short ton. CR/PR at III-2 n.5.

[57] CR/PR at Table II-1. Petitioner described distributors, stampers/laminators, and end users as often performing the same functions, and that as a result, the channels of distribution often overlap with each other. Petitioner's Posthearing Brief, Exhibit 1, at 12-13. *** , described themselves as falling into more than one category. CR at II-3, PR at II-2.

[58] CR at II-4, PR at II-3 & CR/PR at Table II-1.

[59] CR/PR at Table II-1.

[60] CR/PR at Table II-1.

[61] CR/PR at Table II-2.

[62] CR/PR at Table II-2.

[63] CR at IV-14, PR at IV-11 & CR/PR at Table IV-7.

subject sources, and the industries in Sweden and the other subject countries ship NOES in both wide coil and slit form to the U.S. market, as does the domestic industry.[64] In addition, there was geographic overlap and simultaneous presence in the U.S. market for the majority of the POI. Although the majority of subject imports from Sweden are sold to end users, the domestic industry and all subject sources, except from Taiwan, sell regularly to that channel, and subject imports from Taiwan have had sufficient presence in that channel to constitute a reasonable overlap.

We thus find a reasonable overlap of competition among subject imports from China, Germany, Japan, Korea, Sweden, and Taiwan and between subject imports from each source and the domestic like product. Because the antidumping and countervailing duty petitions were filed on the same day, and we find that there is a reasonable overlap of competition between and among subject imports and the domestic like product, we cumulate subject imports from China, Germany, Japan, Korea, Sweden, and Taiwan for our analysis of injury by reason of subject imports.

V. Material Injury by Reason of Subject Imports

A. Legal Standard

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[65] 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.[66] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[67] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[68] 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."[69]

Although the statute requires the Commission to determine whether the domestic industry is "materially injured or threatened with material injury by reason of" unfairly traded

[64] CR/PR at Table II-11.

[65] 19 U.S.C. §§ 1671d(b), 1673d(b).

[66] 19 U.S.C. § 1677(7)(B). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[67] 19 U.S.C. § 1677(7)(A).

[68] 19 U.S.C. § 1677(7)(C)(iii).

[69] 19 U.S.C. § 1677(7)(C)(iii).

imports,[70] 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.[71] 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.[72]

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.[73] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[74] Nor does the

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[70] 19 U.S.C. §§ 1671d(a), 1673d(a).

[71] *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), *aff'g,* 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

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

[73] SAA at 851-52 ("{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.

[74] 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,* 266 F.3d at 1345 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... .
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"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.[75] It is clear that the existence of injury caused by other factors does not compel a negative determination.[76]

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."[77] [78] Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[79]

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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,* 132 F.3d at 722 (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.").

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

[76] *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.").

[77] *Mittal Steel*, 542 F.3d at 877-78; *see also id.* at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.") *citing United States Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

[78] Vice Chairman Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in *Bratsk*, 444 F.3d 1369, and *Mittal Steel*, held that the Commission is *required*, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of non-subject imports, albeit without reliance upon presumptions or rigid formulas. *Mittal Steel* explains as follows:

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

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The Federal Circuit's decisions in *Gerald Metals, Bratsk*, and *Mittal Steel* all involved cases where the relevant "other factor" was the presence in the market of significant volumes of price-competitive 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.[80] 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.[81] 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.[82]

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial

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> 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.

[79] *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.").

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

[81] *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).

[82] 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 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.

evidence standard.[83] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[84]

B. Conditions of Competition and the Business Cycle

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

1. Demand Conditions

U.S. demand for NOES depends on demand for U.S.-produced downstream products, such as electric motors, low-voltage transformers, and generators.[85] NOES accounts for a highly variable share of the cost of end-use products. NOES is estimated to account for 15-65 percent of the cost of an electrical motor, 25-40 percent of the cost of a transformer, and 25-40 percent of the cost of a generator.[86] U.S. purchasers of NOES are end users, distributors, and service centers that perform laminating or stamping prior to distributing their downstream products to the same end-use sectors.[87]

Market participants' perceptions of demand trends were mixed. *** indicated that demand has decreased since January 1, 2011, due to lower demand for motors.[88] Importers' and purchasers' perceptions of changes in U.S. demand for NOES during the POI varied.[89]

As measured by apparent U.S. consumption, demand decreased by *** percent from 2011 to 2013, but was *** percent higher in January-June (interim) 2014 than in interim 2013.[90]

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[83] We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[84] *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.").

[85] CR at II-21, PR at II-13. Joint Respondents believe that there will be an increase in demand for NOES in 2016 as transformer manufacturers will have to meet substantially tighter efficiency requirements, and therefore may need to replace CRML with NOES in this application. Tr. at 182-183 (Estes).

[86] CR at II-21, PR at II-13.

[87] CR/PR at II-2 & CR/PR at Table II-1.

[88] CR at II-25-II-26, PR at II-15-II-16.

[89] CR/PR at Table II-3. Importers that reported increased U.S. demand for NOES attributed the increase to various reasons, including recovery from the recession in 2009 and the new production of electric vehicles. CR at II-26, PR at II-16. Importers reporting decreased demand attributed it to weakness in the broader economy or U.S. motor production moving overseas. CR at II-26, PR at II-16. Among purchasers, those reporting increased U.S. demand attributed the increase to general economic improvement, new motor designs, electric vehicles, and government regulations requiring higher motor efficiency. CR at II-27, PR at II-16. Those purchasers reporting decreased U.S. demand cited the U.S. economy, falling GOES prices (leading to substitution away from NOES), and the movement of motor production to Germany and Asia. CR at II-27, PR at II-16-II-17.

[90] CR at II-22, PR at II-15.

2. Supply Conditions

Sources of supply of NOES to the U.S. market during the POI included the domestic industry, subject imports, and imports from nonsubject sources.[91]

Petitioner AK Steel is the sole U.S. manufacturer of NOES.[92] Petitioner reported that most of its overall U.S. production consisted of products other than NOES.[93]

The domestic industry was the second largest source of NOES to the U.S. market from 2011 to 2013.[94] The domestic industry's share of apparent U.S. consumption, by quantity, was *** percent in 2011, *** percent in 2012, and *** percent in 2013.[95]

Cumulated subject imports were the largest source of NOES to the U.S. market from 2011 to 2013.[96] The market share of cumulated subject imports was, by quantity, *** percent in 2011, *** percent in 2012, and *** percent in 2013.[97]

Nonsubject imports had a small presence in the U.S. market from 2011 to 2013.[98] Nonsubject imports' market share, by quantity, was *** percent in 2011, *** percent in 2012, and *** percent in 2013.[99] France was the largest nonsubject source of NOES throughout the POI.[100]

3. Substitutability and Other Conditions

Based on the record in the final phase of these investigations, we find that there is a moderate-to-high degree of substitutability among domestically produced NOES and NOES from all subject sources. As explained above, the U.S. producer described NOES from all sources as *** interchangeable, while responding importers were more likely to describe NOES from the various sources as "frequently" or "sometimes" interchangeable.[101] A majority of

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[91] CR/PR at Table IV-3.

[92] CR at III-1–III-2, PR at III-1.

[93] CR/PR at Table III-1. Specifically, AK Steel reported that in its facilities where it produces both GOES and NOES, *** percent of its production in 2013 consisted of GOES, while the remaining *** percent consisted of NOES. *Id.*

[94] CR/PR at Table IV-8.

[95] CR/PR at Table IV-8. The domestic industry's share of apparent consumption, by quantity, was *** percent in interim 2013 and *** percent in interim 2014. *Id.*

[96] CR/PR at Table IV-8.

[97] CR/PR at Table IV-8. The market share of cumulated subject imports was, by quantity, *** percent in interim 2013 and *** percent in interim 2014. *Id.*

[98] CR/PR at Table IV-8.

[99] CR/PR at Table IV-8. Nonsubject imports' market share, by quantity, was *** percent in interim 2013 and *** percent in interim 2014. *Id.*

[100] CR at VII-28, PR at VII-13.

[101] CR at II-48–II-50, PR at II-29-II-30 & CR/PR at Table II-11. Petitioner asserts that most NOES sold in the U.S. market is warranted to meet ASTM specifications and, therefore, is highly interchangeable. CR at II-48, PR at II-29. In contrast, in their responses to the Commission's questionnaires, several importers claimed that they imported products from subject sources that the (Continued…)

responding purchasers indicated that U.S. product was "always" or "frequently" interchangeable with product from all subject countries.[102] Majorities or pluralities of purchasers found the domestic like product and subject imports comparable in most non-price purchasing factors.[103]

Joint Respondents argued that there are several products, most notably domestically produced CRML and imported laminations, that purchasers use as substitutes for NOES.[104] *** and 11 importers reported that there were no substitute products for NOES, whereas eight importers named CRML as a substitute for NOES in motors and transformers.[105] Fourteen purchasers stated that there were no substitutes for NOES, but five named CRML as a substitute for NOES.[106] As discussed above, there appears to be at least some interchangeability between NOES and CRML, although the parties have presented disparate views about the degree and extent of overlap in end uses. U.S. producers' U.S. shipments of CRML, by quantity, declined from *** short tons in 2011 to *** short tons in 2013, and were *** short tons in interim 2013 and *** short tons in interim 2014.[107]

We find that price is an important factor in purchasing decisions, though quality, reliability, and availability are other important factors.[108] Fifteen out of 20 purchasers reported that price was "very important" to their purchasing decisions.[109] At least 18 out of 20

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domestic industry did not produce. CR at II-51, PR at II-31. For example, certain importers claimed that certain grades of NOES were not available, or were only available in limited quantity, from the domestic industry. *Id.* Some importers claimed that customers requested NOES from specific mills. *Id.* *** stated that it exports a specially-designed NOES product developed to meet the specifications of a dedicated customer. *Id.* An importer likewise stated that some of its NOES products were produced to particular specifications developed by a specific producer of a certain type of electrical vehicle motor. *Id.* *** stated that its *** is DFARS compliant and designed for use by the customer without further processing. *Id.*

[102] CR/PR at Table II-11.

[103] CR/PR at Table II-10.

[104] *E.g.,* Joint Respondents Posthearing Brief, Exhibit 1, at 22-23.

[105] CR at II-28, PR at II-17-II-18.

[106] CR at II-28, PR at II-17-II-18.

[107] CR/PR at Table D-1.

[108] As described above, when asked whether differences other than price are ever significant to purchasers choosing between the domestic like product and subject imports or among subject imports, the U.S. producer reported that differences other than price are *** significant. CR/PR at Table II-13. Responses from importers were mixed, but they rarely described factors other than price as "never" significant. CR/PR at Table II-13. A large majority of importers indicated that differences other than price were at least "sometimes" significant. *Id.* A majority of purchasers indicated that factors other than price were always or frequently significant in their purchases of NOES when comparing NOES produced in the United States to NOES from other countries. CR/PR at Table II-13. Several purchasers named quality, customer service/technical support, and lead time as important factors other than price that could affect purchasing decisions of NOES from various sources. CR at II-55, PR at II-34.

[109] CR/PR at Table II-6.

responding purchasers rated availability, product consistency, quality meets industry standards, and reliability of supply, as "very important" to their purchasing decisions.[110]

Sixteen of 20 purchasers require that the NOES they purchase be certified.[111] Seventeen purchasers reported that no domestic or foreign producer has failed in its attempt to qualify its NOES, or had lost approved status during the POI; however, three purchasers did report such a failure or loss.[112] Eighteen of 20 purchasers reported that they had not experienced any quality issues with any NOES supplier beyond what they would consider normal during the POI.[113]

The U.S. producer and importers reported selling NOES mostly through contracts. The U.S. producer reported making almost *** percent of its sales using ***.[114] Importers of NOES from China, Germany, Japan, Korea, and Taiwan reported selling at least *** percent of their product under ***, but importers of NOES from Sweden reported selling over *** percent of their product under ***.[115]

Raw material inputs in the production of NOES include steel scrap, ferrosilicon, natural gas, and electricity.[116] Raw material costs represented between *** and *** percent of the costs of goods sold (COGS) for NOES during 2011 to 2013.[117] U.S. producers' average cost of raw materials per short ton declined from $*** in 2011 to $*** in 2013; unit raw material costs were higher in interim 2014 ($***) than in interim 2013 ($***).[118] ***. ***.[119] [120]

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[110] CR/PR at Table II-6.

[111] CR at II-42, PR at II-25-II-26. Ten purchasers reported that the qualification process for certification takes 30-180 days, but five purchasers reported that certification could take a year or more. CR at II-42, PR at II-25-II-26.

[112] CR at II-42, PR at II-25-II-26. Two of these purchasers stated that AK Steel had failed to obtain certification. *** reported that *** failed to ***, and *** reported that *** failed ***. CR at II-42, PR at II-26. Additionally, *** stated that it had not attempted to qualify any other suppliers because it was only aware of the product it purchases being available from Sweden. CR at II-42, PR at II-26.

[113] CR at II-42-II-43, PR at II-26. One purchaser, *** reported that it had rejected product from ***. CR at II-43, PR at II-26. *** reported that it had not received any complaints during the POI regarding the quality of its NOES, and added that its customers consistently rate it number one for customer satisfaction, quality, and delivery. CR at II-38, PR at II-23. At the hearing, however, several respondents noted quality complaints with NOES produced by AK Steel, including coatings that turn black and chalky (Tr. at 124 (Stewart, Lamination Specialties)), too much "wave" resulting in rejection (Tr. at 126 (Stewart, Lamination Specialties)), performance and reliability issues in supplying higher-grade NOES (Tr. at 130 (Estes, Emerson)), not supplying product of the same quality and consistency as that supplied by JFE Shoji (Tr. at 150 (Becker, Toyota Tsusho)), and not supplying product that meets Siemens Energy's qualifications, is over 48 inches, or has special coatings (Tr. at 154 (Schmidtz, ThyssenKrupp)).

[114] CR at V-8, PR at V-5; CR/PR at Table V-2.

[115] CR/PR at Table V-2.

[116] CR/PR at V-1.

[117] CR at V-1, PR at V-1.

[118] CR/PR at Table VI-1.

[119] CR at V-6, PR at V-4. No importers of NOES reported using surcharges in their contracts for sales of NOES, although purchasers stated that some import supply sources have some indexed pricing components. CR at V-7, PR at V-5; Tr. at 196 (Weisheit).

C. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[121]

Cumulated subject imports held a substantial presence in the U.S. market throughout the POI. Cumulated subject imports increased from 74,215 short tons in 2011 to 75,977 short tons in 2012, before declining to 57,591 short tons in 2013.[122] Apparent U.S. consumption of NOES declined overall by *** percent from 2011 to 2013, while the volume of cumulated subject imports declined by 22.4 percent during this period.[123]

The market share (by quantity) of cumulated subject imports increased from *** percent in 2011 to *** percent in 2012, before declining to *** percent in 2013.[124] The gain in

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(…Continued)

[120] Chairman Broadbent does not join the remainder of these Views. *See* Separate and Dissenting Views of Chairman Meredith M. Broadbent.

[121] 19 U.S.C. § 1677(7)(C)(i).

[122] CR/PR at Table IV-3. Cumulated subject imports were 26,453 short tons in interim 2013 and 22,674 short tons in interim 2014.

[123] CR/PR at Table C-1. Apparent U.S. consumption in interim 2014 was *** percent higher than in interim 2013. *Id.* The volume of cumulated subject imports in interim 2014 was 14.3 percent lower than in interim 2013. *Id.* We observe that on May 22, 2014, Commerce published affirmative preliminary dumping determinations for all six subject countries and as a result, significant provisional duties went into place against subject producers. 79 Fed. Reg. 29421-29428 (May 22, 2014). Cumulated subject imports volumes fell from 6,382 short tons in April 2014, to 1,830 short tons in May 2014, and then to 634 short tons in June 2014. We attribute the reduced volume of subject imports in interim 2014 to Commerce's preliminary dumping determinations and the resulting cash deposits required by the imposition of provisional duties.

We therefore exercise our discretion to accord less weight to these interim data. *See* 19 U.S.C. § 1677(7)(I). The statutory provision governing the Commission's treatment of post-petition information, 19 U.S.C. § 1677(7)(I), states that:

> {T}he Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury, threat of material injury, or material retardation of the establishment of an industry in the United States.

We reject Joint Respondents' argument that the Commission may accord less weight to data only when the change is coincident with the filing of the petition, as opposed to the imposition of preliminary duties by Commerce. The statute provides no such requirement, and the SAA specifically references the imposition of provisional duties as a factor that can reduce subject imports volumes. SAA at 854.

[124] CR/PR at Table IV-8. Cumulated subject imports held *** percent of U.S. market share in interim 2013 and *** percent of market share in interim 2014. *Id.*

market share by subject imports from 2011 to 2012 came almost entirely at the expense of the domestic industry. The domestic industry's market share decreased from *** percent in 2011 to *** percent in 2012, before increasing to *** percent in 2013.[125] The market share held by nonsubject imports declined from *** percent in 2011 to *** percent in 2012, and to *** percent in 2013.[126]

Cumulated subject imports of NOES were also at substantial levels relative to domestic production, following the same trends as with respect to market share. The ratio of cumulated subject imports to domestic production increased from *** percent in 2011 to *** percent in 2012, before declining to *** percent in 2013.[127]

In view of the foregoing, we find that the cumulated volume of subject imports is significant both in absolute terms and relative to consumption and production in the United States.

D. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[128]

As discussed in section V.B.3 above, the record indicates that there is a moderate-to-high degree of substitutability between domestically produced NOES and NOES imported from subject countries and that price is an important factor in purchasing decisions.[129]

The Commission collected quarterly pricing data on twelve NOES products.[130] One U.S. producer and 19 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products and all quarters.[131]

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[125] CR/PR at Table IV-8. The domestic industry's market share was *** percent in interim 2013 and *** percent in interim 2014. *Id.* As discussed in more detail in section V.D., the domestic industry was only able to regain market share in 2013 due to AK Steel's policy of further reducing prices in light of pervasively undersold cumulated subject imports.

[126] CR/PR at Table IV-8. Nonsubject imports held *** percent of U.S. market share in interim 2013 and *** percent of market share in interim 2014. *Id.*

[127] CR/PR at Table IV-3. The ratio was *** percent in interim 2013 and *** percent in interim 2014. *Id.*

[128] 19 U.S.C. § 1677(7)(C)(ii).

[129] CR at II-31, PR at II-19; CR/PR at Tables II-5, II-6, & II-11.

[130] The pricing products were as follows: Product 1 -- M-19, 0.45-0.50mm thickness, fully-processed, maximum core loss 2.90W/kg (1.5t; 50 Hz), 600mm or more wide, coated; Product 2A -- M-22, 0.45-0.50mm thickness, fully-processed, maximum core loss 3.10W/kg (1.5t; 50 Hz), more than (Continued…)

The pricing data show underselling by cumulated subject imports in 210 of 282 quarterly price comparisons, and overselling of the domestic like product in the remaining 72 instances.[132] The margins of underselling ranged from *** percent, with the average margin being *** percent.[133] We also examined the pricing data on a volume basis.[134] These data show that the total subject import volume for quarters of underselling was *** short tons, while the total subject import volume for quarters of overselling was much smaller at *** short tons.[135] Examination of pricing product data for products that involved the largest volume of sales corroborates that underselling predominated for those products.[136]

Given the frequency and magnitude of underselling, we find that there has been significant price underselling by the subject imports. We do not agree with Joint Respondents that purported differences between the domestic and imported product negates the significance of the underselling.[137]

(…Continued)
600mm but less than 900 mm wide, coated; Product 2B -- M-22, 0.45-0.50mm thickness, fully-processed, maximum core loss 3.10W/kg (1.5t; 50 Hz), 900mm or more wide, coated Product 3 -- M-22, 0.60-0.65mm thickness, fully-processed, maximum core loss 2.65W/kg (1.5t; 50 Hz), less than 600mm wide, coated; Product 4 -- M-36, 0.45-0.50mm thickness, fully-processed, maximum core loss 3.50W/kg (1.5t; 50 Hz), 600mm or more wide, coated; Product 5A -- M-36, 0.60-0.65mm thickness, fully-processed, maximum core loss 4.10W/kg (1.5t; 50 Hz), 600mm or more wide, coated; Product 5B -- M-36, 0.60-0.65mm thickness, fully-processed, maximum core loss 4.10W/kg (1.5t; 50 Hz), 600mm or more wide, not coated; Product 6 -- M-36, 0.45-0.50mm thickness, fully-processed, maximum core loss 3.50W/kg (1.5t; 50 Hz), less than 600mm wide, coated; Product 7 -- M-43, 0.60-0.65mm thickness, fully-processed, maximum core loss 4.35W/kg (1.5t; 50 Hz), 600mm or more wide, coated; Product 8 -- M-45, 0.60-0.65mm thickness, fully processed, maximum core loss 4.80W/kg (1.5t; 50 Hz), 600mm or more wide, coated; Product 9 -- 0.27mm thickness, fully-processed, maximum core loss 15.0W/kg (1.0t; 400 Hz), 600mm or more wide, coated; and Product 10 -- 0.30mm thickness, fully-processed, maximum core loss 15.3W/kg (1.0t; 400 Hz), less than 600mm or more wide, coated. CR at V-10-V-11, PR at V-6-V-8.

[131] CR at V-12, PR at V-8. Reported pricing products represented *** percent of U.S. shipments of U.S.-produced products, *** percent of shipments of subject imports from China, *** percent of shipments of subject imports from Germany, *** percent of shipments of subject imports from Japan, *** percent of shipments of subject imports from Korea, *** percent of shipments of subject imports from Sweden, and *** percent of shipments of subject imports from Taiwan in 2013. CR at V-11-V-12, PR at V-8.

[132] CR/PR at Table V-16.

[133] CR/PR at Table V-16.

[134] For the reasons discussed in note 123, we exercise our discretion to accord less weight to second quarter 2014 data in our analysis of price effects. *See* 19 U.S.C. § 1677(7)(I). Nevertheless, the inclusion of second quarter 2014 data in our underselling comparisons does not impact our analysis of price effects.

[135] Calculated from CR/PR at Tables V-3 to V-14.

[136] *See*, *e.g.*, CR/PR at Tables V-7 and V-8.

[137] Joint Respondents claim that competition is highly attenuated between the domestic industry and subject imports because Petitioner is not a reliable producer, its NOES has had quality issues, and it cannot provide certain products that are supplied by subject imports. Joint Respondents' Posthearing Brief at 12-13 and Exhibit 1 at 13-17. Even if true, these purported differences would not (Continued…)

We find that the subject imports, because of their pervasive underselling, depressed prices for the domestic like product to a significant degree.[138] As explained below, prices for nearly all domestically produced pricing products were lower in the first quarter of 2014 than they were by the third quarter of 2011, when prices began to fall.[139] At the outset, we acknowledge that the *** percent drop in apparent U.S. consumption for NOES from 2011 to 2013 likely had an effect on prices. Demand trends, however, do not necessarily correlate with or explain falling domestic prices throughout most of the POI, nor do they explain market share shifts that occurred during the POI.[140]

(…Continued)
explain why the subject imports undersold the domestic like product. Moreover, we find that there is sufficient overlap of competition between the domestic like product and subject imports, despite the fact that there are some volumes of niche products that were only supplied by subject imports during the POI due to long-standing customer relationships or specific customer specifications.

As an initial matter, we observe that AK Steel produces a full range of NOES products within the scope, including products that meet ASTM standards as well as "high permeability" NOES that meets or exceeds IEC standards. Petitioner's Posthearing Brief, Answers to Commissioners' Questions at 29-48 ("AK Steel is aware of no product that it cannot provide"). AK Steel provided evidence that the NOES that it produces is directly comparable, or may even exceed the requirements, of various customer specifications. Petitioner's Posthearing Brief, Answers to Commissioners' Questions at 29-48. This is consistent with the fact that the large majority of purchasers consider domestically produced NOES and subject import products to be comparable on most purchase consideration factors other than price, where subject imports are reported to be lower in price. CR/PR at Table II-10. Moreover, virtually all responding purchasers reported that they did not experience any quality issues with NOES suppliers beyond what they would consider normal. Similarly, the large majority of purchasers reported no instances when a supplier had failed in its attempt to qualify its NOES, or had lost its approved status during the POI. CR at II-42-II-43, PR at II-26. Additionally, when AK Steel and importers of subject merchandise were asked to name their 10 largest customers in 2013, ***. CR at II-3, PR at II-2. The significant overlap in customers and high level of competition between subject imports and AK Steel for sales of pricing products further contradicts Joint Respondents' claim that competition is highly attenuated. Finally, in response to Joint Respondents' argument that several purchasers switched at least some of their NOES requirements to subject imports in order to diversify supply, we once again observe that AK Steel produces the full range of NOES products, and that almost all purchasers have reported no quality or reliability concerns with AK Steel's products during the POI. In any event, any desire to diversify sources of supply to subject imports does not explain why subject import product is frequently purchased at lower prices than the domestic product.

[138] We observe that there were minimal quantities of the domestic like product for ***. CR/PR at Tables V-3-V-14.

[139] CR/PR at Tables V-3-V-14. Prices generally increased in the second quarter of 2014 when subject import volume declined sharply because of the imposition of provisional duties.

[140] The aggregate demand for NOES is moderately inelastic, making it less likely that the domestic producer would cut prices to stimulate aggregate demand for the product. CR at II-57, PR at II-35.

At the start of the POI, prices for the domestic like product were already insufficient to cover costs.[141] Notwithstanding that apparent U.S. consumption increased from the first half of 2011 to the second half of that year,[142] prices for the domestic like product generally began to decline in the third quarter of 2011.[143] Prices for the domestic like product continued to fall throughout 2012, as the volume of pervasively undersold subject imports increased despite a drop in apparent U.S. consumption, and the subject imports took market share away from the domestic industry.[144] In light of these market conditions, in the second half of 2012 AK Steel decided to cut its prices further in 2013 to avoid ceding more volume to subject imports.[145] Consistent with AK Steel's pricing plan, the sharpest declines in the price for the domestic like product occurred generally in the first half of 2013.[146] During this period, the domestic industry regained some lost market share from subject imports.[147] In the second half of 2013, AK Steel

[141] CR/PR at Table VI-1. In 2011, the domestic industry's COGS/sales ratio was *** percent. We find that this *** COGS/sales ratio would serve as a disincentive for the domestic industry to cut prices during the period.

[142] Apparent U.S. consumption of NOES increased from *** short tons in the first half of 2011 to *** short tons in the second half of 2011. Petitioner's Posthearing Brief at Exhibit 2.

[143] CR/PR at Tables V-3-V-14. The frequency of underselling by subject imports increased in the second half of 2011 as compared to the first half. Calculated from CR/PR Tables V-3-V-14. Based on the pricing data, the quantity of subject imports increased from *** short tons in the second quarter of 2011 to *** short tons in the third quarter of 2011. CR/PR at Tables V-3-V-14. The market share held by subject imports also increased from *** percent in the first half of 2011 to *** percent in the second half of 2011. The domestic industry's market share fell from *** percent to *** percent during this same period. Petitioner's Posthearing Brief at Exhibit 2.

[144] CR/PR at Tables V-3-V-14; CR/PR at Table C-1. Despite a *** percent decline in apparent consumption of NOES from 2011 to 2012, the volume of cumulated subject imports increased by 2.4 percent during this period. CR/PR at Table C-1. The market share held by subject imports increased by *** percentage points from 2011 to 2012, as the domestic industry lost *** percentage points of market share during this same period. CR/PR at Table C-1.

[145] Petitioner's Prehearing Brief at Exhibits 29-32 (affidavits and contemporaneous documentation of AK Steel's plan of ***).

[146] CR/PR at Tables V-3-V-14; CR/PR at Table C-1.

[147] CR/PR at Tables V-3-V-14; CR/PR at Table C-1. Even though apparent U.S. consumption fell from *** short tons in the second half of 2012 to *** short tons in the first half of 2013, the domestic industry increased its commercial U.S. shipments from *** short tons to *** short tons, and its market share from *** percent to *** percent during this period. Petitioner's Posthearing Brief at Exhibit 2. At the same time, the volume of cumulated subject imports declined from *** short tons to *** short tons, and their market share declined from *** percent to *** percent. Petitioner's Posthearing Brief at Exhibit 2. Although the record establishes that subject imports ***, the record establishes that there were significant market share shifts from subject imports to the domestic industry when the domestic industry reduced its prices. The record establishes that over *** percent of sales of cumulated subject imports are via short-term contracts, and that numerous purchasers reported that they purchase NOES frequently (daily, weekly, monthly or quarterly). CR/PR at Table V-2; CR at V-8-V-9, PR at V-5. Given the frequency of purchases, we find that the terms of spot market sales are likely to influence the terms of short-term contract sales. *See* Petitioner's Prehearing Brief at 43 & Exhibit 33 (stating that there is a strong linkage between the gap in its prices and import prices and the percentage of its total sales that it (Continued…)

determined that it could not reduce prices any further because the ***, and it therefore abandoned its strategy of reducing prices to meet subject import competition.[148] Its prices largely leveled off or increased in the second half of 2013 and the first quarter of 2014, but generally remained well below those in the third quarter of 2011.[149] Moreover, the domestic industry's prices still were not sufficient to cover costs.[150] Accordingly, we find that subject imports depressed domestic prices to a significant degree.[151]

For the foregoing reasons, the pricing data and evidence respecting AK Steel's pricing plan demonstrate that significant and pervasive underselling by the subject imports led to significant price depression for the domestic like product.[152] Because the domestic industry lost

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(…Continued)
can obtain on a spot basis; when it reduces its prices, the percentage of total sales that are spot sales increases).

[148] *See, e.g.,* CR at V-48, PR at V-11; Petitioner's Prehearing Brief at 43.

[149] CR/PR at Tables V-3-V-14; CR/PR at Table C-1 (the frequency of underselling by subject imports increased in the second half of 2013 as compared to the first half of 2013). Although apparent U.S. consumption for NOES increased slightly from the first half of 2013 to the second half of 2013, the U.S. producer's commercial U.S. shipments of NOES declined from *** short tons to *** short tons, and its market share fell from *** percent to *** percent. Petitioner's Posthearing Brief at Exhibit 2. During this same period, cumulated subject imports increased from *** short tons to *** short tons, and their market share increased from *** percent to *** percent. Petitioner's Posthearing Brief at Exhibit 2.

[150] The domestic industry's COGS/net sales ratio increased from *** percent in 2011 to *** percent in 2013. CR/PR at Table VI-1.

[151] While we typically rely on average unit value (AUV) data with caution because differences in AUVs can reflect differences in product mix, we observe that AUV data for U.S. producers' U.S. shipments and cumulated subject imports further support our finding of price depression based on the quarterly price comparisons. The AUV of U.S. producers' U.S. shipments was $*** per short ton in 2011, $*** per short ton in 2012, and $*** per short ton in 2013, a decline of *** percent decline during this period. CR/PR at Table C-1. The AUV of cumulated subject imports was lower in each year at $1,315 per short ton in 2011, $1,193 per short ton in 2012, and $1,113 per short ton in 2013, a 15.4 percent decline during this period. CR/PR at Table C-1. Raw material costs, which represented between *** and *** percent of the cost of goods sold (COGS) for NOES over 2011 to 2013, fell by almost $*** per short ton during this period. CR/PR at Tables V-1 & VI-1. This decline in raw material costs, however, does not explain the much larger $*** per short ton decline in the AUV of U.S. producers' U.S. shipments during that same period, particularly given the even larger declines in the AUV of U.S. importers' U.S. shipments of cumulated subject imports. Moreover, the domestic industry's unit COGS *** from 2011 to 2013. CR/PR at Table C-1.

[152] The evidence on lost sales and lost revenue experienced by the domestic industry further supports our finding of price depression. In the preliminary and final phases of these investigations, Petitioner made *** lost sales allegations involving approximately $*** and *** short tons, and *** lost revenue allegations involving approximately $*** and *** short tons. CR/PR at Tables V-17-V-20. Purchasers agreed with allegations totaling $*** of lost sales, as well as $*** in lost revenues. CR/PR at Tables V-17-V-20. Moreover, as discussed in the preliminary determinations, there were also numerous allegations for which purchasers did not confirm every detail of the allegation but that nevertheless suggest the domestic industry lost sales due to low-priced subject imports. Preliminary Determinations, USITC Pub. 4441, at 25. Although purchaser ***. CR/PR at Table V-19. ***. CR/PR at Table V-19.

market share to the subject imports from 2011 to 2012 and during the second half of 2013, and its prices were significantly depressed from the third quarter of 2011 to the first quarter of 2014 due to price competition from the subject imports, we find that subject imports had significant price effects.

E. Impact of the Subject Imports[153]

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

[153] On October 14, 2014, Commerce published a notice in the *Federal Register* of the final antidumping duty determinations on NOES from China, Germany, Korea, Japan, Sweden and Taiwan. With respect to NOES from China, all producers/exporters were assigned the China-wide dumping margin of 407.52 percent. *Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances*, in Part. 79 FR 61609, October 14, 2014. *Non-Oriented Electrical Steel from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances,* 79 FR 61612, October 14, 2014. *Non-Oriented Electrical Steel from Taiwan: Final Determination of Sales at Less Than Fair Value,* 79 FR 61614, October 14, 2014. With respect to NOES from Germany, CDW and ThyssenKrupp Electrical Steel EBG GmbH received a final dumping margin of 98.84 percent. All other producers/exporters in Germany received a dumping margin of 86.29 percent. With respect to NOES from Japan, JFE Steel and Nippon Steel received a dumping margin of 204.79 percent. All other producers/exporters in Japan received a dumping margin of 135.59 percent. With respect to NOES from Korea, POSCO/Daewoo International Corporation received a dumping margin of 6.91 percent. All other producers/exporters in Korea also received a dumping margin of 6.91 percent. With respect to NOES from Sweden, Surahammars received a dumping margin of 126.72 percent. All other producers/exporters in Sweden received a dumping margin of 98.64 percent. With respect to NOES from Taiwan, China Steel received a dumping margin of 27.54 percent. Leicong Industrial Company, Ltd. received a dumping margin of 52.23 percent. All other producers/exporters in Taiwan received a dumping margin of 28.14 percent.

On October 14, 2014, Commerce published a notice in the *Federal Register* of its final affirmative determinations of countervailable subsidies for producers and exporters of NOES from China and Taiwan. With respect to all exporters of NOES from China, the final subsidy rate was 158.88 percent. *Non-Oriented Electrical Steel From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 61607, October 14, 2014. With respect to NOES from Taiwan, China Steel Corporation and its cross-owned affiliates HIMag Magnetic Corporation and China Steel Global Trading Corporation (collectively CSC Companies), and Leicong Industrial Company, Ltd., received a final subsidy rate of 0.48 percent, a rate that is *de minimis*. Consequently, NOES from these producers is no longer subject to the countervailing duty investigation on NOES from Taiwan. All other producers/exporters in Taiwan received a final subsidy rate of 8.80 percent. *Non-Oriented Electrical Steel from Taiwan: Final Affirmative Countervailing Duty Determination*, 79 FR 61602, October 14, 2014.

"within the context of the business cycle and conditions of competition that are distinctive to the affected industry."

The record in these investigations shows that virtually all indicators of the domestic industry's performance declined from 2011 to 2013.[154] The domestic industry's capacity was a constant *** short tons from 2011 to 2013.[155] Production fell from *** short tons in 2011 to *** short tons in 2012, and then to *** short tons in 2013, a *** percent decline from 2011 to 2013.[156] Accordingly, the domestic industry's rate of capacity utilization declined from *** percent in 2011 to *** percent in 2012, and then to *** percent in 2013, an overall decline of *** percentage points.[157]

The domestic industry's U.S. shipments of NOES declined from *** short tons in 2011 to *** short tons in 2012, and then to *** short tons in 2013.[158] The domestic industry's share of apparent U.S. consumption fell from *** percent in 2011 to *** percent in 2012, but then increased to *** percent in 2013.[159]

As the domestic industry's production declined, so did employment. The number of production and related workers declined steadily from 2011 to 2013.[160] Total hours worked declined as well.[161] Wages paid decreased between 2011 and 2013,[162] and productivity also fell irregularly during that period.[163]

Financial indicators were poor and declined from 2011 to 2013. The quantity and value of net sales decreased between 2011 and 2013.[164] The ratio of COGS to net sales, which was

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[154] For the reasons discussed in note 123, we exercise our discretion to accord less weight to interim 2014 data. *See* 19 U.S.C. § 1677(7)(I).

[155] The domestic industry's capacity totaled *** short tons in both interim periods. CR/PR at Table III-2.

[156] CR/PR at Tables III-2 & C-1. Production was *** short tons in interim 2013 and *** short tons in interim 2014.

[157] CR/PR at Tables III-2 & C-1. Capacity utilization was *** percent in interim 2013 and *** percent in interim 2014.

[158] CR/PR at Tables III-3 & C-1. U.S. producers' U.S. shipments of NOES were *** short tons in interim 2013 and *** short tons in interim 2014. U.S. producers' end-of-period inventories declined from *** short tons in 2011 to *** short tons in 2012, and then to *** short tons in 2013; they were *** short tons in interim 2013 and *** short tons in interim 2014. CR/PR at Table III-5 & C-1.

[159] CR/PR at Tables IV-6 & C-1.

[160] The number of production and related workers fell from *** in 2011 to *** in 2012 and then to *** in 2013. It was *** in interim 2013 and *** in interim 2014. CR/PR at Table III-6.

[161] Total hours worked fell from *** hours in 2011 to *** hours in 2012 and then to *** hours in 2013. They totaled *** hours in interim 2013 and *** hours in interim 2014. CR/PR at Table III-6.

[162] Wages paid declined from $*** in 2011 to $*** in 2012 and then to $*** in 2013. They totaled $*** in interim 2013 and $*** in interim 2014. CR/PR at Table III-6.

[163] Productivity (in short tons per thousand hours) decreased from *** in 2011 to *** in 2012, before slightly increasing to *** in 2013. It was *** in interim 2013 and *** in interim 2014. CR/PR at Table III-6.

[164] The quantity of net sales fell from *** short tons in 2011 to *** short tons in 2012 and then to *** short tons in 2013. It was *** short tons in interim 2013 and *** short tons in interim 2014. (Continued…)

already high at the start of the period, increased between 2011 and 2013.[165] Unit COGS also increased irregularly,[166] notwithstanding a decline in raw materials costs, largely because fixed costs were distributed over a smaller number of sales. The industry experienced progressively increasing *** from 2011 to 2013.[167] The industry's ratio of operating income to net sales declined from *** percent in 2011 to *** percent in 2012 and then fell further to *** percent in 2013.[168]

Capital expenditures declined drastically from 2011 to 2013.[169] Research and development expenses declined irregularly during the same period.[170]

We have found that the volume and market share of cumulated subject imports were significant over the POI, that these imports significantly undersold the domestic like product, and that the subject imports had significant price depressing effects. Specifically, the domestic industry lost market share in 2012 to large volumes of subject imports. This led to a loss of output as well as continued pricing pressure at a time when the domestic industry's prices could not cover costs and the domestic industry's financial condition was poor. These factors forced the domestic industry to reduce prices even further in the first half of 2013 in an attempt to stabilize and regain market share, which it did temporarily. But this substantial reduction in price led to greater losses in revenue, contributing in large part to the domestic industry's poor and deteriorating financial condition. Consequently, we find that the significant volume of low-priced subject imports had a significant impact on the domestic industry.

We have also considered the role of other factors in our assessment of the impact of the subject imports. As discussed above, nonsubject imports did not have a significant presence in the U.S. market from 2011 to 2013.[171] [172] Although we observe that nonsubject import market

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(…Continued)
CR/PR at Table VI-1. The value of net sales fell from $*** in 2011 to $*** in 2012 and then to $*** in 2013. It was $*** in interim 2013 and $*** in interim 2014. CR/PR at Table VI-1.

[165] The ratio of COGS to net sales increased from *** percent in 2011 to *** percent in 2012 and then to *** percent in 2013. It was *** percent in interim 2013 and *** percent in interim 2014. CR/PR at Table VI-1.

[166] Unit COGS increased from $*** per short ton in 2011 to $*** per short ton in 2012, then fell slightly to $*** per short ton in 2013. It totaled $*** per short ton in interim 2013 and $*** per short ton in interim 2014. CR/PR at Table VI-1.

[167] Operating losses were $*** in 2011, $*** in 2012, and $*** in 2013. The industry sustained *** of $*** in interim 2013 and $*** in interim 2014. CR/PR at Table VI-1.

[168] The industry's ratio of operating income to net sales was *** percent in interim 2013 and *** percent in interim 2014. CR/PR at Table VI-1.

[169] Capital expenditures fell from $*** in 2011 to $*** in 2012 and then to $*** in 2013. They totaled $*** in interim 2013 and $*** in interim 2014. CR/PR at Table VI-3.

[170] Research and development expenses increased from $*** in 2011 to $*** in 2012, before declining to $*** in 2013. They totaled $*** in interim 2013 and $*** in interim 2014. CR/PR at Table VI-3.

[171] As discussed earlier, the market share held by nonsubject imports was *** percent in 2011, *** percent in 2012, and *** percent in 2013. CR/PR at Table C-1.

[172] Based on the evidence in these investigations, Vice Chairman Pinkert finds that, regardless of whether NOES is a commodity product for purposes of a *Bratsk/Mittal Steel* analysis, nonsubject
(Continued…)

share increased to *** percent in interim 2014, after subject import volume declined due to Commerce's affirmative preliminary determinations, this increased level of nonsubject import volume remains far below the volume held by subject imports throughout the POI.[173] Petitioner has documented that 37 new customers contacted it to supply NOES after the filing of the petition in these investigations.[174] Moreover, U.S. shipment AUVs were significantly higher (at least $*** per short ton) for nonsubject imports than for subject imports throughout the POI, including interim 2014 when nonsubject imports gained market share.[175] Accordingly, we do not find the relatively small volume of nonsubject imports, with consistently higher AUVs than subject imports, to be a cause of the difficulties experienced by the domestic industry.

Joint Respondents argue that the domestic industry's condition is caused by factors other than subject imports, including the decline in demand for NOES in the U.S. market over the POI, volume and price pressures due to competition between NOES and domestically produced CRML and imported laminations, and AK Steel's cost structure.[176] We have considered whether these other factors may have had an adverse impact on the domestic industry to ensure that we are not attributing injury from such other factors to the subject imports. We address each in turn.

We recognize that the drop in apparent U.S. consumption for NOES from 2011 to 2013 had some effect on prices, however, as previously discussed in section V.D., close scrutiny of the data reveals that demand trends do not necessarily correlate with or explain falling domestic prices during several portions of the POI, or the market share shifts that occurred throughout the POI. From 2011 to 2012, when apparent U.S. consumption declined, subject imports increased absolutely, and substantially increased their market share at the direct expense of the domestic industry.[177] In addition, an examination of half-year market share data

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(…Continued)
imports would not have replaced the subject imports completely had they exited the market during the period of investigation. The subject countries include five of the six largest global exporters of NOES, and the subject imports accounted for approximately half of the U.S. market from 2011 to 2013. Nonsubject imports accounted for under five percent of the market from 2011 to 2013. Although their market share increased in interim 2014, it remained well below the share held by the subject imports. CR/PR at Table IV-8, Table VII-14. Moreover, to the extent that nonsubject imports would have replaced the subject imports, the available record evidence suggests that there would have been a price benefit for the domestic industry. CR/PR at Table IV-3.

[173] CR/PR at Table C-1.

[174] Tr. at 41 (Konstantinidis); Petitioner's Posthearing Brief at Exhibit 32.

[175] CR/PR at Table C-1. We also observe that prices for the domestic like product generally increased in the second quarter of 2014, which coincides with the drop in the market share held by subject imports and the increase in the market share held by nonsubject imports. This is consistent with AK Steel's testimony that prices began to rise during this period after several existing customers agreed to higher prices after the filing of the petition in these investigations. Tr. at 41 (Konstantinidis); Petitioner's Posthearing Brief at Exhibit 32.

[176] *E.g.*, Joint Respondents' Posthearing Brief at 1, 7-12.

[177] CR/PR at Table C-1.

demonstrate that changes in relative prices caused significant volume shifts between subject imports and AK Steel irrespective of prevailing market conditions.

From first half 2011 to second half 2011, apparent U.S. consumption increased by *** short tons, yet domestic prices continued to fall, and AK Steel's U.S. shipments only increased by *** short tons while subject imports increased by *** short tons.[178] From second half 2012 to first half 2013, AK Steel's policy of reducing prices further to respond to low-priced subject imports permitted that firm to increase its domestic shipments by *** short tons even as apparent consumption declined, and increase its market share by almost *** percentage points largely at the expense of subject imports.[179] Finally, from the first half of 2013 to the second half of 2013, after AK Steel decided it could no longer further reduce pricing in the face of even more significant declines in subject import prices, domestic prices largely stabilized, AK Steel's U.S. shipments declined by *** short tons, and it lost almost *** percentage points of market share largely to subject imports, even as apparent U.S. consumption increased.[180] Thus, the record does not support Joint Respondents' assertion that the domestic industry's declines in financial performance, output, and employment merely reflect declining demand. Rather, it establishes that subject imports were an independent cause of the domestic industry's poor and deteriorating performance from 2011 to 2013.[181]

We also examined whether demand for NOES suffered due to competitive pressure from domestically produced CRML and imported laminations. At the outset, we observe that the large majority of purchasers reported that there are no substitutes for NOES.[182] Moreover, in responding to the question on changes in purchasing patterns, ***.[183] Petitioner asserts that it has not been told by any customer that it needed to reduce its prices due to the lower prices of CRML.[184] Further, there is no indication that CRML sales increased at the expense of AK

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[178] CR/PR at Tables V-3-V-14; Petitioner's Posthearing Brief at Exhibit 2.

[179] CR/PR at Tables V-3-V-14; Petitioner's Posthearing Brief at Exhibit 2.

[180] CR/PR at Tables V-3-V-14; Petitioner's Posthearing Brief at Exhibit 2.

[181] We do not find that the decline in AK Steel's export shipments was a significant cause of the domestic industry's poor and deteriorating condition given that exports were only *** percent of AK Steel's total shipments in 2011, *** percent in 2012, and *** percent in 2013, and the total decline from 2011 to 2013 was only *** short tons. CR/PR at Table C-1.

[182] CR at II-28, PR at II-17.

[183] CR at II-43-II-44, PR at II-26-II-27. No purchaser ***. CR at V-57-V-65, PR at V-12-V-15; CR/PR at Tables V-19 & V-20. At the hearing, a representative from Nidec testified that it had switched purchases from NOES to CRML. Tr. at 232 (Weisheit). To the extent that this occurred, it had no effect on AK Steel's shipments because ***. *** U.S. Purchaser's Questionnaire Response at II-2. Additionally, a witness for Lamination Specialties testified at the hearing that a switch from NOES to CRML has been occurring for the last ten years. Tr. at 237 (Stewart). This assertion, to the extent it concerns that firm's purchasing patterns during the POI, is not corroborated by other data in the record. According to a declaration regarding Lamination Specialties' purchases of NOES and CRML during the POI, from 2011 to 2012 ***. Joint Respondents' Posthearing Brief at Exhibit 6.

[184] Also, in 2013, the AUV of AK Steel's U.S. shipments of NOES was ***. *Compare* CR/PR at Table C-1 *with* CR/PR at Table D-1 (AUV of CRML of $*** per short ton in 2013 compared to AUV of NOES of $*** per short ton in 2013). This large price discrepancy between NOES and CRML was not a new condition of competition during the POI. According to an affidavit provided by ***:
(Continued…)

Steel's sales of NOES. Rather, U.S. producers' U.S. shipments of CRML ***.[185] Finally, to the extent that purchasers switching to CRML or imported laminations had any effect at all during the POI relevant to these investigations, it would partially explain the apparent drop in demand for NOES during the period. For the reasons we have previously provided, however, the subject imports had effects on the domestic industry distinguishable from those due to demand. Accordingly, we reject the argument that the deterioration in the domestic industry's financial performance was attributable to volume and price pressure caused by purchases of CRML and imported laminations.

Finally, Joint Respondents argue that Petitioner's performance is also largely a function of its ***, particularly Petitioner's ***.[186] We disagree. There is nothing on the record to indicate that the domestic industry's other factory costs are anomalous or not appropriate. The category of "other factory costs" (which includes both variable and fixed costs) declined on an absolute value basis, but *** from 2011 to 2013.[187] This relative increase is not surprising given the domestic industry's declining production (and capacity utilization) and sales volume. These

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(…Continued)

> In fact I cannot think of a single *** customer that has migrated from NOES to CRML in recent years. To the extent substitution of CRML for NOES occurred, it happened in design decisions made in the 1990s and before. At that time, purchasers made every effort to use CRML because it was a much lower cost material. Since then, and certainly within the last ten years, I am not aware of any customer who has switched between NOES and CRML for the same part. The prices of CRML have no impact on the prices of NOES. Customers ask us for price quotes for either CRML and NOES in order to decide which steel to purchase. Based on my experience, CRML and NOES are simply different products, and the prices for these two products have no relationship to one another. To the extent CRML ever had any impact on the prices of NOES, that would have occurred in the 1990s.

Petitioner's Prehearing Brief at Exhibit 5 (***).

[185] CR/PR at Table D-1. We also do not find that imported laminations replaced sales of NOES to any significant degree. ***, that it purchases less NOES during the POI due to increasing imports of laminations. Moreover, the import data cited by Joint Respondents to establish increasing volumes of imported laminations are for basket categories for motor and transformer parts, which include numerous products other than laminations.

[186] Joint Respondents' Prehearing Brief at 42-43. Joint Respondents observe that GOES and NOES share common production equipment, and that from an accounting standpoint, both NOES and GOES share the fixed costs associated with the common production equipment. Joint Respondents' Posthearing Brief at 9. According to Joint Respondents, the significant drop in demand for GOES over the POI, and the resulting decline in Petitioner's production of GOES, ***, a fact that cannot be attributed to subject imports. *Id.* at 10.

[187] CR at VI-5, PR at VI-2-VI-3.

deteriorating factors are directly related to the significant volumes of low-priced cumulated subject imports.[188]

Moreover, holding other factory costs constant over the POI would still result in substantial negative and deteriorating operating margins during the POI.[189] This is consistent with our variance analysis which shows that AK Steel's declining financial performance was largely due to lower prices, not higher costs.[190]

AK Steel's cost structure also does not explain the market share shifts or the price depression that occurred during the POI, which we have found played an important role in the domestic industry's poor and deteriorating performance during the POI. Accordingly, the impact of the cumulated subject imports is distinct from any adverse effects caused by AK Steel's ***.

In sum, we find that the significant volume of subject imports, at prices which undersold the domestic like product and depressed domestic prices, adversely impacted the domestic industry, leading to significant declines in the industry's financial performance. We consequently determine that the domestic industry is materially injured by reason of cumulated subject imports from China, Germany, Japan, Korea, Sweden, and Thailand.

VI. Critical Circumstances

A. Legal Standards and Party Arguments

On October 14, 2014, Commerce issued final determinations that critical circumstances exist with respect to dumped imports of NOES from Sweden, and dumped and subsidized imports of NOES from China. In addition, Commerce determined that critical circumstances exist with respect to dumped imports from Germany and Japan of NOES for the mandatory respondents (CDW and ThyssenKrupp Electrical Steel EBG GMBH of Germany and JFE Steel and Sumitomo Corporation of Japan), but not for all other companies.[191] Because we have determined that the domestic industry is materially injured by reason of subject imports from,

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[188] We conclude that the changes in the costs to produce NOES stem primarily from the almost *** short ton decline in AK Steel's production of NOES from 2011 to 2013, as well as the drop in capacity utilization for NOES from *** percent to *** percent during this same period, rather than the impact of allocated costs from other products produced at the same plants as NOES. Where both NOES and GOES were produced on the same equipment, the share of NOES of total production was consistently at low levels (between *** percent), and its share increased by only *** percentage points between 2011 and 2013. CR/PR at Table III-1.

[189] Petitioner's Final Comments at Exhibit H.

[190] CR/PR at Table VI-2.

[191] *Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*. 79 FR 61609, October 14, 2014. *Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances,* 79 FR 61607, October 14, 2014. Commerce made a negative critical circumstances determination for all Korean exporters.

inter alia, China, Germany, Japan, and Sweden, we must further determine "whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping {and/or countervailing duty} order{s} to be issued."[192]

The SAA indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order" and specifically "whether the surge in imports prior to the suspension of liquidation, rather than the failure to provide retroactive relief, is likely to seriously undermine the remedial effect of the order."[193] The legislative history for the critical circumstances provision indicates that the provision was designed "to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by {Commerce}."[194] An affirmative critical circumstances determination by the Commission, in conjunction with an affirmative determination of material injury by reason of subject imports, would normally result in the retroactive imposition of duties for those imports subject to the affirmative Commerce critical circumstances determination for a period 90 days prior to the suspension of liquidation.

The statute provides that, in making this determination, the Commission shall consider, among other factors it considers relevant,

(I) the timing and the volume of the imports,

(II) a rapid increase in inventories of the imports, and

(III) any other circumstances indicating that the remedial effect of the {order} will be seriously undermined.[195]

In considering the timing and volume of subject imports, the Commission's practice is to consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstances determination.[196]

Consistent with Commission practice, in these investigations we have considered data for two six month periods. We have compared data for the six months prior to and including the month in which the petition was filed (September 2013) and data for the six months following that month.

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[192] 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii).

[193] SAA at 877.

[194] *ICC Industries, Inc. v United States,* 812 F.2d 694, 700 (Fed. Cir. 1987), *quoting* H.R. Rep. No. 96-317 at 63 (1979), *aff'g*, 632 F. Supp. 36 (Ct. Int'l Trade 1986). *See* 19 U.S.C. §§ 1671b(e)(2), 1673b(e)(2).

[195] 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii).

[196] *See Lined Paper School Supplies from China, India, and Indonesia,* Inv. Nos. 701-TA-442-43, 731-TA-1095-97, USITC Pub. 3884 at 46-48 (Sept. 2006); *Carbazole Violet Pigment from China and India, Inv.* Nos. 701-TA-437 and 731-TA-1060-61 (Final), USITC Pub. 3744 at 26 (Dec. 2004); *Certain Frozen Fish Fillets from Vietnam,* Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 at 20-22 (Aug. 2003).

Petitioner has not addressed the issues of critical circumstances in these investigations. Chinese Respondents, German Respondents, Japanese Respondents, and Swedish Respondents argue that the Commission should make a negative critical circumstances determination with respect to producers in their respective countries, because the timing and volume of imports do not support an affirmative critical circumstances determination, there is no evidence of a surge in imports from the subject producers after the filing of the petitions, there was no rapid increase of import inventories, and there are no other circumstances indicating that the remedial effect of the orders will be seriously undermined.[197]

B. Analysis

1. China

In its final antidumping and countervailing duty determinations, Commerce made affirmative critical circumstances determinations with respect to all subject imports from China. Subject imports from China were 7,637 short tons in the six-month period preceding the filing of the petition and 5,000 short tons in the six-month period following the filing of the petition.[198] Given this decline in volume, there was no increase in volume that was massive or sufficient to seriously undermine the remedial effect of the antidumping duty or countervailing duty orders. Importers' inventories of NOES from China were minimal – *** short tons in 2013.[199]

Taken as a whole, the data on record do not show a sudden and significant increase in subject imports subsequent to the filing of the petition that would seriously undermine the remedial effect of the countervailing duty and antidumping duty orders to be issued on NOES from China. We therefore make a negative critical circumstances determination with regard to subsidized and dumped imports from China subject to Commerce's affirmative critical circumstances determinations.

[197] *See* Chinese Respondents' Prehearing Brief at 3-4; German Respondents' Prehearing Brief at 23-24; Japanese Respondents' Prehearing Brief at 18-30; and Swedish Respondents' Prehearing Brief at 31-34. Metal One, an importer of NOES from Japan, argued that the Commission should consider the special circumstances surrounding its imports of NOES from Japan. Metal One's Prehearing Brief at 7.

[198] CR/PR at Table IV-4.

[199] CR/PR at Table VII-11.

2. Germany[200]

Commerce determined that critical circumstances exist with respect to imports from Germany of NOES for the mandatory respondents, CDW and ThyssenKrupp Electrical Steel EBG GMBH, but not for all other companies. The relevant imports were *** short tons in the six-month period preceding the filing of the petition and *** short tons in the six-month period following the filing of the petition, an increase of only *** short tons, or 5.1 percent.[201] This increase in subject imports covered by Commerce's affirmative critical circumstances determination is insufficient to undermine seriously the remedial effect of the antidumping duty order. Importers' inventories of NOES from Germany increased from *** short tons in 2011 to *** short tons in 2012, before declining to *** short tons in 2013.[202]

Taken as a whole, the data on record do not show a sudden and significant increase in imports from Germany subject to Commerce's affirmative critical circumstances determination subsequent to the filing of the petition that would seriously undermine the remedial effect of the antidumping duty order to be issued on NOES from Germany. We therefore make a negative critical circumstances determination with regard to subject imports from Germany.

3. Japan

Commerce determined that critical circumstances exist with respect to imports from Japan of NOES for the mandatory respondents, JFE Steel and Sumitomo Corporation, but not for all other companies. The relevant imports from Japan were *** short tons in the six-month period preceding the filing of the petition and *** short tons in the six-month period following the filing of the petition.[203] We do not find that this *** percent increase, for an absolute increase in volume of only *** short tons, was massive or sufficiently large to seriously undermine the remedial effect of the antidumping duty order. Importers' inventories of NOES from Japan increased only slightly from *** short tons in 2011 to *** short tons in 2012, and *** short tons in 2013.[204]

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[200] Commerce made an affirmative critical circumstances determination for CDW and a negative critical circumstances determination for ThyssenKrupp Steel Europe AG. ThyssenKrupp Electrical Steel produced NOES in Bochum until March 2013. Ownership of the facility was transferred to ThyssenKrupp Steel Europe in April 2013. ThyssenKrupp Steel Europe therefore was the producer of NOES starting in April 2013. Taken alone, imports of NOES produced by CDW increased from *** short tons during the six month period prior to the filing of the petition to *** short tons during the six months following the filing of the petition, an increase of *** percent. German Respondents' Posthearing Brief at 13-14.

[201] CR/PR at Table IV-4.

[202] CR/PR at Table VII-11. The information available for inventories pertains to all subject imports from Germany.

[202] CR/PR at Table IV-4.

[203] CR/PR at Table IV-4.

[204] CR/PR at Table VII-11. The information available for inventories pertains to all subject imports from Japan.

Taken as a whole, the data on record do not show a sudden and significant increase in imports from Japan subject to Commerce's affirmative critical circumstances determination subsequent to the filing of the petition that would seriously undermine the remedial effect of the antidumping duty order to be issued on NOES from Japan. We therefore make a negative critical circumstances determination with regard to subject imports from Japan.

4. Sweden

Subject imports from Sweden, all of which are subject to Commerce's affirmative critical circumstances determination, were 2,845 short tons in the six-month period preceding the filing of the petition and 4,111 short tons in the six-month period following the filing of the petition.[205] Although the percentage increase in such imports between the pre- and post-petition periods was 44.5 percent, the absolute volume of that increase was only 1,266 short tons in a market in which annual apparent U.S. consumption was many multiples greater.[206] Importers' inventories of NOES from Sweden increased slightly from *** short tons in 2011 to *** short tons in 2012, before declining to *** short tons in 2013.[207] Therefore, we find that such subject imports from Sweden cannot seriously undermine the effectiveness of the order.

Taken as a whole, the data on record do not show a sudden and significant increase in imports from Sweden subject to Commerce's affirmative critical circumstances determination subsequent to the filing of the petition that would seriously undermine the remedial effect of the antidumping duty order to be issued on NOES from Sweden. We therefore make a negative critical circumstances determination with regard to subject imports from Sweden.

VII. Conclusion

For the reasons stated above, we determine that an industry in the United States is materially injured by reason of subject imports of NOES from China, Germany, Japan, Korea, Sweden, and Taiwan that are sold in the United States at less than fair value and subsidized subject imports of NOES from China and Taiwan. We also find that critical circumstances do not exist with respect to imports of NOES from China, Germany, Japan, or Sweden for which Commerce made affirmative critical circumstances determinations.

[205] CR/PR at Table IV-4.
[206] *See* CR/PR at Table IV-7.
[207] CR/PR at Table VII-11.

Separate and Dissenting Views of Chairman Meredith M. Broadbent

Based on the record in the final phase of these investigations, I find that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of non-oriented electrical steel ("NOES") from China, Germany, Japan, Korea, Sweden, and Taiwan that the U.S. Department of Commerce ("Commerce") has determined are sold in the United States at less than fair value and are subsidized by the governments of China and Taiwan.

In reaching these determinations, I join and adopt sections I through V.B of the Views of the Commission concerning the background of these investigations, definition of the domestic like product and industry, cumulation, and the legal standard and conditions of competition relevant to the Commission's material injury determination.

My separate determination regarding lack of material injury by reason of subject imports reflects: 1) the fact that subject imports did not gain market share at the expense of the domestic industry over the period of investigation; and 2) the lack of substantial evidence on the record indicating that subject imports depressed or suppressed prices in the United States. The deterioration of the domestic industry's condition during the period of investigation was primarily a result of declining domestic demand, with other factors contributing to the deterioration as well.

I. No Material Injury by Reason of Subject Imports

A. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[1]

Cumulated subject imports held a substantial presence in the U.S. market throughout the period of investigation. Subject imports increased from 74,215 short tons in 2011 to 75,977 short tons in 2012, before declining to 57,591 short tons in 2013.[2] Apparent U.S. consumption of NOES declined overall by *** percent from 2011 to 2013, while the volume of cumulated subject imports declined by 22.4 percent during this period.[3]

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[1] 19 U.S.C. § 1677(7)(C)(i).

[2] CR/PR at Table IV-3. Cumulated subject imports were 26,453 short tons in interim 2013 and 22,674 short tons in interim 2014.

[3] CR/PR at Table C-1. Apparent U.S. consumption in interim 2014 was *** percent higher than in interim 2013. *Id.* The volume of cumulated subject imports in interim 2014 was 14.3 percent lower than in interim 2013. *Id.* I observe that on May 22, 2014, Commerce published affirmative preliminary dumping determinations for all six subject countries, and as a result significant provisional duties went into place against subject producers. 79 Fed. Reg. 29421-29428 (May 22, 2014). Cumulated subject imports volumes fell from 6,382 short tons in April 2014, to 1,830 short tons in May 2014, and then to 634 short tons in June 2014. I attribute the reduced volume of subject imports in interim 2014 to Commerce's preliminary dumping determinations and the resulting cash deposits required by the (Continued…)

Cumulated subject imports and the domestic like product both gained small amounts of market share from 2011 to 2013. The market share (by quantity) of cumulated subject imports increased from *** percent in 2011 to *** percent in 2012, and then declined to *** percent in 2013.[4] The domestic industry's market share decreased from *** percent in 2011 to *** percent in 2012, before increasing to *** percent in 2013.[5] The market share held by nonsubject imports declined from *** percent in 2011 to *** percent in 2012, and to *** percent in 2013.[6]

In view of the foregoing, I find that the cumulated volume of subject imports is significant both in absolute terms and relative to consumption in the United States. However, for the reasons I discuss below, I do not find significant price effects or a significant impact on the domestic industry by reason of the subject imports.

B. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that in evaluating the price effects of the 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.[7]

As discussed in section V.B.3 of the Views of the Commission, which I join, price is an important factor in purchasing decisions, but quality, reliability, and availability are also important. A majority of purchasers reported that they never or only sometimes purchase the lowest priced NOES available in the market, indicating that price is not the primary driver in purchasing decisions.[8]

The record indicates that subject imports retain a necessary position within the market for NOES because of purchasers' consideration of non-price factors in their purchasing decisions. I agree with my colleagues that there is at least a moderate degree of substitutability among domestically produced NOES and NOES from all subject sources. However, I note that

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(…Continued)
imposition of provisional duties. I therefore exercise my discretion to accord less weight to these interim data. *See* 19 U.S.C. § 1677(7)(I).

[4] CR/PR at Table IV-8. Cumulated subject imports held *** percent of U.S. market share in interim 2013 and *** percent of market share in interim 2014. *Id.*

[5] CR/PR at Table IV-8. The domestic industry's market share was *** percent in interim 2013 and *** percent in interim 2014. *Id.*

[6] CR/PR at Table IV-8. Nonsubject imports held *** percent of U.S. market share in interim 2013 and *** percent of market share in interim 2014. *Id.*

[7] 19 U.S.C. § 1677(7)(C)(ii).

[8] CR at II-35, PR at II-21.

the majority of purchasers found the domestic like product to be inferior to subject imports in many respects, including their availability, product range, consistency, and quality.[9] In addition, a majority of purchasers stated that having multiple sources of NOES supply was important, with most stating that risk mitigation was the primary incentive for wanting multiple suppliers.[10] Since AK Steel is the only domestic producer, purchasers with a business need for multiple sources of supply inherently require imports.[11] In addition, several major purchasers stated that they only sourced from single foreign suppliers because those suppliers were uniquely capable of meeting specific requirements. These purchasers explained that they only purchased from subject sources for a variety of reasons, including the unique ability and willingness of subject sources to provide specialized types of NOES;[12] the existing global relationships and product development between the foreign supplier and the purchaser's parent company;[13] and the longstanding partnerships built on logistical and technical service,[14] among other reasons. Given these considerations, I find that subject imports play an important role in the U.S. market for reasons unrelated to price.

Subject imports undersold the domestic like product in 210 of 282 quarterly price comparisons, with margins of underselling averaging 17.1 percent.[15] Examining the pricing data on a volume basis, the total subject import volume for quarters in which there was underselling was *** short tons, while the total subject import volume for quarters of overselling was *** short tons.[16] While I find that underselling was prevalent during the period of investigation, its

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[9] CR/PR at Table II-10. Majorities of purchasers found the domestic like product inferior in "availability" to subject imports from Sweden, inferior in "product range" to subject imports from China, Germany, Japan, Sweden, and Taiwan, inferior in "consistency" to subject imports from Japan, and inferior in "quality exceeds industry standards" to subject imports from Germany, Japan, Sweden, and Taiwan. *Id.*

[10] CR at II-36, PR at II-21-22.

[11] Several purchasers asserted that AK Steel had refused or declined to supply NOES during the period of investigation, or had extended its lead times. CR at II-9-10, 19, PR at II-5, 12. Petitioner testifies that it had a shortage in coating capacity in 2008, leading to a period of allocation, but that it had plenty of excess capacity during the period of investigation. Tr. at 58 (Pfeiffer). However, a history of supply disruptions or delays, whether or not they occurred during the period of investigation, reinforces the necessity of multiple sources of supply in order to reduce supply-chain risk exposure.

[12] *See* evidence provided by Curtiss-Wright at CR at II-36, PR at II-22, Prehearing Statement of Curtiss-Wright at 1-2.

[13] *See* evidence provided by ***, ***, ***, and *** at CR at II-36, PR at II-22, Joint Respondents Posthearing Brief at 26-30.

[14] *See* evidence provided by Nidec at CR at II-36-37, PR at II-22; Nidec's U.S. Purchaser Questionnaire Response, November 4, 2013 Letter to the Commission from ***.

[15] CR/PR at Table V-16. In the final phase of these investigations, the Commission collected pricing data on six different products. The reported pricing data accounted for approximately *** percent of U.S. shipments of subject imports from China, *** percent of U.S. shipments of subject imports from Germany, *** percent of subject imports from Japan, *** percent of subject imports from Korea, *** percent of subject imports from Sweden, *** percent of subject imports from Taiwan, and *** percent of U.S. producer's U.S. shipments in 2013. CR at V-12, PR at V-8.

[16] Calculated from CR/PR at Tables V-3 to V-14.

significance is mitigated by its lack of impact on the domestic industry's market share or on prices for the domestic like product, as explained below. Notwithstanding the observed underselling, there were not significant changes in the domestic industry's market share, which was relatively stable from 2011 to 2013. In fact, the domestic industry's market share was *** percentage points higher in 2013 than in 2011.[17]

I also do not find that subject imports depressed domestic prices to a significant degree. There is a strong correlation between the price of domestic NOES and trends in demand and raw material costs. Prices declined between the first quarter of 2011 and the first quarter of 2014 for six products by between *** and *** percent, and increased for three products by between *** and *** percent.[18] On a weighted-average basis, the domestic price of these products increased by *** percent between the first quarter of 2011 and the first quarter of 2014.[19] Although domestic prices fell for some NOES products, the cost of the primary raw materials used to produce NOES fell by a greater amount during that period. The cost of scrap was 12 percent lower in March of 2014 than in January of 2011, while the cost of ferrosilicon, another key input, was 9 percent lower.[20] In addition, demand plummeted during the period of investigation, with apparent U.S. consumption dropping by *** percent between 2011 and 2013.[21] Thus, looking at the entire period, prices dropped in tandem with, and to a lesser extent than, the declines in demand and raw material costs.

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[17] CR/PR at Table IV-16.

[18] Calculated from CR/PR at Tables V-3 to V-12. Products *** had zero or near-zero domestic U.S. shipments during the period of investigation, and I have therefore discounted them from my accounting of price changes. *Id*.

As discussed above, I attribute the reduced volume of subject imports in interim 2014 to Commerce's preliminary dumping determinations, made in May 2014, and exercise my discretion to accord less weight to the interim 2014 data concerning volume of imports. To be consistent with this consideration, I have also accorded less weight within my analysis of price trends to the final quarter of the collected pricing data, the second quarter of 2014 which coincides with the preliminary dumping determinations. I note that domestic prices generally increased in this second quarter of 2014 relative to the first quarter of 2014. However, I do not attribute this increase to the preliminary dumping determinations, as these increases were consistent with continuing price increases from a low price point in the first half of 2013 through the end of the period of investigation, which in turn coincided with increased demand in the second half of 2013 and the first half of 2014, as well as higher raw material costs. *See* CR/PR at Tables V-3 to V-12 and C-1; EDIS Document 545021.

[19] Calculated from CR/PR at Tables V-3 to V-12. I accord less weight to aggregated pricing data than to individual product data, due to the potential for changes in underlying volumes of products over the period. Nonetheless, I note that the collected prices for these products are within a relatively narrow range, and the aggregate pricing data is therefore more probative than in investigations where products have a wider range of prices. In addition, the neutral change in price during the period observed is consistent with price changes throughout the series of products, with 6 of 9 prices increasing or decreasing by less than 5 percent between the first quarter of 2011 and the first quarter of 2014. *Id*.

[20] EDIS Document 545021.

[21] CR/PR at Table C-1.

The petitioner states that it was forced to lower prices from the third quarter of 2011 through the first half of 2013 in order to regain market share from low-priced subject imports. They assert that price declines through that period highlight the extent of the price depression that occurred by reason of subject imports during the period of investigation.[22] This argument is not persuasive, as petitioner fails to explain why the Commission should consider those two arbitrary points in time as the basis for comparison when establishing domestic price trends over this period. Nonetheless, this period of comparison further demonstrates the apparent link between the U.S. price for NOES, on one hand, and demand and raw material costs on the other. While the weighted average price of domestically produced NOES fell by *** percent between the peak price point during the third quarter of 2011 and the lowest price point during the second quarter of 2013,[23] this coincided with substantial declines in raw material costs: the cost of scrap fell by 20 percent between July 2011 and June 2013, while the cost of ferrosilicon fell by 13 percent.[24] In addition, there was a *** percent decline between the volume of apparent U.S. consumption in the second half of 2011 (the highest in the period) and the volume of apparent U.S. consumption in the first half of 2013 (the lowest in the period).[25] Therefore, domestic prices experienced their greatest sustained decline between the high and low periods of demand during the period, in line with falling raw material costs.

Additionally, the conditions of competition in the market for NOES explain why domestic prices are responsive to changes in demand. End users have many alternatives to purchasing NOES in the U.S. market. First, U.S. purchasers and importers consider CRML or GOES to be substitutes for NOES in the production of laminations used in motors and transformers.[26] These firms generally consider changes in prices for these products to affect NOES prices, with CRML competing against lower-grade NOES and GOES competing against higher-grade NOES.[27] Second, the record indicates that downstream producers purchase imported laminations.[28] Although they do not compete directly with NOES, imports of laminations represent an alternative to domestically produced laminations made from NOES sourced in the United States. Third, the record indicates that downstream producers of laminations, motors, and transformers have substantial operations in other countries to which they can shift additional volume.[29] Thus, the U.S. market for NOES has likely experienced

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[22] *See*, e.g., Petitioner Posthearing Brief at 8-9.

[23] Calculated from CR/PR at Tables V-3 to V-12.

[24] EDIS Document 545021.

[25] CR/PR at Table C-1; Petitioner's Posthearing Brief at Exhibit 2.

[26] CR at II-28-29, PR at II-17-18. *See*, also, Tr. at 79-80 (Schoen) (discussing history of NOES production in the United States, and the shift in that production toward CRML).

[27] *Id*. U.S. shipments of CRML *** between 2011 and 2013, *** than the *** percent decline in apparent U.S. consumption for NOES. CR/PR at Tables C-1 and D-1. Thus, while the evidence suggests that the absolute U.S. demand for *** from 2011 to 2013, the U.S. market for non-oriented steel products shifted *** over that period.

[28] Joint Respondents Prehearing Brief at 56-59.

[29] Tempel Steel, the largest producer of motor laminations in the world and the largest U.S. purchaser, has operations in China, India, Mexico, and Canada where it produces laminations. Joint Respondents Prehearing Brief at 56; ***. *** indicated that it had reduced purchases from Germany in (Continued…)

declining demand in part due to competition with substitute products, and the market has further been affected by downstream producers' foreign investment and sourcing decisions. While it is unclear the extent to which U.S. demand for NOES decreased as a result of these supply alternatives during the period of investigation, the sole domestic supplier of NOES does not appear to have leverage to maintain prices in an environment of falling demand and competitively priced alternatives.

In addition, domestic prices are likely responsive to changes in raw material costs. The domestic producer indicated that it includes adjustments for raw material costs in its medium-term contracts, with surcharges based on scrap steel and natural gas prices reported in industry publications.[30] Medium-term contracts, which generally last for ***, accounted for *** percent of the domestic producer's U.S. commercial shipments in 2013.[31] As discussed above, the price of scrap steel declined by 12 percent between 2011 and 2013, and domestic prices for several products tracked downward at similar rates.

I also do not find that subject imports prevented price increases for the domestic like product that otherwise would have occurred. As discussed above, demand and raw material costs both fell over the period of investigation, and it is unrealistic to infer that the domestic industry could have instituted lasting price increases over this period.

In view of the foregoing, I find that the subject imports did not have the effect of depressing prices or preventing price increases that would otherwise have occurred to a significant degree. Where there are confirmed lost sales and revenues, they are of minor magnitude[32] and do not outweigh other data in the record showing the lack of significant price effects. Accordingly, I do not find significant price effects by reason of subject imports.

(…Continued)
the United States because ***. CR at II-43, PR at II-26; German Respondents Prehearing Brief at 11-12. Importers describing decreased U.S. demand attributed the decrease in part to U.S. motor production moving overseas, and China Steel named *** as downstream producers that had exited the U.S. market and opened plants in China and/or Mexico. CR at II-26, PR at II-16.

[30] CR at V-6, PR at V-4. Tr. at 102 (Konstantinidis).

[31] CR at V-8 and Table V-2, PR at V-5 and Table V-2.

[32] In the preliminary and final phases of these investigations, Petitioner made *** lost sales allegations involving approximately $*** and *** short tons and *** lost revenue allegations involving approximately $*** and *** short tons. CR/PR at Tables V-17-V-20. Purchasers agreed with allegations totaling $*** of lost sales, as well as $*** in lost revenues. CR/PR at Tables V-17-V-20. The confirmed lost sales and revenue do not detract from my analysis, as there were no shifts in market share or observable price effects, as discussed above.

C. Impact of the Subject Imports[33]

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

Most of the industry's trade, employment, and financial indicators deteriorated over the period of investigation. However, because the subject imports did not take significant market share away from the domestic industry and did not have significant price effects, I do not find the domestic industry to be materially injured by reason of the subject imports.[34]

The domestic industry's capacity remained the same, at *** short tons, during the period of investigation.[35] The domestic industry's domestic shipments decreased by ***

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[33] On October 14, 2014, Commerce published a notice in the *Federal Register* of the final antidumping duty determinations on NOES from China, Germany, Korea, Japan, Sweden and Taiwan. With respect to NOES from China, all producers/exporters were assigned the China-wide dumping margin of 407.52 percent. 79 FR 61609, 61612, 61614 (October 14, 2014). With respect to NOES from Germany, CDW and ThyssenKrupp Electrical Steel EBG GmbH received a final dumping margin of 98.84 percent. All other producers/exporters in Germany received a dumping margin of 86.29 percent. With respect to NOES from Japan, JFE Steel and Nippon Steel received a dumping margin of 204.79 percent. All other producers/exporters in Japan received a dumping margin of 135.59 percent. With respect to NOES from Korea, POSCO/Daewoo International Corporation received a dumping margin of 6.91 percent. All other producers/exporters in Korea also received a dumping margin of 6.91 percent. With respect to NOES from Sweden, Surahammars received a dumping margin of 126.72 percent. All other producers/exporters in Sweden received a dumping margin of 98.64 percent. With respect to NOES from Taiwan, China Steel received a dumping margin of 27.54 percent. Leicong Industrial Company, Ltd. received a dumping margin of 52.23 percent. All other producers/exporters in Taiwan received a dumping margin of 28.14 percent.

On October 14, 2014, Commerce published a notice in the *Federal Register* of its final affirmative determinations of countervailable subsidies for producers and exporters of NOES from China and Taiwan. With respect to all exporters of NOES from China, the final subsidy rate was 158.88 percent. 79 FR 61607 (October 14, 2014). With respect to NOES from Taiwan, China Steel Corporation and its cross-owned affiliates HIMag Magnetic Corporation and China Steel Global Trading Corporation (collectively CSC Companies), and Leicong Industrial Company, Ltd., received a final subsidiary rate of 0.48 percent, a rate that is *de minimis*. Consequently, NOES from these producers is no longer subject to the countervailing duty investigation on NOES from Taiwan. All other producers/exporters in Taiwan received a final subsidy rate of 8.80 percent. *Id*. at 61602 (October 14, 2014).

[34] For the reasons discussed above in note 3, I exercise my discretion to accord less weight to interim 2014 performance and financial data. *See* 19 U.S.C. § 1677(7)(I).

[35] The domestic industry's capacity totaled *** short tons in both interim periods. CR/PR at Table III-2.

percent between 2011 and 2013,[36] by slightly less than the *** percent decline in apparent U.S. consumption.[37] As a result of this demand-driven decline in U.S. shipments, a *** percent drop in export shipments,[38] and a drawdown of inventories by *** percent,[39] the domestic industry's production decreased by *** percent over the period of investigation.[40] Capacity utilization trended downward as a result, falling from *** percent in 2011 to *** percent in 2012, and then to *** percent in 2013.[41] The industry's market share, as previously discussed, remained essentially stable.[42]

The domestic industry's decline in production led to fewer workers, and the number of production and related workers declined steadily.[43] Total hours worked declined as well.[44] Wages paid decreased between 2011 and 2013,[45] and productivity also fell irregularly during that period.[46]

The domestic industry's financial indicators deteriorated. The quantity and value of net sales decreased between 2011 and 2013.[47] The ratio of the cost of goods sold ("COGS") to net

[36] The domestic industry's U.S. shipments of NOES declined from *** short tons in 2011 to *** short tons in 2012, and then to *** short tons in 2013. U.S. producer's U.S. shipments of NOES were *** short tons in interim 2013 and *** short tons in interim 2014. CR/PR at Tables III-3 & C-1.

[37] Apparent U.S. consumption of NOES declined from *** short tons in 2011 to *** short tons in 2012, and then to *** short tons in 2013. Apparent U.S. consumption of NOES was *** short tons in interim 2013 and *** short tons in interim 2014. CR/PR at Table C-1.

[38] The domestic industry's export shipments of NOES declined from *** short tons in 2011 to *** short tons in 2012, and then to *** short tons in 2013. The domestic industry's export shipments were *** short tons in interim 2013 and *** short tons in interim 2014. CR/PR at Table C-1.

[39] End-of-period Inventories decreased from *** short tons in 2011 to *** short tons in 2012 and *** short tons in 2013. They totaled *** short tons in interim 2013 and *** short tons in interim 2014. CR/PR at Table C-1.

[40] Production fell from *** short tons in 2011 to *** short tons in 2012, and then to *** short tons in 2013. Production was *** short tons in interim 2013 and *** short tons in interim 2014. CR/PR at Table C-1.

[41] Capacity utilization was *** percent in interim 2013 and *** percent in interim 2014. CR/PR at Tables III-2 & C-1.

[42] The domestic industry's share of apparent U.S. consumption was *** percent in 2011, *** percent in 2012, and *** percent in 2013. It was *** percent in interim 2013 and *** percent in interim 2014. CR/PR at Table C-1.

[43] The number of production and related workers fell from *** in 2011 to *** in 2012 and then to *** in 2013. It was *** in interim 2013 and *** in interim 2014. CR/PR at Table III-6.

[44] Total hours worked fell from *** hours in 2011 to *** hours in 2012 and then to *** hours in 2013. They totaled *** hours in interim 2013 and *** hours in interim 2014. CR/PR at Table III-6.

[45] Wages paid declined from $*** in 2011 to $*** in 2012 and then to $*** in 2013. They totaled $*** in interim 2013 and $*** in interim 2014. CR/PR at Table III-6.

[46] Productivity (in short tons per thousand hours) decreased from *** in 2011 to *** in 2012, before slightly increasing to *** in 2013. It was *** in interim 2013 and *** in interim 2014. CR/PR at Table III-6.

[47] The quantity of net sales fell from *** short tons in 2011 to *** short tons in 2012 and then to *** short tons in 2013. It was *** short tons in interim 2013 and *** short tons in interim 2014. CR/PR (Continued…)

sales increased between 2011 and 2013,[48] as did unit COGS,[49] notwithstanding a decline in raw material costs, because fixed costs were distributed over a smaller number of sales and production.[50] In addition, ***.[51] As a result, the industry had operating losses in all three years and during the interim periods,[52] and operating margins declined.[53] Although the industry began the period with a high ratio of COGS to net sales and operating losses, the record does not indicate that the subject imports were a significant cause of these initial conditions.[54]

Capital expenditures declined from 2011 to 2013.[55] Research and development expenses declined irregularly during the same period.[56]

(…Continued)
at Table VI-1. The value of net sales fell from $*** in 2011 to $*** in 2012 and then to $*** in 2013. It was $*** in interim 2013 and $*** in interim 2014. CR/PR at Table VI-1.

[48] The domestic industry's COGS to net sales ratio increased from *** percent in 2011 to *** percent in 2012 and then to *** percent in 2013. The COGS to net sales ratio was *** percent in interim 2013 and *** percent in interim 2014. CR/PR at Table VI-1.

[49] Unit COGS increased from $*** per short ton in 2011 to $*** per short ton in 2012, then fell slightly to $*** per short ton in 2013. It totaled $*** per short ton in interim 2013 and $*** per short ton in interim 2014. CR/PR at Table VI-1.

[50] CR at VI-5. Petitioner reinforces this point, stating that it experienced poor financial performance because its capacity utilization fell drastically and its net sales values declined. Petitioner Prehearing Brief at 53; Petitioner Posthearing Brief at 11. As discussed above, the record supports this statement. As a result of lower production and net sales values, other factory costs as a ratio to net sales increased from *** percent in 2011 to *** percent in 2013, despite decreasing in the aggregate over this period by *** percent, while other factory costs per short ton of net sales increased by *** percent. CR/PR at Table VI-1. To this point, Petitioner also argues that operating income would have declined even if the other factory costs per short tons of net sales remained constant throughout the period. Petitioner Confidential Hearing Exhibit H; Tr. at 50-51 (Dorn). I agree with this analysis, but as discussed above, I find that the industry's falling capacity utilization rate was the result of lower sales to a declining U.S. market for NOES, as well as lower exports and a drawdown of inventories. In addition, the depressing effect on net sales values from lower prices was the result of falling demand and lower raw material costs.

[51] *See* CR at VI-5.

[52] Operating losses were $*** in 2011, $*** in 2012, and $*** in 2013. The industry sustained *** of $*** in interim 2013 and $*** in interim 2014. CR/PR at Table VI-1.

[53] The industry's ratio of operating income to net sales declined from *** percent in 2011 to *** percent in 2012 and then fell further to *** percent in 2013. The industry's ratio of operating income to net sales was *** percent in interim 2013 and *** percent in interim 2014. CR/PR at Table VI-1.

[54] Petitioner stated that ***. CR at VI-6, PR at VI-3. Petitioner has also indicated that its survival as a producer of NOES has only been sustained due to its production of other products. Tr. at 91 (Petersen). This indicates that this is not a profitable business for the domestic producer, and is only sustained by revenues generated by other products.

[55] Capital expenditures fell from $*** in 2011 to $*** in 2012 and then to $*** in 2013. They totaled $*** in interim 2013 and $*** in interim 2014. CR/PR at Table VI-3.

[56] Research and development expenses increased from $*** in 2011 to $*** in 2012, before declining to $*** in 2013. They totaled $*** in interim 2013 and $*** in interim 2014. CR/PR at Table VI-3.

The domestic industry's unfavorable trends in operating performance were a combination of adverse output-related effects and adverse revenue effects. These, in turn, were caused by falling domestic shipments, fewer exports, a drawdown of inventories, higher unit costs resulting from less production, and reduced prices. However, none of these factors were a function of the subject imports. In particular, the sharp downturn in U.S. demand led to a reduction in both domestic shipment volumes and domestic prices, and domestic prices faced additional downward pressure from falling raw material costs.

In view of the foregoing, I find that the subject imports did not have a significant impact on the domestic industry.

II. No Threat of Material Injury by Reason of Subject Imports

A. Legal Standard

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the domestic industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[57] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[58] In making my determination, I consider all statutory threat factors that are relevant to these investigations.[59]

[57] 19 U.S.C. § 1677(7)(F)(ii).

[58] 19 U.S.C. § 1677(7)(F)(ii).

[59] These factors are as follows:

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

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

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

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

(V) inventories of the subject merchandise,

(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,

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(Continued…)

B. Cumulation for Threat

Under section 771(7)(H) of the Tariff Act, the Commission may "to the extent practicable" cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation in the material injury context are satisfied.[60] Accordingly, for purposes of my analysis of threat of material injury by reason of subject imports, subject imports from China, Germany, Japan, Korea, Sweden, and Taiwan are eligible for cumulation.

As discussed in the Views of the Commission with respect to cumulation for present material injury, a section which I join, there is a reasonable overlap of competition among subject imports from all six countries and between subject imports from each country and the domestic like product. The record does not indicate that there would likely be any significant difference in the conditions of competition between subject imports from the six countries. I recognize that some potential differences exist between the industries in these subject countries, but after examining these differences, find that they are not significant enough to warrant not cumulating all subject imports. For these reasons, I conclude that it is appropriate to exercise my discretion to cumulate subject imports from China, Germany, Japan, Korea, Sweden, and Taiwan for the purposes of my threat analysis.

C. Analysis

1. Likely Volume

As discussed above, I have found the volume of cumulated subject imports to be significant during the period of investigation. Nevertheless, I also found that the significant subject import volume did not have a significant impact on the domestic industry.

Between 2011 and 2013, the volume of subject imports declined by 22.4 percent, with all of this decrease occurring in 2013, the most recent year for which the Commission collected

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(…Continued)

(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).

19 U.S.C. § 1677(7)(F)(i). To organize my analysis, I discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to my material injury analysis. Statutory threat factors (I), (II), (III), (V), and (VI) are discussed in the analysis of subject import volume. Statutory threat factor (IV) is discussed in the analysis of subject import price effects. Statutory factors (VIII) and (IX) are discussed in the analysis of impact. Statutory (VII) concerning agricultural products is inapplicable to these investigations.

[60] 19 U.S.C. § 1677(7)(H).

data.[61] The decline of subject imports between 2011 and 2013 coincided with a decline in apparent U.S. consumption of *** percent, and as a result, subject imports maintained a stable market share over this period.[62] Therefore, to the extent that demand increases in the imminent future, I find it likely that subject imports will increase in line with demand, and will not take market share from the domestic industry.[63]

I also find that capacity in the cumulated subject countries, which is high both absolutely and relative to apparent U.S. consumption, increased over the period of investigation and is projected to increase further.[64] Although unused capacity increased between 2011 and 2013, it was greater in interim 2013 than in interim 2014. It is projected to decline further in 2014 and further still in 2015.[65] Production, which fell between 2011 and 2012, increased in 2013 and is expected to continue to increase in 2014 and 2015.[66]

A majority of the aggregate production of NOES in the subject countries was used to meet home market demand.[67] The ratio of subject export shipments to the United States as a share of total shipments was steady and very low throughout the period and is projected to become even lower in 2014 and 2015.[68] Therefore, the data indicate that the United States is a relatively insignificant export market for the cumulated subject industries. As discussed above, demand for NOES in the United States decreased over the period of investigation, and

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[61] CR/PR at Table C-1.

[62] *Id.*

[63] Subject imports were 14.3 percent lower in interim 2014 than in interim 2013, while their share of apparent U.S. consumption was *** percentage points lower. CR/PR at Table C-1. As discussed above, I have attributed the decline in subject imports in interim 2014 to Commerce's preliminary dumping determinations. Nonetheless, I note that nonsubject imports gained *** percentage points of market share between the interim periods as a result of the decline in subject imports, while domestic producers actually lost *** percentage points between the interim periods. *Id*. The interim period data further support my finding that, even should subject imports increase in the imminent future, they would be unlikely to take market share from the domestic industry.

[64] Capacity increased from 5.4 million short tons in 2011 to 5.5 million short tons in 2012, then to 5.6 million short tons in 2013. It was 2.8 million short tons in interim 2013 and 2.9 million short tons in interim 2014. It is projected to be 5.7 million short tons in both 2014 and 2015. CR/PR at Table VII-10.

[65] Capacity utilization decreased from 92.8 percent in 2011 to 83.0 percent in 2012, and then to 81.8 percent in 2013. It was 80.3 percent in interim 2013 and 82.9 percent in interim 2014. It is projected to be 83.7 percent in 2014 and 85.3 percent in 2015. CR/PR at Table VII-10.

[66] Production decreased from 5.00 million short tons in 2011 to 4.57 million short tons in 2012, and then increased to 4.61 million short tons in 2013. Production was 2.26 million short tons in interim 2013 and 2.39 million short tons in interim 2014. It is projected to be 4.79 million short tons in 2014 and 4.88 million short tons in 2015. CR/PR at Table VII-10.

[67] Home market shipments represented 68.2 percent of total shipments in 2011, 66.3 percent in 2012 and 65.8 percent in 2013. They represented 65.5 percent of total shipments in interim 2013 and 68.0 percent in interim 2014. CR/PR at Table VII-10.

[68] The ratio of export shipments to the United States as a share of total shipments was 1.4 percent in 2011 and 2012 and 1.3 percent in 2013. It was 1.3 percent in interim 2013 and 0.6 percent in interim 2014. It is projected to be 0.5 percent in 2014 and 0.3 percent in 2015. CR/PR at Table VII-10.

purchasers of NOES and downstream producers of motors and transformers have attractive alternatives to purchasing NOES in the United States. By contrast, demand in other markets has generally increased, according to evidence provided by U.S. firms in these investigations.[69] Thus, it is likely that the attractiveness of the U.S. market relative to third-country markets and home markets will continue to decline.

I recognize that, in July 2013, Brazil imposed antidumping duties on imports of NOES from China, Taiwan, and Korea.[70] However, only the responding firms from *** reported that Brazil was a principal export market during the period of investigation.[71] Moreover, in August 2014, Brazil reduced to zero the antidumping duty applied to the three countries for a volume of 45,000 short tons for the year lasting until August 15, 2015.[72] The record does not indicate that these restrictions resulted in these industries diverting a volume of subject imports to the United States that materially injured the domestic industry during the period, nor is there any indication that this would change in the imminent future.[73]

For the foregoing reasons, I conclude that there is no likelihood of substantially increased imports of subject merchandise in the imminent future. However, even if subject imports from the cumulated subject countries were to increase somewhat, I do not find that any such increase would likely threaten material injury to the domestic industry given that the significant volume of subject imports did not cause material injury to the domestic industry over the period of investigation.[74]

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[69] CR at II-27-28, PR at II-_; Tr. at 205-206 (Cameron).

[70] CR at VII-27, PR at VII-12.

[71] ***.

[72] CR at VII-28, PR at VII-12.

[73] I have also considered the nature of any countervailable subsidy. In its final countervailing duty determinations with respect to subject imports from China and Taiwan, Commerce found 30 programs in China to be countervailable, and 8 programs in Taiwan to be countervailable. CR at I-6-7, PR at I-4-5.

[74] I do not find any likelihood that foreign producers' ability to produce other products on the same equipment used in the production of NOES will lead to increased shipments of NOES to the United States. Three of the subject industries — those in Germany, Japan, and Sweden — had the ability to shift production between NOES and other products made on the same equipment; however, the share of production dedicated to NOES in each of these industries exhibited a stable trend over the period of investigation. *See* CR/PR at Table VII-3; CR/PR at Table VII-5; CR/PR at Table VII-8.

I also do not find any likelihood that inventories of subject merchandise held in the United States or in the subject countries will lead to increased shipments of NOES to the United States. U.S. importers' inventories decreased from *** short tons in 2011 to *** short tons in 2012 and *** short tons in 2013. They totaled *** short tons in interim 2013 and *** short tons in interim 2014. CR/PR at Table VII-11. Inventories of subject merchandise held in each of the subject countries (other than Taiwan, which did not provide inventory data) were below 10 percent of total industry shipments and production in 2013. CR PR at Tables VII-2, VII-4, VII-6, VII-7, and VII-9.

2. Likely Price Effects

In my discussion above, I found that underselling by the subject imports was prevalent. However, I also found that, notwithstanding the significant volume of subject imports and underselling by those imports during the period of investigation, the subject imports did not have significant price depressing or price suppressing effects. Because the volume of subject imports will likely not increase significantly, and because conditions of competition will likely not change significantly, there is also no basis to find significant price effects in the imminent future. I consequently find that the subject imports are unlikely to enter at prices that would have significant depressing or suppressing effects on domestic prices, or that would likely increase demand for further imports.

3. Likely Impact

As discussed above, the domestic industry has experienced declines in performance and operating income levels, but I have found no significant causal relationship between the subject imports and the domestic industry's performance during the period. Nothing in the record of these investigations gives me reason to believe that any further deterioration of the condition of the domestic industry will be by reason of the subject imports in the imminent future.

I further find that subject imports have had no significant actual or 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.[75]

In view of the foregoing, I conclude that an industry in the United States is not threatened with material injury by reason of subject imports.

III. Conclusion

For the reasons stated above, I determine that an industry in the United States is not materially injured or threatened with material injury by reason of subject imports of NOES from China, Germany, Japan, Korea, Sweden, and Taiwan that are sold in the United States at less than fair value and are subsidized by the governments of China and Taiwan.

[75] As discussed in note 54, above, the domestic producer has continued to produce NOES ***. The domestic producer currently has several NOES products in development and continues to devote significant resources to this effort, despite considering NOES to be a mature product. Tr. at 33 (Pfeiffer).

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 AK Steel Corp., West Chester, Ohio, on September 30, 2013, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of nonoriented electrical steel ("NOES")[1] from China, Korea, and Taiwan and less than-fair-value ("LTFV") imports from China, Germany, Japan, Korea, Sweden, and Taiwan. The following tabulation provides information relating to the background of these investigations.[2] [3]

Effective date	Action
September 30, 2013	Petition filed with Commerce and the Commission; institution of Commission investigations (78 FR 62660, October 22, 2013)
November 14, 2013	Commerce's notice of initiation of countervailing duty investigations (78 FR 68412, November 14, 2013)
November 18, 2013	Commerce's notice of initiation of antidumping investigations (78 FR 69041, November 18, 2013)
December 2, 2013	Commission's preliminary determinations (78 FR 73562, December 6, 2013)
March 25, 2014	Commerce's preliminary countervailing duty determinations (79 FR 16290-16296)
May 22, 2014	Commerce's preliminary antidumping duty determinations (79 FR 29421-29428)
July 2, 2014	Scheduling of final phase of the Commission's investigations (79 FR 40143, July 11, 2014)
October 8, 2014	Commission's hearing
October 14, 2014	Commerce's final countervailing duty determinations (79 FR 61602-61607)
October 14, 2014	Commerce's final antidumping duty determinations (79 FR 61609-61614)
November 6, 2014	Commission's vote
November 25, 2014	Commission's views

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

[2] Pertinent *Federal Register* notices are referenced in app. A, and may be found at the Commission's website (www.usitc.gov).

[3] Appendix B contains a list of the witnesses that appeared at the hearing.

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 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 decline 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 report

Part I of this report presents information on the subject merchandise, subsidy/dumping margins, domestic like product, and the domestic industry. *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 the U.S. firm. *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

The Commission received a U.S. producer questionnaire from AK Steel Corp. ("AK Steel"), the sole producer of NOES in the United States.[4] Leading producers of NOES outside the United States include: Baoshan Iron & Steel Co., Ltd. ("Baosteel") and Angang Steel Company Limited ("Angang") of China; ArcelorMittal Eisenhüttenstadt GmbH ("ArcelorMittal Germany"), C.D. Walzholz KG ("CDW"), and ThyssenKrupp Steel Europe AG ("ThyssenKrupp") of Germany; JFE Steel Corporation ("JFE Steel") and Nippon Steel & Sumitomo Metal Corporation ("Nippon Steel") of Japan; Pohang Iron and Steel Company ("POSCO") of Korea; Surahammars Bruks AB ("Surahammars") of Sweden; and China Steel Corporation ("China Steel") of Taiwan. The leading U.S. importers of NOES include: Bao America (China); CDW America and ThyssenKrupp Europe (Germany); Kanematsu (Japan); Daewoo America (Korea); Cogent Power (Sweden); and Metallia (Taiwan).

Apparent U.S. consumption of NOES totaled approximately *** short tons *** in 2013. AK Steel's U.S. shipments of NOES totaled *** short tons *** in 2013, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from subject sources totaled 57,591 short tons ($64.1 million) in 2013 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from nonsubject sources totaled 3,879 short tons ($5.0 million) in 2013 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

[4] Nucor reported producing NOES in the preliminary phase of these investigations; however, Nucor certified that it does not produce NOES based on the revised scope of these final phase investigations. Two other firms, ArcelorMittal and U.S. Steel, also certified that they do not produce NOES; however, these two firms, along with Nucor, indicated that they produce cold-rolled magnetic lamination quality steel ("CRML"). In their comments during the draft questionnaire period, Respondents requested that the Commission collect data from U.S. producers of CRML. These firms' trade and financial data, along with their comments regarding the comparability of NOES and CRML are presented in appendices D and E, respectively.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on the questionnaire response of AK Steel, the sole producer of NOES in the United States. U.S. import data are based on the official Commerce statistics and questionnaire responses from 24 companies, representing 86.7 percent of total imports during 2011-13.[5]

PREVIOUS AND RELATED INVESTIGATIONS

NOES, as defined in the scope of these investigations, has not been the subject of any prior countervailing or antidumping duty investigations in the United States; however, the Commission has conducted prior investigations on cold-rolled steel products containing up to 2.25 percent silicon.[6]

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Nature of the subsidies

On October 14, 2014, Commerce published a notice in the *Federal Register* of its final determination of countervailable subsidies for producers and exporters of NOES from China, Korea, and Taiwan. Table I-1 presents Commerce's findings.

With respect to China, mandatory respondent Baosteel and the Government of China failed to cooperate to the best of their ability and did not respond to Commerce's requests for information. As a result, Commerce used the adverse facts available rate assigned for Baosteel as the all-others rate.[7] Commerce identified the following programs in China:

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[5] Coverage was calculated based on official Commerce import statistics (subheadings 7225.19.00 7226.19.10, and 7226.19.90 of the Harmonized Tariff Schedule of the United States (HTSUS)) compared to the quantity of imports, in short tons, reported in questionnaire data during 2011-13. Official Commerce statistics may contain products that are excluded by the scope of these investigations--non-oriented silicon electrical steel containing between 0.6 and 1.00 percent or between 3.5 and 6 percent of silicon or less than 0.20 mm in thickness.

[6] *Certain Cold-Rolled Steel Products from Argentina, Brazil, Japan, Russia, South Africa, and Thailand, Inv. Nos. 701-TA-393 and 731-TA-829-830, 833-834, 836, and 838 (Final),* USITC Publication 3283, March, 2000. *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand, Inv. Nos. 731-TA-965, 971-972, 979, and 981 (Final)*, USITC Publication 3536, September 2002.

[7] *Non-Oriented Electrical Steel From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination.* 79 FR 61607, October 14, 2014.

1) Policy Loans to the NOES Industry
2) Preferential Export Financing from the Export-Import Bank of China
3) Treasury Bond Loans or Grants
4) Preferential Loans for State-Owned Enterprises
5) Two Free, Three Half
6) Tax Reductions for FIEs Purchasing Chinese-Made Equipment
7) Tax Reductions for FIEs in Designated Geographic Locations
8) Tax Reductions for Technology- or Knowledge-Intensive FIEs
9) Tax Reductions for FIEs that are also High- or New-Technology Enterprises (HNTEs)
10) Tax Reductions for HNTEs Involved in Certain Projects
11) Tax Reductions for Export-Oriented FIEs
12) Reduction of Taxable Income for Enterprises Comprehensively Utilizing Resources
13) Additional Deduction of Taxable Income for Research and Development Expenses on New Technologies, New Products, and New Techniques
14) Tax Offsets for Research and Development at FIEs
15) Tax Credits for Domestically-Owned Companies Purchasing Chinese-Made Equipment
16) Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
17) Shanghai Municipal Tax Refund for High-tech Achievement Commercialization Projects
18) Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
19) VAT Rebates on FIE Purchases of Chinese-Made Equipment
20) Exemptions From Administrative Charges for Companies in Industrial Zones and the Provision of Land-Use Rights for LTAR – Land Use Rights in Certain Industrial and SEZs
21) VAT Rebates on Domestically Produced Equipment
22) Provision of Land-Use Rights for LTAR – Allocated Land Use Rights for SOEs
23) Provision of Electricity for LTAR
24) The State Key Technology Renovation Fund
25) Famous Brand Awards
26) Special Fund for Energy Saving Technology Reform
27) Grants for Listing Shares
28) Grants to Baoshan
29) Shanghai Municipal Subsidy to Coal-Fired Power Plants for Emissions Reduction80
30) GOC Purchases of NOES from Baoshan for MTAR

With respect to Korea, mandatory respondent POSCO/Daewoo International Corporation received a final subsidiary rate of 0.65 percent. This rate is *de minimis,* resulting in a final negative determination that applies to the country as a whole.[8]

[8] As its final determination is negative, Commerce terminated the proceeding. *Non-Oriented Electrical Steel from the Republic of Korea: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination.* 79 FR 61605, October 14, 2014.

With respect to Taiwan, mandatory respondents China Steel Corporation and its cross-owned affiliates HIMag Magnetic Corporation and China Steel Global Trading Corporation (collectively CSC Companies), and Leicong Industrial Company, Ltd., received a final subsidiary rate of 0.48 percent, a rate that is *de minimis*. All other producers/exporters in Taiwan received a final subsidy rate of 8.80 percent.[9] Commerce identified the following programs in Taiwan:

1) Tariff Exemption for Imported Equipment
2) Income Tax Credit for Upgraded Equipment
3) Shareholder's Investment Tax Credit for Participation in Infrastructure Projects
4) Shareholder's Investment Tax Credit for Investment in Newly Emerging Important and Strategic Industries
5) Conventional Industry Technology Development
6) Self-Evaluation Service
7) Building and Land Value Tax Deduction for Supplying to Major Infrastructure Projects
8) Major Infrastructure Projects—Land Lease Program

Table I-1
NOES: Commerce's final subsidy determinations

Country and firm	Net subsidy rate (*percent*)
China	
Baosteel	158.88
All others	158.88
Korea	
POSCO	0.65 (*de minimis*)
Daewoo International Corporation	0.65 (*de minimis*)
All others	0.65 (*de minimis*)
Taiwan	
China Steel	0.48 (*de minimis*)
HiMagMagnetic Corporation	0.48 (*de minimis*)
China Steel Global Trading Corporation	0.48 (*de minimis*)
Leicong Industrial Company, Ltd.	17.12
All others	8.80

Source: 79 FR 61602-61607, October 14, 2014.

[9] *Non-Oriented Electrical Steel from Taiwan: Final Affirmative Countervailing Duty Determination,* 79 FR 61602, October 14, 2014.

Sales at LTFV

On October 14, 2014, Commerce published a notice in the *Federal Register* of the final antidumping duty determinations on NOES from China, Germany, Korea, Japan, Sweden and Taiwan.[10] Table I-2 presents Commerce's findings.

With respect to China, because no companies responded to the Department's request for information, all producers/exporters are considered part of the PRC-wide entity and were assigned the China-wide dumping margin of 407.52 percent based on facts available.

With respect to Germany, because the mandatory respondents, CDW and ThyssenKrupp Electrical Steel EBG GmbH, did not respond to Commerce's request for information, they were assigned a final dumping margin of 98.84 percent based on adverse facts available. All other producers/exporters in Germany received a final dumping margin of 86.29 percent.

With respect to Japan, because the mandatory respondents, JFE Steel and Nippon Steel, did not respond to Commerce's request for information, they were assigned a dumping margin of 204.79 percent based on adverse facts available. All other producers/exporters in Japan received a final dumping margin of 135.59 percent.

With respect to Korea, the sole mandatory respondent, POSCO/Daewoo International Corporation, received a final dumping margin of 6.91 percent. All other producers/exporters in Korea also received a final dumping margin of 6.91 percent.

With respect to Sweden, because the sole mandatory respondent, Surahammars, did not respond to Commerce's request for information, it was assigned a dumping margin of 126.72 percent based on adverse facts available. All other producers/exporters in Sweden received a final dumping margin of 98.46 percent.

With respect to Taiwan, mandatory respondent China Steel received a final dumping margin of 27.54 percent. Because mandatory respondent Leicong Industrial Company, Ltd., did not respond to Commerce's request for information, it received a final dumping margin of 52.23 percent based on adverse facts available. All other producers/exporters in Taiwan received a final dumping margin of 28.14 percent.

[10] *Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part.* 79 FR 61609, October 14, 2014. *Non-Oriented Electrical Steel from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances.* 79 FR 61612, October 14, 2014. *Non-Oriented Electrical Steel from Taiwan: Final Determination of Sales at Less Than Fair Value.* 79 FR 61614, October 14, 2014.

Table I-2
NOES: Commerce's final antidumping determinations

Country and firm	Weighted-average dumping margin (*percent*)
China	
China-wide rate	407.52
Germany	
CDW	98.84
ThyssenKrupp Electrical Steel EBG GmbH	98.84
All Others	86.29
Japan	
JFE Steel	204.79
Nippon Steel	204.79
All others	135.59
Korea	
POSCO/Daewoo International Corporation	6.88
All others	6.88
Sweden	
Surahammars	126.72
All others	98.46
Taiwan	
China Steel	27.54
Leicong Industrial Company, Ltd.	52.23
All others	27.54

Source: 79 FR 61609-61614, October 14, 2014.

THE SUBJECT MERCHANDISE

Commerce's scope[11]

Commerce has defined the scope of these investigations as follows:[12]

> *The merchandise subject to these investigations consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term "substantially equal" means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (i.e., the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (i.e., parallel to) the rolling direction of the sheet (i.e., B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.*
>
> *NOES is subject to these investigations whether it is fully processed (i.e., fully annealed to develop final magnetic properties) or semi-processed (i.e., finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM*

[11] On November 22, 2013, AK Steel requested that Commerce revise the scope language to define more precisely the intended scope of the investigations to cover subject imports of NOES and to avoid covering CRML. *Petition Amendment To Clarify the Proposed Scope Definition,* November 22, 2013. The following differences exist between the scope in the preliminary and final phase investigations: the threshold for the silicon level in the first paragraph was 1.25 percent in the preliminary phase investigations (rather than 1.00 percent in the final phase investigations); the sentence "NOES has a surface oxide coating, to which an insulation coating may be applied" was added to the first paragraph of the scope of the final phase investigation and the phrase "whether or not it is coated (e.g., with enamel, varnish, natural oxide surface, chemically treated or phosphate surface, or other non-metallic materials)" was removed from the second paragraph; and the final paragraph, which excludes certain products, was added to the scope of the final phase investigations.

[12] *Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination.* 79 FR 61607, October 14, 2014.

specification A 683. However, the scope of these investigations is not limited to merchandise meeting the ASTM, JIS, and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of these investigations are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part (i.e., lamination) for use in a device such as a motor, generator, or transformer.

Tariff treatment

Based upon the scope set forth by the Department of Commerce, information available to the Commission indicates that the products subject to the petitions are classifiable in subheadings 7225.19.00, 7226.19.10, and 7226.19.90 of the Harmonized Tariff Schedule of the United States (HTS).[13] Certain products subject to these petitions may also be imported under statistical reporting numbers 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0180.[14] Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

THE PRODUCT

The product covered by these investigations, NOES, is a flat-rolled, alloy steel product that is used to manufacture laminations that are assembled in stacks to produce magnetic cores for alternating-current electrical apparatus.[15] NOES has desirable magnetic properties that are similar in all directions (nonoriented), in contrast to grain-oriented electrical steel (GOES), which has superior magnetic properties in the lengthwise direction of the sheet, but less

[13] HTS subheading 7225.19.00 includes NOES of a width greater than or equal 600 mm; HTS subheading 7226.19.00 includes NOES of a width greater than or equal to 300 mm but less than 600 mm; and HTS subheading 7225.19.90 includes NOES of a width less than 300 mm. All imports of NOES less than 600 mm in width are in slit form. Hearing transcript, p. 212 (Harper). Imports of NOES greater than 600 mm can either be slit or master coils. Petitioner's posthearing brief, Answers to Commissioner and Staff Questions, p.1.

[14] For each of these HTS provisions, the general or normal trade relations rate of duty is free.

[15] Laminations are single, flat pieces of electrical steel which, when stacked one upon another, compose a laminated transformer core or motor stator or rotor. Laminations are produced from NOES by stamping or sometimes by laser cutting. Hearing transcript, p. 60 (Schoen).

favorable properties in other directions. Thus, NOES is used primarily to produce laminations for which the direction of the magnetic flux in the apparatus is constantly changing, such as for rotating machinery such as motors and generators, whereas GOES is used primarily in static equipment, such as transformers, for which the laminations can be produced in such a way as to take advantage of the favorable directionality of the steel. NOES is also used in small static apparatus, such as small, low voltage transformers and lighting ballasts, if the higher cost of GOES cannot be justified by potential savings in improved energy efficiency.

NOES may be either in coils or in straight lengths. Two types of NOES are produced: fully processed NOES, which is final-annealed by the producer; and semi-processed NOES, which, although it is annealed by the producer, must be annealed once again by the consumer after being stamped or otherwise formed into laminations in order to achieve its potential magnetic properties.[16] Both domestic and imported NOES are produced in compliance with specifications issued by ASTM International ("ASTM"),[17] or proprietary or international specifications.[18]

As defined by the scope, NOES is produced of steel that is alloyed with more than 1.00 percent but less than 3.5 percent of silicon, with aluminum usually added in lesser amounts. Both silicon and aluminum increase the electrical resistivity of steel, resulting in lower loss of energy in finished motors or apparatus produced using NOES.

Manufacturing processes[19]

The production of NOES begins with the melting of steel in either an electric-arc furnace or a basic oxygen furnace.[20] Molten steel is transferred in a ladle where other procedures such as argon-oxygen refining, ladle metallurgy treatment, and vacuum degassing may be employed. These steps refine the chemistry of the steel by reducing undesirable contaminants. Alloys including silicon and aluminum are added. The steel is then continuously cast into slabs, which are rolled on a continuous hot strip mill to produce hot-rolled coils. All subsequent processing is done on continuous processing lines for which the coils are uncoiled, passed through the processing lines and recoiled after processing. The first step of coil processing is annealing and cleaning. Next, coils are rolled to ordered thickness on a cold-rolling mill.[21] Then, coils are annealed for the final time on a continuous annealing line using a controlled, decarburizing

[16] The processes of flattening, stamping, or shearing NOES into individual laminations introduces strains within the steel that are harmful to magnetic properties. Annealing of the laminations removes the strains and achieves the potential magnetic properties.

[17] Specification ASTM A 677 covers fully processed types of NOES and ASTM A 683 covers semiprocessed types. Both specify properties for NOES of the commonly produced thicknesses of 0.0185 inch and 0.025 inch. A 677 also specifies properties for 0.014 inch thick material.

[18] International standards are very similar to ASTM standards. Conference transcript, p. 71 (Schoen).

[19] The description of the manufacturing process for NOES is based on testimony at the Staff Conference. Conference transcript, pp. 21-22 (Petersen).

[20] Petitioner AK Steel produces NOES in an electric-arc furnace, whereas some of the producers in subject countries use basic oxygen furnaces.

[21] In some cases, to produce very thin product, coils may be cold rolled to an intermediate thickness, annealed and cold-rolled to the ordered thickness.

atmosphere and provided with a tightly adherent surface oxide that serves to prevent laminations from sticking to one another and to increase electrical resistance between laminations. Fully processed NOES is usually provided with an applied coating, called "coreplate," to further increase electrical resistance between laminations.[22] Finally, coils may be slit to ordered width. Because NOES is produced in a wider form than that needed by the users of the steel, virtually all NOES is slit—that is, cut into one or more coils of narrower width—before it is consumed.[23] The slitting step may be performed either by the steel producer or by the purchaser.[24]

According to petitioner, subject foreign producers in China, Germany, Japan, Korea, Sweden, and Taiwan generally use similar processes to produce NOES.[25] AK Steel, the petitioner, uses the same melting, casting, and hot rolling equipment that is used to produce NOES to produce other products, including stainless steel, GOES and carbon steel. AK Steel's coil processing equipment for NOES is separate from its facilities for other products and is used exclusively for NOES.[26]

Description of CRML

Cold-rolled magnetic lamination quality steel ("CRML") is a steel sheet product that, like NOES, is used to produce laminations for electrical apparatus.[27] Like NOES, CRML is non-oriented, that is, it has similar magnetic properties in all directions. CRML was developed as an improved quality of cold-rolled steel to offer a lower-cost alternative to NOES for magnetic laminations. U.S. consumption of CRML is much larger than that for NOES.[28] CRML is produced

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[22] Several types of applied coatings are used on NOES. Coatings are applied in a continuous process and cured by heating. Most commonly, fully processed NOES is coated with an organic varnish/enamel coating. Such a coating will not withstand later stress-relief annealing temperatures. If fully processed NOES is to be stress-relief annealed by the customer after stamping, the applied coating may be inorganic or mostly inorganic with certain ceramic fillers or film-forming inorganic components added to increase the surface insulating ability. Semi-processed NOES is usually supplied with a thin inorganic coating, often referred to as "anti-stick". Specification ASTM A 976.

[23] Hearing transcript, p. 115 (Konstantinidis).

[24] NOES may also be flattened and sheared into rectangular sheets for further processing. Such rectangular or other straight length forms that have not been cut into the shape of laminations are included within the scope. For example, Cogent Power imports NOES in both slit coil and sheet blank form. Hearing transcript, p. 139 (Harper).

[25] Conference transcript, p. 22. (Petersen).

[26] Conference transcript, p. 18. (Petersen).

[27] CRML was earlier named "cold-rolled motor lamination sheet," but was renamed by ASTM as "cold-rolled magnetic lamination quality steel," to reflect more general applications. The acronym "CRML" is used generally to refer to either motor lamination sheet or magnetic lamination sheet and there is no intended distinction between the two. U.S. Steel "Facts and Figures, U.S. Steel Cold Rolled Magnetic Lamination Quality Steel," p. 9.

[28] According to Japanese respondents, U.S. CRML consumption is orders of magnitude over U.S. NOES consumption. Japanese respondents' postconference brief, p. 9. Based on data collected by staff, U.S.

(*continued*...)

by producers of cold-rolled steel sheet, using the same equipment used to produce that product.

NOES and CRML both are produced from steel containing significant amounts of silicon, which increases the electrical resistivity of the steel and results in lower energy losses in magnetic laminations. NOES contains over 1.00 percent silicon and generally about 2 percent silicon, depending upon grade. The magnetic properties of CRML are developed as a result of heavy temper mill extension rolling at the producing mill followed by decarburizing anneal of the stamped laminations by the customer. NOES, in contrast, is not temper rolled after its final annealing process at the mill. NOES has a thin, tightly adherent surface oxide coating that is formed naturally during mill processing. Because of differences in mill processing, CRML does not have such a coating. Laminations produced of CRML, like those produced of semi-processed NOES, are annealed by the customer in order to develop their potential magnetic properties. Fully processed NOES is usually coated with an insulating coating at the producing mill after annealing, and laminations produced from fully processed NOES are used as stamped, not annealed after stamping.

CRML is produced from steel that has been refined to a low carbon content, through vacuum degassing or other processing, followed by continuous casting, hot rolling, pickling, cold rolling, annealing, and temper rolling.[29] The annealing step is commonly performed on coils in batch annealing furnaces rather than by uncoiling the strip and passing it through a continuous furnace as is done for NOES, although continuous annealing may be used by some producers. For temper rolling after annealing, high extensions are used (in comparison to relatively low extensions used for conventional cold-rolled steel sheet.)[30]

DOMESTIC LIKE PRODUCT

In the preliminary phase of these investigations, AK Steel argued that the Commission should define the domestic like product to be NOES, in a manner coextensive with the scope of the subject merchandise and not define the domestic like product to include GOES or CRML because there are clear dividing lines between NOES and each of those products. [31] Chinese and Taiwanese Respondents argued that the Commission should define the domestic like product to include CRML. They asserted that CRML represents a low-cost alternative to NOES in

(…*continued*)
producers' U.S. shipments of CRML totaled *** short tons in 2013 compared to AK Steel's U.S. shipments of NOES, which totaled *** short tons in 2013. Tables D-1 and III-1.

[29] ASTM A 726 Paragraph 5.2. See also, U.S. Steel "Facts and Figures, U.S. Steel Cold Rolled Magnetic Lamination Quality Steel", p. 9.

[30] ASTM A 726 Paragraph 5.2.1. "Special emphasis may be placed on high extensions (2 to 10 %) during the temper roll after annealing." See also, Japanese respondents' Exhibit 5, ***. See also, U.S. Steel "Facts and Figures, U.S. Steel Cold Rolled Magnetic Lamination Quality Steel", p. 10, "CR lamination steel is produced with temper mill extensions of as much as ten times the extensions applied to regular cold rolled sheet."

[31] Petitioner's postconference brief, pp. 3-14.

a broad range of applications, that the silicon level[32] relied on by Petitioner to define NOES is artificial and arbitrary, and that the Commission previously found NOES and CRML to be part of a broader continuum of cold-rolled electrical sheet products.[33]

In its Views, the Commission defined a single domestic like product consisting of NOES coextensive with the scope of the investigations. The Commission noted in the preliminary phase investigations that:

> "The record indicates that there are differences between NOES and CRML in physical characteristics, production processes, and prices and that the Petitioner along with a majority of importers report that there are no products that could serve as substitutes for NOES. The limited record also suggests that there is at least some degree of interchangeability between the two products. Although the parties have presented divergent views regarding this issue, they appear to agree that CRML may be able to replace NOES in some applications."[34]

The Commission invited any party that planned to assert an alternative domestic like product definition in any final phase investigation to raise in its comments on the draft questionnaires the issue and indicate those products on which the Commission should collect data. In their comments to the Commission's draft questionnaires, Respondents requested that the Commission collect data from U.S. producers of CRML. These data are presented in appendix D.

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.

Of the four reporting firms (AK Steel, ArcelorMittal, Nucor, and U.S. Steel), *** reported that NOES and CRML have the same physical characteristics and uses.[35] *** of the four firms reported that NOES and CRML are interchangeable. *** of the four firms reported that the

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[32] The silicon level provided in the scope of the preliminary phase investigations was 1.25 percent. The silicon level provided in the scope of these final phase investigations is 1.00 percent.

[33] Chinese Respondents' Postconference Brief, p. 1-6; Taiwanese Respondent's Postconference response to staff questions, p. 3-9. Although they did not challenge the definition of the domestic like product in the preliminary phase investigations, Japanese Respondents argued that in the final phase investigations, the Commission would need to examine whether the domestic like product should be expanded to include CRML, given its prior findings regarding competitive overlap between the two products. Japanese Respondents' Postconference Brief, p. 2-4. No party argued that GOES should be included in the domestic like product, and the record in the preliminary phase investigations indicated that there are clear dividing lines between NOES and GOES.

[34] *Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan, Inv. Nos. 701-TA-506-508 and 731-TA-1238-1243 (Preliminary),* USITC Publication 4441, December 2013, p. 11.

[35] ***.

manufacturing facilities, processes, and employees used to produce NOES are similar to those to produce CRML. *** of the four firms
reported NOES and CRML share the same channels of distribution; *** reported that *** reported that ***. *** of the four firms reported that customers and producers perceive NOES and CRML to be similar products.[36] *** of the four firms reported that NOES is generally higher in price than CRML.

In the final phase of these investigations, AK Steel continues to argue that the domestic like product be defined as co-extensive with the scope of these investigations.[37] Joint Respondents do not dispute AK Steel's definition of the appropriate like product; however, they argue that CRML is a significant factor in analyzing the competitive dynamics of the U.S. NOES market.[38]

DOMESTIC INDUSTRY

In the preliminary phase of these investigations, the Commission received U.S. Producers' questionnaire responses from two firms, AK Steel and Nucor, believed to represent all U.S. production of NOES, with AK Steel accounting for the large majority of NOES production in the United States. There were no related party issues in the preliminary phase of these investigations. Accordingly, based on its definition of the domestic like product, the Commission defined the domestic industry as AK Steel and Nucor, the two known U.S. producers of NOES. [39]

On November 22, 2013, Petitioner (AK Steel) requested that Commerce revise the scope language to define more precisely the intended scope of the investigations to cover subject imports of NOES and to avoid covering CRML. [40] Based on the revised scope of these final phase investigations, AK Steel is the sole U.S. producer of NOES.[41]

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[36] ***.

[37] Petitioner's prehearing brief, p. 4.

[38] Joint Respondents' posthearing brief, pp. 2-3. Joint Respondents provided a like product analysis of NOES and CRML in their posthearing brief. Joint Respondents posthearing brief, Exhibit 1, Answers to Commission Questions, pp. 1-7.

[39] *Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan, Inv. Nos. 701-TA-506-508 and 731-TA-1238-1243 (Preliminary),* USITC Publication 4441, December 2013, p. 11.

[40] *Petition Amendment To Clarify the Proposed Scope Definition,* November 22, 2013.

[41] Petitioner's prehearing brief, p. 20.

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

U.S. MARKET CHARACTERISTICS

NOES is primarily used to make electric motors and generators, and is likely at least a moderately substantial cost of those products. Parties differ over to what extent NOES competes with GOES and CRML, with petitioner describing little overlap and respondents describing substantial overlap. Similarly, parties disagreed over whether AK Steel can provide a full range of NOES products (and related services) to all U.S. customers. AK Steel described itself as providing a high-quality product with technical service aimed at high-end markets.[1]

U.S. MARKET SEGMENTS

As discussed in Part I, NOES can be sold in fully processed or semiprocessed form, depending on whether the purchaser performs the final annealing (of semiprocessed NOES) or the producer does (of fully processed NOES). Currently, *** imports of NOES are fully processed; however, in the preliminary phase, petitioner stated that if duties were placed only on fully processed NOES, importers could evade the duties with imports of semiprocessed NOES.[2] Petitioner reported that semiprocessed NOES accounts for between *** percent of its sales of NOES, and stated that prices for semiprocessed NOES follow the same trends as for fully processed NOES, at approximately *** percent the price level.[3]

NOES can be supplied in slit or in master coils, as well as in straight lengths, but is usually used in slit form. See Parts I, III, and IV for more information on slitting.[4]

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[1] Hearing transcript, p. 32 (Pfeiffer).

[2] Conference transcript, pp. 22-23 (Petersen).

[3] Petitioner's postconference brief, response to staff questions, pp. 6-7.

[4] Hearing transcript, p. 115 (Konstantinidis). Parties disagreed over whether slit coil and master coil NOES is sold in the same channels of distribution, with petitioner stating that slit coil NOES is sold to stamper/laminators and end users while master coils are sold to distributors/slitters and stampers/laminators that perform their own slitting. Petitioner's posthearing brief, answers to staff questions, p. 2. Chinese respondents stated that the channels are similar for slit and master coils. Both Chinese respondents and CDW stated that end users with slitting capability can purchase either slit or master coils (while other end users can purchase slit coils from a service center). CISA's posthearing brief, exhibit 1 and CDW's posthearing brief, answers to staff questions, p. 14. Cogent Power, while describing an approximately similar situation, characterized the shipping of slit coils directly to end users as a different channel of distribution than the shipping of master coils to slitters, and described slitting capacity as requiring "substantial investment." Cogent Power's posthearing brief, answers to staff questions, pp. 17-19. See also part I.

U.S. PURCHASERS

Petitioner described purchasers as either end users in motors and generators (and to a lesser extent, low voltage transformers) or as lamination stampers or service centers, which process and/or distribute product to the same end-use sectors.[5] At the hearing, purchasers described motor production as an industry in which their downstream customers are constantly demanding smaller sizes, reduced heat, and lower noise.[6]

The Commission received purchasers' questionnaires from 20 purchasers of NOES.[7] Six purchasers described themselves as stampers/laminators, four described themselves as distributors, and 14 described themselves as end users.[8] Five described themselves as falling into more than one category. The largest purchasers included ***.[9] Nine purchasers stated that they do not compete for sales to their customers with the manufacturers or importers from which they purchase NOES, but *** stated that *** sells *** to ***. NOES' distributors and stampers described selling NOES to manufacturers of transformers, generators, motors, and medical equipment.

The U.S. producer and importers were asked to name their 10 largest customers in 2013. *** included ***. All of these firms except *** were also named as purchasers by at least one importer. Importers also named other firms not listed by ***.

CHANNELS OF DISTRIBUTION

As discussed in Part I, before being incorporated into a motor or transformer, NOES is stamped into laminations and assembled into cores. AK Steel does not have laminating and stamping capability, so either the end user performs this function, or AK Steel sells NOES to a

[5] Conference transcript, p. 51 (Pfieffer).

[6] Hearing transcript, p. 131 (Weisheit).

[7] Two, *** reported being related to importers or exporters of subject NOES. Three, *** reported being related to importers or exporters of NOES from nonsubject countries. ***.

[8] Three of the end users indicated only being an "other" purchaser of NOES, but described themselves as end users.

[9] Purchasers' total reported purchases frequently exceeded total U.S. production and imports in a particular year, likely reflecting the status of some purchasers as distributors that re-sell to other purchasers.

laminator/stamper, which in turn sells to an ultimate end user.[10] AK Steel also described NOES distributors as serving the portion of the market that wants quick delivery without holding their own inventory.[11]

The U.S. producer and importers of *** NOES sold a majority of their product to ***, importers of *** NOES sold mainly to distributors, importers of *** NOES sold mainly to ***, and importers of *** NOES sold to ***, as shown in table II-1.[12]

Table II-1
NOES: U.S. producer's and importers' U.S. shipments, by sources and channels of distribution, 2011-2013, January-June 2013, and January-June 2014

* * * * * * *

GEOGRAPHIC DISTRIBUTION

U.S. producer AK Steel reported selling NOES to *** (table II-2). Importers from all subject countries except *** reported selling to at least four U.S. regions, but not as often to the western United States as to the eastern United States. German and Swedish respondents described their NOES as focused on a few specific customers in specific regions, and not present in all U.S. geographic regions.[13]

For AK Steel, *** percent of sales were within 100 miles of their production facility, *** percent were between 101 and 1,000 miles, and *** percent were over 1,000 miles. Weighting importers' responses by their 2013 shipments, importers sold 40.1 percent of their NOES within 100 miles of their U.S. point of shipment, 49.6 percent between 101 and 1,000 miles, and 10.3 percent over 1,000 miles. Importers showed some variation in response by country. A large majority of *** material was shipped less than 100 miles; a large majority of *** material and over half of *** material was shipped between 100 and 1,000 miles; and a large majority of *** material was shipped over 1,000 miles.

Table II-2
NOES: Geographic market areas in the United States served by the U.S. producer and importers, by number of responding firms

* * * * * * *

[10] Conference transcript, p. 53 (Pfieffer).

[11] Conference transcript, p. 63 (Konstantinidis).

[12] Petitioner described distributors, stampers/laminators, and end users as often performing the same functions, and stated that as a result, the channels of distribution data presented in table II-1 "overlap" with each other. Petitioner's posthearing brief, answers to Commission questions, pp. 12-13.

[13] Conference transcript p. 102 (LaFrankie), p. 106 (McPhie), and p. 115 (Kaufman). See also Walzholz' and CDW's postconference brief, pp. 4-5, and ThyssenKrupp's postconference brief, p. 11.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. supply

Domestic production

Based on available information, the U.S. producer of NOES has the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced NOES to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity, the existence of some alternate markets and inventories, and the ability to produce alternate products.

Industry capacity

Petitioner described itself as able to produce NOES in multiple sizes and grades.[14] Domestic capacity *** from 2011 to 2013, as capacity utilization fell from ***. This relatively low level of capacity utilization suggests that the U.S. producer may have substantial capacity to increase production of NOES in response to an increase in prices.

Alternative markets

The U.S. producer's exports as a percentage of total shipments declined from under *** percent in 2011 to under *** percent in 2013. These levels indicate that the U.S. producer may have little ability to shift shipments between the U.S. market and other markets in response to price changes.

Inventory levels

The U.S. producer's inventories as a percent of total shipments ranged from approximately *** to *** percent over 2011-13. These inventory levels suggest that the U.S. producer may have some ability to respond to changes in demand with changes in the quantity shipped from inventories.

Production alternatives

AK Steel stated that it could switch production between NOES and GOES, but added that there are some limits on such switching (see Part III) and that capacity utilization for both products is low enough that such switching has not been considered.[15]

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[14] Hearing transcript, p. 30 (Pfieffer).
[15] Hearing transcript, pp. 83-84 (Peterson and Dorn).

Supply constraints

*** stated that it had not had any difficulty supplying NOES since January 1, 2011. It also stated that it had not used ***. In the preliminary phase, it added that ***.[16]

One importer stated that purchasers need imported NOES in the U.S. market in case of supply issues with AK Steel, and another stated that AK Steel had placed purchasers on allocation several times over the last ten years.[17] Importer *** stated that since the antidumping and countervailing duties were applied, AK Steel's delays have extended to as long as two months.

Purchasers *** indicated that AK Steel had declined their orders or been unable to meet timely shipment requirements.[18] Curtiss-Wright and Nidec stated that order refusals or allocations by AK Steel dated back to as early as 2004, with Curtiss-Wright elaborating that AK Steel refused to sell it NOES made with a particular coating or work with government-mandated contractual requirements.[19] Nidec described being placed on allocation in 2007, resulting in Nidec losing sales of its products.[20] *** characterized AK Steel's supplier performance as "unacceptable" in terms of on-time delivery, reliability, and responsiveness.

Subject imports from China

Based on available information, producers of NOES from China have the ability to respond to changes in demand with large changes in the quantity of shipments of NOES to the U.S. market. Responsiveness of supply for Chinese producers of NOES is constrained by moderate-to-high levels of reported capacity utilization. However, the volume of Chinese producers' shipments of NOES to third-country markets was larger than total U.S. NOES consumption in 2013.

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[16] ***.

[17] Conference transcript, p. 92 (Azeyanagi) and pp. 97-99 (Weinstein).

[18] ***. Petitioner also stated that it did not recall ever declining a supply opportunity, and that it had deals with contract coaters to provide other coatings when necessary. Hearing transcript, pp. 72-74 (Pfeiffer and Dorn).

[19] Prehearing statement of Curtiss Wright, pp. 1-2, hearing transcript, pp. 134 (Weisheit) and 137 (Gilson), and ***. AK Steel described one problem that it stated it "promptly resolved" in 2008, and described other outages as being at facilities not related to NOES. Hearing transcript, pp. 32 and 71 (Pfeiffer). See also petitioner's posthearing brief, answers to Commission questions, pp. 40-42.

[20] Hearing transcript, p. 134 (Weisheit).

Industry capacity

Petitioner described Chinese producers as having substantial and large excess capacity, and as adding more capacity, including for high-grade NOES.[21] Chinese producers reported unchanged capacity over 2011-12, although capacity rose approximately *** percent in 2013. Capacity utilization fell from *** percent in 2011 to *** percent in 2013.

Alternative markets

Chinese producers shipped *** percent or more of their NOES to their home market, but exports to non-U.S. markets were larger than U.S. consumption of NOES in 2013.

Inventory levels

Chinese producers' inventories ranged from approximately *** to *** percent of their shipments over 2011 to 2013.

Production alternatives

Chinese producers *** to produce other products using the same equipment used in producing NOES.

Supply constraints

*** stated that it had to decline or reduce customer orders since January 1, 2011 due to supply allocations and the availability of capacity for high-grade NOES. No other importers of Chinese NOES reported difficulties in supplying NOES. *** reported that it has used allocation limits in its NOES contracts since January 1, 2011. No other importer of Chinese NOES reported using such limits.

Subject imports from Germany

Based on available information, producers of NOES from Germany have the ability to respond to changes in demand with large changes in the quantity of shipments of NOES to the U.S. market. Responsiveness of supply for German producers of NOES is constrained by moderately high levels of reported capacity utilization. However, the volume of German producers' shipments of NOES to third-country markets was over *** percent of total U.S. NOES consumption in 2013.

[21] Conference transcript, p. 43 (Jones), petitioner's postconference brief, p. 38, and petitioner's prehearing brief, appendix I-A.

Industry capacity

German producers stated that the uncoated and other NOES that they sell in the United States are not produced in the United States.[22] German producers reported capacity that ranged from over *** tons in 2011 to over *** tons in 2013. They also reported capacity utilization levels of at least *** percent over the same period, with the lowest level coming in ***.

Alternative markets

In the preliminary phase, German producer ThyssenKrupp stated that it had been exporting NOES to the United States for a specific customer that stopped U.S. production of its downstream product using NOES in 2012. It indicated that it has since reduced its U.S. exports and has no plans to divert them to other U.S. purchasers.[23] Nearly *** percent (or more) of German producers' shipments over 2011-13 were to their home market. However, German producers exported approximately *** percent of their total shipments to third-country markets over 2011 to 2013.[24] Such exports were under *** tons in 2013, down from over *** tons in 2011.

Inventory levels

German producers' inventory levels were approximately *** percent of shipments over 2011 to 2013.

Production alternatives

German producers *** stated that they could produce *** on the same equipment used to produce NOES, and *** stated that it could produce *** on the same equipment.

Supply constraints

No importers of German NOES reported difficulties in supplying NOES. No importers of German NOES reported using allocation limits in their contracts.

[22] Conference transcript, pp. 102 (LaFrankie) and 106 (McPhie).

[23] Conference transcript, p. 103 (LaFrankie).

[24] CDW described these other markets as mostly in the European Union. CDW's posthearing brief, p. 10.

Subject imports from Japan

Based on available information, producers of NOES from Japan have the ability to respond to changes in demand with large changes in the quantity of shipments of NOES to the U.S. market. The main contributing factors to the large degree of responsiveness of supply are the availability of unused capacity and the existence of large alternate markets.

Industry capacity

Japanese producers' reported capacity rose from over *** tons in 2011 to over *** tons in 2012 before falling back to approximately *** tons in 2013. During 2011-13, capacity utilization dropped from over *** percent to under *** percent.[25]

Alternative markets

At the conference, JFE Steel described itself as focused on the Asian, and specifically Chinese, markets for NOES.[26] Exports to non-U.S. markets were over *** tons in 2011 and then fell to approximately *** tons in 2013.

Inventory levels

Inventory levels declined from under *** percent in 2011 to under *** percent in 2013.

Production alternatives

*** stated that *** could produce *** on the same product lines on which they produced NOES.[27]

Supply constraints

Three importers of Japanese NOES reported difficulties in supplying NOES due to strong demand for product (that *** described as higher grade product) from Japanese mills. No importer of Japanese NOES reported using allocation limits in its contracts for sales of NOES.

[25] Japanese respondents characterized reductions in Japanese capacity as being due to unused capacity. Prehearing brief of Japanese respondents, p. 9.

[26] Conference transcript, p. 159 (Azeyanagi).

[27] Japanese respondents stated that while production shifting could have occurred over 2011 through 2013, it did not, and that capacity utilization for non-NOES products remained ***. Prehearing brief of Japanese respondents, p. 12.

Subject imports from Korea

Based on available information, the Korean NOES producer has the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of NOES to the U.S. market. Responsiveness of supply for the Korean producer of NOES is constrained by ***. However, the volume of the Korean producer's ***, and represented a large share of the Korean producer's total shipments.

Industry capacity

At the conference, petitioner described Korean producers as upgrading their NOES production facilities with the encouragement of the Korean government.[28] The Korean producer reported that its capacity was *** at over *** tons, with capacity utilization at over *** percent in 2011 and 2012, but under *** percent in 2013.

Alternative markets

Exports to non-U.S. markets rose from under *** tons in 2011 to over *** tons in 2013 (at the expense of shipments to Korea). Such exports represented from *** percent of the Korean producer's shipments over the same period.

Inventory levels

Inventories were *** percent of shipments or less over 2011-13.

Production alternatives

No Korean producer reported any ability to produce other products using the same equipment used in producing NOES.

Supply constraints

*** stated that it had experienced some difficulty in making timely shipments since 2011. No other importers of Korean NOES reported difficulties in supplying NOES. No importer of Korean NOES reported using allocation limits in its contracts for sales of NOES.

[28] Conference transcript, p. 44 (Jones).

Subject imports from Sweden

Based on available information, the Swedish NOES producer has the ability to respond to changes in demand with large changes in the quantity of shipments of NOES to the U.S. market. The main contributing factors to this degree of responsiveness of supply are ***.[29]

Industry capacity

Swedish capacity was *** over 2011-2012 and fell over *** percent in 2013. Capacity utilization fell from almost *** percent in 2011 to under *** percent in 2012, before recovering to approximately *** percent in 2013.[30]

Alternative markets

At the conference, importer Cogent Power described U.S. imports from Sweden as stable for 20 years, and concluded that those exports did not indicate that Swedish NOES production was export-oriented in a way that would lead to greater exports to the United States.[31] Exports to non-U.S. markets were almost *** tons in 2013, representing over *** of Swedish producers' shipments.

Inventory levels

Inventories rose from under *** percent of shipments in 2011 to over *** percent in 2013.

Production alternatives

No Swedish producer indicated that it had the ability to produce any products other than NOES on the equipment used to produced NOES.

[29] Cogent Steel described Swedish NOES in the U.S. market as supplying a "niche" of exclusively slit products for suppliers with which it has a long-term relationship. Prehearing brief of Cogent Steel, pp. 3, 11-12. See also Cogent Steel's posthearing brief, exhibit S-2. Petitioner stated that all subject countries export slit coils to the United States, and that Sweden also exports wide coils to the United States. Petitioner's prehearing brief, p. 25.

[30] Cogent Steel described the Swedish producer as reducing capacity in 2013 in response to lower global demand for Swedish NOES. Prehearing brief of Cogent Steel, p. 27.

[31] Conference transcript, pp. 158-59 (Harper). ***.

Supply constraints

*** reported having to delay shipments in 2012 due to ***. Other than this issue, no importer of Swedish NOES reported using allocation limits in its contracts for sales of NOES.

Subject imports from Taiwan

Based on available information, the Taiwan NOES producer has the ability to respond to changes in demand with large changes in the quantity of shipments of NOES to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the *** and the existence of large alternate markets.

Industry capacity

At the conference, petitioner described Taiwan producer China Steel as having begun capacity expansions at its NOES production facility.[32] China Steel reported *** capacity over 2011 to 2013, ***. China Steel also reported capacity utilization that was over *** percent from 2011-13.

Alternative markets

China Steel's exports to third-country markets rose from over *** tons in 2011 to over *** tons in 2013, approximately *** of its shipments.

Inventory levels

Inventories as a percent of shipments fell from over *** percent in 2011 to under *** percent in 2013.

Production alternatives

The Taiwan producer *** to produce other products using the same equipment used in producing NOES.

Supply constraints

*** described its *** period from customer ordering to delivery of product from China Steel as a difficulty in supplying NOES. No importer of NOES from Taiwan reported using allocation limits in its contracts for sales of NOES.

[32] Conference transcript, p. 46 (Jones).

Nonsubject imports

Imports of NOES from nonsubject countries were less than *** percent of U.S. NOES consumption over 2011-13, but rose to over *** percent of U.S. consumption in the first half of 2014. The largest sources of nonsubject imports during 2011-13 were Austria and France. See Part VII for more information on nonsubject imports.

General supply constraints

Supply constraints specific to particular suppliers are discussed above in each supply section. More broadly, when asked if any firm had refused or declined to supply NOES since January 1, 2011 (including being unable to meet timely shipment requirements), eleven purchasers answered no, and nine answered yes. Four purchasers named AK Steel as doing so (discussed above), and three named importers generally, noting that since the preliminary determinations in these investigations, importers are less willing to supply product. *** described having delivery issues with importer ***.[33]

Additionally, 13 purchasers stated that their firms had not experienced extended lead times for NOES since January 1, 2011, but seven stated that they had. *** stated that it had experienced 2-4 week delays with all three of its suppliers. *** stated that AK Steel's lead times had grown by 30-40 percent recently. *** stated the recent trade remedy investigations on NOES had extended lead times and resulted in price increases of over 18 percent.

New suppliers

Sixteen of 20 purchasers were not aware of any new NOES suppliers since January 1, 2011. Four were. Among those four, *** noting that it had received samples from China and Brazil. *** stated that firms in China, India, and Vietnam have begun producing NOES from purchased slabs. Petitioner also described several large NOES production facilities being built by foreign-owned NOES producers in India and Vietnam, and forecast that production from these facilities would place competitive pressure on existing subject-country producers.[34] Japanese respondents described this new capacity as mostly product with less than one percent silicon content, a nonsubject product.[35]

Factors affecting supply

Most responding market participants had not observed any changes in the product range, mix, or marketing of NOES since January 1, 2011, although a few reported producing

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[33] Staff sent a purchaser's questionnaire to ***, but has not received a response.

[34] Hearing transcript, p. 56 (Jones), petitioner's postconference brief, pp. 45-46, and petitioner's prehearing brief, pp. 65-67.

[35] Japanese respondents' posthearing brief, p. 6.

higher-grade NOES in response to demand. *** and 17 importers indicated that there had not been any changes. Six importers also described changes in product range, citing supplier responses to increased demand for electric vehicle motors and higher-grade NOES requirements at end users, elaborating that higher-grade meant thinner gauges and/or higher silicon content. *** elaborated that higher-grades of NOES result in less energy loss, but also stated that AK Steel "prefers" not to produce some higher-grade material. Three importers of *** NOES described new higher-grade products from *** entering the market.

Counsel for AK Steel noted that in July 2013, Brazil imposed antidumping duties on NOES from China, Korea, and Taiwan. It stated that Brazil's imports of NOES from those countries before the duties were higher than all U.S. NOES imports.[36] In August 2014, Brazilian authorities reportedly lowered the antidumping duties on these three countries to zero for the first 45,000 tons of NOES imported into Brazil before August 15, 2014.[37]

U.S. demand

Based on available information, the overall demand for NOES is likely to experience moderate changes in response to changes in price. NOES represents a somewhat to very substantial cost share of downstream products. There are substitute products, though their ability to substitute for NOES may be limited.

End uses and cost share

U.S. demand for NOES depends on the demand for U.S.-produced downstream products. *** described the end uses of NOES as motors, and estimated that NOES accounts for 10-30 percent of the cost of motors.[38] Importers reported motors, generators, and transformers as end uses, as well as reporting slit coils of NOES as an end use. Some importers did not know the share of the costs of the final products accounted for by NOES, but others estimated 15-65 percent of the costs of a motor, 25-40 percent of the cost of a transformer, and 20-40 percent of the cost of a generator. In response to lost sales and lost revenue allegations (see Part V), several NOES purchasers stated that increased NOES costs could make their products uncompetitive, implying that NOES' costs are an important portion of their overall costs. Similarly, at the hearing, Toyota Tsusho described the market for motors as internationally competitive, and stated that another motor manufacturer had moved its production facilities to Mexico in response to the petition in these investigations.[39]

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[36] Conference transcript, p. 11 (Dorn).

[37] Hearing transcript, pp. 56-58 (Jones).

[38] In the preliminary phase of these investigations, the petitioner stated that new Department of Energy efficiency requirements for small transformers will go into effect in January 2016, and that these requirements will effectively eliminate NOES from that demand segment. Petitioner described this segment as not a "major part" of its business. Conference transcript, pp. 26 and 51 (Pfieffer).

[39] Hearing transcript, p. 151 (Becker).

Purchasers reported that they purchased NOES for use in making laminations, motor cores, motors, ignition coils, transformers, and generators.[40] Purchasers reported a wide variety of cost shares for NOES in these final products, likely reflecting in part the stage of downstream manufacturing of the particular purchaser. Purchasers reported 18 products for which they estimated that NOES was 1 to 45 percent of the cost of the product they produced, and 16 products for which NOES was 50 to 97 percent of the cost of the product they produced. Purchaser American Mitsuba described its customers in the auto parts sector as particularly demanding in terms of the quality of NOES, to ensure that crucial automotive safety components do not fail.[41]

Six purchasers reported that demand for the products that they produced had increased since January 1, 2011, and seven reported that such demand had fluctuated. Additionally, three purchasers reported that demand for their end use product had decreased, and one reported no change. *** described *** demand in *** as being particularly strong and depleting its own inventories. Thirteen purchasers reported that changes in demand for their end use product had affected their own demand for NOES, while four reported that they had not. Several purchasers explained that as production of their own products changes, so did their demand for the NOES required in those products, although *** added that their product mix can also affect their demand for NOES.

Business cycles

Most producers and importers did not report distinctive business cycles nor changing business cycles for NOES. Those that did see distinctive cycles often described increased demand for higher-grade NOES or purchasers moving their production offshore. At the hearing, the petitioner described demand for NOES as following GDP, industrial production, mining activity, and locomotive production.[42] Importers described industrial production as well as automotive parts and transformers as end uses.[43]

***, 16 of 23 responding importers, and 18 of 19 responding purchasers indicated that the NOES market was not subject to any distinct business cycles or conditions of competition. Seven importers described distinct business cycles or conditions of competition in

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[40] Siemens Industry described purchasing German NOES because CDW was a source of "high permeability" NOES that AK Steel does not produce. Prehearing statement of Siemens Industry, p. 2. ***. AK Steel stated that all of its NOES are high permeability products. Hearing transcript, pp. 89-90 (Schoen).

[41] Hearing transcript, p. 149 (Stevens). Purchasers also described automotive parts makers as seeking "continuous improvement" from their suppliers. Hearing transcript, p. 180 (Stephens).

[42] Hearing transcript, p. 108 (Pfeiffer). GDP and industrial production (including overall as well as for rail products and mining) increased over January 2011 through June 2014; however, U.S. consumption of NOES fell. See http://www.federalreserve.gov/Releases/g17/ipdisk/ip_sa.txt (October 9, 2014) and GDP data from www.bea.gov .

[43] See, for example, hearing transcript pp. 149 (Stevens), 150 (Becker), and 226 (Beuc).

the NOES market. Among those importers, *** indicated that its customers that participate in the agricultural market have seasonal demand. *** described the second quarter of a year as a peak due to demand for air conditioning units. Four importers stated that substitutability with CRML was a distinctive condition of competition in the NOES market, while *** listed conditions in the housing market and electrical grid as distinctive demand factors for NOES. *** described the increased capacity of Chinese mills as a distinctive condition of competition for NOES.

Among purchasers, *** described demand from agricultural irrigation customers as increasing in the spring, motivating it to begin building inventory in January, depending on weather conditions. *** stated that trade actions involving GOES had an impact on conditions of competition for NOES, as it described AK Steel as responding to conditions in the GOES market when making production decisions, "regardless of … impact to (NOES) customers." *** stated that new Federal regulations would force U.S. manufacturers to use higher grades of NOES by 2016.

Six importers indicated that there had not been any changes in the business cycles or conditions of competition for NOES since January 1, 2011. Two importers indicated that there had been changes, with *** describing increased production of CRML as putting pressure on NOES. Purchaser *** described trade remedy cases filed in the United States and China on GOES, the threat of strikes at AK Steel, allocations by AK Steel, and the lack of extra capacity at AK Steel, as forcing it to seek import supply sources.

Apparent consumption

Apparent U.S. consumption of NOES decreased over *** percent from 2011 to 2013, but was almost *** percent higher in January-June 2014 than January-June 2013.

Demand trends

The U.S. producer described *** U.S. demand for NOES since 2011, while importers offered a wide range of answers (table II-3). The petitioner described NOES demand as following general U.S. economic growth as well as trends in certain specific end use markets such as large motors for mining equipment and locomotives.[44] Purchaser Lamination Specialties stated that the duties imposed in these investigations could result in NOES users moving production to Canada and Mexico, but purchaser Emerson noted that new Federal efficiency guidelines that take effect in 2016 will increase demand for NOES.[45]

[44] Petitioner's postconference brief, responses to staff questions, p. 6.
[45] Hearing transcript, p. 126 (Stewart), p. 128 (Beuc), and p. 183 (Estes).

Table II-3
NOES: Firms' responses regarding U.S. demand, by type of responding firm

Item	Increase	No change	Decrease	Fluctuate
	(Number of firms reporting)			
Demand in the United States				
U.S. producer	***	***	***	***
Importers	6	7	4	4
Purchasers	6	2	5	4
Demand outside the United States				
U.S. producer	***	***	***	***
Importers	4	6	0	7
Purchasers	5	1	1	1

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

Demand within the United States

*** indicated that U.S. demand had decreased since January 1, 2011 due to lower demand for motors. In the preliminary phase, AK Steel specified demand decreases from the mining, locomotive, and industrial segments. It attributed lower demand from those segments to macroeconomic conditions. AK Steel placed emphasis on lower demand from the mining segment (in which NOES is used in motors in mining equipment) and the locomotive segment as drivers for lower NOES demand, and forecast no improvement in this area.[46]

Among importers, those describing increased U.S. demand attributed the increase to recovery from the recession in 2009 (an increase which two importers described as "slight") and to new production of electric vehicles. Chinese producer Baosteel indicated that it anticipates higher U.S. demand for NOES, especially for those grades with lower core loss and/or thinner gauges.[47] Those describing decreased demand attributed the decrease to weakness in the broader economy or U.S. motor production moving overseas. At the staff conference, Metallia also described a U.S. producer exiting the U.S. industry in 2004, in part because downstream customers were moving production to Asia and Mexico.[48] Similarly, China Steel named *** as downstream producers that had exited the U.S. market and opened plants in China and/or Mexico. It continued that, with copper and aluminum prices the same globally, many NOES users compete based on the cost of steel.[49] *** stated that stricter energy regulations had led to some parts that were previously made from NOES now being made from GOES.

Among purchasers, those reporting increased U.S. demand attributed the increase to general economic improvement, new motor designs, electric vehicles, and government regulations requiring higher motor efficiency. *** added that global competition drives demand for higher quality and grades that are sometimes not provided in the United States. Those purchasers reporting decreased U.S. demand cited the U.S. economy, falling GOES prices

[46] Conference transcript, p. 42 (Jones) and petitioner's posthearing brief, p. 18.
[47] CISA's postconference brief, exhibit 1.
[48] Conference transcript, p. 97 (Weinstein).
[49] China Steel's Postconference brief, p. 2.

(leading to substitution away from NOES) and the movement of motor production to Germany and Asia.

Demand outside the United States

*** indicated that foreign demand had been *** since 2011 due to ***. No importers, however, reported decreased demand for NOES outside the United States. Several cited increased demand in Asia, China, India, and/or the developing world. *** which reported increased demand in some developing regions of the world, stated that demand in Europe has been "soft." *** described global NOES demand increasing due to the increased production of electric vehicles. At the conference, Metallia noted that an important element of global demand for NOES is compressors for refrigerators, and as refrigerator use has expanded in the developing world, so has the use of NOES.[50]

Among purchasers, those reporting increased foreign demand for NOES cited increasing consumption of motors in the developing world and the shift of production facilities from the United States to Germany. ***, which reported decreasing foreign demand, described the falling global prices of GOES as leading to substitution of that product for NOES.

Substitute products

Questionnaire respondents differed over to what extent there are suitable substitutes for NOES, with a majority stating that there were no substitutes, but others listing CRML and GOES. *** and 11 importers reported that there were no substitutes. In contrast, eight importers did name substitutes. Eight named CRML as a substitute in transformers and motors. Five named GOES and one named thin-gauge NOES as a substitute in motors and transformers. One named cold rolled steel as a substitute in less complex uses. *** described CRML as a substitute for NOES except for the highest NOES grades, and stated that some of its purchasers had told it that they switch from NOES to CRML if NOES prices rise. *** continued that for some high-grade NOES applications, GOES may be a substitute.

Eight importers that named CRML or GOES as a substitute stated that changes in substitute prices had affected NOES prices, with several stating that CRML substitutes for lower-grade NOES when NOES' prices rise. *** stated that several U.S. producers make CRML that, once annealed at the purchaser or by a third party, competes directly with NOES. However, two of the importers that named substitutes stated that changes in the price of substitutes had not affected the price of NOES. *** noted that thin-gauge NOES (of less than 0.2 mm) is used for enhanced machine performance, and is much more expensive than NOES.

Fourteen purchasers stated that there were no substitutes for NOES, but five stated that there were, naming CRML (five purchasers) and GOES (one purchaser).[51] Purchasers described

[50] Conference transcript, p. 135 (Weinstein).

[51] Those 14 purchasers are ***. ***. Petitioner and respondents disagreed over how to interpret these responses. See petitioner's posthearing brief, answers to Commission questions, p. 16 and exhibit

(*continued*...)

these products as substitutes for NOES in motors, transformers, or laminations. Two of the purchasers naming substitutes stated that changes in the price of the substitute had not affected the price for NOES, but four stated that they had. Among these four, *** described CRML as less expensive than NOES, but requiring annealing.[52] *** indicated that less-expensive CRML had reduced demand for NOES. *** stated that since January 2011, three domestic producers have become sources of high-grade CRML that can substitute for NOES at most purchasers. *** also described copper as a potential substitute for NOES in larger and more advanced motors, and aluminum in smaller and simpler motors. *** described GOES and NOES as mostly substitutable for transformers, with price as the determining factor.

Parties presented different views of how much CRML can substitute for NOES. Petitioner described NOES and CRML as made using different production methods, having different surfaces, and used in different applications. It stated that, because CRML is "far less" efficient than NOES, CRML is often used in low voltage motors (like those in household devices and tools) while NOES is used in higher voltage motors (like those in locomotives, aircraft, and industrial uses).[53] Petitioner also described switching from NOES to CRML as having occurred "decades ago," and added that it was not aware of any such switching in since 2011, or any of its customers qualifying CRML products to compete with AK Steel's CRML products.[54] On the other hand, respondents described CRML as a lower-cost substitute for many grades of NOES,[55] with Nidec estimating that high-grade CRML could substitute for 60 to 70 percent of NOES used in the U.S. market.[56] China Steel indicated that CRML began competing with NOES approximately 15 years ago, and the competition has "accelerated" more recently.[57] Purchasers also testified that substitution of CRML for NOES has continued since 2011.[58] See Part I, Appendix D, and Appendix E for more on NOES and CRML. Joint respondents also described imported laminations (made from NOES or CRML) as substitutes for NOES.[59]

(…*continued*)
14, and joint respondents' posthearing brief, answers to Commission questions, p. 14 and exhibits 7 and 8.

[52] ***.

[53] Petitioner's prehearing brief, p. 8.

[54] Hearing transcript, pp. 34 (Pfeiffer) and 78 (Dorn). See also petitioner's posthearing brief, p. 14, and answers to Commission questions, p. 14.

[55] Joint respondents' prehearing brief, p. 54, hearing transcript, p. 171 (Porter), and joint respondents' posthearing brief, answers to Commission questions, pp. 13-14 and exhibits 7-9. Joint respondents also described CRML substitution for NOES as a North American phenomenon attributable to the lower cost of natural gas in North America than in the rest of the world. Joint respondents' posthearing brief, answers to Commission questions, pp. 13-14.

[56] Hearing transcript, p. 173 (Weisheit). While Metallia was reluctant to make an exact estimate due to lack of documentation, it stated that CRML could have taken between 15 and 30 percent of the U.S. market for NOES. Conference transcript, pp. 147-148 (Weinstein), 149 (Mendoza).

[57] China Steel's postconference brief, p. 2.

[58] Additionally, Nidec described substitution as involving some adjustments to the motor components. Hearing transcript, pp. 174-177 (Beuc, Weisheit) and pp. 228-229 (Stewart).

[59] Joint respondents' prehearing brief, pp. 13 and 55.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported NOES depends upon such factors as relative prices, quality, and conditions of sale. Producers and importers disagreed on the interchangeability of U.S. and subject NOES.[60] Purchasers usually described U.S. and subject product as at least frequently interchangeable, but often noted particular products that they stated were not available from the U.S. producer. Based on these and other available data, staff believes that there is moderate-to-high degree of substitutability between domestically-produced NOES and NOES imported from subject sources.

Lead times

NOES is primarily produced-to-order. *** reported that *** percent of *** 2013 sales of NOES were produced-to-order, with a typical lead time of *** for the period 2011-2013 (inclusive). ***. *** added that *** occasions since January 2011 in which lead times were extended beyond these typical times.

Among importers, 71.3 percent of all importers' 2013 sales were produced-to-order, with 28.7 percent from the importers' U.S. inventory. Importers of NOES from China, Korea, and Taiwan had at least *** percent of their sales produced-to-order, and importers of NOES from Japan had almost *** percent of their sales produced-to-order. On the other hand, importers of NOES from Sweden had over *** percent of their sales from U.S. inventory, and importers of NOES from Germany had over *** percent of their sales from U.S. inventory.

Most importers reported lead times of approximately 60-180 days for product produced-to-order and 1-60 days for product from inventory over 2011-2013. No importer reported a change in lead times over 2011-2013. Sixteen importers indicated that they had not extended lead times beyond their normal range since January 1, 2011, compared with five that did. *** elaborated that mill delays had caused these extended lead times. *** explained that ***.[61]

Knowledge of country sources

Sixteen purchasers indicated they had marketing/pricing knowledge of domestic NOES, 7 of Chinese product, 9 of German product, 12 of Japanese product, 8 of Korean product, 7 of Swedish product, 9 of Taiwan product, and 6 of product from other countries, including Austria, Belgium, Brazil, France, Romania, Russia, and Slovakia.

As shown in table II-4, most purchasers and their customers only sometimes or never make purchasing decisions based on the producer or country of origin of NOES. When firms were asked why they might base decisions on producer, *** described purchasing from foreign sources as part of a larger *** purchasing strategy. American Mitsuba noted that the product it

[60] In addition to the questionnaire data summarized below, see also, for example, hearing transcript, p. 29 (Pfeiffer).

[61] See also hearing transcript at ***.

produces was designed in Japan to be made with some Japanese parts, and so it stated that it needed Japanese NOES to meet design standards. It added that AK Steel's material would cause a decline in its motors' performance.[62] *** described purchasing from import sources because U.S. material was either unavailable or not of the same quality. Other purchasers described purchasing from a specific producer because that producer was approved, or for reasons of quality, price, service, and consistency. *** stated that not all higher grades of NOES are produced nor designed in the United States, but they are produced in Japan, Germany, and Sweden.

When asked why their customer might make decisions based on producer, several purchasers noted that their customers, including automotive manufacturers, sometimes had developed a product with a particular steel mill and so specified a particular mill as the source. When asked why they or their customers might make a purchasing decision on the basis of country of origin, responding purchasers cited characteristics of NOES from a particular country, or regulations requiring domestic purchases.

Table II-4
NOES: Purchasing decisions based on producer and country of origin, by number of reporting firms

Purchaser/Customer Decision	Always	Usually	Sometimes	Never
Purchaser makes decision based on producer	5	4	5	7
Purchaser's customers make decision based on producer	1	3	4	9
Purchaser makes decision based on country	2	1	4	13
Purchaser's customers make decision based on country	1	0	6	11

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

Factors affecting purchasing decisions

Firms reported that the three factors most often considered in their purchasing decisions for NOES were quality, price/cost, and availability, as shown in table II-5.

[62] Hearing transcript, p. 145 (Stevens).

Table II-5
NOES: Ranking of factors used in purchasing decisions as reported by U.S. purchasers, by number of reporting firms

Factor	First	Second	Third	Total
Quality	10	3	4	17
Price/cost[1]	3	7	5	15
Ability to supply product range	1	1	0	2
Long-term relationship	1	0	1	2
Credit	1	0	0	1
Product qualification	1	0	0	1
Customer requirement	1	0	0	1
Lead time and ability to meet	1	0	0	1
Technical requirements	1	0	0	1
Availability	0	3	4	7
Logistics	0	2	0	2
Ability to meet administrative requirements	0	1	0	1
Service	0	1	0	1
Supply chain	0	1	0	1
Supplier's capability	0	1	0	1
Customer requirement	1	0	0	1

[1] One purchaser named cost as its second factor, and two naming cost as their third factor, described this factor as "cost" or "delivered cost."

Note.-- Other factors listed include credit terms and pricing tied to raw material movements.

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

When asked to describe what factors they considered when determining the quality of NOES, purchasers named core loss, consistency, hardness, surface conditions, shape, gauge, width, and flatness. Additionally, *** described having their own material specifications involving coating, lack of defects, and thickness, with *** adding that domestic suppliers do not make NOES ***.

The majority of purchasers (14 of 20) reported that they only sometimes (8 purchasers) or never (6 purchasers) purchase the lowest-priced NOES that is offered. Five purchasers answered that they usually purchase the lowest-priced NOES, and one reported that it always does.

Purchasers were asked if either they or their customers ever specifically ordered NOES from one country in particular over other sources of supply. Twelve answered no, but eight answered yes. *** ordered from the United States due to legal mandates and customer requirements, while *** did so due to shorter lead times. *** stated that it ordered a product only available from Germany, as did *** regarding a product from Sweden. Four purchasers described purchasing from Japan for reasons of design location, customer approval, sole source, finance terms, and quality. *** indicated that it purchased from China, Japan, and Taiwan for reasons of price.

When asked if they purchased NOES from one source although a comparable product was available at a lower price from another source, nine purchasers reported that they had, offering reasons that included maintaining alternative sources of supply, working with suppliers that can meet government regulations, receiving assistance from the NOES supplier in product

design, mitigating supply-chain risk by purchasing from approved suppliers, quality, logistics, and availability.

Thirteen purchasers reported that certain types of product were only available from a single source, with twelve of those identifying products that they described as not available from any U.S. supplier. Products from China, Germany, Japan, Korea, Taiwan, Sweden, and nonsubject countries (e.g., Austria and France) were listed. As examples, *** described Germany, Japan, and Sweden as countries leading the development of size ranges, and *** stated that "most" foreign suppliers can make wider ranges than AK Steel can. Four stated that there were no types of product only available from a single source.

Seventeen purchasers reported that having multiple source of NOES supply was important, while three stated that it was not. Those describing multiple sources as important usually described risk mitigation as the reason for the importance, with two purchasers mentioning price as a reason for wanting multiple sources of supply. *** clarified that it wanted multiple approved suppliers, but not necessarily multiple suppliers.

When asked why their firm had purchased NOES from only one country, eight purchasers offered explanations. *** cited price and proximity to its supplier.[63] *** reported that it bought only from *** to ensure performance in the final end use. *** stated that it purchased from *** due to a relationship between ***. *** indicated that its customers approve the material source. Curtiss-Wright stated that Sweden is the only source of NOES coated to specifications that are required by its customers such as the U.S. Navy and the commercial nuclear industry. It added that AK Steel has not been willing to make such a product since 2005, nor would it accept government contractual clauses that are mandatory for certain government contracts that Curtiss-Wright supplies.[64] *** also described purchasing only from ***, and stated that its ***
*** had ***.[65] On the other hand, *** indicated that it purchased only U.S. material due to ***. *** reported purchasing only from *** for reasons including ***. It added that the U.S. producer does not produce NOES to the quality it requires.

Purchasers were also asked why their firm purchased imported NOES if it had also purchased from a U.S. producer. Most responses generally focused on ensuring an alternative supply, obtaining lower cost material, or obtaining a particular product allegedly not available from the U.S. producer. *** answered that it purchased imports for reasons of price and availability. *** stated that *** purchased imported NOES to have alternative supply sources, as there is only one U.S. supplier. *** indicated that the U.S. industry cannot always manufacture the required grades and conditions of NOES, and added that to compete against its own foreign competitors, it needs to have the lowest raw material prices possible. *** described imported NOES as superior to U.S. NOES in terms of magnetics, shapes, coatings, and wider widths. *** described purchasing imported NOES for reduced risk of supply interruptions,

[63] ***.

[64] Curtiss-Wright added that as of May 2014, AK Steel was still unwilling to entertain talks with it, because its requested volumes were too small. Prehearing statement of Curtiss Wright, pp. 1-2.

[65] In its purchasers' questionnaire, *** reported that ***.

for lower costs, and at its own customers' requests. *** stated that it purchased imported NOES for reasons of quality, availability, price, and having a contingency supply source. *** answered that some of the imported NOES it purchased was products not produced in the United States, while some was lower cost material than that produced in the United States. *** explained that most of its purchases are from domestic distributors and/or fabricators, and those firms purchase NOES from both domestic and imported supply sources.

Quality complaints

Producers and importers were asked if their firms had received complaints regarding the quality of the NOES sold by their firms. ***. AK Steel *** stated that it had been rated number one or two among NOES suppliers (including import sources) by Jacobson Associates, which surveys purchasers of NOES,[66] and that all its NOES meet the IEC specifications for high permeability, as well as any specified ASTM specifications.[67] [68] However, at the hearing, several purchasers noted quality complaints with AK Steel's NOES, including coatings that turn black and chalky (Lamination Specialties),[69] too much "wave" resulting in rejection (Lamination Specialties),[70] performance and reliability issues in supplying higher-grade NOES (Emerson),[71] not submitting a bid that covered sizing, delivery, and just-in-time delivery (Nidec),[72] not supplying product of the same quality and consistency as that supplied by JFE Shoji,[73] and not

[66] Hearing transcript, p. 25 (Petersen). See also petitioner's posthearing brief, answers to Commission questions, pp. 28-29 and exhibits 8-9.

[67] The IEC is the International Electrotechnical Commission, and ASTM is the American Society for Testing and Materials. Both set standards for NOES, among other products.

[68] Parties also disagreed over whether AK Steel offers NOES in coils up to 48 inches wide, with AK Steel stating that it did, and Lamination Specialties stated that it did not. Hearing transcript, p. 30 (Pfeiffer) and pp. 125 and 192 (Stewart). Additionally, importer CDW stated that AK Steel does not actually make high permeability steel that meets Siemens' specifications. Hearing transcript, p. 155 (Gierse).

[69] Hearing transcript, p. 124 (Stewart). See also joint respondents' posthearing brief, exhibit 6, and AK Steel's response at petitioner's posthearing brief, answers to Commission questions, pp. 47-48.

[70] Hearing transcript, p. 126 (Stewart).

[71] Hearing transcript, p. 130 (Estes) and p. 168 (Beuc). See also joint respondents' posthearing brief, exhibit 8, and AK Steel's response at petitioner's posthearing brief, answers to Commission questions, p. 45.

[72] Hearing transcript, p. 133 and p. 169 (Weisheit). See also joint respondents' posthearing brief, exhibit 6, Cogent Power's posthearing brief, exhibit S-3,and AK Steel's response at petitioner's posthearing brief, answers to Commission questions, pp. 30-34.

[73] Hearing transcript, p. 150 (Becker). See also joint respondents' posthearing brief, exhibit 2, and AK Steel's response at petitioner's posthearing brief, answers to Commission questions, p. 43.

supplying product that meets Siemens Energy's qualifications, is over 48 inches, or has special coatings.[74]

Among importers, 18 stated that they had not received any complaints. In contrast, five had received complaints, with ***. ***. ***.

Importance of specified purchase factors

Purchasers were asked to rate the importance of 15 factors in their purchasing decisions (table II-6). The factors rated as "very important" by at least 18 responding purchasers were availability, product consistency, quality meets industry standards, and reliability of supply.

Table II-6
NOES: Importance of purchase factors, as reported by U.S. purchasers, by number of responding firms

Factor	Very important	Somewhat important	Not important
Availability	18	2	0
Delivery terms	8	10	2
Delivery time	14	6	0
Discounts offered	7	7	6
Extension of credit	8	5	7
Minimum quantity requirements	5	11	4
Packaging	8	11	0
Price	15	5	0
Product consistency	20	0	0
Product range	9	9	2
Quality exceeds industry standards	12	6	2
Quality meets industry standards	18	1	0
Reliability of supply	20	0	0
Technical support/service	13	6	1
U.S. transportation costs	9	11	0

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

Additional sales items

Producers and importers were asked if they offered their customers the following additional sales items: cutting-to-length; blanking; inventory management; delivered items; and extended payment terms to U.S. manufacturers. As can be seen in table II-7, *** responded that it offered ***. Importers were not likely to offer *** but often did report offering the other items.

[74] Hearing transcript, p. 154 (Schmidtz). See also CDW's posthearing brief, answers to Commission questions pp. 2-7 and exhibit 3, and AK Steel's response at petitioner's posthearing brief, answers to Commission questions, pp. 35-39 and exhibits 20, 22, and 23.

Table II-7
NOES: Provision of additional sales items, as reported by the U.S. producer and importers

Item	United States	China	Germany	Japan	Korea	Sweden	Taiwan
	Share of 2013 shipments (*percent)*						
Cut-to-length for customer	0.0	0.0	0.0	0.2	0.0	7.8	0.3
Blanking	0.0	0.0	0.0	0.0	0.0	0.0	0.3
Inventory management	15.0	92.0	55.9	48.6	100.0	75.1	2.6
Delivered items	0.0	95.1	99.7	29.9	100.0	97.5	1.7
Extended payment terms to U.S. manufacturers	0.0	96.8	0.0	11.3	0.0	75.1	97.6

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

Purchasers were asked whether a list of additional sales items that might be offered by NOES suppliers was important to their firms, and from which countries each item is available. Their answers are summarized in table II-8 below. Purchaser *** often indicated that there was no U.S. supply of an item, while purchasers *** often indicated that there was. ***, which indicated that all the items were important in its purchases, stated that each item was available from either most or all suppliers.

Table II-8
NOES: Importance of additional sales items, as reported by U.S. purchasers, by number of responding firms

Item	Not important	Yes important	Countries of availability (as listed by at least one purchaser)
Cut-to-length for customer	16	4	Japan, "All steel mills," United States, "All except USA",[1]
Blanking	17	3	Japan
Inventory management	9	11	Germany, Japan, Korea, Sweden, Taiwan, United States, nonsubject countries, "All except USA"[1]
Delivered items	9	11	China, Germany, Japan, Korea, Sweden, Taiwan, United States, nonsubject countries, "All except USA"[1]
Extended payment terms to U.S. manufacturers	9	11	Germany, Japan, Korea, Sweden, Taiwan, United States, nonsubject countries, "All except USA"[1]

[1] In these instances, at least one purchaser indicated that U.S. suppliers offered the item, but at least one other U.S. purchaser indicated that all suppliers except U.S. suppliers offered the item.

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

Supplier certification

Sixteen of 20 purchasers require that the NOES they purchase be certified. Ten purchasers' qualification process takes 30-180 days, but five purchasers reported that their process could take a year or more. Certification processes often involve examining the product for quality, meeting specifications, and performing in sample runs, but can also include audits

of supplier capabilities. [75] Purchaser American Mitsuba described using the production part approval process (PPAP), which it described as "prevalent" in the auto parts industry. It stated that under PPAP, it must specify the NOES source it uses to its customers, and that once that source is approved, it rarely changes sources during the production of a particular motor.[76]

Seventeen purchasers reported that no domestic or foreign producer had failed in its attempt to qualify its NOES, or had lost its approved status since January 1, 2011. However, three purchasers did report such a failure or loss. Two of these purchasers stated that AK Steel had failed to obtain certification. *** reported that *** failed to ***, and *** reported that *** failed to ***. *** indicated that *** had lost its qualification while *** had failed to qualify. Additionally, *** stated that it had not attempted to qualify any other suppliers because it was only aware of the product it purchases being available from Sweden.

Purchasers were also asked if they had experienced any quality issues with any NOES supplier beyond what they consider normal since January 1, 2011. Eighteen purchasers stated that they had not, but two reported such issues. *** stated that *** had had ***. *** stated that product from *** had provided NOES with ***.

Changes in purchasing patterns

Purchasers were asked about changes in their purchasing patterns from different sources since 2011 (table II-9). Purchasers reporting fluctuating or decreased demand for U.S. product described their pattern as following demand from their customers. *** described fluctuating purchasing from multiple sources, depending on not only demand but also lead time, quality, and availability. Several purchasers described testing trial amounts when describing changes in their purchasing pattern for NOES from China or Germany. *** indicated that it purchased less NOES from Germany due to pricing issues, while *** indicated that it had reduced purchases from Germany because ***.[77] In explaining its constant purchases from Germany, *** stated that it did so because of ***. With regard to constant or increased purchasing of NOES from Japan, purchasers cited trends in demand for motors, production of new downstream products (such as ***), and qualification of new suppliers. *** reported increased purchases from *** due to demand from a new customer and an inability to obtain some grades from a U.S. producer. *** reported decreased purchases from Korea due to disqualification of Korean product. Regarding Swedish product, *** cited growing demand along with its ***, while *** described decreased purchases of Swedish NOES due to ***. For Taiwan NOES, *** reported increased purchases due to demand from a new customer, and *** reported purchasing more Taiwan NOES after qualification of Taiwan product. *** reported fluctuating purchases of NOES due to quality issues and competitive pricing.

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[75] Joint respondents stated that once a product is qualified, purchasers will often continue with purchases from the supplier of that product for the 3-5 year duration of a downstream product life cycle. Joint respondents' prehearing brief, p. 64.

[76] Hearing transcript, p. 146 (Stevens).

[77] ***.

Table II-9
NOES: Changes in purchase patterns from U.S., subject, and nonsubject countries since 2011

Source of purchases	Did not purchase	Decreased	Increased	Constant	Fluctuated
United States	9	2	0	3	6
China	12	0	0	0	5
Germany	10	3	0	1	3
Japan	5	3	2	3	4
Korea	13	1	1	0	2
Sweden	13	1	1	1	1
Taiwan	11	0	2	0	2
All other	9	1	3	0	4

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

Eleven purchasers had not changed suppliers since January 1, 2011. However, nine responding purchasers reported that they had. Among firms that purchasers reported dropping, AK Steel was dropped for reasons of price and quality, POSCO was dropped for reasons of losing qualification, Mitsui was dropped for reasons of price, and Surahammar had its relative prices reduced due to the antidumping duty. Among sources from which purchasers reported increasing purchases, supply from Taiwan was added due to quality and price, and supply from Metallia was added after it was qualified. *** stated that it changed suppliers based on performance, quality, and total delivered price. ***.[78]

Importance of purchasing domestic product

Thirteen purchasers reported that purchasing U.S.-produced product was not a requirement at all in their purchasing decisions, and four more reported that it was not a requirement for a majority of their purchases. Three reported that domestic product was required by law (for 3 to 15 percent of their purchases), five reported it was required by their customers (for 5 to 67 percent of their purchases), and one reported that it required domestic product because of fluctuations in its customers' demand.

Comparisons of domestic products, subject imports, and nonsubject imports

Purchasers were asked a number of questions comparing NOES produced in the United States, subject countries, and nonsubject countries. First, purchasers were asked for a country-by-country comparison on the same 15 factors (table II-6) for which they were asked to rate the importance.

As can be seen in table II-10, most purchasers reported that U.S. and subject product were comparable on most factors. However, a majority of responding purchasers indicated that U.S. product was inferior on price to all subject countries except Sweden. Among other exceptions to a majority of responding purchasers describing U.S. and subject products as

[78] See also ***.

comparable, a majority of responding purchasers described subject product from all countries (except Korea) as superior to U.S. product in product range. Similarly, a majority of purchasers described product from all subject countries but China as superior to U.S. product in terms of quality exceeding industry standards.[79]

Table II-10
Product: Purchasers' comparisons between U.S.-produced and imported product

Factor	U.S. vs. China			U.S. vs. Germany			U.S. vs. Japan		
	S	C	I	S	C	I	S	C	I
Availability	0	5	2	0	7	2	1	8	5
Delivery terms	0	4	3	0	6	3	1	7	5
Delivery time	2	4	1	3	5	1	4	7	2
Discounts offered	0	5	2	1	7	1	1	10	2
Extension of credit	2	3	2	0	6	3	2	7	4
Minimum quantity requirements	1	6	0	1	6	2	1	10	2
Packaging	0	6	1	0	8	1	0	11	2
Price[1]	0	1	6	0	4	5	1	5	8
Product consistency	1	5	1	0	7	3	1	5	7
Product range	1	2	4	1	1	7	1	4	8
Quality exceeds industry standards	0	5	2	1	3	5	1	5	7
Quality meets industry standards	0	7	0	0	8	1	1	11	1
Reliability of supply	0	6	1	0	8	1	1	9	3
Technical support/service	1	6	0	0	7	2	0	10	3
U.S. transportation costs[1]	0	6	1	0	7	2	1	9	3
Factor	**U.S. vs. Korea**			**U.S. vs. Sweden**			**U.S. vs. Taiwan**		
	S	**C**	**I**	**S**	**C**	**I**	**S**	**C**	**I**
Availability	0	5	3	1	1	4	0	6	3
Delivery terms	0	4	4	1	4	1	0	5	4
Delivery time	3	3	2	0	5	1	3	5	1
Discounts offered	0	7	1	1	5	0	0	7	2
Extension of credit	2	2	4	0	4	2	2	3	4
Minimum quantity requirements	2	6	0	0	3	3	2	6	1
Packaging	0	7	1	0	5	2	0	6	3
Price[1]	0	1	7	0	3	2	0	2	7
Product consistency	1	6	1	0	3	3	1	6	2
Product range	0	4	4	0	2	4	1	3	5
Quality exceeds industry standards	0	4	4	1	1	4	1	3	5
Quality meets industry standards	0	7	1	0	5	1	0	9	0
Reliability of supply	0	7	1	0	4	2	0	8	1
Technical support/service	2	6	0	0	3	3	1	7	1
U.S. transportation costs[1]	0	6	2	0	5	1	0	7	2

Table continued on next page.

[79] At the hearing, counsel for respondents questioned whether the results of this table accurately reflected all conditions in the industry. Hearing transcript, pp. 165-167 (Porter, Cameron, and Planert).

Table II-10—*Continued.*
Product: Purchasers' comparisons between U.S.-produced and imported product

Factor	U.S. vs. Nonsubject countries[2]		
	S	C	I
Availability	1	6	2
Delivery terms	1	5	3
Delivery time	3	5	1
Discounts offered	1	7	1
Extension of credit	0	7	2
Minimum quantity requirements	0	9	0
Packaging	0	8	1
Price[1]	1	4	4
Product consistency	2	6	1
Product range	3	2	4
Quality exceeds industry standards	1	5	3
Quality meets industry standards	1	8	0
Reliability of supply	1	8	0
Technical support/service	1	8	0
U.S. transportation costs[1]	0	7	2

[1] A rating of superior means that price/U.S. transportation costs is generally lower. For example, if a firm reported "U.S. superior," it meant that the U.S. product was generally priced lower than the imported product.
[2] Countries specified included Austria, France, and Russia.

Note: S=first listed country's product is superior; C=both countries' products are comparable; I=first list country's product is inferior.

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

Comparison of U.S.-produced and imported product

Petitioner described NOES as competing in the U.S. market on the basis of price, with sales sometimes lost over price differences of "pennies per pound." It stated that most NOES sold in the U.S. market is warranted to meet ASTM specifications, and so is highly interchangeable among sources. [80] On the other hand, importers often described their products as not substitutable for products from AK Steel.

In order to determine whether U.S.-produced NOES can generally be used in the same applications as imports from China, Germany, Japan, Korea, Sweden, and Taiwan. The U.S. producer and importers were asked whether the products can "always," "frequently," "sometimes," or "never" be used interchangeably. As shown in table II-11, the U.S. described NOES from various sources as *** interchangeable, while importers were more likely to describe NOES from various sources as "frequently" or "sometimes" interchangeable.

As can be seen in table II-11, a majority of responding purchasers indicated that U.S. product was always or frequently interchangeable with product from all subject countries.

[80] Conference transcript, pp. 23-24 (Pfieffer).

Table II-11
NOES: Perceived interchangeability between NOES produced in the United States and in other countries, by country pair

Country pair	Number of U.S. producers reporting				Number of importers reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. subject countries:												
U.S. vs. China	***	***	***	***	0	4	6	1	1	5	2	0
U.S. vs. Germany	***	***	***	***	0	4	4	0	5	3	2	0
U.S. vs. Japan	***	***	***	***	2	4	6	2	6	4	5	1
U.S. vs. Korea	***	***	***	***	1	3	5	0	1	5	3	0
U.S. vs. Sweden	***	***	***	***	2	1	3	1	4	1	3	1
U.S. vs. Taiwan	***	***	***	***	1	2	5	0	2	6	3	0
Subject countries comparisons:												
China vs. Germany	***	***	***	***	0	2	3	0	1	5	1	0
China vs. Japan	***	***	***	***	0	4	5	1	1	5	2	1
China vs. Korea	***	***	***	***	2	3	3	0	2	6	0	0
China vs. Sweden	***	***	***	***	0	2	3	1	1	4	1	0
China vs. Taiwan	***	***	***	***	2	3	2	0	5	3	0	0
Germany vs. Japan	***	***	***	***	0	4	2	1	5	3	1	1
Germany vs. Korea	***	***	***	***	0	2	3	0	3	4	0	0
Germany vs. Sweden	***	***	***	***	0	2	3	1	4	3	0	0
Germany vs. Taiwan	***	***	***	***	0	2	3	0	2	6	0	0
Japan vs. Korea	***	***	***	***	1	3	4	1	2	5	2	1
Japan vs. Sweden	***	***	***	***	0	2	3	2	4	3	1	1
Japan vs. Taiwan	***	***	***	***	1	3	4	1	3	5	2	1
Korea vs. Sweden	***	***	***	***	0	2	3	1	1	5	1	0
Korea vs. Taiwan	***	***	***	***	2	4	2	0	3	5	1	0
Sweden vs. Taiwan	***	***	***	***	0	2	3	0	2	3	2	0
Nonsubject countries comparisons:												
U.S. vs. nonsubject	***	***	***	***	0	2	2	0	0	5	1	0
China vs. nonsubject	***	***	***	***	0	3	1	0	1	5	1	0
Germany vs. nonsubject	***	***	***	***	0	3	1	0	2	4	1	1
Japan vs. nonsubject	***	***	***	***	0	3	1	1	0	5	1	0
Korea vs. nonsubject	***	***	***	***	0	3	1	0	2	3	1	0
Sweden vs. nonsubject	***	***	***	***	0	3	1	0	0	5	1	0
Taiwan vs. nonsubject	***	***	***	***	0	3	1	1	2	4	3	0

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

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

In additional comments, importers (e.g., ***) often described products that they imported from subject sources, and that they stated that U.S. producers did not produce. *** stated that its *** NOES is DFARS compliant[81] and designed to be used by the customer without further processing, limiting its competition with other NOES. *** stated that, because the *** was developed in Japan, the NOES that the motor uses was also developed by Japanese producer *** to particular specifications, and is not interchangeable with other NOES.[82] Additionally, *** stated that Chinese NOES often has a performance equivalent to Japanese or Korean NOES, but that customers may prequalify the Chinese material. *** stated that it imports a product from Germany that matches some of the specifications of *** (see Part V), but is softer (for easier stamping), cleaner, and purer, making it less interchangeable with U.S. product. *** described some purchasers as demanding specific chemical and physical characteristics/grades that not all NOES suppliers can meet.

Among additional comments from purchasers, *** stated that there is wide variation in the technical capabilities of Chinese producers, with some, like Baoshan, Anshan, and Wuhan producing NOES that is interchangeable with German, Japanese, and Swedish product. However, it continued that other Chinese producers, like Maanshan and Tangshan, only produce lower-grade or lower-permeability NOES. *** noted that Swedish product can be high quality specialty grades, with *** adding that such product is not interchangeable with other countries' products. *** indicated that Japanese product has limited interchangeability with products from other countries, as did *** for product from Korea. *** identified the U.S. producer as not producing some types of NOES that foreign producers do.

As can be seen from table II-12, most responding purchasers reported that domestically-produced and imported product "always" or "usually" meets minimum quality specifications.

[81] DFARS stands for Defense Federal Acquisition Regulation Supplement, regulations for Department of Defense purchasing. See https://www.federalregister.gov/defense-federal-acquisition-regulation-supplement-dfars- .

[82] See also ***.

Table II-12
NOES: Ability to meet minimum quality specifications, by source and number of reporting firms[1]

Source	Always	Usually	Sometimes	Rarely or never
United States	7	4	0	4
China	5	1	2	1
Germany	7	3	0	1
Japan	16	1	0	0
Korea	5	4	0	1
Sweden	4	1	2	1
Taiwan	7	3	0	1
All other[2]	6	4	0	0

[1] Purchasers were asked how often domestically produced or imported NOES meets minimum quality specifications for their own or their customers' uses.
[2] All other includes Austria, Belgium, and France.

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

Producers and importers were also asked to assess how often differences other than price were significant in sales of NOES from the United States, subject, or nonsubject countries. As seen in table II-13, the U.S. producer often described NOES from different sources as *** different in factors other than price, while importers expressed mixed assessments of how often differences other than price were significant, but rarely described such differences as "never" significant.

A majority of purchasers indicated that factors other than price were always or frequently significant in their purchases of NOES when comparing U.S. NOES to NOES from other countries.

Table II-13
NOES: Significance of differences other than price between NOES produced in the United States and in other countries, by country pair

Country pair	Number of U.S. producers reporting				Number of importers reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. subject countries:												
U.S. vs. China	***	***	***	***	2	4	5	0	2	2	3	0
U.S. vs. Germany	***	***	***	***	2	4	1	1	4	2	2	0
U.S. vs. Japan	***	***	***	***	5	2	5	1	6	6	3	0
U.S. vs. Korea	***	***	***	***	2	4	2	1	2	3	3	0
U.S. vs. Sweden	***	***	***	***	2	2	1	2	4	3	0	0
U.S. vs. Taiwan	***	***	***	***	2	3	3	0	2	3	4	0
Subject countries comparisons:												
China vs. Germany	***	***	***	***	2	0	2	0	1	1	4	0
China vs. Japan	***	***	***	***	3	1	2	0	3	1	4	0
China vs. Korea	***	***	***	***	1	1	3	1	1	1	5	0
China vs. Sweden	***	***	***	***	2	0	1	1	2	0	3	0
China vs. Taiwan	***	***	***	***	1	1	3	0	1	0	4	2
Germany vs. Japan	***	***	***	***	3	0	1	0	3	1	3	1
Germany vs. Korea	***	***	***	***	2	0	1	1	1	2	1	2
Germany vs. Sweden	***	***	***	***	1	1	1	1	3	0	2	1
Germany vs. Taiwan	***	***	***	***	2	0	2	0	1	1	4	0
Japan vs. Korea	***	***	***	***	4	1	2	0	3	1	4	0
Japan vs. Sweden	***	***	***	***	4	0	1	0	4	0	3	0
Japan vs. Taiwan	***	***	***	***	4	1	1	1	3	1	4	0
Korea vs. Sweden	***	***	***	***	2	0	1	1	2	0	3	0
Korea vs. Taiwan	***	***	***	***	2	1	3	0	1	0	4	2
Sweden vs. Taiwan	***	***	***	***	1	0	2	0	2	0	4	0
Nonsubject countries comparisons:												
U.S. vs. nonsubject	***	***	***	***	1	1	2	0	1	0	5	0
China vs. nonsubject	***	***	***	***	1	1	1	0	2	0	4	0
Germany vs. nonsubject	***	***	***	***	1	1	1	0	4	1	3	0
Japan vs. nonsubject	***	***	***	***	2	1	2	0	1	0	5	0
Korea vs. nonsubject	***	***	***	***	1	1	2	0	3	0	3	0
Sweden vs. nonsubject	***	***	***	***	1	1	1	1	1	0	4	0
Taiwan vs. nonsubject	***	***	***	***	1	1	2	0	3	2	4	0

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

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

In additional comments, several purchasers named quality, customer service/ technical support, and lead time as important factors other than price that could affect the comparison of NOES from various sources. For example, *** stated that quality and availability are important non-price factors.

*** stated that their willingness to produce NOES products not produced by the U.S. producer, along with their long-term supply relationships, were reasons why factors other than price could be significant in sales of NOES. *** elaborated that it produces ***. *** indicated that product range, quality, and technical support are important differences in U.S. and Germany NOES, while quality, technical support, and transportation network are important in differences when comparing German NOES to that of China, Taiwan, and Korea. *** stated that, compared to AK Steel's or some other importers' product, *** NOES has more numerous options for material coatings, large slit coil width up to ***, DFARS compliance, smaller minimum production runs, and material engineering to meet a client's needs. *** stated that U.S. producers are often "very reluctant" to produce lower grades of NOES.

*** stated that Japanese mills often produce custom products while AK Steel usually supplies only what is in its catalogue. It added that there is a wider product range of foreign material than available from AK Steel, and stated that European mills are generally more able to supply thick and organic coatings than Asian mills. *** stated that the NOES used in *** has unique specifications developed by ***.[83] *** stated that, while price is a factor in NOES sales, transformer producers believe that it is more expensive to deal with "substandard" domestic material than with imported material that meets performance and quality standards. *** described Japanese NOES as performing more consistently, having lower rejection rates, and having better technical support, than U.S. product.

*** identified Japanese producers as making types or quality of NOES that other producers do not make. Similarly, *** identified Sweden as the only source for the specifications of NOES it requires. Five additional purchasers identified issues with NOES from AK Steel, including not producing all higher grades, not producing the same quality as imports from multiple countries, or not offering supply chain services. *** described quality of NOES produced outside the United States as much higher due to continuous reinvestment, continuous improvement, and the age and upkeep of equipment.

[83] See also ***.

ELASTICITY ESTIMATES

This section discusses elasticity estimates; parties were encouraged to comment on these estimates in their prehearing or posthearing briefs. None did so, but petitioner did run a COMPAS model using staff's elasticity estimates.[84]

U.S. supply elasticity

The domestic supply elasticity[85] for NOES measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of NOES. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced NOES. Analysis of these factors earlier indicates that the U.S. industry has the ability to greatly increase or decrease shipments to the U.S. market; an estimate in the range of 3 to 7 is suggested.

U.S. demand elasticity

The U.S. demand elasticity for NOES measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of NOES. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the NOES in the production of any downstream products. Based on the available information, the aggregate demand for NOES is likely to be moderately inelastic; a range of -0.75 to -0.25 is suggested.

Substitution elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[86] Product differentiation, in turn, depends upon such factors as quality (*e.g.*, chemistry, appearance, etc.) and conditions of sale (*e.g.*, availability, sales terms/ discounts/ promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced NOES and imported NOES is likely to be in the range of 2 to 4.

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[84] See petitioner's posthearing brief, p. 11 and exhibit 5.

[85] A supply function is not defined in the case of a non-competitive market.

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

PART III: U.S. PRODUCER'S 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 subsidies was presented in *Part I* of this report and information on the volume and pricing of imports of the subject merchandise is presented in *Part IV* and *Part V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire responses of AK Steel, which accounted for all of U.S. production of NOES during the period of investigation.

U.S. PRODUCER

The Commission received a U.S. producer questionnaire from AK Steel, the sole producer of NOES in the United States.[1] AK Steel, the petitioner in these investigations, is headquartered in West Chester, OH and has facilities for the production of NOES in Butler, PA and Zanesville, OH.[2] AK Steel utilizes an electric arc furnace at its facility in Butler, PA, to melt and cast cold-rolled and hot-rolled steel with the desired chemistries for the production of NOES and GOES. The finishing of the production processes for all of AK Steel's NOES takes place at its facility in Zanesville, OH, whether it is a semiprocessed or fully processed product.[3] AK Steel sells NOES in both wide coil and slit form. During the period of investigation, AK Steel reported that approximately *** percent of its sales of NOES were in wide coils, which AK Steel considers ***.[4] AK Steel stated that it offers coils in widths of up 48 inches as well as slit coils in any width and any grade.[5]

When asked to indicate whether it has experienced any changes in relation to the production of NOES since January 1, 2011, AK Steel reported ***. When asked to describe the constraints that set limits on the their firm's production of NOES and its ability to shift production capacity between products, AK Steel indicated its ***.

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[1] AK Steel is a wholly-owned subsidiary of AK Steel Holding Corporation and is publicly traded on the New York Stock Exchange. Nucor reported producing NOES in the preliminary phase of these investigations; however, Nucor certified that it does not produce NOES based on the revised scope of these final phase investigations.

[2] AK Steel employs approximately 7,500 workers in eight steel plants in Indiana, Kentucky, Ohio, Michigan, and Pennsylvania that produce flat-rolled carbon, stainless, and electrical steel products. Hearing transcript, p. 22 (Peterson).

[3] Hearing transcript, pp. 25-26 (Peterson). AK Steel's Butler, PA facility produces a finished GOES product, but it does not produce a semiprocessed or fully processed NOES product. Conference transcript, pp. 17-18 (Peterson).

[4] Email from ***, September 8, 2014.

[5] Hearing transcript, p. 30 (Pfeiffer). AK Steel stated that it typically charges about *** per short ton to slit master coils and that outside slitters might charge up to *** per short ton. Petitioner's posthearing brief, Answers to Commissioner and Staff Questions, p. 2.

AK Steel reported producing GOES using the same equipment, machinery, and workers used in the production of NOES. When asked to describe the factors that affect its ability to shift production capacity between products and the degree to which these factors enhance or constrain such shifts, AK Steel reported that it ***. AK Steel stated that during the period of investigation, there has been ample excess capacity for NOES and GOES and that AK Steel never came close to having to make a decision of whether to shift production from one product to the other.[6]

Data concerning AK Steel's overall capacity and production data with regard NOES and GOES presented in table III-1. When asked to describe the methodology used to calculate overall production capacity shown in table III-1, AK Steel reported that the figure is ***.

Table III-1
NOES: U.S. producer's overall capacity and production of products on the same equipment as NOES, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-2 and Figure III-1 present and depict AK Steel's production, capacity, and capacity utilization. AK Steel's production capacity *** the period of investigation, while its production decreased by *** percent between 2011 and 2013 and was *** percent higher in interim 2014 when compared to interim 2013. Capacity utilization decreased by *** percentage points between 2011 and 2013 and was *** percent higher in interim 2014 compared to interim 2013.

Table III-2
NOES: U.S. producer's production, capacity, and capacity utilization, 2011-2013, January-June 2013, and January-June 2014

* * * * * * *

[6] Hearing transcript, pp. 83-84 (Dorn). As noted earlier, AK Steel utilizes an electric arc furnace to melt and cast cold-rolled and hot-rolled steel with the desired chemistries for the production of NOES and GOES at its facility in Butler, PA, while the finishing of the production processes for NOES takes place at its facility in Zanesville, OH. Hearing transcript, pp. 25 and 84 (Peterson).

Figure III-1
NOES: U.S. producer's production, capacity, and capacity utilization, 2011-2013, January-June 2013, and January-June 2014

* * * * * * *

U.S. PRODUCER'S U.S. SHIPMENTS AND EXPORTS

Table III-3 presents AK Steel's commercial U.S. shipments, export shipments, and total shipments.[7] U.S. shipments of NOES decreased by *** percent between 2011 and 2013 and were *** percent higher in interim 2014 compared to interim 2013. During 2011-13, the average unit value of AK Steel's commercial U.S. shipments ranged from a high of $*** in 2011 to a low of *** in 2013, a decrease of *** percent. The average unit value of AK Steel's commercial U.S. shipments were *** percent higher in interim 2014 than in interim 2013.

Export shipments, which accounted for a decreasing share of total shipments during the period of investigation, decreased by *** percent between 2011 and 2013 and were *** percent lower in interim 2014 when compared to interim 2013. Principal export markets identified include ***. According to AK Steel, the decrease in its exports during the period of investigation is attributable to ***.[8]

During 2011-13, the average unit value of AK Steel's export shipments ranged from a high of $*** in 2011 to a low of $*** in 2013, a decrease of *** percent. The average unit value of AK Steel's export shipments were *** percent higher in interim 2014 than in interim 2013.

Table III-3
NOES: U.S. producer's U.S. shipments, exports shipments, and total shipments, 2011-2013, January-June 2013, and January-June 2014

* * * * * * *

Table III-4 presents data concerning AK Steel's U.S. commercial shipments of fully processed and semiprocessed NOES. In its fully processed form, the magnetic properties of NOES are completely developed by the steel producer and is ready for use without any additional processing required.[9] In its semiprocessed form, NOES is finished to a final thickness

[7] AK Steel reported *** during the period of investigation. AK Steel reported ***.

[8] Email from ***, September 8, 2014.

[9] Hearing transcript, p. 26 (Peterson). AK Steel offers fully processed NOES in 12 standard core less grades and six thicknesses. AK Steel offers fully processed NOES with four applied insulation coatings; however, if a customer does not want an applied insulation coating, AK Steel offers an ASTM C0 surface oxide coating. Hearing transcript, p. 30 (Pfeiffer).

and the physical form by the steel producer, but it must be annealed by the customer after it is fabricated into a part, to develop its final magnetic quality.[10]

As shown in table III-4, AK Steel reported that about *** percent of its commercial U.S. shipments consisted of fully processed NOES and the remaining *** percent its commercial U.S. shipments consisted of semiprocessed NOES during the period of investigation. During the period of investigation, AK Steel's commercial U.S. shipments of fully processed NOES decreased from *** percent in 2011 to *** percent of AK Steel's total commercial U.S. shipments in interim 2014, while the firm's commercial U.S. shipments of semiprocessed NOES increased from *** percent of total commercial U.S. shipments in 2011 to *** percent of total commercial U.S. shipments in interim 2014.

Table III-4
NOES: U.S. producer's commercial U.S. shipments of NOES, by type, 2011-13, January to June 2013, and January to June 2014

* * * * * * *

U.S. PRODUCER'S INVENTORIES

Table III-5 presents U.S. producer's end-of-period inventories and the ratio of these inventories to U.S. producer's production, U.S. shipments, and total shipments over the period examined**.** U.S. producer's inventories decreased by *** percent between 2011 and 2013 and were *** percent higher in interim 2014 compared to interim 2013. AK Steel's reported inventories to U.S. production, U.S. shipments, and total shipments decreased between 2011-2013, but were all higher in interim 2014 when compared to interim 2013.

As shown in table III-5, AK Steel's inventory levels were ***. According to AK Steel, ***.[11]

Table III-5
NOES: U.S. producer's inventories, 2011-2013, January-June 2013, and January-June 2014

* * * * * * *

[10] Hearing transcript, p. 26 (Peterson). All of AK Steel's semiprocessed NOES is provided with anti-stick coating. Hearing transcript, p. 30 (Pfeiffer).

[11] Email from ***, September 8, 2014.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-6 shows U.S. producer's employment-related data during the period examined.[12] As detailed in table III-6, the number U.S. production and related workers ("PRWs") decreased by *** percent between 2011 and 2013 and were *** percent higher in interim 2014 when compared to interim 2013. In March 2012, AK Steel reported the ratification of a three-year labor agreement with the UAW covering about 185 hourly production and maintenance workers at its Zanesville, Ohio facility and a four-year labor agreement covering about 1,250 hourly production and maintenance employees at its Butler, Pennsylvania facility.

Table III-6
NOES: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2011-2013, January-June 2013, and January-June 2014

* * * * * * *

[12] "UAW members ratify early labor agreement for Butler Works," http://www.aksteel.com/news/press_release.aspx?doc_id=919, and "UAW members ratify early labor agreement for Zanesville Works," http://www.aksteel.com/news/press_release.aspx?doc_id=897&year=2012, retrieved November 6, 2013.

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

U.S. IMPORTERS

The Commission issued importer questionnaires to 26 firms believed to be importers of NOES.[1] Usable questionnaire responses were received from 24 companies, representing 89.7 percent of subject imports (79.8 percent of imports from China, 101.4 percent of imports from Germany, 81.4 percent of imports from Japan, 88.8 percent of imports from Korea, 104.0 percent of imports from Sweden, and 95.6 percent of imports from Taiwan) during 2011-13.[2]

Table IV-1 lists all responding U.S. importers of NOES, their headquarters, the subject countries they import from, and their shares of U.S. imports since 2011. Table IV-2 presents a list of U.S. importers, by ownership and related firms that are engaged in the production and/or the import or export of NOES.

Table IV-1
NOES: U.S. importers, headquarters, source of imports, share of imports, January 2011 through June 2014

Firm	Headquarters	Share of imports by source (*percent*)						
		China	Germany	Japan	Korea	Sweden	Taiwan	All other sources
Angang America	East Brunswick, NJ	***	***	***	***	***	***	***
Aperam	New Providence, NJ	***	***	***	***	***	***	***
ArcelorMittal America	Chicago, IL	***	***	***	***	***	***	***
Baosteel America	Montvale, NJ	***	***	***	***	***	***	***
CDW America	Cleveland, OH	***	***	***	***	***	***	***

Table continued on next page.

[1] The Commission issued questionnaires to those firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs"), may have accounted for more than *** percent of total imports under HTS subheadings 7225.19.00, 7226.19.10, and 7226.19.90. HTS subheading 7225.19.00 includes NOES of a width greater than or equal 600 mm; HTS subheading 7226.19.00 includes NOES of a width greater than or equal to 300 mm but less than 600 mm; and HTS subheading 7225.19.90 includes NOES of a width less than 300 mm.

[2] Coverage was calculated based on official Commerce import statistics compared to the quantity of imports, in short tons, reported in questionnaire data during 2011-13 (34.5 million short tons for China, 31.9 million short tons for Germany, 46.6 million short tons for Japan, 16.7 million short tons for Korea, 26.0 million short tons for Sweden, and 30.7 million short tons for Taiwan).

Table IV-1
NOES: U.S. importers, headquarters, source of imports, share of imports, January 2011 through June 2014

Firm	Headquarters	Share of imports by source (*percent*)						
		China	Germany	Japan	Korea	Sweden	Taiwan	All other sources
Cogent Power	Burlington, ON	***	***	***	***	***	***	***
Daewoo America	Teaneck, NJ	***	***	***	***	***	***	***
Felchar Manufacturing	Binghamton, NY	***	***	***	***	***	***	***
JFE Shoji	Long Beach, CA	***	***	***	***	***	***	***
Kanematsu	New York City, NY	***	***	***	***	***	***	***
Magcor	Dover, DE	***	***	***	***	***	***	***
Marubeni-Itochu America	New York, NY	***	***	***	***	***	***	***
Marubeni-Itochu Canada	Burnaby, BC	***	***	***	***	***	***	***
Metal One America	Smyrna, TN	***	***	***	***	***	***	***
Metallia	Fort Lee, NJ	***	***	***	***	***	***	***
Mitsui	New York, NY	***	***	***	***	***	***	***
National Material	Arnold, PA	***	***	***	***	***	***	***
POSCO America	Fort Lee, NJ	***	***	***	***	***	***	***
SteelSummit	New York, NY	***	***	***	***	***	***	***
Sujani	Bernardsville, NJ	***	***	***	***	***	***	***
Sumitomo America	Rosemont, IL	***	***	***	***	***	***	***
ThyssenKrupp Europe	Duisburg, Germany	***	***	***	***	***	***	***
ThyssenKrupp North America	Southfield, MI	***	***	***	***	***	***	***
Toyota Tsusho	Georgetown, KY	***	***	***	***	***	***	***
Total		100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Compiled from data submitted in response to Commission questionnaires

Table IV-2
NOES: U.S. importers, by ownership and related firms

* * * * * * *

U.S. importers were asked to identify the nature of their operations in relation to the importation of NOES. Of the reporting firms, twenty-three identified themselves as distributors, and one identified their firm as a processor.[3] U.S. importers were also asked if their firms performed any value-added operations, including slitting of master coils; cutting, stamping, or producing lamination; manufacturing (e.g., motors), or any other operation on imported NOES. Of the reporting firms, ten reported not being involved in value-added operations; nine firms reported being involved in the slitting of master coils,[4] and six firms identified reporting being involved in "other" operations.[5]

One firm *** reported entering and withdrawing NOES through a Foreign Trade Zone. Two firms *** reported entering and withdrawing NOES from bonded warehouses and one firm *** reported importing NOES under the Temporary Importation Under Bond (TIB) program.[6]

U.S. IMPORTS

Table IV-3 presents data for U.S. imports of NOES. During 2011-13, the six subject countries were the six largest sources of NOES in the United States, with Japan being the single largest source in terms of quantity and value. Between 2011 and 2013, U.S. imports of NOES from Taiwan increased, while the volume of imports of NOES from the other five subject countries decreased.[7] Overall, the quantity of imports from subject sources decreased by 22.4 percent between 2011 and 2013, and was 14.3 percent lower in interim 2014 compared to interim 2013. The quantity of imports of NOES from nonsubject sources decreased by 42.9 percent during 2011-13, and was 585.1 percent higher in interim 2014 than interim 2013.[8]

When measured by quantity, U.S. imports of NOES from subject sources accounted for 91.6 percent of total U.S. imports in 2011, a share which increased to 93.7 percent in 2013. U.S. imports of NOES from subject sources accounted for 95.8 percent of total U.S. imports in interim 2013 and 73.9 percent of total U.S. imports in interim 2014.[9]

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[3] ***.

[4] *** reporting being involved in the slitting of master coils. Cogent Power and ThyssenKrupp estimated that the actual cost of slitting operations to be approximately ***. Cogent's posthearing brief, p. 18. German Respondents' posthearing brief, Answers to Commission Questions, pp. 14-15.

[5] ***. ***.

[6] ***. Email from ***, November 11, 2013. ***. Email from ***, November 14, 2013.

[7] When measured by quantity, U.S. imports of NOES from: China decreased by 22.4 percent; Germany decreased by 47.9 percent; Japan decreased by 30.0 percent; Sweden decreased by 17.8 percent; and Taiwan increased by 87.8 percent.

[8] Increased U.S. imports of NOES from France had the greatest impact on the interim period data for nonsubject sources. U.S. imports from France totaled 506 short tons in interim 2013 and totaled 6,164 short tons in interim 2014 making France the second largest single source (following Taiwan) of NOES during that period.

[9] The difference in the share of total imports between the interim periods is attributable to a lower volume of U.S. imports from subject sources (3,779 short tons or 14.3 percent lower in interim 2014

(*continued*...)

Table IV-3
NOES: U.S. imports, by source, 2011-13, January-June 2013, and January-June 2014

Item	Calendar year			January to June	
	2011	2012	2013	2013	2014
			Quantity (*short tons*)		
U.S. imports from.--					
China	16,401	14,042	12,724	8,217	1,747
Germany	14,385	9,568	7,493	3,795	2,282
Japan	22,747	18,540	15,916	6,887	4,969
Korea	6,880	7,331	4,622	1,357	1,823
Sweden	8,599	9,359	7,068	3,559	3,162
Taiwan	5,203	17,136	9,768	2,637	8,691
Subtotal, subject	74,215	75,977	57,591	26,453	22,674
All other sources	6,790	6,242	3,879	1,168	8,001
Total U.S. imports	81,005	82,219	61,470	27,620	30,675
			Value (*1,000 dollars*)		
U.S. imports from.--					
China	19,702	15,305	12,231	7,912	1,498
Germany	19,492	11,224	8,342	4,163	2,512
Japan	29,889	23,625	20,035	8,500	7,037
Korea	7,605	6,830	4,207	1,311	1,752
Sweden	14,467	15,394	10,556	5,283	4,684
Taiwan	6,459	18,231	8,745	2,485	7,009
Subtotal, subject	97,615	90,608	64,116	29,654	24,494
All other sources	11,087	8,066	4,956	1,621	9,441
Total U.S. imports	108,702	98,674	69,072	31,275	33,936
			Unit value (*dollars per short ton*)		
U.S. imports from.--					
China	$1,201	$1,090	$961	$963	$858
Germany	1,355	1,173	1,113	1,097	1,101
Japan	1,314	1,274	1,259	1,234	1,416
Korea	1,105	932	910	966	961
Sweden	1,682	1,645	1,494	1,484	1,482
Taiwan	1,242	1,064	895	942	806
Subtotal, subject	1,315	1,193	1,113	1,121	1,080
All other sources	1,633	1,292	1,278	1,388	1,180
Total U.S. imports	1,342	1,200	1,124	1,132	1,106

Table continued on next page.

(…*continued*)
compared to interim 2013) and an increased volume of U.S. imports from nonsubject sources, specifically France (6,833 short tons or 229.6 percent higher in interim 2014 compared to interim 2013) between the interim periods.

Table IV-3--*Continued*
NOES: U.S. imports, by source, 2011-13, January-June 2013, and January-June 2014

Item	Calendar year			January to June	
	2011	2012	2013	2013	2014
			Share of quantity (*percent*)		
U.S. imports from.--					
China	20.2	17.1	20.7	29.7	5.7
Germany	17.8	11.6	12.2	13.7	7.4
Japan	28.1	22.5	25.9	24.9	16.2
Korea	8.5	8.9	7.5	4.9	5.9
Sweden	10.6	11.4	11.5	12.9	10.3
Taiwan	6.4	20.8	15.9	9.5	28.3
Subtotal, subject	91.6	92.4	93.7	95.8	73.9
All other sources	8.4	7.6	6.3	4.2	26.1
Total U.S. imports	100.0	100.0	100.0	100.0	100.0
			Share of value (*percent*)		
U.S. imports from.--					
China	18.1	15.5	17.7	25.3	4.4
Germany	17.9	11.4	12.1	13.3	7.4
Japan	27.5	23.9	29.0	27.2	20.7
Korea	7.0	6.9	6.1	4.2	5.2
Sweden	13.3	15.6	15.3	16.9	13.8
Taiwan	5.9	18.5	12.7	7.9	20.7
Subtotal, subject	89.8	91.8	92.8	94.8	72.2
All other sources	10.2	8.2	7.2	5.2	27.8
Total U.S. imports	100.0	100.0	100.0	100.0	100.0
			Ratio to U.S. production (*percent*)		
U.S. imports from.--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Japan	***	***	***	***	***
Korea	***	***	***	***	***
Sweden	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All other sources	***	***	***	***	***
Total U.S. imports	***	***	***	***	***

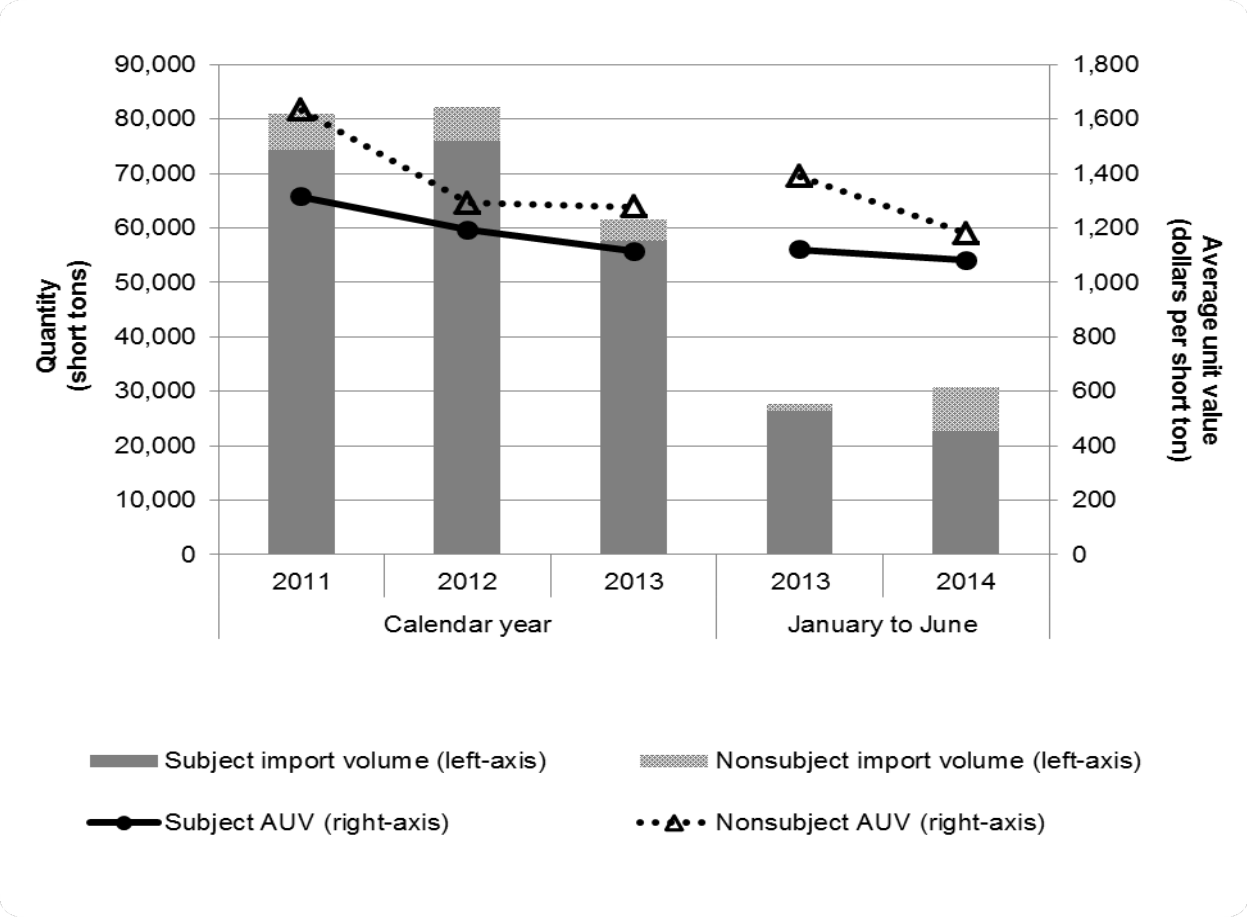
Source: Official statistics of the U.S. Department of Commerce, HTS numbers 7225.19.00, 7226.19.10, and 7226.19.90.

The ratio of U.S. imports from subject sources to U.S. production increased by *** percentage points between 2011 and 2013 and was *** percent lower in interim 2014 than in interim 2013. The ratio of U.S. imports from nonsubject sources to U.S. production decreased by *** percentage points between 2011 and 2013 and was *** percentage points higher in interim 2014 than in interim 2013.

Figure IV-1 depicts data regarding U.S. import volumes and prices during the period of investigation. During the calendar years, the average unit value of U.S. imports of NOES from subject sources ranged from a high of $1,315 per short ton in 2011 to a low of $1,113 per short ton in 2013, a decrease of 15.4 percent. U.S. imports of NOES from Sweden had the highest average unit value of the subject countries ranging from $1,682 per short ton in 2011 to $1,494 per short ton in 2013.

During 2011-13, U.S. imports of NOES from nonsubject sources ranged from a high of $1,633 per short ton in 2011 to a low of $1,278 per short ton in 2013, a decrease of 21.8 percent. The average unit values of U.S. imports of NOES from subject and nonsubject sources were 3.6 percent and 15.0 percent lower, respectively in interim 2014 than in interim 2013.

Figure IV-1
NOES: U.S. import volumes and prices, 2011-13, January to June 2013, and January to June 2014



Source: Official statistics of the U.S. Department of Commerce, HTS numbers 7225.19.00, 7226.19.10, and 7226.19.90.

CRITICAL CIRCUMSTANCES

On October 14, 2014, Commerce issued a final determination that critical circumstances exist with respect to imports from China of NOES in the countervailing duty investigation.[10] If both Commerce and the Commission make affirmative final critical circumstances determinations, certain subject imports from China may be subject to countervailing duties retroactive by 90 days from March 25, 2014, the effective date of Commerce's preliminary affirmative countervailing duty determination.

On October 14, 2014, Commerce issued final determinations that critical circumstances exist with respect to imports from China and Sweden of NOES in the antidumping duty investigations. In addition, Commerce determined that critical circumstances exist with respect to imports from Germany and Japan of NOES for the mandatory respondents (CDW and ThyssenKrupp Electrical Steel EBG GMBH of Germany and JFE Steel and Sumitomo Corporation of Japan), but not for all other companies. [11] If both Commerce and the Commission make affirmative final critical circumstances determinations, certain subject imports may be subject to antidumping duties retroactive by 90 days from May 22, 2014, the effective date of Commerce's preliminary affirmative LTFV determinations.

Table IV-4 presents monthly U.S. import data for NOES from China, Germany, Japan, and Sweden from April 2013 to March 2014.[12] U.S. imports from China were 34.5 percent lower in the six month period following the filing of the petition (October 2013 to March 2014) than in the six month period preceding the filing of the petition (April 2013 to September 2013). U.S. imports from Germany were 5.1 percent higher in the six month period following the filing of the petition than in the six month period preceding the filing of the petition. U.S. imports from Japan were 21.2 percent higher in the six month period following the filing of the petition than

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[10] *Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination.* 79 FR 61607, October 14, 2014. Commerce made a negative critical circumstances determination for Korea.

[11] *Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part.* 79 FR 61609, October 14, 2014. For Korea, Commerce made a negative critical circumstances determination.

[12] Commerce made an affirmative critical circumstances determination for CDW and a negative critical circumstances determination for ThyssenKrupp Steel Europe AG. ThyssenKrupp Electrical Steel produced NOES in Bochum until March of 2013. Ownership of the facility was transferred to ThyssenKrupp Steel Europe in April of 2013. ThyssenKrupp Steel Europe therefore was the producer of NOES starting in April of 2013. Taken alone, CDW's imports of NOES during the six month period prior to the filing of the petition (*** short tons) increased by (*** short tons) to (*** short tons) during the six months following the filing of the petition, an increase of *** percent. German Respondents' posthearing brief, pp. 13-14.

in the six month period preceding the filing of the petition.[13] U.S. imports from Sweden were 44.5 percent higher in the six month period following the filing of the petition than in the preceding six month period preceding the filing of the petition.

Table IV-4
NOES: Critical circumstances, April 2013 through March 2014

	2013									2014		
	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
	Quantity (*short tons*)											
China	528	2,152	3,706	945	65	242	1,323	1,809	124	37	1,629	79
Germany	733	1,054	640	288	717	594	503	1,271	324	988	893	251
Japan	705	1,032	998	975	1,409	1,683	1,808	1,829	1,324	1,211	1,295	778
Sweden	370	525	483	424	465	579	861	494	687	713	251	1,106
Subtotal	2,336	4,763	5,826	2632	2,656	3,098	4,495	5,402	2,459	2,948	4,067	2,214

Note: Petition was filed on September 30, 2014.

Source: Official statistics of the U.S. Department of Commerce, HTS numbers 7225.19.00, 7226.19.10, and 7226.19.90.

[13] Counsel for Metal One, a U.S. importer of NOES from Japan, argues that Metal One's imports should be removed from the total imports from Japan when assessing the post-petition period because its increased imports from Japan consisted of a required form of NOES that was only available in Japan. Metal One's prehearing brief, p. 8. Counsel for JFE Steel and Nippon Sumitomo argue that for purposes of examining the six month periods preceding and following the filing of the petition, the Commission should use April 2013-October 2013 and November 2013-April 2014, stating that it would have been "physically impossible for Japanese exporters to react to the filing of a petition on September 30, 2013 by increasing exports to the United States to arrive in the month of October 2013." Based on these adjusted six month periods, U.S. imports from Japan were 19.2 percent lower in the six month period following the filing of the petition than in the preceding six month period preceding the filing of the petition. Japanese Respondents' prehearing brief, pp. 19-22.

Negligibility

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[14] 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.[15] Imports from each subject country and its share of total imports are presented in table IV-5.

Table IV-5
NOES: U.S. imports and shares of total imports, by sources, August 2012-July 2013

Country	Imports (*short tons*)	Share of total imports (*percent*)
China	14,162	22.4
Germany	7,469	11.8
Japan	14,027	22.2
Korea	3,541	5.6
Sweden	7,360	11.6
Taiwan	12,862	20.3
Subtotal (subject)	59,423	93.9
All others (nonsubject)	3,874	6.1
Total	63,297	100.0

Source: Compiled from official Commerce Statistics, HTS numbers 7225.19.00, 7226.19.10, and 7226.19.90.

[14] 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)).

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

CUMULATION CONSIDERATIONS

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

AK Steel argues that imports from all subject sources should be cumulated because the record indicates more than a reasonable overlap in competition and satisfies the statutory requirement mandating cumulation in the Commission's evaluation of material injury and the Commission's evaluation of threat of material injury.[16] Respondents from Sweden argue that for the purposes of the Commission's present injury analysis, imports of NOES from Sweden should be decumulated.[17] Respondents from China, Germany, Japan, and Sweden argue that for the purposes of the Commission's threat analysis, imports from China, Germany, Japan, and Sweden should be decumulated.[18]

Table IV-6 presents U.S. imports from subject sources, by Customs district. As detailed in table IV-6, the majority of U.S. imports of NOES from China, Korea, Sweden, and Taiwan entered the United States through New Orleans; the majority of U.S. imports from NOES from Germany entered the United States through Philadelphia, PA; Cleveland, OH; and Savannah, GA; and the majority of U.S. imports of NOES from Japan entered through New Orleans, LA; Houston-Galveston, TX, and Philadelphia, PA.

[16] Petitioner's prehearing brief, pp. 23-28.

[17] Prehearing brief of Cogent Powers Inc. and Surahammars Bruk, p. 13.

[18] CISA's posthearing brief, p. 1. German Respondents' posthearing brief, p. 3; Japanese Respondents' prehearing brief, pp. 3-7. Cogent Powers' prehearing brief, p. 13. Respondents from Sweden argue that for the purposes of the Commission's present injury and threat of material injury analysis, imports of NOES from Sweden should be decumulated. Cogent Powers' prehearing brief, p. 13.

Table IV-6

NOES: U.S. imports from subject sources, by Customs district, January 2011 through June 2014

Customs district	China	Germany	Japan	Korea	Sweden	Taiwan	Subject sources
	Quantity (*short tons*)						
New Orleans, LA	35,131	0	15,149	16,263	15,224	22,939	104,706
Philadelphia, PA	1,323	14,704	15,191	0	0	4,581	35,799
Houston-Galveston, TX	1,045	0	14,557	0	5,883	4,466	25,952
Savannah, GA	21	6,555	5,359	0	0	1,231	13,166
Buffalo, NY	4,675	299	2,957	694	825	27	9,478
Los Angeles, CA	118	5	4,342	658	0	3,246	8,369
Cleveland, OH	4	7,356	24	0	76	0	7,459
Detroit, MI	1,444	63	900	132	3,482	773	6,794
New York, NY	21	4	140	0	1,771	2,775	4,711
San Diego, CA	197	0	3,112	0	0	0	3,309
Chicago, IL	17	2,796	31	5	353	0	3,202
Baltimore, MD	0	1,906	0	0	110	63	2,080
Laredo, TX	809	2	352	226	0	674	2,063
Mobile, AL	0	0	0	1,870	0	0	1,870
Charleston, SC	0	27	0	808	452	0	1,287
St. Albans, VT	3	10	32	0	0	20	65
Ogdensburg, NY	61	0	0	0	0	0	61
El Paso, TX	18	0	5	0	0	0	22
Nogales, AZ	0	0	22	0	0	0	22
Great Falls, MT	18	0	0	0	0	0	18
Norfolk, VA	0	0	0	0	13	0	13
San Francisco, CA	9	0	0	0	0	0	9
Milwaukee, WI	0	0	0	0	0	2	2
Minneapolis, MN	0	0	0	0	1	0	1
Total U.S. imports	44,914	33,728	62,172	20,657	28,189	40,799	230,459

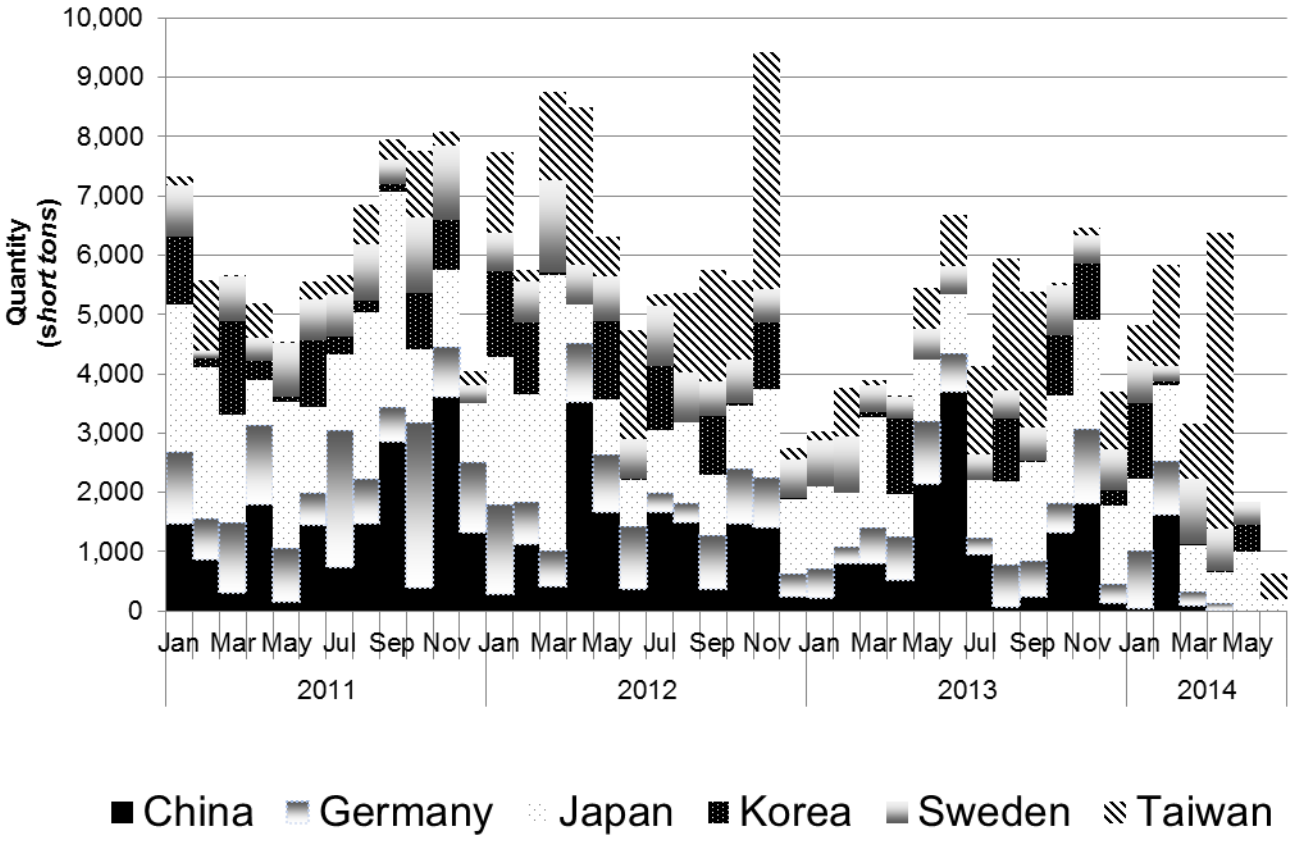
Source: Compiled from official Commerce Statistics, HTS numbers 7225.19.00, 7226.19.10, and 7226.19.90.

According to official Commerce statistics, U.S. imports of NOES from Japan and Sweden were entered in every month during the period of investigation; U.S. imports of NOES from China entered the United States in every month but two; imports of NOES from Germany and Taiwan were entered in every month but one; and imports of NOES from Korea entered the United States in 34 of the 42 months.

Figure IV-2 depicts subject imports on a monthly basis over the period of investigation. When examined on a six-month basis, subject imports increased by 19.3 percent between the

first and second half of 2011; decreased by 18.2 percent between the first and second half of 2012; and increased by 17.7 percent between the first and second half of 2013.[19]

Figure IV-2
NOES: U.S. imports from subject sources, by month, January 2011 through June 2014



Source: Compiled from official Commerce Statistics, HTS numbers 7225.19.00, 7226.19.10, and 7226.19.90.

[19] Subject imports were 14.3 percent lower in interim 2014 compared to interim 2013.

APPARENT U.S. CONSUMPTION

Table IV-7 and figure IV-3 present and depict data on apparent U.S. consumption. Apparent U.S. consumption decreased by *** percent during 2011-13 and was *** percent higher in interim 2014 than interim 2013.

Table IV-7
NOES: Apparent U.S. consumption, 2011-13, January-June 2013, and January-June 2014

Item	Calendar year			January to June	
	2011	2012	2013	2013	2014
			Quantity (*short tons*)		
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from.--					
China	16,401	14,042	12,724	8,217	1,747
Germany	14,385	9,568	7,493	3,795	2,282
Japan	22,747	18,540	15,916	6,887	4,969
Korea	6,880	7,331	4,622	1,357	1,823
Sweden	8,599	9,359	7,068	3,559	3,162
Taiwan	5,203	17,136	9,768	2,637	8,691
Subtotal, subject	74,215	75,977	57,591	26,453	22,674
All other sources	6,790	6,242	3,879	1,168	8,001
Total U.S. imports	81,005	82,219	61,470	27,620	30,675
Apparent U.S. consumption	***	***	***	***	***
			Value (*1,000 dollars*)		
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from.--					
China	19,702	15,305	12,231	7,912	1,498
Germany	19,492	11,224	8,342	4,163	2,512
Japan	29,889	23,625	20,035	8,500	7,037
Korea	7,605	6,830	4,207	1,311	1,752
Sweden	14,467	15,394	10,556	5,283	4,684
Taiwan	6,459	18,231	8,745	2,485	7,009
Subtotal, subject	97,615	90,608	64,116	29,654	24,494
All other sources	11,087	8,066	4,956	1,621	9,441
Total U.S. imports	108,702	98,674	69,072	31,275	33,936
Apparent U.S. consumption	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of the U.S. Department of Commerce, HTS numbers 7225.19.00, 7226.19.10, and 7226.19.90.

Figure IV-3
NOES: Apparent U.S. consumption, 2011-13, January to June 2013, and January to June 2014

* * * * * * *

U.S. MARKET SHARE

Table IV-8 presents data on U.S. market share. During 2011-12, AK Steel's market share decreased by *** percentage points from *** to *** percent, while the market share for subject imports increased by *** percentage points from *** to *** percent. During 2012-13, AK Steel increased its market share by *** percentage points, while the market share for subject imports decreased by *** percentage points. Overall, during 2011-13, AK Steel's market share increased by *** percentage points; the market share for subject imports increased by *** percentage points; and the market share for nonsubject imports decreased by *** percentage points. When comparing the data for interim 2014 to interim 2013, AK Steel's market share was *** percentage points lower; subject imports' market share was *** percentage points lower; and nonsubject imports' market share was *** percentage points higher.

Table IV-8
NOES: U.S. market share, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

PART V: PRICING DATA

FACTORS AFFECTING PRICES

Raw material costs

Raw materials represented between *** and *** percent of the costs of goods sold for NOES over 2011 to 2013, making raw material costs a *** factor in the price of NOES.

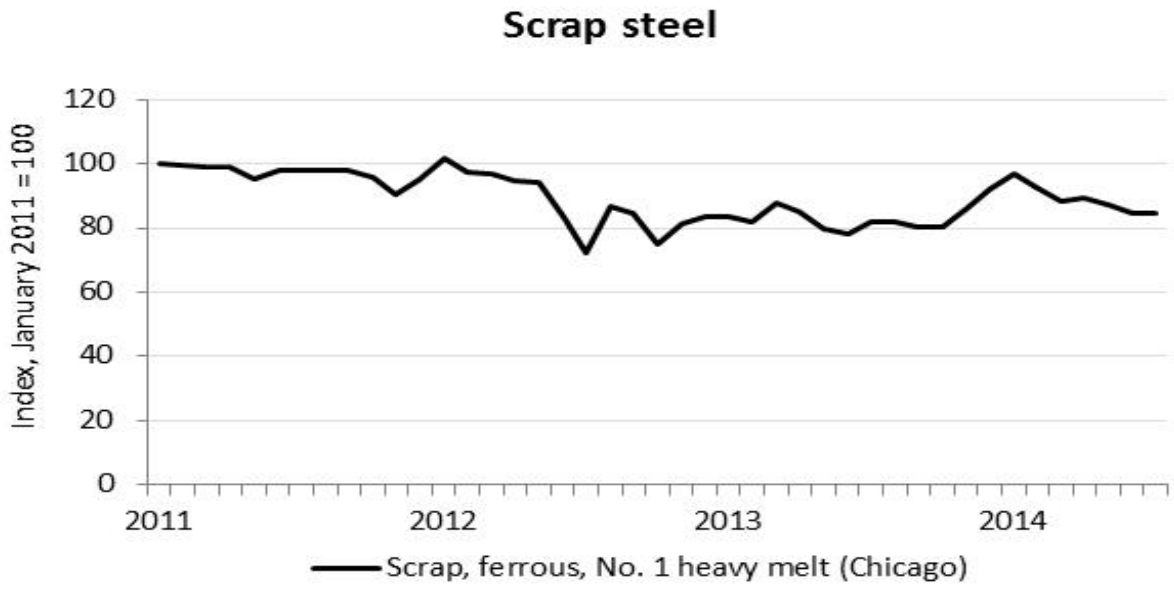
For the U.S. producer, the primary input costs used in manufacturing NOES are for scrap steel, ferrosilicon, natural gas, and electricity.[1] Scrap steel is currently a much larger cost component than ferrosilicon. For integrated producers of NOES, such as some subject-country producers, iron ore and coking coal would likely be the principal raw material inputs. ***.

*** described the prices of raw materials used to produce NOES as fluctuating from year to year. However, *** added that prices for raw materials have generally increased over the last three years, and expected those prices to continue to increase. Importers generally described iron ore, coking coal, and/or hot-rolled band as the primary raw materials for NOES. Additionally, several other importers described raw material price trends as a primary determinant of NOES price trends. *** stated that AK Steel had insulated itself from fluctuations in NOES' raw material prices because it owns captive supplies of those raw materials. *** stated that Japanese NOES producers import raw materials, and so the purchasing power of the yen affects their raw material costs. *** expected hot-rolled coil prices to remain the same for the foreseeable future.

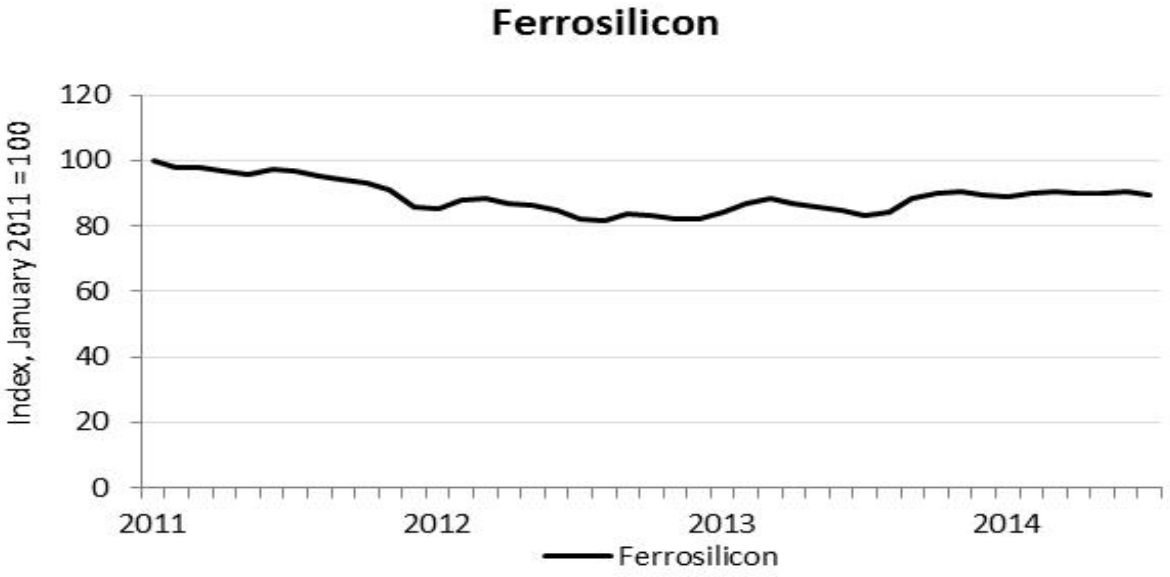
Price trends for scrap steel, ferrosilicon, electricity, and natural gas are shown in figure V-1. Prices for scrap steel and ferrosilicon both decreased from January 2011 until mid- to late 2012, and have recovered somewhat since then, although both remain below January 2011 prices. Natural gas prices fell from before January 2011 to early 2012, but have risen back to January 2011 levels since then. Aside from seasonal fluctuations, the industrial price of electricity generally remained at the same level since January 2011.

[1] Conference transcript, p. 62 (Petersen), petitioner's postconference brief, answers to staff questions, pp. 8-9, and hearing transcript, pp. 102 (Konstantinidis) and 113 (Pfeiffer).

Figure V-1
NOES: Price trends of inputs, January 2011 to July 2014



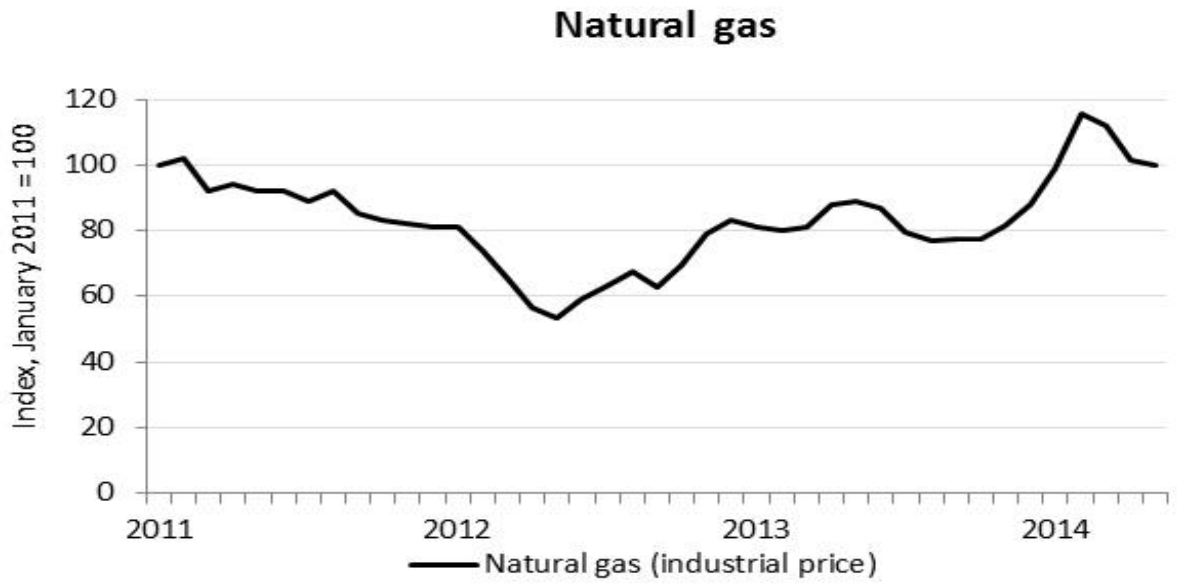
Source: American Metal Market and staff calculations.



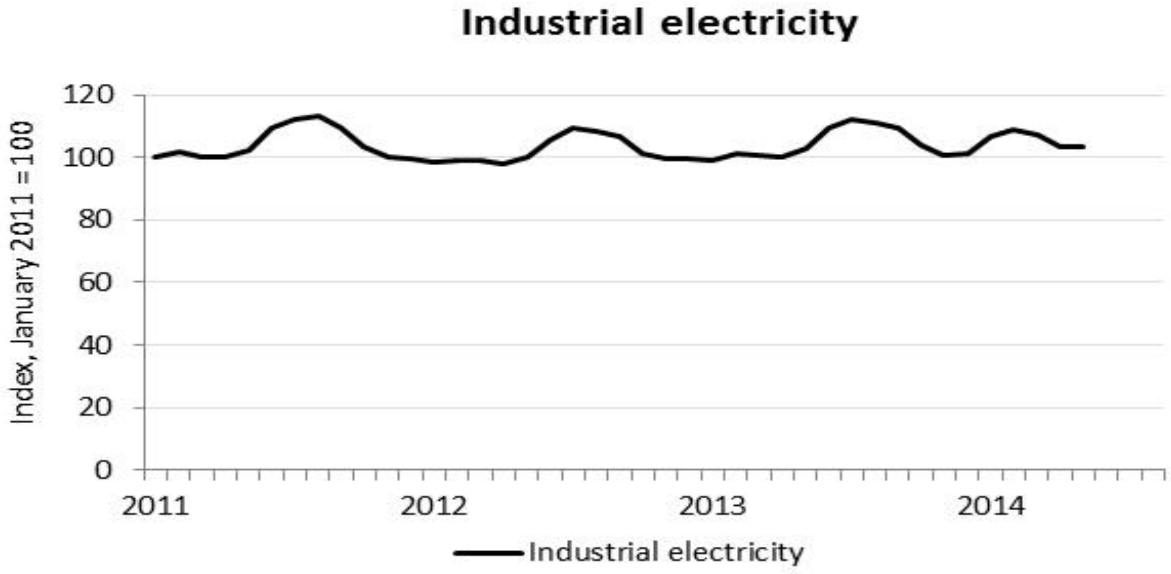
Source: American Metal Market and staff calculations.

Figure continued on next page.

Figure V-1--*Continued*
NOES: Price trends of inputs, January 2011 to July 2014



Source: EIA and staff calculations.



Source: EIA and staff calculations.

U.S. inland transportation costs

Eighteen importers reported that they typically arrange transportation of NOES to their customers' locations, while *** and three importers reported that their purchasers arrange transportation. *** reported that its U.S. inland transportation cost was ***.[2] Importers reported costs of 2 to 8 percent, with importers *** among those reporting 2-3 percent and *** among those reporting 7-8 percent. Eight importers shipped NOES from their port of importation, and 13 sold from a storage facility.

PRICING PRACTICES

Pricing methods

*** reported using transaction-by-transaction negotiations and contracts, but not price lists, for their sales of NOES, as presented in table V-1.

Table V-1
NOES: U.S. producers' and importers' reported price-setting methods, by number of responding firms[1]

Method	U.S. producers	Importers
Transaction-by-transaction	***	***
Contract	***	***
Set price list	***	***
Other	***	***

[1] The sum of responses down will not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed. Four importers reported both transaction-by-transaction negotiations and contracts.

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

Sixteen of 20 purchasers indicated that their purchases of NOES usually involve negotiations with their suppliers, whereas four indicated that they did not. No purchaser reported quoting competing prices in price negotiations. Purchasers described negotiating over a wide range of factors, including price, availability, quality, terms, and delivery. *** specified that negotiations take place only among qualified suppliers.

U.S. producer AK Steel reported that it uses a fixed base price plus raw materials surcharges in its yearly contracts for sales of NOES. ***. It elaborated that its surcharges are currently for natural gas and scrap steel, based on prices reported in industry publications.

[2] Staff interview with ***.

***.[3] [4] No importers of NOES reported using surcharges in their contracts for sales of NOES since January 2011, although purchasers stated that some import supply sources have some indexed price components.[5]

As shown in table V-2, U.S. producers and importers reported their 2013 U.S. commercial shipments of NOES by type of sale. *** reported selling the majority of its NOES ***. Importers of NOES from China, Germany, Japan, Korea, and Taiwan reported selling at least *** percent of their product under ***, but importers of NOES from Sweden reported selling over *** percent of their product under ***.[6] AK Steel added that when its prices are high relative to subject imports, the percentage of its total sales that it can obtain on a spot basis goes down.[7]

Table V-2
NOES: U.S. producers' and importers' shares of U.S. commercial shipments by type of sale, 2013

* * * * * * *

*** reported that *** contracts were usually for ***. Most importers with short term contracts reported contract lengths of 90 days,[8] and those with medium-term contracts generally reported lengths of 180 days. Only *** reported long-term contract durations of several years, ***.

For AK Steel, its contracts ***, *** price renegotiation, and *** meet-or-release provisions. For importers of subject-country NOES, short-term contracts generally did not allow price renegotiation, (***), fixed either price and quantity (*** importers) or only price (*** importers), and did not have meet-or-release provisions (*** importers, versus *** that did). The *** importers that discussed medium-term contracts described such contracts as *** price renegotiation, *** meet-or-release provisions, and fixing ***. The *** importers that discussed long-term contracts described such contracts as *** and ***, but possibly ***.

Six purchasers reported that they purchase product weekly, four reported purchasing monthly, three reported purchasing quarterly, and one reported purchasing daily. Seven

[3] Email from *** November 7, 2013, and petitioner's postconference brief, answers to staff questions, pp. 8-9. Public information in this paragraph is from the hearing transcript, p. 102 (Konstantinidis).

[4] Baosteel, ThyssenKrupp Europe, and ThyssenKrupp North America indicated that they did not use surcharges. CISA's postconference brief, exhibit 1, and ThyssenKrupp's postconference brief, answer to staff question 6.

[5] Hearing transcript, p. 196 (Weisheit).

[6] Percentages are calculated from importers' responses weighted by their commercial U.S. shipments in 2013.

[7] Petitioner's prehearing brief, p. 43 and exhibit 33.

[8] Some importers reported short-term contracts of 120-180 days.

purchasers reported some other purchase frequency, including daily for domestic and quarterly for imported, project-by-project basis, and annual with quarterly adjustments to a base price. Seventeen of 18 responding purchasers reported that their purchasing frequency had not changed since January 1, 2011, but two reported higher-frequency purchases. Most (17 of 20) purchasers contact one to four suppliers before making a purchase, although three may contact more than that. Eleven purchasers may contact as few as one supplier before purchasing.

Sales terms and discounts

*** typically quotes its prices on ***, and four importers typically quote prices on an f.o.b. basis, while 18 importers quote prices on a delivered basis. Twenty-two importers *** do not offer discounts for their sales of NOES. *** and 17 importers reported sales terms of net 30 days, 4 importers reported sales terms of net 60 days, and 2 importers reported other terms.

Price leadership

Purchasers were asked to name price leaders in the NOES market. Three purchasers named Chinese producer Baosteel. *** described Baosteel as leading because of its "most productive," state-of-the-art manufacturing equipment and low-cost raw materials (through its pooling relationships with other Chinese producers). Three purchasers named AK Steel, which *** described as the only supplier to publish price announcements, which are followed by the spot market. *** also stated that AK Steel has never published a base price decrease. *** were also named as price leaders by at least one purchaser, and usually described as leaders on the basis of quality, availability, or production of unique products (POSCO America). *** named Tempel Steel, a purchaser, as the price leader and stated that Tempel Steel initiated price changes in the NOES market. However, *** stated that there was no price leader in the U.S. NOES market, and *** was unaware of one.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following NOES products shipped to unrelated U.S. customers during January 2011 to June 2014.

***Product 1*.-- M-19, 0.45-0.50 mm thickness, fully-processed, maximum core loss 2.90 W/kg (1.5T; 50 Hz), 600 mm or more wide, coated**

***Product 2A*.-- M-22, 0.45-0.50 mm thickness, fully-processed, maximum core loss 3.10 W/kg (1.5T; 50 Hz), more than 600 mm but less than 900 mm wide, coated**

***Product 2B*.-- M-22, 0.45-0.50 mm thickness, fully-processed, maximum core loss 3.10 W/kg (1.5T; 50 Hz), 900 mm or more wide, coated**

Product 3.-- **M-22, 0.60-0.65 mm thickness, fully-processed, maximum core loss 3.65 W/kg (1.5T; 50 Hz), less than 600 mm wide, coated**

Product 4.-- **M-36, 0.45-0.50 mm thickness, fully-processed, maximum core loss 3.50 W/kg (1.5T; 50 Hz), 600 mm or more wide, coated**

Product 5A.-- **M-36, 0.60-0.65 mm thickness, fully-processed, maximum core loss 4.10 W/kg (1.5T; 50 Hz), 600 mm or more wide, coated**

Product 5B.-- **M-36, 0.60-0.65 mm thickness, fully-processed, maximum core loss 4.10 W/kg (1.5T; 50 Hz), 600 mm or more wide, not coated**

Product 6.-- **M-36, 0.45-0.50 mm thickness, fully-processed, maximum core loss 3.50 W/kg (1.5T; 50 Hz), less than 600 mm wide, coated**

Product 7.-- **M-43, 0.60-0.65 mm thickness, fully-processed, maximum core loss 4.35 W/kg (1.5T; 50 Hz), 600 mm or more wide, coated**

Product 8.-- **M-45, 0.60-0.65 mm thickness, fully-processed, maximum core loss 4.80 W/kg (1.5T; 50 Hz), 600 mm or more wide, coated**

Product 9.-- **0.27 mm thickness, fully-processed, maximum core loss 15.0 W/kg (1.0T; 400 Hz), 600 mm or more wide, coated**

Product 10.-- **0.30 mm thickness, fully-processed, maximum core loss 15.3 W/kg (1.0T; 400 Hz), less than 600 mm wide, coated**

Products 1-8 correspond to pricing products used in the preliminary phase of these investigations. Products 2A and 2B divide up what was product 2 in the preliminary phase based on widths above or below 900 mm.[9] Product 5A is the same as product 5 from the preliminary phase, while product 5B is a new product.[10] Products 9 and 10 are also new products for this

[9] Splitting up product 2 was suggested by counsel for ThyssenKrupp Steel Europe and ThyssenKrupp Steel North America. See email to staff from counsel for ThyssenKrupp Steel Europe and ThyssenKrupp Steel North America, May 21, 2014.

[10] See comments on draft questionnaires from ThyssenKrupp Steel Europe and ThyssenKrupp Steel North America, May 19, 2014. German respondents described non-coated products like product 5B as as used to shield medical equipment from magnetic interference. They added that non-coated material requires a width of 48 inches, but stated that U.S. suppliers can only supply product up to 45 inches. Prehearing brief of respondents, p. 9.

phase of the investigations.[11] At the hearing, some respondents stated that these pricing categories were too broad.[12]

One U.S. producer and 19 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[13] [14] Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' shipments of NOES in 2013, *** percent of subject imports from China in 2013, *** percent of subject imports from Germany in 2013, *** percent of subject imports from Japan in 2013, *** percent of subject imports from Korea in 2013, *** percent of subject imports from Sweden in 2013, and *** percent of subject imports from Taiwan in 2013.

Price data for products 1-10 (including 2A, 2B, 5A, and 5B) are presented in tables V-3 to V-14 and figure V-2. Importers frequently provided data for products that did not exactly meet Commission pricing specifications; differences are described under each pricing table.[15]

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[11] Product 9 was suggested by Chinese producers. See additional comments of the Chinese Iron and Steel Association, May 21, 2014. Product 10 was suggested by Japanese producers. See comments on draft questionnaires from Japanese producers, May 19, 2014.

[12] Hearing transcript, pp. 216-219 (Planert and LaFrankie). Counsel for Swedish respondents also stated that the pricing data were "aberrational" for Swedish product. Hearing transcript, p. 220 (Kaufman).

[13] Several importers likely supplied value data in thousands of dollars. Staff contacted these firms and corrected their value data upon confirmation. See emails from ***. Additionally, staff has removed one quarter of data from *** in which it reported a value of $0. Firms generally submitted the same or similar pricing data for the same products as they submitted in the preliminary phase. However, importers *** submitted data with some somewhat larger differences than in the preliminary phase. Most attributed these changes to minor corrections. See e-mails and phone conversations with economist from August 21 through 27 and September 2, 2014.

[14] Per unit pricing data are calculated from total quantity and total value data provided by producers and importers. The precision of these figures may be affected by rounding, limited quantities, and producer and importer estimates.

[15] Several respondents stated that pricing data from particular subject countries were not competitive with the U.S. producer's pricing data. The Chinese Iron and Steel Association (CISA) presented an analysis that concluded that U.S. and Chinese pricing products had only "limited competition." CISA's posthearing brief, pp. 4-5. ThyssenKrupp Europe and ThyssenKrupp North America stated that their pricing data are "distorted" because they sell uncoated NOES in master coils rather than slit, resulting in a lower price product. ThyssenKrupp's postconference brief, p. 14. German respondents characterized the difference between slit and coil product as about ***, and added that product 2B separately accounts for wider product. German respondents' prehearing brief, p. 14. ***. Joint respondents' posthearing brief, exhibit 2.

Table V-3

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2011-June 2014

* * * * * * *

Table V-4

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 2A and margins of underselling/(overselling), by quarters, January 2011-June 2014

* * * * * * *

Table V-5

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 2B and margins of underselling/(overselling), by quarters, January 2011-June 2014

* * * * * * *

Table V-6

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2011-June 2014

* * * * * * *

Table V-7

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January 2011-June 2014

* * * * * * *

Table V-8

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 5A and margins of underselling/(overselling), by quarters, January 2011-June 2014

* * * * * * *

Table V-9

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 5B and margins of underselling/(overselling), by quarters, January 2011-June 2014

* * * * * * *

Table V-10

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 6 and margins of underselling/(overselling), by quarters, January 2011-June 2014

* * * * * * *

Table V-11

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 7 and margins of underselling/(overselling), by quarters, January 2011-June 2014

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Table V-12

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 8 and margins of underselling/(overselling), by quarters, January 2011-June 2014

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Table V-13

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 9 and margins of underselling/(overselling), by quarters, January 2011-June 2014

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Table V-14

NOES: Weighted-average f.o.b. prices and quantities of domestic and imported product 10 and margins of underselling/(overselling), by quarters, January 2011-June 2014

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Figure V-2

NOES: Weighted-average prices and quantities of domestic and imported product, by quarters, January 2011-June 2014

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Price trends

Prices for NOES pricing products showed mixed trends during January 2011 to June 2014. Table V-15 summarizes the price trends, by country and by product. As shown in the table, prices for products 1, 2A, 2B, 3, 4, and 5B showed declines for product from most countries, while the other products generally showed mixed declines and increases, depending on the country and product.

At the hearing, AK Steel stated that in late 2012 it decided to lower its prices for 2013 in order to stop its loss of market share. However, AK Steel continued that it found that it could not continue keeping prices so low, and so reversed the strategy in the second half of 2013, although it added that the price changes showed up more in the spot market than in the contract market. It also stated that in 2014, the volume of subject imports declined due to the imposition of preliminary duties.[16]

Table V-15

NOES: Summary of weighted-average f.o.b. prices for products 1-10 from the United States and subject countries

* * * * * * *

Price comparisons

As shown in table V-16, prices for NOES imported from subject countries were below those for U.S.-produced product in 210 of 282 instances; margins of underselling ranged from 0.3 to 65.3 percent. In the remaining 72 instances, prices for NOES from subject countries were between 0.1 to 127.1 percent above prices for the domestic product.

[16] Hearing transcript, pp. 27-28 (Petersen), 35-36 (Pfeiffer), and 46-47, 108 (Dorn).

Table V-16

NOES: Instances of underselling/overselling and the range and average of margins, by country, January 2011-June 2014

Source	Underselling			Overselling		
	Number of instances	Range (*percent*)	Average margin (*percent*)	Number of instances	Range (*percent*)	Average margin (*percent*)
China	42	3.4 to 39.8	23.7	1	-5.4 to -5.4	-5.4
Germany	46	0.9 to 32.1	16.8	15	-1.6 to -21.0	-9.9
Japan	42	0.3 to 19.7	7.6	22	-1.2 to -127.1	-15.3
Korea	20	1.6 to 45.0	24.9	2	-1.3 to -84.2	-42.8
Sweden	35	0.4 to 65.3	15.7	27	-2.3 to -77.2	-30.3
Taiwan	25	3.0 to 28.1	13.9	5	-0.1 to -27.3	-10.8
Total	**210**	**0.3 to 65.3**	**17.1**	**72**	**-0.1 to -127.1**	**-19.8**

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

LOST SALES AND LOST REVENUE

Final Phase

The Commission requested U.S. producers of NOES to report any instances of lost sales or revenue they experienced due to competition from imports of NOES from China, Germany, Japan, Korea, Sweden, and/or Taiwan since January 2011. *** reported ***. The *** lost sales allegations totaled $*** and involved *** short tons of NOES, and the *** lost revenue allegations totaled $*** and involved *** short tons of NOES.[17] Staff attempted to contact *** purchasers; a summary of the information obtained follows in tables V-17 and V-18, and the following discussion.[18]

Additionally, purchasers were asked if they had any additional information on lost sales or lost revenues allegations from the preliminary phase of these investigations. No firms provided information on specific allegations, but *** provided information about the potential effects of the investigations on their businesses. *** stated that it would experience loss of sales and lower investment in its own production. *** stated that it has lost sales of its products to Mexican and Canadian downstream-product producers that can purchase higher-quality NOES at lower prices. *** stated that it would need to consider offshoring part of its production process because the "import tax" has led to a competitive disadvantage with other

[17] For some allegations, the U.S. volume offered was expressed in terms of a certain amount per week or month. In deriving these estimates, staff assumed that the total period of the sale would have been six months.

[18] In its posthearing brief, petitioner also presented some sales and inquiries that it stated that it had gained since imposition of the preliminary duties. Petitioner's posthearing brief, exhibit 32.

downstream producers. *** stated that its *** has a significant portion of its *** in jeopardy due to uncompetitive, limited-availability NOES compared to its *** competitor. It described having *** of revenue and *** employees potentially affected. It added that its *** are also affected as ***. It continued that the NOES duties might affect *** employees.

Table V-17
NOES: U.S. producers' final-phase lost sales allegations

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Table V-18
NOES: U.S. producers' final-phase lost revenue allegations

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Purchaser comments

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***.[19]

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***.[21]

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***.[22]

[19] ***.
[20] ***.
[21] ***.
[22] ***.

Preliminary phase

In the preliminary phase of these investigations, the Commission requested U.S. producers of NOES to report any instances of lost sales or revenue they experienced due to competition from imports of NOES from subject countries since January 2010. Of the two responding U.S. producers, *** reported that *** had to either reduce prices or roll back announced price increases.[23] The 54 lost sales allegations totaled $*** and involved *** short tons of NOES, and the 89 lost revenue allegations totaled $*** and involved *** short tons of NOES.[24] Staff attempted to contact all named purchasers and a summary of the information obtained follows in the descriptions below and in tables V-19 and V-20.[25]Purchasers named in the lost sales and lost revenue allegations also were asked whether they shifted their purchases of NOES from U.S. producers to suppliers of NOES from China, Germany, Japan, Korea, Sweden, and Taiwan since January 2010. In addition, they were asked whether U.S. producers reduced their prices in order to compete with suppliers of NOES from those countries.[26]

Two of the six responding purchasers (including ***) reported that they had shifted purchases of NOES from U.S. producers to subject imports since January 2010; one of these purchasers (***) reported that price was the reason for the shift. *** described the volume of sales that it shifted due to price as "very small." *** stated that it had shifted purchases, but the shift was due to an attempt to mitigate risk in its supply chain, and not due to price. *** did not indicate whether it had shifted purchases or not, but did state that it has purchased NOES from all over the world for over *** years. It continued that sometimes it can obtain "better" steel or coatings than available in the United States, and added that foreign prices are often "better."

However, four purchasers (including ***) stated that they had not shifted. *** stated that it had been purchasing NOES from foreign suppliers as well as AK Steel for ***. *** referenced its extensive comments, summarized below.

Three purchasers (***) reported that U.S. producers had reduced their prices in order to compete with the prices of subject imports. *** indicated that U.S. producers reduced their *** in 2013. (*** indicated that they did not know). However, two purchasers (including *** reported that U.S. producers had not reduced their prices. *** elaborated that *** uses a standard price for each NOES grade, while its surcharge changes monthly. *** added that *** offers volume discounts and may even eliminate surcharges if doing so will ***.

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[23] ***.

[24] In several instances, volumes were supplied for three allegations together. In these cases, staff has divided the volumes and values equally among the three allegations.

[25] In these tables, prices are presented in short tons. In faxes to purchasers, however, prices were presented in hundredweight, a more commonly-used measure in the industry. Additionally, several of the allegations involved ***. See email from ***, and petition, exhibit I-12.

[26] *** did not respond to these questions.

Purchaser comments

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Table V-19
NOES: U.S. producers' preliminary-phase lost sales allegations

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Table V-20
NOES: U.S. producers' preliminary-phase lost revenue allegations

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[27] ***

PART VI: FINANCIAL EXPERIENCE OF THE U.S. INDUSTRY

BACKGROUND

AK Steel, which accounted for all domestic production of NOES in 2013, provided useable financial data on its operations.[1] AK Steel reported only commercial sales, ***. It reported selling NOES to manufacturers of electrical motors and generators in the infrastructure and manufacturing markets.[2] Sales of NOES represent only a fraction of AK Steel's electrical and stainless steel segment and *** overall business.[3]

OPERATIONS ON NOES

Income-and-loss data for AK Steel on NOES are presented in table VI-1, and are briefly summarized here. Sales quantity and value declined from 2011 to 2013 but were greater in

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[1] AK Steel is a wholly-owned subsidiary of AK Steel Holding Corp. It operates two facilities wherein NOES is produced and is the sole U.S. producer. AK Steel has a fiscal year that ends on December 31, hence, except for rounding, there are no differences between the data reporting in the trade and financial sections of the Commission's questionnaire. Commission staff verified the AK Steel's questionnaire response from its internal financial reporting on NOES. *See* Note to File, October 16, 2014.

Two firms provided data on NOES in the preliminary phase based on the scope at the time: AK Steel and Nucor. After revision of the scope, Nucor reclassified its product as CRML, and together with ArcelorMittal and U.S. Steel, provided data on CRML.

[2] See also discussion in Part II regarding channels of distribution. In 2013, AK Steel shipped ***. Calculated from ***.

[3] AK Steel's operations on NOES constitute *** firm's overall operations. NOES is included in the segment producing and selling stainless steel products and electrical steel products. The latter category consists of grades of GOES and NOES, which are both produced as hot-rolled steel sheet at the AK Steel's plant at Butler, Pennsylvania; NOES is the primary product annealed and otherwise finished at Zanesville, Ohio although during January 2011-June 2014, a minor amount of GOES was finished at the Zanesville plant. A new electric arc furnace was installed at the Butler Works in 2011; according to an industry witness, since 2004, AK Steel has invested over $250 million to install new electrical steel production at the plants at Butler and Zanesville, including $180 million in a new furnace at the Butler plant in 2008-09. Hearing transcript, pp. 25 and 71 (Petersen and Pfeiffer). ***. AK Steel's total sales were $5,570.4 million and its operating income was $135.8 million in 2013 (compared with sales of $5,933.7 million and an operating loss of $128.1 million in 2012). NOES' operations represent *** percent of total sales in 2013 and *** of its segment sales of stainless and electrical steel in 2013 (*** percent of segment sales in 2012). Sales of NOES accounted for about *** percent and *** percent, by quantity, of sales of the firm's shipments of stainless and electrical steels (segment reporting that includes NOES) in 2013 and 2012, respectively. Calculated by dividing questionnaire data for sales by total sales and segment reporting data in AK Steel's 2013 Annual Report and Form 10-K, pp. 14, 16, 41 and 48.

January-June 2014 than in January-June 2013.[4] Total cost of goods sold ("COGS") declined between 2011 and 2013 and was *** interim 2014 than in interim 2013. Total selling, general and administrative ("SG&A") expenses *** from 2011 to 2013 and were *** in January-June 2014 than in January-June 2013. AK Steel's operating loss *** and was *** in January-June 2014 compared with the period one year earlier.[5]

Table VI-1
NOES: Results of operations of AK Steel, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

Net sales

AK Steel's total net sales fell between 2011 and 2013 but were higher in January-June 2014 than in the comparable period one year earlier. The average unit value of its sales fell from 2011 to 2013[6] but was greater in interim 2014 than in interim 2013. Its sales include U.S. commercial shipments and exports[7] as well as ***. Commercial shipments and exports ***. The share of exports in total shipments ranged downward from approximately *** percent in 2011 to *** percent in 2013 and both interim periods. AK Steel's shipments of semiprocessed NOES accounted for *** in 2013.[8]

Costs and expenses

Total COGS fell from 2011 to 2013 on a value basis and was greater in January-June 2014 than in January-June 2013. Total COGS increased as a ratio to sales between 2011 and 2013 but was *** in interim 2014 than in interim 2013. The category of "other factory costs"

[4] AK Steel stated that it decided in 2012 to reduce prices in 2013 to regain market share ("pricing strategy to buy back market share and volume"), described as somewhat successful in first half 2013. It further stated that market prices continued to fall in second half 2013 but "AK Steel could not continue to chase import prices downward." Posthearing brief of AK Steel, p. 6. See also, Prehearing brief of AK Steel, pp. 40-43 and exh. 29-32. Hearing transcript, p. 13 (Dorn), p. 28 (Peterson), p. 35 (Pfeiffer). Posthearing brief of AK Steel, p. 6. Prehearing brief of AK Steel, pp. 40-43 and exh. 29-32. Hearing transcript, p. 13 (Dorn), p. 28 (Peterson), p. 35 (Pfeiffer). This is consistent with AK Steel's testimony in the preliminary phase of the investigations, "***." Postconference brief of AK Steel, p. 30.

[5] See, AK Steel's discussion of 2013 financial results with respect to electrical steel products generally and GOES in particular in AK Steel's 2013 Annual Report and Form 10-K, p 31.

[6] See earlier discussion of AK Steel's price-cutting strategy to regain market share in footnote 4 of this part.

[7] AK Steel exported to ***. Its exports represented ***.

[8] Calculated from the questionnaire response of ***.

(which comprises both variable and fixed costs) declined on an absolute value basis, ***.[9] [10] Raw material costs ***.[11]

Total SG&A expenses *** in January-June 2014 versus the comparable period in 2013.

Profitability

As shown in table VI-1, AK Steel ***.[12] Net income before taxes and cash flow followed the trends of operating income or (loss). The largest component of other expense reportedly consists of ***.[13]

Variance analysis

A variance analysis for the operations of AK Steel on NOES is presented in table VI-2.[14] The information for this variance analysis is derived from table VI-1. This indicates that the ***.

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[9] See tables III-1 and III-2, presented earlier in the report. As indicated in table III-1, ***. As indicated in table III-2, ***. *See* also hearing transcript, pp. 28, 50, and 107 (Petersen, Dorn, and Pfeiffer, respectively).

[10] All things being equal, given the ***.

[11] Changes in average unit values of sales and raw material costs generally tracked each other between 2011 and 2013 and between the interim periods. The year-to-year difference in the change of these two values indicates whether the metal spread widened or narrowed ("widened" indicates sales unit values rose more, or fell less, than the average unit value of raw material costs, whereas "narrowed" indicates the opposite). The metal spread ***.

[12] In its postconference brief, AK Steel reported that ***. Petitioner's postconference brief, answers to questions from Commission staff, p. 7. Petitioner also stated that during 2005-08, AK Steel's average operating profit on NOES was *** percent. Posthearing brief of AK Steel, answers to questions, p. 53.

[13] A portion of ***. *See* e-mail to Commission staff from ***, November 19, 2013. AK Steel has a defined benefit pension and medical benefits plan; it "provides noncontributory pension and various healthcare and life insurance benefits to a significant portion of its employees and retirees." The pension plan is not fully funded. The contribution amounts are presented and discussed in the firm's 2012 Form 10-K on pages 59-64. In addition, AK Steel recognized "pension corridor charges" in its annual report ($268.1 million and $157.3 million in 2011 and 2012, respectively). These are accrued noncash charges, which reflect unrecognized actuarial net gains or losses that exceed 10% of the larger of projected benefit obligations or plan assets. For a discussion of this, *see* AK Steel's 2012 Form 10-K, p. 7. The pension corridor charge was ***. E-mail to Commission staff from ***, November 19, 2013. A small amount of *** also are included in other expense.

[14] The Commission's variance analysis is calculated in three parts: Sales variance, cost of sales variance (COGS variance), and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost or expense variance (in the case of the COGS and SG&A expense variance), and a volume variance. The sales or cost/expense variance is calculated as the change in unit price or per-unit cost/expense times the new volume, while the volume variance is calculated as the change in volume times the old unit price or per-unit cost/expense. Summarized at the bottom of the

(*continued*...)

Table VI-2
NOES: Variance analysis on the operations of AK Steel, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Table VI-3 presents capital expenditures and research and development ("R&D") expenses made by AK Steel. AK Steel reported that these generally consisted of a new highly-efficient electric arc furnace, a new ladle metallurgy furnace, and several upgrades of processing equipment at its plants in Butler, Pennsylvania, and Zanesville, Ohio.[15]

Table VI-3
NOES: Capital expenditures and research and development expenses of AK Steel, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

ASSETS AND RETURN ON INVESTMENT

Table VI-4 presents data on the total assets and its return on investment ("ROI") for AK Steel.[16] Total "***.[17] ROI is a ratio that is calculated by dividing operating income or (loss) by total assets. ROI followed the trend in operating income or loss, shown earlier in table VI-1 although ***.

(…*continued*)
table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively, and the volume variance is the sum of the volume components of the net sales, COGS, and SG&A expense variances. The overall volume component of the variance analysis is generally small.

[15] Conference transcript, p. 66 (Schoen).

[16] At the conference staff asked AK Steel to define "adequate return." This question referred to ***. AK Steel defined it as ***. Petitioner's postconference brief, answers to questions from Commission staff, p. 7. By way of illustration of the firm's cost of capital, in November 2012 AK Steel issued $350 million aggregate principal amount of 8.750% senior secured notes due December 2018; in the same month it issued $150 million of 5.0% senior unsecured notes due December 2019. Both issuances were used to repay outstanding borrowings under the firm's credit facility. The firm has a credit facility of $1.1 billion at a nominal interest rate of 2.3 percent, which expires in 2016. *See* AK Steel's annual report, pp. 57.

[17] E-mail to Commission staff from ***, September 11, 2014.

Table VI-4
NOES: Total assets and return on investment of AK Steel, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers of NOES to describe any actual or potential negative effects of imports of NOES from China, Germany, Japan, Korea, Sweden, and/or Taiwan on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. The responses of AK Steel[18] are shown as follows:

Actual negative effects

AK Steel: "***."

Anticipated negative effects

AK Steel: "***."

.

[18] The firm stated that its response does not differ by subject country.

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*[1]*--*
>
> *(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,*

---

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . 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."

(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 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).[2]

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

[2] 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."

THE INDUSTRY IN CHINA

Tables VII-1 presents data provided by Baosteel[3] and Angang,[4] two producers of NOES in China.[5] These firms' exports of NOES to the United States, all of which consisted of fully processed NOES, accounted for *** percent of U.S. imports of NOES from China during 2011-2013. Chinese production capacity increased by *** percent between 2011 and 2013 ***. Production decreased by *** percent between 2011 and 2013, resulting in a decrease in capacity utilization by *** percentage points.

Home market shipments accounted for the vast majority of total shipments for Chinese producers, accounting for roughly *** percent of total shipments during the period of investigation. Exports to the United States, which accounted for no more than *** percent during the period of investigation, decreased by *** percent during 2011-13. Exports to markets other than the United States, which accounted for between *** and *** percent of total shipments during the period of investigation, increased by *** percent during 2011-13.[6] During 2011-13, inventories accounted for approximately *** percent of Chinese producers' production and total shipments.

Chinese producers projected that production capacity would *** in 2014 and 2015. Baosteel projected that it ***.[7] *** products other than NOES using the same equipment and machinery used in the production of NOES; *** reported production constraints; and *** reported that production capacity was based on operating ***.

---

[3] Baosteel is related to Baosteel America Inc., an importer of NOES in the United States. Baosteel is the largest producer and U.S. exporter of NOES in China. Hearing transcript, p. 157 (Huang). Counsel on behalf of the China Iron and Steel Association ("CISA") believe that ***. Email from ***, August 19, 2014. Baosteel accounted for *** percent of reported Chinese production and *** percent of the reported Chinese exports of NOES to the United States during the period of investigation. Baosteel reported that *** of its total sales in the most recent fiscal year were represented by sales of NOES. To the best of CISA's knowledge, all NOES exported from China is in coil form and is slit after importation into the United States. CISA's posthearing brief, Questions from Commission Staff, p. 1.

[4] Angang is related to Angang America, an importer of NOES in the United States. During the period of investigation, Angang ***. Angang accounted for *** percent of reported production in China and *** of exports of NOES to the United States during the period of investigation. Angang reported that *** percent of its total sales in the most recent fiscal year were represented by sales of NOES.

[5] Additionally, there may be at least four other firms that produce NOES in China: Wuhan Iron and Steel ("WISCO"), Taiyuan Iron and Steel ("TICSO"), Hebei Shougang Qian'an Steel, and Maanhan Steel. Petitioner's prehearing brief, Supplemental Information on Individual Subject Countries, Exhibit A-1 (D), pp. 1-2.

[6] Principal export markets identified included: ***.

[7] Counsel for CISA added that ***. Email from ***, September 4, 2014.

Table VII-1
NOES: Data on producers in China, 2011-13, January to June 2013, and January to June 2014 and projection calendar years, 2014-15

* * * * * * *

THE INDUSTRY IN GERMANY

Table VII-2 present data provided by ArcelorMittal Germany,[8] CDW,[9] and ThyssenKrupp,[10] three producers of NOES in Germany. These firms' exports to the United States, all of which consisted of fully processed NOES, accounted for *** percent of U.S. imports of NOES from Germany during 2011-2013.

Home market shipments accounted for at least *** percent of total shipments during the period of investigation. Export shipments to markets other than the United States accounted for the next largest share of German producers' total shipments, ranging from *** percent to *** percent of total shipments. German producers identified the European Union as their principal export market. Exports of NOES to the United States accounted for no greater than *** percent of German producers' total reported shipments during the period of investigation.[11]

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[8] ArcelorMittal Germany is related to NOES producers ArcelorMittal Frýdek-Místek (Czech Republic) and ArcelorMittal Mediteranee (France) as well as ArcelorMittal America, an importer of NOES in the United States. ArcelorMittal Germany ***. ArcelorMittal Germany accounted for *** percent of reported NOES production in Germany and reported that *** percent of its total sales in the most recent fiscal year were represented by sales of NOES.

[9] CDW is related to CDW Services, an importer of NOES in the United States. CDW accounted for *** percent of reported production in Germany and *** percent of the reported German exports of NOES to the United States. CDW's exports of NOES to the United States accounted for *** percent of its total shipments during the period of investigation. CDW reported that *** percent of its total sales in the most recent fiscal year were represented by sales of NOES. *** material that CDW imported for *** is in slit form (as opposed to master coils). This amounted to *** short tons during 2011-13. German Respondents' posthearing brief, Answers to Questions from Staff, p. 14.

[10] ThyssenKrupp is related to ThyssenKrupp Electrical Steel India Private Limited, a producer of NOES in India, as well as ThyssenKrupp Steel North America and ThyssenKrupp Steel Europe, importers of NOES in the United States. During the period of investigation, ThyssenKrupp accounted for *** percent of reported production in Germany and *** percent of the reported German exports to the United States. Its exports to the United States accounted for *** percent of its total shipments during the period of investigation. ThyssenKrupp reported that *** percent of its total sales in the most recent fiscal year were represented by sales of NOES. Virtually all (other than a few sample test shipments) of ThyssenKrupp's exports of NOES to the U.S. consist of master coils, which are not slit. German Respondents' posthearing brief, Answers to Questions from Staff, p. 14.

[11] ***.

Table VII-2
NOES: Data for producers in Germany, 2011-13, January to June 2013, and January to June 2014 and projection calendar years, 2014-15

* * * * * * *

Exports of NOES from Germany to the United States are projected to decrease due to specific developments in customer relationships.[12] In their questionnaire responses, German producers ***.

When asked to describe changes in relation to the production of NOES, ThyssenKrupp reported ***. ThyssenKrupp also noted ***.[13]

When asked to describe the constraints that set limits on the firm's production capacity, ArcelorMittal Germany reported that ***; CDW reported ***; and ThyssenKrupp cited the ***. ThyssenKrupp also noted its production capacity is limited by ***.

When asked if their firms have the ability to switch production between NOES and other products using the same equipment and labor, ***. ***. ThyssenKrupp has conducted test runs for certain cold-rolled products at its NOES facility in Bochum, ensuring that it will be able to utilize unused NOES capacity in the future.[14] ***. ***.

When asked to identify what other products are made on the same equipment and machinery used in the production of NOES, ***. Table VII-3 provides overall capacity and production data with regard to products that use the same equipment and machinery used to produce NOES.

Table VII-3
NOES: Overall capacity, by product, in Germany, 2011-13, January to June 2013, and January to June 2014

* * * * * * *

[12] ThyssenKrupp's largest U.S. customer for NOES, Siemens Energy, shifted much of its stamping operations from the United States to Germany in 2012. As a result, ThyssenKrupp has redirected these shipments to the German market. Hearing transcript, p. 154 (Schmidtz) and German Respondents' posthearing brief, p. 8. CDW's largest customer completed a major project using a specialized product manufactured by CDW in 2012 and does not plan to begin another one. Conference transcript, pp. 107-108 (McPhie) and German Respondents' posthearing brief, p. 8. Aside from the historical focus on Germany and the recent changes in customer sourcing operations, German producers expect that demand for NOES in Germany and the EU will continue to grow in the coming years, more so than the U.S. market. German Respondents' prehearing brief, p. 16.

[13] In addition, ThyssenKrupp noted ***.

[14] Conference transcript, p. 104 (LaFrankie) and ThyssenKrupp's and CDW's prehearing brief, p. 18.

THE INDUSTRY IN JAPAN

Table VII-4 presents data provided by Metal One,[15] JFE Steel,[16] and Nippon Steel,[17] three producers/exporters of NOES in Japan. These firms' exports to the United States, all of which consisted of fully processed NOES, accounted for *** percent of U.S. imports of NOES from Japan during 2011-13.

Production capacity in Japan increased by *** percent between 2011 and 2013, while production volumes decreased by *** percent over the same period, resulting in a decrease in capacity utilization of *** percentage points. Capacity, production, and capacity utilization were all higher in interim 2014 when compared to interim 2013. Projected capacity is 2014 and 2015 were ***.

Japanese producers' exports to the United States accounted for no more than *** percent of total shipments during the period of investigation. Exports to markets other than the United States accounted for the between *** and *** percent over the period of investigation, with principal export markets being identified as ***.

Table VII-4
NOES: Data for producers in Japan, 2011-13, January to June 2013, and January to June 2014 and projection calendar years, 2014-15

* * * * * * *

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[15] Metal One is related to Metal One America, an importer of NOES in the United States. Metal One reported ***.

[16] JFE Steel is related to JFE Shoji America, an importer of NOES in the United States. JFE Steel has reportedly entered into a technical assistance arrangement with JSW Steel to produce NOES in India by late 2014. Conference transcript, p. 47 (Jones). During the period of investigation, JFE Steel accounted for *** percent of reported production in Japan and *** percent of the reported exports to the United States. Its exports to the United States accounted for *** percent of its total shipments. JFE Steel reported that *** percent of its total sales in the most recent fiscal year were represented by sales of NOES. *** were master coils. Japanese Respondents' posthearing brief, Answers to Staff Questions, p. 1.

[17] Nippon Steel is related to Sumitomo America, an importer of NOES in the United States. Nippon Steel is related to China Steel Sumikin-Vietnam Joint Stock Company, a joint venture with China Steel of Taiwan, which will produce NOES in Vietnam. Conference transcript, p. 47-48 (Jones). During the period of investigation, Nippon Steel accounted for *** percent of reported production in Japan and *** percent of the reported Japanese exports to the United States. Its exports to the United States accounted for *** percent of its total shipments. Nippon Steel reported that *** percent of its total sales in the most recent fiscal year were represented by sales of NOES. *** of Nippon Steel's exports to the United States shipped from January 1, 2011, consisted of coils wider than 600 mm. Japanese Respondents' posthearing brief, Answers to Staff Questions, p. 1.

When asked to describe changes in relation to the production of NOES, Nippon Steel reported ***. Nippon Steel also noted ***.[18] When asked to describe the constraints that set limits on the firm's production capacity, JFE Steel reported that ***. Nippon Steel added that ***.

When asked if their firms have the ability to switch production between NOES and other products using the same equipment and labor, JFE Steel identified *** and noted that *** its ability to shift production between products. Nippon Steel indicated ***. Nippon Steel added that ***.

When asked to identify what other products are made on the same equipment and machinery used in the production of NOES, Nippon Steel reported the production of *** and JFE Steel reported ***. Table VII-5 provides overall capacity and production data with regard to products that use the same equipment and machinery used to produce NOES.

Table VII-5
NOES: Overall capacity, by product, in Japan, 2011-13, January to June 2013, and January to June 2014

* * * * * * *

When asked to describe the methodology used to calculate overall production capacity shown in table VII-5, JFE reported that capacity ***. Nippon Steel reported that capacity ***.

THE INDUSTRY IN KOREA

Table VII-6 presents data provided by POSCO, the sole producer of NOES in Korea.[19] POSCO's exports to the United States, all of which consisted of fully processed NOES, accounted for *** percent of U.S. imports of NOES from Korea during 2011-13. POSCO reported that its capacity ***. When asked to describe the methodology used to calculate production capacity, POSCO reported that ***. Production decreased by *** between 2011 and 2013 and was *** percent lower in interim 2014 compared to interim 2013.

POSCO's exports to the United States accounted for no greater than *** percent of its total shipments, while home market shipments accounted for between *** and *** percent of total shipments; and exports to the markets other than the United States accounted

[18] Nippon Steel reported that ***.

[19] POSCO is related to POSCO America and Daewoo America, two importers of NOES in the United States. POSCO is reportedly nearing completion of a NOES facility in India. Conference transcript, p. 47 (Jones). According to counsel for POSCO, ***. Email from ***, September 4, 2014. POSCO reported that *** percent and their respective total sales in the most recent fiscal year were represented by sales of NOES.

for between *** and *** percent of total shipments. POSCO cited *** as its principal export markets.[20]

Table VII-6
NOES: Data for producer in Korea, 2011-13, January to June 2013, and January to June 2014 and projection calendar years, 2014-15

* * * * * * *

When asked to describe the constraints that set limits on the firm's production capacity, POSCO reported that production capacity ***.[21]

THE INDUSTRY IN SWEDEN

Table VII-7 presents data provided by Surahammars, the sole producer of NOES in Sweden.[22] Surahammars' exports to the United States, all of which consisted of fully processed NOES, accounted for *** percent of U.S. imports of NOES from Sweden during 2011-13. Surahammars' exports to the United States, which accounted for between *** percent and *** percent of total shipments over the period, decreased between 2011 and 2013 and were lower in interim 2014 than in interim 2013.[23]

Cogent Power, the firm responsible for handling Surahammars' imports into the United States, supplies slit products (including blanks), as opposed to wide coils, dedicated for the end customer's use. In more than 95 percent of instances, Cogent provides slit products directly to OEM end users, in a form that meets the customers' specifications and is immediately available for use in their production without processing. In the remaining instances, Cogent sells specified slit material for a dedicated end user through an intermediary that performs an additional step, such as stamping, per the end user's requirements. Surahammars reported a small percentage (*** percent over the period of investigation) of sales in coil form to ***. However, Surahammars indicated that it did not know at the time of the sale that the products would be shipped to the United States. Surahammars and Cogent have taken steps to ensure that such shipments will not occur in the future.[24]

Exports to markets other than the United States, identified principally as ***, accounted for between *** percent and *** percent of the firm's total shipments.[25]

---

[20] ***.

[21] *** products other than NOES using the same equipment and machinery used in the production of NOES.

[22] ***. Email from ***, September 4, 2014.

[23] Surahammars projected that ***. When asked to explain the basis for this projection, the firm noted that ***, September 11, 2014.

[24] Prehearing brief of Cogent Powers Inc. and Surahammars Bruk, p. 3.

[25] ***.

Table VII-7
NOES: Data for producer in Sweden, 2011-13, January to June 2013, and January to June 2014 and projection calendar years, 2014-15

* * * * * * *

When asked to describe changes in relation to the production of NOES, Surahammars reported ***.[26] When asked to describe anticipated changes in operations relating to the production of NOES in the future, Surahammars reported that ***.

When asked to describe the constraints that set limits on the firm's production capacity, Surahammars identified ***. Surahammars added that ***.

When asked to identify what other products are made on the same equipment and machinery used in the production of NOES, Surahammars reported ***. Table VII-8 provides overall capacity and production data with regard to products that use the same equipment and machinery used to produce NOES.

Table VII-8
NOES: Swedish producer's overall capacity and production of products on the same equipment as NOES, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

When asked to describe the methodology used to calculate overall production capacity shown in table VII-8, Surahammars reported that it ***.

THE INDUSTRY IN TAIWAN

Table VII-9 presents data provided by China Steel, the sole producer of NOES in Taiwan.[27] All of China Steel's exports of NOES to the United States consists of master coils.[28] China Steel's exports to the United States, all of which consisted of fully processed NOES, accounted for *** percent of U.S. imports of NOES from Taiwan during 2011-2013.[29]

China Steel's capacity *** during the period of investigation, but was *** percent higher in interim 2014 when compared to interim 2013. China Steel projected that capacity would

[26] According to testimony at the staff conference, Surahammars has reduced its workforce and with it, production capacity. Conference transcript, pp. 112-113 (Harper).

[27] China Steel is related to China Steel Sumikin-Vietnam Joint Stock Company, a joint venture with Nippon Steel, which will produce NOES in Vietnam. China Steel is also related to China Steel Corporation India Pvt. Ltd in India that ***. China Steel reported that *** percent of its total sales in the most recent fiscal year were represented by sales of NOES.

[28] China Steel and Metallia's posthearing brief, p. 1.

[29] China Steel reported that ***.

increase in 2014 and 2015 due to the addition of a new annealing and coating line in the first half of 2014.[30] Production increased by *** percent during 2011-13 and was *** percent higher in interim 2014 than in interim 2013.

China Steel's exports to the United States, which accounted for no more than *** percent of total shipments during the period of investigation, increased between 2011 and 2013, but were lower in interim 2014 than in interim 2013.[31] Exports to markets other than the United States, particularly to China and South Asian countries, accounted for the majority of China Steel's total shipments, ranging from *** to *** percent of its total shipments.

Table VII-9
NOES: Data for producers in Taiwan, 2011-13, January to June 2013, and January to June 2014 and projection calendar years, 2014-15

* * * * * * *

When asked to identify any anticipated changes in relation to the production of NOES, China Steel reported ***. China Steel noted that the ***. When asked to identify the constraints that set limits on the firm's production capacity, China Steel reported ***.[32]

SUBJECT COUNTRIES COMBINED

Table VII-10 presents information on NOES operations of the reporting producers in the subject countries.

[30] The increase in capacity of approximately 100,000 metric tons by the end of 2014 is meant to enable China Steel to produce thinner gauge NOES as low as 0.15 millimeters, which China Steel cannot currently produce. These thinner gauges will be used primarily for high efficiency motors. Hearing transcript, pp. 162-163 (Chu).

[31] All of China Steel's exports to the United States consisted of NOES in coil, not slit form. China Steel's postconference brief, p. 2.

[32] *** products other than NOES using the same equipment and machinery used in the production of NOES.

Table VII-10

NOES: Data on industry in subject countries, 2011-13, January to June 2013, and January to June 2014 and projections for 2014 and 2015

Item	Actual experience					Projections	
	Calendar year			January to June		Calendar year	
	2011	2012	2013	2013	2014	2014	2015
	Quantity (*short tons*)						
Capacity	5,386,467	5,499,529	5,631,252	2,814,245	2,882,679	5,715,031	5,720,203
Production	4,997,802	4,565,967	4,606,736	2,260,093	2,389,315	4,786,022	4,881,693
End-of-period inventories	330,382	274,318	278,869	235,179	250,502	300,147	262,662
Shipments: Internal consumption/ transfers	103	812	1,410	1,272	113	227	236
Home market shipments	3,322,012	3,064,908	3,026,426	1,506,899	1,643,027	3,228,490	3,252,995
Export shipments to: United States	66,038	64,249	59,174	30,546	15,517	22,903	17,071
All other markets	1,481,086	1,492,062	1,515,175	760,511	759,023	1,513,119	1,648,414
Total exports	1,547,124	1,556,311	1,574,349	791,057	774,540	1,536,022	1,665,485
Total shipments	4,869,239	4,622,031	4,602,185	2,299,228	2,417,680	4,764,739	4,918,716
	Ratios and shares (*percent*)						
Capacity utilization	92.8	83.0	81.8	80.3	82.9	83.7	85.3
Inventories/production	6.6	6.0	6.1	5.2	5.2	6.3	5.4
Inventories/total shipments	6.8	5.9	6.1	5.1	5.2	6.3	5.3
Share of total shipments: Internal consumption/ transfers	0.0	0.0	0.0	0.1	0.0	0.0	0.0
Home market shipments	68.2	66.3	65.8	65.5	68.0	67.8	66.1
Export shipments to: United States	1.4	1.4	1.3	1.3	0.6	0.5	0.3
All other markets	30.4	32.3	32.9	33.1	31.4	31.8	33.5
Total exports	31.8	33.7	34.2	34.4	32.0	32.2	33.9
Total shipments	100.0	100.0	100.0	100.0	100.0	100.0	100.0

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

U.S. INVENTORIES OF IMPORTED MERCHANDISE

Table VII-11 presents data on U.S. importers' reported end-of-period inventories of NOES.[33]

[33]Firms that imported NOES from *** reported no end-of-period inventories; therefore, *** appear in table VII-10.

Table VII-11
NOES: U.S. importers' inventories, 2011-2013, January-June 2013, and January-June 2014

* * * * * * *

U.S. IMPORTERS' OUTSTANDING ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of NOES from China, Germany, Japan, Korea, Sweden, and Taiwan after June 30, 2013. Table VII-12 presents these data.[34]

Table VII-12
NOES: Arranged imports, July 2014-June 2015

* * * * * * *

ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

On July 17, 2013, Brazil's Foreign Trade Chamber, Camex, imposed antidumping duties on imports of NOES From China, Taiwan, and Korea. The duties ranged from between $175.94 to $432.95 per ton on imports from China; from $132.50 to $231.40 per ton on imports from Korea; and from $198.34 to $567.16 per ton on imports from Taiwan.[35] In August 2014, Camex reduced to zero the antidumping duty for a volume of 45,000 tons applied to NOES from China, South Korea, and Taiwan imported until August 15, 2015.[36]

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

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[34] No firm imported or reported arranging for the importation of NOES from *** after June 30, 2014; therefore, *** appear in table VII-12.

[35] "Brazil trade body sets anti-dumping penalties on GNO steel imports," http://in.reuters.com/article/2013/07/17/snippet-idINL1N0FN0DG20130717, retrieved November 5, 2013. Brazilian authorities defined NOES as having between 0.6 percent and 6.0 percent of silicon. Baoshan's postconference brief, p. 4.

[36] "No to import duties on GOES into the U.S." CRU Steel News, August 29, 2014. According to testimony at the hearing, antidumping duties would be applied to imports of NOES from subject countries once the volume exceeds 45,000 tons. Hearing transcript, p. 57 (Jones).

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.'"[37]

Official Commerce import statistics for NOES are presented in Table VII-13. U.S. imports of NOES from nonsubject countries accounted for between 6.3 and 8.4 percent of total imports during 2011-13, increasing to 26.1 percent in interim 2014, as subject imports declined and non-subject imports, particularly from France, increased. France was the largest nonsubject source of NOES throughout the period of investigation.

Table VII-13
NOES: U.S. imports, by source, 2011-13, January-June 2013, and January-June 2014

Item	Calendar year			January to June	
	2011	2012	2013	2013	2014
	Quantity (short tons)				
U.S. imports from.--					
China	16,401	14,042	12,724	8,217	1,747
Germany	14,385	9,568	7,493	3,795	2,282
Japan	22,747	18,540	15,916	6,887	4,969
Korea	6,880	7,331	4,622	1,357	1,823
Sweden	8,599	9,359	7,068	3,559	3,162
Taiwan	5,203	17,136	9,768	2,637	8,691
Subtotal, subject	74,215	75,977	57,591	26,453	22,674
France	2,733	3,527	1,226	506	6,164
Russia	1,421	197	137	63	21
All other sources	2,636	2,517	2,518	600	1,817
Total U.S. imports	81,005	82,219	61,470	27,620	30,675

Source: Official statistics of the U.S. Department of Commerce, HTS numbers 7225.19.00, 7226.19.10, and 7226.19.90.

Exports of NOES, as reported by exporting countries are presented in Table VII-14. Subject countries comprise five of the six largest world sources of NOES exports.[38] The only nonsubject country that is a major source of exported NOES is Russia. Firms responding to the Commission's U.S. importers questionnaire identified NOES producers in other nonsubject countries including Austria (Voestalpine AG) and Brazil (Aperam S.A.). As noted earlier, a number of NOES producers in subject countries (POSCO of Korea, JFE of Japan, and China Steel of Taiwan) are building or are planning to expand NOES capacity in India and Vietnam.[39]

[37] *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).

[38] Exports from Sweden are not available.

[39] Hearing transcript, p. 56 (Jones).

Table VII-14
NOES: World exports, by country, 2011-13

Reporting country	Calendar year		
	2011	2012	2013
	Quantity (short tons)		
Taiwan	418,996	485,561	560,772
Japan	595,303	446,379	429,379
Korea	377,545	418,090	416,185
Russia	332,466	297,966	275,310
China	245,978	268,911	273,994
Germany	309,933	232,174	229,662
Slovakia	117,978	91,537	97,627
France	90,595	63,426	78,243
Slovenia	69,537	68,058	66,235
Hong Kong	130,138	87,681	61,018
All other reporting countries	321,223	266,233	224,932
Total	3,009,693	2,726,016	2,713,357

Note: Exports from Sweden are not available.

Source: Global Trade Atlas. Accessed September 4, 2014.

The industry in Russia

The main producer in Russia is Novolipetsk (NLMK) which is a major producer of both grain-oriented and nonoriented electrical steel. Exports of NOES from Russia have been primarily to countries in Europe, as well as Turkey, Ukraine, and Iran.

The industry in France

ArcelorMittal, one of the producers of NOES in Germany, also has a subsidiary producing NOES in France: ArcelorMittal Méditeranée, which may be the only producer of NOES in France. Located in St. Chély d'Apcher, the plant in 2013 started-up a new annealing line for NOES, having a capacity of 132,000 short tons per year, and almost doubling its previous capacity.[40] Exports of NOES from France have been primarily to other European countries and to China and India.

[40] ArcelorMittal http://automotive.com/icare_industrial _capacity. Accessed September 8, 2014. See also: Steel Business Briefing< https://www.steelbb.com/?PageID=157&article_id=96028. Accessed September 8, 2014.

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
78 FR 62660 October 22, 2013	*Non-Oriented Electrical Steel From China, Germany, Japan, Korea, Sweden, and Taiwan: Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*	http://www.gpo.gov/fdsys/pkg/FR-2013-10-22/html/2013-24337.htm
78 FR 68412, November 14, 2013	*Non-Oriented Electrical Steel From the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations*	http://www.gpo.gov/fdsys/pkg/FR-2013-11-14/html/2013-27316.htm
78 FR 69041, November 18, 2013	*Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden and Taiwan: Initiation of Antidumping Duty Investigations*	http://www.gpo.gov/fdsys/pkg/FR-2013-11-18/html/2013-27304.htm
78 FR 73562, December 6, 2013	*Non-Oriented Electrical Steel From China, Germany, Japan, Korea, Sweden, and Taiwan; Determinations*	http://www.gpo.gov/fdsys/pkg/FR-2013-12-06/pdf/2013-29116.pdf
79 FR 16290, March 25, 2014	*Non-Oriented Electrical Steel from Taiwan: Preliminary Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination*	http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06587.pdf

79 FR 162292, March 25, 2014	*Non-Oriented Electrical Steel From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*	http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06588.pdf
79 FR 16295, March 25, 2014	*Non-Oriented Electrical Steel from the Republic of Korea: Preliminary Negative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*	http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06565.pdf
79 FR 29421, May 22, 2014	*Non-Oriented Electrical Steel From the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*	http://www.gpo.gov/fdsys/pkg/FR-2014-05-22/pdf/2014-11900.pdf
79 FR 29423, May 22, 2014	*Non-Oriented Electrical Steel From Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*	http://www.gpo.gov/fdsys/pkg/FR-2014-05-22/pdf/2014-11906.pdf
79 FR 29426, May 22, 2014	*Non-Oriented Electrical Steel From the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*	http://www.gpo.gov/fdsys/pkg/FR-2014-05-22/pdf/2014-11902.pdf

79 FR 29428, May 22, 2014	*Non-Oriented Electrical Steel From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*	http://www.gpo.gov/fdsys/pkg/FR-2014-05-22/pdf/2014-11905.pdf
79 FR 37718 July 2, 2014	*Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, and Sweden: Postponement of Final Determinations of Sales at Less Than Fair Value*	http://www.gpo.gov/fdsys/pkg/FR-2014-07-02/pdf/2014-15562.pdf
79 FR 40143, July 11, 2014	*Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan; Scheduling of the final phase of countervailing duty and antidumping duty investigations*	http://www.gpo.gov/fdsys/pkg/FR-2014-07-11/pdf/2014-16253.pdf
79 FR 61602, October 14, 2014	*Non-Oriented Electrical Steel from Taiwan: Final Affirmative Countervailing Duty Determination*	http://www.gpo.gov/fdsys/pkg/FR-2014-10-14/pdf/2014-24375.pdf
79 FR 61605, October 14, 2014	*Non-Oriented Electrical Steel from the Republic of Korea: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*	http://www.gpo.gov/fdsys/pkg/FR-2014-10-14/pdf/2014-24379.pdf
79 FR 61607, October 14, 2014	*Non-Oriented Electrical Steel From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*	http://www.gpo.gov/fdsys/pkg/FR-2014-10-14/pdf/2014-24377.pdf
79 FR 61609, October 14, 2014	*Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*	http://www.gpo.gov/fdsys/pkg/FR-2014-10-14/pdf/2014-24372.pdf

79 FR 61612, October 14, 2014	*Non-Oriented Electrical Steel from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*	http://www.gpo.gov/fdsys/pkg/FR-2014-10-14/pdf/2014-24374.pdf
79 FR 61614, October 14, 2014	*Non-Oriented Electrical Steel from Taiwan: Final Determination of Sales at Less Than Fair Value*	http://www.gpo.gov/fdsys/pkg/FR-2014-10-14/pdf/2014-24368.pdf

APPENDIX B

LIST OF HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject:	Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan
Inv. Nos.:	701-TA-506-508 and 731-TA-1238-1243 (Final)
Date and Time:	October 8, 2014 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, DC.

OPENING REMARKS:

Petitioner (**Joseph W. Dorn**, King & Spalding)
Respondents (**Matthew P. McCullough**, Curtis, Mallet-Prevost, Colt & Mosle LLP)

In Support of the Imposition of Antidumping and Countervailing Duty Orders:

King & Spalding
Washington, DC
on behalf of

AK Steel Corporation

Eric Petersen, Vice President, Sales and Customer Service, AK Steel Corporation

Geoff Pfeiffer, General Manager, Specialty Steel Sales, AK Steel Corporation

Steve Konstantinidis, Manager, Electrical Steel Sales, AK Steel Corporation

Jerry Schoen, Principal Engineer, Product Development & Applications Engineering, AK Steel Corporation

Thomas L. Harlan, Electrical Maintenance Technician, AK Steel Corporation, and Member of United Automobile, Aerospace And Agricultural Workers of America (UAW) Local 4104

Jeffrey Zackerman, Assistant General Counsel, Commercial Affairs, AK Steel Corporation

Joseph W. Dorn)
) – OF COUNSEL
Stephen A. Jones)

In Opposition to the Imposition of <u>Antidumping and Countervailing Duty Orders:</u>

Morris Manning & Martin LLP
Washington, DC
<u>on behalf of</u>

China Steel Corporation
Metallia USA LLC

Paul Chu, Foreign Marketing Research Section, Marketing Administration Department, China Steel Corporation

Robert Stewart, Chief Executive Officer, Lamination Specialties Corp.

Brad Beuc, Vice President for Global Sourcing, Steel & Components, Emerson Electric

Mark D. Weisheit, Vice President, Business Development and Procurement, Nidec Motor Company

Bill Estes, Vice President, Supply Chain, Emerson Electric

Donald B. Cameron)
) – OF COUNSEL
R. Will Planert)

Curtis, Mallet-Prevost, Colt & Mosle LLP
Washington, DC
<u>on behalf of</u>

JFE Steel Corporation ("JFE")
Nippon Steel & Sumitomo Metal Corporation ("NSSMC")

David Stevens, Senior Vice President, American MITSUBA Corporation

Brion Talley, Senior Vice President, JFE Shoji Trade America, Inc.

In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders (continued):

Bruce Becker, Manager, Steel Trading Unit, Midwest Region, Toyota Tsusho America, Inc.

Hiroyuki Azeyanagi, Staff Manger, JFE Steel Corporation

Soichi Yonezawa, General Manager, Electrical Steel Sheet Division, Nippon Steel & Sumitomo Metal Corporation

James P. Durling)
Daniel L. Porter) – OF COUNSEL
Matthew P. McCullough)

Dentons US LLP
Washington, DC
on behalf of

China Iron and Steel Association ("CISA")

Steven Yi Huang, General Manager, Steel Department, Baosteel America Inc.

Mark Lunn) – OF COUNSEL

Steptoe & Johnson LLP
Washington, DC
on behalf of

Cogent Power Inc.
Surahammars Bruks (collectively "Cogent")

David J. Gilson, EMD, Sourcing, Principal Buyer, Curtiss-Wright Electro-Mechanical Corporation

Ron Harper, President, Cogent Power

Mark D. Weisheit, Vice President, Business Development and Procurement, Nidec Motor Company

Joel Kaufman)
) – OF COUNSEL
Alice A. Kipel)

In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders (continued):

Hughes Hubbard & Reed LLP
Washington, DC
on behalf of

ThyssenKrupp Steel Europe AG
ThyssenKrupp Steel North America Inc.

Michael Schmidtz, Head of NOES Sales North and South America, ThyssenKrupp Steel Europe AG

Jörg Wichert, Head of Foreign Trade & Export Regulations,ThyssenKrupp Steel Europe AG

Robert L. LaFrankie) – OF COUNSEL

Squire Patton Boggs (US) LLP
Washington, DC
on behalf of

C.D. Wälzholz KG
CDW Service Center D&B, Ltd.

Dr. Matthias Gierse, Chief Sales Officer, C.D. Wälzholz

Frank Kluwe, President, Wälzholz, North America

Martin Grotthaus, Head of Legal, C.D. Wälzholz

Iain R. McPhie) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

Petitioner (**Joseph W. Dorn**, King & Spalding)
Respondents (**Donald B. Cameron**, Morris Manning & Martin LLP)

APPENDIX C

SUMMARY DATA

Table C-1

NOES: Summary data concerning the U.S. market, 2011-13, January to June 2013, and January to June 2014

(Quantity=short tons; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per short ton; Period changes=percent--exceptions noted)

	Reported data					Period changes			
	Calendar year			January to June		Calendar year			Jan-Jun
	2011	2012	2013	2013	2014	2011-13	2011-12	2012-13	2013-14
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Germany	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Sweden	***	***	***	***	***	***	***	***	***
Taiwan	***	***	***	***	***	***	***	***	***
Subject sources	***	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Germany	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Sweden	***	***	***	***	***	***	***	***	***
Taiwan	***	***	***	***	***	***	***	***	***
Subject sources	***	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. imports from:									
China:									
Quantity	16,401	14,042	12,724	8,217	1,747	(22.4)	(14.4)	(9.4)	(78.7)
Value	19,702	15,305	12,231	7,912	1,498	(37.9)	(22.3)	(20.1)	(81.1)
Unit value	$1,201	$1,090	$961	$963	$858	(20.0)	(9.3)	(11.8)	(10.9)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Germany:									
Quantity	14,385	9,568	7,493	3,795	2,282	(47.9)	(33.5)	(21.7)	(39.9)
Value	19,492	11,224	8,342	4,163	2,512	(57.2)	(42.4)	(25.7)	(39.7)
Unit value	$1,355	$1,173	$1,113	$1,097	$1,101	(17.8)	(13.4)	(5.1)	0.4
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Japan:									
Quantity	22,747	18,540	15,916	6,887	4,969	(30.0)	(18.5)	(14.2)	(27.9)
Value	29,889	23,625	20,035	8,500	7,037	(33.0)	(21.0)	(15.2)	(17.2)
Unit value	$1,314	$1,274	$1,259	$1,234	$1,416	(4.2)	(3.0)	(1.2)	14.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Korea:									
Quantity	6,880	7,331	4,622	1,357	1,823	(32.8)	6.6	(36.9)	34.3
Value	7,605	6,830	4,207	1,311	1,752	(44.7)	(10.2)	(38.4)	33.7
Unit value	$1,105	$932	$910	$966	$961	(17.7)	(15.7)	(2.3)	(0.5)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Sweden:									
Quantity	8,599	9,359	7,068	3,559	3,162	(17.8)	8.8	(24.5)	(11.2)
Value	14,467	15,394	10,556	5,283	4,684	(27.0)	6.4	(31.4)	(11.3)
Unit value	$1,682	$1,645	$1,494	$1,484	$1,482	(11.2)	(2.2)	(9.2)	(0.2)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Taiwan:									
Quantity	5,203	17,136	9,768	2,637	8,691	87.7	229.4	(43.0)	229.6
Value	6,459	18,231	8,745	2,485	7,009	35.4	182.2	(52.0)	182.1
Unit value	$1,242	$1,064	$895	$942	$806	(27.9)	(14.3)	(15.8)	(14.4)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subject sources:									
Quantity	74,215	75,977	57,591	26,453	22,674	(22.4)	2.4	(24.2)	(14.3)
Value	97,615	90,608	64,116	29,654	24,494	(34.3)	(7.2)	(29.2)	(17.4)
Unit value	$1,315	$1,193	$1,113	$1,121	$1,080	(15.4)	(9.3)	(6.6)	(3.6)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Nonsubject sources:									
Quantity	6,790	6,242	3,879	1,168	8,001	(42.9)	(8.1)	(37.9)	585.1
Value	11,087	8,066	4,956	1,621	9,441	(55.3)	(27.2)	(38.6)	482.4
Unit value	$1,633	$1,292	$1,278	$1,388	$1,180	(21.8)	(20.9)	(1.1)	(15.0)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Total imports:									
Quantity	81,005	82,219	61,470	27,620	30,675	(24.1)	1.5	(25.2)	11.1
Value	108,702	98,674	69,072	31,275	33,936	(36.5)	(9.2)	(30.0)	8.5
Unit value	$1,342	$1,200	$1,124	$1,132	$1,106	(16.3)	(10.6)	(6.4)	(2.3)
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued next page.

Table C-1--Continued

NOES: Summary data concerning the U.S. market, 2011-13, January to June 2013, and January to June 2014

(Quantity=short tons; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per short ton; Period changes=percent--exceptions noted)

	Reported data					Period changes			
	Calendar year			January to June		Calendar year			Jan-Jun
	2011	2012	2013	2013	2014	2011-13	2011-12	2012-13	2013-14
U.S. producers':									
Average capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Wages paid ($1,000)	***	***	***	***	***	***	***	***	***
Hourly wages (dollars per hour)	***	***	***	***	***	***	***	***	***
Productivity (short tons per 1,000 hours)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net Sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit of (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)	***	***	***	***	***	***	***	***	***

Notes:

(1)--Reported data are in percent and period changes are in percentage points.
(2)--Undefined.

Source: Official statistics of the U.S. Department of Commerce and from data submitted in response to Commission questionnaires.

APPENDIX D

U.S. PRODUCERS' TRADE AND FINANCIAL DATA FOR CRML

The Commission's questionnaire requested U.S. producers to provide trade data for their operations on CRML. These data are shown in table D-1.

Table D-1

CRML: Capacity, production, shipment, inventory, and employment data, 2011-13, January to June 2013, and January to June 2014

* * * * * * *

The Commission's questionnaire requested U.S. producers to provide financial data for their operations on CRML and for their capital expenditures. These data are shown in table D-2.

Table D-2

CRML: Results of operations and capital expenditures of U.S. producers, fiscal years, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

A variance analysis on the CRML operations of the three reporting U.S. firms is presented in table D-3.

Table D-3

CRML: Variance analysis, 2011-13, January-June 2013, and January-June 2014

* * * * * * *

APPENDIX E

U.S. FIRMS' COMMENTS REGARDING THE COMPARIBILITY OF NOES AND CRML

The Commission asked firms whether NOES and CRML have the same physical characteristics and end uses, and to describe any differences.

* * * * * * *

The Commission asked firms whether or not NOES and CRML are interchangeable, and to describe what makes the two products interchangeable or not interchangeable.

* * * * * * *

The Commission asked firms whether or not the manufacturing facilities, processes, and employees used to produce NOES are similar to those to produce CRML, and to describe any differences.

* * * * * * *

The Commission asked firms whether or not NOES and CRML share the same channels of distribution, and to describe any similarities or differences.

* * * * * * *

The Commission asked firms whether or not customers and producers perceive NOES and CRML to be similar products, and to describe any differences/similarities.

* * * * * * *

The Commission asked firms whether there are generally differences in price between NOES and CRML, and which more was more highly priced.

* * * * * * *