

**DEPARTMENT OF COMMERCE****International Trade Administration**

A-570-909

**Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances**

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

**EFFECTIVE DATE:** June 16, 2008.

**SUMMARY:** On January 23, 2008, the Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain steel nails ("nails") from the People's Republic of China ("PRC"). The Department amended its preliminary determination on February 7, 2008, based on comments from interested parties. The period of investigation ("POI") is October 1, 2006, to March 31, 2007. We invited interested parties to comment on our preliminary and amended preliminary determinations of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. We determine that nails from the PRC are being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Matthew Renkey or Alex Villanueva, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312 and (202) 482-3208, respectively.

**SUPPLEMENTARY INFORMATION:****Case History**

The Department published its preliminary determination of sales at LTFV on January 23, 2008. See *Certain Steel Nails from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination*, 73 FR 3928 (January 23, 2008) ("Preliminary Determination"). The Department published an amended preliminary determination on February 7, 2008. See *Certain Steel Nails from the*

*People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 7254 (February 7, 2008) ("Amended Preliminary Determination"). The Department issued a post-preliminary determination on April 21, 2008, in which it applied a new targeted dumping methodology. See Memorandum to David Spooner, Assistant Secretary for Import Administration entitled "Post-Preliminary Determinations on Targeted Dumping," dated April 21, 2008 ("Post-Preliminary Determination").

We issued ITW<sup>1</sup> and Xingya Group<sup>2</sup> additional supplemental questionnaires on January 28, 2008, and February 6, 2008, respectively. We received ITW's response on February 5, 2008, and Xingya Group's response on February 13, 2008.

Between February 11 and February 22, 2008, the Department conducted verifications of ITW Paslode<sup>3</sup> and Xingya Group's affiliated importers Senco<sup>4</sup> and Omnifast<sup>5</sup> in Chicago and Cincinnati, respectively. Between March 7 and March 21, 2008, the Department verified Paslode Shanghai,<sup>6</sup> Xingya

<sup>1</sup> Illinois Tool Works Inc., Paslode Division ("ITW Paslode") and Paslode Fasteners (Shanghai) Co., Ltd. ("Paslode Shanghai") (collectively, "ITW").

<sup>2</sup> Suzhou Xingya Nail Co., Ltd, Senco-Xingya Metal Products (Taicang) Co., Ltd., Yunfa International Resources Inc., Senco Products, Inc. ("Senco"), and Omnifast Inc. ("Omnifast") (collectively "Xingya Group").

<sup>3</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Case Analyst: Verification of the Sales Response of Illinois Tool Works Inc., Paslode Division in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated March 3, 2008 ("ITW Paslode Verification Report").

<sup>4</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Matthew Renkey, Senior Case Analyst: Verification of the Sales Response of Senco Products, Inc. in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated April 10, 2008 ("Senco Verification Report").

<sup>5</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Matthew Renkey, Senior Case Analyst: Verification of the Sales Response of Omnifast LLC in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated April 8, 2008 ("Omnifast Verification Report").

<sup>6</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Case Analyst: Verification of the Sales and Factors Response of Paslode Fasteners (Shanghai) Co., Ltd. in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated April 15, 2008 ("Paslode Shanghai Verification Report").

Group,<sup>7</sup> and Suntec Industries Co., Ltd.<sup>8</sup> in the PRC. See the "Verification" section below for additional information.

In the *Preliminary Determination*, based on our examination of Petitioners' targeted dumping allegations for ITW filed on December 11, 2007, and revised on December 13, 2007, and for Xingya Group filed on December 14, 2007, we preliminarily determined that there was a pattern of export prices for comparable merchandise that differs significantly among regions for ITW and purchasers for Xingya Group. Therefore, based on Petitioners' allegation, we conducted an analysis to determine whether targeted dumping occurred. The Department further stated that it was in the process of re-assessing the framework and standards for both targeted dumping allegations and targeted dumping analyses, and that it intended to develop a new framework in the context of this proceeding. We invited comments regarding certain principles involved in targeted dumping allegations and analyses. Accordingly, we received comments from Petitioners in this investigation,<sup>9</sup> and the mandatory respondents, ITW and Xingya Group, on February 15, 2008. These parties submitted rebuttal comments on March 10, 2008.

On April 21, 2008, the Department issued a decision memorandum in this investigation and the companion investigation on certain steel nails from the United Arab Emirates ("UAE"), in which the Department described the application of a new methodology to analyze targeted dumping. See Memorandum to David Spooner, Assistant Secretary for Import Administration entitled "Post-Preliminary Determinations on Targeted Dumping," dated April 21, 2008.

Based on this analysis, the Department found that a pattern of export prices for identical merchandise

<sup>7</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Matthew Renkey, Senior Case Analyst: Verification of the Sales and Factors Response of the Xingya Group in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China," dated April 21, 2008 ("Xingya Group Verification Report").

<sup>8</sup> See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Case Analyst: Verification of the Sales of Suntec Industries Co., Ltd. in the Antidumping Investigation of Certain Steel Nails from the People's Republic of China, dated April 18, 2008.

<sup>9</sup> Petitioners are: Mid Continent Nail Corporation; Davis Wire Corporation; Gerdau Ameristeel Corporation (Atlas Steel & Wire Division); Maze Nails (Division of W.H. Maze Company); Treasure Coast Fasteners, Inc.; and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

existed that differed significantly among purchasers for Xingya Group. See Memorandum to: James C. Doyle, Director, from: Alex Villanueva, Program Manager, RE: Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China, Regarding: Post-Preliminary Determination Analysis on Targeted Dumping: Results for the Xingya Group, dated April 21, 2008. As a result, we applied the average-to-transaction methodology to the targeted export prices and found a margin of 48.63 percent for Xingya Group. However, the Department did not find a pattern of export prices for identical merchandise that differed significantly among regions for ITW. See Memorandum to: James C. Doyle, Director, from: Alex Villanueva, Program Manager, RE: Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China, Regarding: Post-Preliminary Determination Analysis on Targeted Dumping: Results for ITW, dated April 21, 2008. As a result, we applied the average-to-average methodology to all U.S. sales and found a *de minimis* margin of 0.11 percent for ITW. On April 24, 2008, the Department issued a letter to all parties in the two investigations providing clarifications concerning the Post-Preliminary Determination.

We invited parties to comment on the *Preliminary Determination, Amended Preliminary Determination*, and Post-Preliminary Determinations. On May 1, 2008, Petitioners, ITW, Xingya Group, Jinhai and Hybest Tools,<sup>10</sup> Xuzhou, Curvet, and Tengyu,<sup>11</sup> Dinglong, Shanxi Pioneer, and Tianjin County,<sup>12</sup> and Hilti<sup>13</sup> filed case briefs. On May 8, 2008, Petitioners, ITW, and Xingya Group filed rebuttal briefs. On May 7, 2008, Petitioners and Xingya Group submitted briefs on the Department's targeted dumping methodology and on May 14, 2008, Petitioners, Xingya Group, and ITW submitted rebuttal briefs. Additionally, Dubai Wire filed a public version of its rebuttal briefs to Petitioners' targeted dumping brief on the record of this investigation.<sup>14</sup> We

also held a hearing on May 16, 2008, to discuss PRC-specific case issues and on May 19, 2008, we held a joint public hearing on the targeted dumping issues raised in this investigation and *Nails from the UAE*.

On May 6, 2008, National Nail Corp., an importer of subject merchandise, requested that the Department confirm that the scope of this investigation excludes plastic cap roofing nails.<sup>15</sup> The Department rejected this request, and all submissions associated with this request, as untimely. See Letter from Irene Darzenta Tzafolias to National Nail Corp., dated June 2, 2008.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Investigation of Certain Steel Nails from the People's Republic of China: Issues and Decision Memorandum," dated June 6, 2008, which is hereby adopted by this notice ("Issues and Decision Memorandum"). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room B-099, and is accessible on the Web at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

#### Changes Since the Preliminary Determination and Amended Preliminary Determination

Based on our analysis of information on the record of this investigation, and comments received from the interested parties, we have made changes to the margin calculations for ITW and Xingya Group. We have revalued several of the surrogate values used in the *Preliminary Determination*. The values that were modified for this final determination are those for surrogate financial ratios, carton, hydrochloric acid, stainless steel

original rebuttal brief because it contained arguments that did not address comments made in Petitioners' targeted dumping case brief. See Memorandum to The File entitled "Return of Dubai Wire FZE (Dubai Wire) Rebuttal Brief on Targeted Dumping Issues," dated May 16, 2008. Dubai filed the public version of its refiled rebuttal brief on the record of this investigation on May 16, 2008, as well.

<sup>15</sup> The May 6, 2008, submission was filed on the record of the UAE investigation on May 7, 2008. On May 12, 2008, Petitioners submitted a letter for the record of the PRC investigation opposing National Nail Corp.'s exclusion request. This letter was submitted for the record of the UAE investigation on May 27, 2008. National Nail Corp. responded to this letter on May 20, 2008.

wire rod, and the wage rate. For further details see Issues and Decision Memorandum at Comments 11, 14, 16, 18, and 19 and Memorandum to the File from Matthew Renkey, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9, and James C. Doyle, Director, AD/CVD Operations, Office 9: Certain Steel Nails from the People's Republic of China: Surrogate Values for the Final Determination, dated June 6, 2008 ("Final Surrogate Value Memo").

In addition, we have made some company-specific changes since the *Preliminary Determination*. Specifically, we have incorporated, where applicable, post-preliminary clarifications based on verification and made certain clerical error corrections for both ITW and Xingya Group. For further details on these company-specific changes, see Issues and Decision Memorandum at Comments 20 and 21.

#### Scope of Investigation

The merchandise covered by this investigation includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to this proceeding are currently classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 7317.00.55, 7317.00.65 and 7317.00.75.

Excluded from the scope of this proceeding are roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are

<sup>10</sup> Huanghua Jinhai Hardware Products Co., Ltd. ("Jinhai") and Hybest Tools Group Co., Ltd. ("Hybest Tools").

<sup>11</sup> Xuzhou CIP International Group Co., Ltd. ("Xuzhou"), Shanghai Curvet Hardware Products Co., Ltd. ("Curvet"), and Shanghai Tengyu Hardware Tools Co., Ltd. ("Tengyu").

<sup>12</sup> Shandong Dinglong Import & Export Co., Ltd. ("Shandong Dinglong"), Shanxi Pioneer Hardware Industrial Co., Ltd. ("Shanxi Pioneer"), and Tianjin Jinghai County Hongli Industry & Business Co., Ltd. ("Tianjin County").

<sup>13</sup> Hilti Inc. and Hilti (China) Ltd. ("Hilti").

<sup>14</sup> Dubai Wire resubmitted its rebuttal brief on May 16, 2008, as the Department rejected the

specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope of this proceeding are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of this proceeding are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10.00. Also excluded from the scope of this proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this proceeding are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

### Scope Comments

#### *Banded Brads and Finish Nails*

On July 30, 2007,<sup>16</sup> Stanley Fastening Systems, LP (“Stanley”), an interested party in this proceeding, requested that banded brads and finish nails imported with a “nailer kit” or “combo kit”<sup>17</sup> as a single package be excluded from this investigation as being outside the “class or kind” of merchandise.<sup>18</sup> Based on the scope exclusion request from Stanley, the fact that Petitioners are in agreement with this request, and there appears to be no impediment to enforceability by CBP, we preliminarily determined that the above-described products are not

<sup>16</sup> This submission was filed on the record of *Nails from the UAE* on July 30, 2007.

<sup>17</sup> A “nailer kit” consists of a pneumatic nailer, a “starter box” of branded products and a carrying case. A “combo kit” consists of an air compressor, a pneumatic nailer, and a “starter box” of banded products and related accessories, such as an air hose.

<sup>18</sup> On December 12, 2007, Stanley revised its July 30, 2007, scope exclusion request arguing that its new request reflects a broader exclusion and is easily administered by U.S. Customs and Border Protection (CBP) because the description of the excluded brads and finish nails is framed solely in terms of their physical characteristics.

subject to the scope of this investigation. Since the *Preliminary Determination*, no party to this proceeding has commented on this issue and we have found no additional information that would compel us to reverse our preliminary finding. Thus, for purposes of the final determination, we continue to find that the above-described products are not subject to the scope of this investigation.

#### *Fasteners Suitable for Use in Gas-Actuated Hand Tools*

In its case brief filed on April 30, 2008, Hilti, Inc., an interested party in this proceeding, reiterated its request, submitted on January 3, 2008, that the Department modify the scope of the investigation to exclude fasteners suitable for use in gas-actuated hand tools.<sup>19</sup> Hilti claimed that modification of the scope to exclude these fasteners was supported by Petitioners<sup>20</sup> and, additionally, because the description of the excluded nails is framed solely in terms of their physical characteristics, the exclusion would be easily administered by CBP. Furthermore, Hilti pointed out that the principles and rationale the Department applied to Stanley’s scope request (*see discussion above*) in the *Preliminary Determination* applied equally to Hilti’s scope request. On January 8, 2008, ITW filed comments opposing Hilti’s scope request.

Hilti rebutted ITW’s January 8, 2008, submission arguing that ITW offered no material reason for seeking the imposition of antidumping duties against the product at issue, other than its assertion that it is a U.S. manufacturer of such merchandise. Moreover, Hilti claimed that ITW has never opposed Petitioners’ own initial exclusion of nails suitable for use in powder actuated hand tools, which Hilti claimed are functionally similar and competitive with nails suitable for use in gas-actuated tools, but simply classified under a different HTSUS number.

In its rebuttal brief submitted on May 8, 2008, ITW reiterated its arguments in its January 8, 2008, submission that, because it was the only U.S. producer of the product at issue, Petitioners’ agreement to the proposed exclusion was not relevant in light of ITW’s opposition. In addition, ITW claimed that it was perfectly reasonable and legitimate for it to oppose a petition

<sup>19</sup> We stated in the *Preliminary Determination* that we received this request too late to consider for purposes of the preliminary determination, but would consider it for the final determination.

<sup>20</sup> On January 9, 2008, Petitioners filed a letter stating that they agree with Hilti’s January 8, 2008, scope exclusion request.

generally, while at the same time opposing certain exclusions to that petition.

Based on the scope exclusion request from Hilti, Inc., the fact that Petitioners were in agreement with this request, and that there appeared to be no impediment to enforceability by CBP,<sup>21</sup> we determined that the above-described products were not subject to the scope of this investigation.<sup>22</sup>

#### *Aluminum Nails and Stainless Steel Nails*

On February 27, 2008, Duo-Fast Northeast (Duo-Fast), an interested party in this proceeding, requested that the Department exclude two types of nails from the scope of this proceeding: (1) aluminum nails, and (2) stainless steel nails.<sup>23</sup> The plain language of the scope indicates that the scope does not cover aluminum nails because nails made from aluminum are not made from steel and are, thus, not subject merchandise. However, stainless steel nails are explicitly covered in the scope of this proceeding, as the plain language of the scope covers nails produced from any type of steel, without limitation. Therefore, we have not modified the scope of investigation in accordance with Duo-Fast’s requests.

### Targeted Dumping

We have analyzed the case and rebuttal briefs with respect to targeted dumping issues submitted for the record in this investigation and in *Nails from the UAE*. As a result of our analysis, we made certain changes in the targeted dumping test we applied in the post-preliminary determination for purposes of the final determination. These changes result in a finding of targeted dumping in one region for ITW, but for Xingya Group we find that no customers were targeted. However, as indicated below, ITW’s overall margin is *de minimis*, while for Xingya Group, we continue to find an overall dumping margin above *de minimis* as indicated below. For further discussion, see Comments 1 through 9 in the “Issues and Decision Memorandum”; *see also* ITW Final Analysis Memo; Xingya Group Final Analysis Memos.

<sup>21</sup> *See* Memorandum to the File from Kate Johnson, Senior Case Analyst, entitled “Scope Exclusion Request,” dated May 1, 2008.

<sup>22</sup> While the Department notes ITW’s objection, it strives to craft a scope that both includes the specific products for which Petitioners have requested relief, and excludes those products which may fall within the general scope definition, but for which Petitioners do not seek relief.

<sup>23</sup> On March 18, 2008, Petitioners submitted a letter for the record opposing Duo-Fast’s exclusion request.

### Use of Facts Available

Section 776(a)(2) of the Tariff Act of 1930, as amended (“the Act”), provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party “promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information,” the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed “deficient” under section 782(d) if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department “finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering

authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.” See also *Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA)*, H.R. Rep. No. 103–316, Vol. 1 at 870 (1994).

### ITW

For this final determination, in accordance with sections 773(c)(3)(A) and (B) of the Act and section 776(a)(2)(A), (B) and (D) of the Act, we have determined that the use of adverse facts available (“AFA”) is warranted for three unreported materials used by ITW in the production process. See Issues and Decision Memorandum at Comment 20E; Paslode Shanghai Verification Report at 10. As partial AFA, we are using the highest single monthly usage rate for each material, by CONNUM, and applying this monthly usage ratio to all months of the POI. See ITW Final Analysis Memo for further details on these three unreported materials; see also Final Surrogate Value Memo for the surrogate values used to value these materials. We are also applying partial AFA to ITW’s indirect labor usage because ITW failed to report all labor involved directly or indirectly with the production of nails. See Issues and Decision Memorandum at Comment 20F; Paslode Shanghai Verification Report at Verification Exhibit 18B. As partial AFA, we are taking the highest number of hours worked by an individual classified in the indirect labor category for the month of October verified by the Department and multiplying this by the number of unreported workers and then by the number of months of the POI. The Department will then determine what percentage increase in the overall indirect labor hours these total additional hours constituted and then we will multiply this percentage by the current indirect labor rate in ITW’s FOP database in order to ensure that this adverse inference only affects indirect labor hours. See ITW Final Analysis Memo.

### Xingya Group

For Xingya Group, we also find it appropriate to apply partial AFA for the staples packing FOP in accordance with section 773(c)(3)(B) and sections 776(a)(2)(A), (B), and (D) of the Act, since this packing input was not previously reported to the Department. For sawdust, although this material was

identified in Xingya Group’s narrative description of the production process, we find that partial AFA is appropriate as this material was never previously reported as an FOP, and the information that Xingya Group had provided about sawdust did not verify. As partial AFA for staples and sawdust, we will use the highest monthly usage observed for the POI, information that we obtained at verification. See Issues and Decision Memorandum at Comment 21F; Xingya Group Verification Report at 14.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by ITW, Xingya Group, and one separate rate applicant, Suntec Industries Co., Ltd., for use in our final determination. See the Department’s verification reports on the record of this investigation in the CRU with respect to ITW, Xingya Group, and Suntec. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

### Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination*. For the final determination, we received no comments and made no changes to our findings with respect to the selection of a surrogate country.

### Separate Rates

In proceedings involving non-market-economy (“NME”) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991) (“*Sparklers*”), as amplified by *Notice of Final Determination of Sales at Less Than*

*Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (“*Silicon Carbide*”), and Section 351.107(d) of the Department’s regulations.

In the *Preliminary Determination*, we found that ITW, Xingya Group, and the separate rate applicants who received a separate rate (“Separate Rate Applicants”) demonstrated their eligibility for separate-rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by ITW, Xingya Group, and the Separate Rate Applicants demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status.

Additionally, based on comments received from certain Separate Rate Applicants, verification minor corrections, and a review of the record, we found that the combination rates or the spelling of names for certain exporters were not properly included in the *Preliminary Determination* and/or *Amended Preliminary Determination*. Because these errors pertain to the identification of the proper separate rates recipients for this investigation, the Department is making these corrections effective as of January 23, 2008, the date of the *Preliminary Determination*. Any liquidation instructions for the provisional measures period would reflect these corrections.

**The PRC-Wide Rate**

In the *Preliminary Determination*, the Department found that certain companies and the PRC-wide entity did not respond to our requests information. In the *Preliminary Determination* we treated these PRC producers/exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control over their export activities. No additional information has been placed on the record with respect to these entities after the *Preliminary Determination*.

The PRC-wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) and (C) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). See also, SAA at 870. We determined that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate – the PRC-wide rate – to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., *Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the “Final Determination Margins” section below.

**Critical Circumstances**

In the *Preliminary Determination*, we found that there had been massive imports of the subject merchandise over a relatively short period for Xingya

Group and the PRC-wide entity. In addition, we relied on a period of five months as the period, which was the maximum duration for the information we had available at that time, for comparison in preliminarily determining whether imports of the subject merchandise were massive.

For the final determination, however, we collected an additional three months of data from Xingya Group and ITW. After analyzing the additional data, we continue to find that the PRC-wide entity had massive imports of nails over a relatively short period of time. See Memorandum to the File from Matthew Renkey, Senior Case Analyst: Critical Circumstances Data for the Final Determination of Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China, dated June 6, 2008, at Attachment I (“CC MTF”) for the exact percentage changes. Thus, for the final determination we find that Xingya Group did not have massive imports over a relatively short period of time and no longer find critical circumstances for Xingya Group. Additionally, we continue to find that ITW and the Separate Rates Applicants did not have massive imports of nails over a relatively short period of time. *Id.*

**Corroboration**

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our adverse facts available (“AFA”) margin by comparing the U.S. price and normal values from the petition to the U.S. price and normal values for the respondents. Because no parties challenged calculation of the PRC-wide rate, we continue to find that the margin of 118.04 percent has probative value. See Xingya Group Final Analysis Memo at 1. Accordingly, we find that the rate of 118.04 percent is corroborated within the meaning of section 776(c) of the Act.

**Final Determination Margins**

We determine that the following percentage weighted-average margins exist for the POI:

**NAILS FROM THE PRC WEIGHTED-AVERAGE DUMPING MARGINS**

Exporter	Producer	Weighted-Average Margin
Paslode Fasteners (Shanghai) Co., Ltd. ....	Paslode Fasteners (Shanghai) Co., Ltd.	0%
Xingya Group: Suzhou Xingya Nail Co., Ltd, Senco-Xingya Metal Products (Taicang) Co., Ltd., Hong Kong Yu Xi Co., Ltd. ....	Suzhou Xingya Nail Co., Ltd., Senco-xingya Metal Products (Taicang) Co., Ltd., Wuxi Chengye Metal Products Co., Ltd.	21.24 %
Jisco Corporation .....	Qingdao Jisco Co., Ltd.	21.24 %
Koram Panagene Co., Ltd. ....	Qingdao Koram Steel Co., Ltd.	21.24 %
Handuk Industrial Co., Ltd. ....	Rizhao Handuk Fasteners Co., Ltd.	21.24 %

## NAILS FROM THE PRC WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter	Producer	Weighted-Average Margin
Kyung Dong Corp. ....	Rizhao Qingdong Electric Appliance Co., Ltd.	21.24 %
Xi'an Metals & Minerals Import and Export Co., Ltd. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Hebei Cangzhou New Century Foreign Trade Co., Ltd. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Hebei Cangzhou New Century Foreign Trade Co., Ltd. ....	Beijing Hongsheng Metal Products Co., Ltd.	21.24 %
Hebei Cangzhou New Century Foreign Trade Co., Ltd. ....	Tianjin Dagang Huasheng Nailery Co., Ltd.	21.24 %
Chongqing Hybest Tools Group Co., Ltd. ....	Chongqing Hybest Nailery Co., Ltd.	21.24 %
China Silk Trading & Logistics Co., Ltd. ....	Maanshan Longer Nail Product Co., Ltd.	21.24 %
China Silk Trading & Logistics Co., Ltd. ....	Wuxi Qiangye Metalwork Production Co., Ltd.	21.24 %
Beijing Daruixing Global Trading Co., Ltd. ....	Beijing Tri-Metal Co., Ltd.	21.24 %
Beijing Daruixing Global Trading Co., Ltd. ....	Beijing Daruixing Nail Products Co., Ltd.	21.24 %
Beijing Daruixing Global Trading Co., Ltd. ....	Tianjin Kunxin Hardware Co., Ltd.	21.24 %
Beijing Daruixing Global Trading Co., Ltd. ....	Tianjin Hewang Nail Making Factory	21.24 %
Huanghua Jinhai Hardware Products Co., Ltd. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Beijing Daruixing Nail Products Co., Ltd. ....	Beijing Daruixing Nail Products Co., Ltd.	21.24 %
Beijing Daruixing Nail Products Co., Ltd. ....	Beijing Tri-Metal Co., Ltd.	21.24 %
Beijing Tri-Metal Co., Ltd. ....	Beijing Tri-Metal Co., Ltd.	21.24 %
Beijing Tri-Metal Co., Ltd. ....	Beijing Daruixing Nail Products Co., Ltd.	21.24 %
Cana (Tianjin) Hardware Ind., Co., Ltd. ....	Cana (Tianjin) Hardware Ind., Co., Ltd.	21.24 %
China Staple Enterprise (Tianjin) Co., Ltd. ....	China Staple Enterprise (Tianjin) Co., Ltd.	21.24 %
Hengshui Mingyao Hardware & Mesh Products Co., Ltd. ....	Hengshui Mingyao Hardware & Mesh Products Co., Ltd.	21.24 %
Nanjing Dayu Pneumatic Gun Nails Co., Ltd. ....	Nanjing Dayu Pneumatic Gun Nails Co., Ltd.	21.24 %
Qidong Liang Chyuan Metal Industry Co., Ltd. ....	Qidong Liang Chyuan Metal Industry Co., Ltd.	21.24 %
Romp (Tianjin) Hardware Co., Ltd. ....	Romp (Tianjin) Hardware Co., Ltd.	21.24 %
Shandong Dinglong Import & Export Co., Ltd. ....	Qingyun Hongyi Hardware Factory	21.24 %
Tianjin Jinchu Metal Products Co., Ltd. ....	Tianjin Jinchu Metal Products Co., Ltd.	21.24 %
Tianjin Jurun Metal Products Co., Ltd. ....	Tianjin Jurun Metal Products Co., Ltd.	21.24 %
Zhejiang Gem-Chun Hardware Accessory Co., Ltd. ....	Zhejiang Gem-Chun Hardware Accessory Co., Ltd.	21.24 %
Huanghua Xionghua Hardware Products Co., Ltd. ....	Huanghua Xionghua Hardware Products Co., Ltd.	21.24 %
Zhaoqing Harvest Nails Co., Ltd. ....	Zhaoqing Harvest Nails Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	S-mart Tianjin Technology Development Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	Tianjin Jishili Hardware Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	Tianjin Baisheng Metal Product Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	Tianjin Foreign Trade (Group) Textile & Garment Co., Ltd.	21.24 %
SDC International Australia Pty., Ltd. ....	Dagang Zhitong Metal Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Huanghua Shenghua Hardware Manufactory Factory	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Dagang Dongfu Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Dagang Jingang Nail Factory	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Dagang Linda Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Dagang Yate Nail Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Jieli Hengyuan Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Shishun Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Yihao Metallic Products Co., Ltd.	21.24 %
Tianjin Universal Machinery Imp & Exp Corporation ....	Tianjin Yongcang Metal Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shanxi Yuci Broad Wire Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Hengshui Mingyao Hardware & Mesh Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Zhonglian Metals Ware Co., Ltd.	21.24 %
Certified Products International Inc. ....	Beijing Daruixing Nail Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Huanghua Xionghua Hardware Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Port Free Trade Zone Xiangtong Intl. Industry & Trade Corp.	21.24 %
Certified Products International Inc. ....	Shandong Dinglong Import & Export Co., Ltd.	21.24 %
Certified Products International Inc. ....	Wuhu Shijie Hardware Co., Ltd.	21.24 %
Certified Products International Inc. ....	Romp (Tianjin) Hardware Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Jurun Metal Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Yitian (Nanjing) Hardware Co., Ltd.	21.24 %
Certified Products International Inc. ....	Nanjing Da Yu Pneumatic Gun Nails Co., Ltd.	21.24 %
Certified Products International Inc. ....	Wintime Import & Export Corporation Limited of Zhongshan	21.24 %
Certified Products International Inc. ....	Tianjin Chentai International Trading Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Longxing (Group) Huanyu Imp. & Exp. Co., Ltd.	21.24 %
Certified Products International Inc. ....	Zhejiang Gem-Chun Hardware Accessory Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shanxi Pioneer Hardware Industrial Co., Ltd.	21.24 %
Certified Products International Inc. ....	Wuhu Xin Lan De Industrial Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Zhitong Metal Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Suntec Industries Co., Ltd.	21.24 %
Certified Products International Inc. ....	China Staple Enterprise (Tianjin) Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Jinghai County Hongli Industry & Business Co., Ltd.	21.24 %

## NAILS FROM THE PRC WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter	Producer	Weighted-Average Margin
Certified Products International Inc. ....	Hebei Super Star Pneumatic Nails Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shanghai Chengkai Hardware Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Jinchi Metal Products Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shaoxing Chengye Metal Producing Co., Ltd.	21.24 %
Certified Products International Inc. ....	Tianjin Shenyuan Steel Producing Group Co., Ltd.	21.24 %
Certified Products International Inc. ....	Shanghai Jade Shuttle Hardware Tools Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin Bosai Hardware Tools Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Beijing Yonghongsheng Metal Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin City Jinchi Metal Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Huanghua Huarong Hardware Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Huanghua Yufutai Hardware Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Qingyuan County Hongyi Hardware Products Factory	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin Zhitong Metal Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin Baisheng Metal Products Co., Ltd.	21.24 %
Dezhou Hualude Hardware Products Co., Ltd. ....	Tianjin Dagang Hewang Nails Factory	21.24 %
Shanxi Tianli Industries Co. ....	Dingzhou Ruili Nail Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Haixing Hongda Hardware Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Huanghua Xinda Nail Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Huachang Metal Products Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Huapeng Metal Company	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Huasheng Nails Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Jin Gang Metal Products Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Kunxin Metal Products Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Linda Metal Company	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Xinyuansheng Metal Products Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Tianjin Yongyi Standard Parts Production Co., Ltd.	21.24 %
Shanxi Tianli Industries Co. ....	Wuqiao Huifeng Hardware Production Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Wuqiao County Huifeng Hardware Products Factory	21.24 %
Suntec Industries Co., Ltd. ....	Wuqiao County Xinchuang Hardware Products Factory	21.24 %
Suntec Industries Co., Ltd. ....	Huanghua Jinhai Hardware Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Haixing Linhai Hardware Products Factory	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Baisheng Metal Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin City Jinchi Metal Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin City Dagang Area Jinding Metal Products Factory	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Jishili Hardware Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Jietong Hardware Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Ruiji Metal Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Tianjin Yongxu Metal Products Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Wuxi Baolin Nail-Making Machinery Co., Ltd.	21.24 %
Suntec Industries Co., Ltd. ....	Suzhou Xingya Nail Co., Ltd.	21.24 %
Sinochem Tianjin Imp & Exp Shenzhen Corp. ....	Tianjin JLHY Metal Products Co., Ltd.	21.24 %
Qingdao D&L Group Ltd. ....	Tianjin City Daman Port Area Jinding Metal Products Factory	21.24 %
Qingdao D&L Group Ltd. ....	Tianjin Yongxu Metal Products Co., Ltd.	21.24 %
Qingdao D&L Group Ltd. ....	Huanghua Jinhai Metal Products Co., Ltd.	21.24 %
Qingdao D&L Group Ltd. ....	Dong'e Fuqiang Metal Products Co., Ltd.	21.24 %
Tianjin Xiantong Material & Trade Co., Ltd. ....	Tianjin Xiantong Fucheng Gun Nail Manufacture Co., Ltd.	21.24 %
Zhongshan Junlong Nail Manufactures Co., Ltd. ....	Zhongshan Junlong Nail Manufactures Co., Ltd.	21.24 %
Shandong Minmetals Co., Ltd. ....	Shouguang Meiqing Nail Industry Co., Ltd.	21.24 %
Shouguang Meiqing Nail Industry Co., Ltd. ....	Shouguang Meiqing Nail Industry Co., Ltd.	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Jishili Hardware Co., Ltd.	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Baisheng Metal Product Co., Ltd.	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Dagang Hewang Nail Factory	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Shishun Metal Product Co., Ltd.	21.24 %
S-mart (Tianjin) Technology Development Co., Ltd. ....	Tianjin Xinyuansheng Metal Product Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Dagang Hewang Nails Manufacture Plant	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Dagang Jingang Nails Manufacture Plant	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Dagang Longhua Metal Products Plant	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Dagang Shenda Metal Products Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Jietong Metal Products Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Qichuan Metal Products Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Tianjin Yongxu Metal Products Co., Ltd.	21.24 %
Tianjin Lianda Group Co., Ltd. ....	Zhangjiagang Longxiang Packing Materials Co., Ltd.	21.24 %
Union Enterprise (Kunshan) Co., Ltd. ....	Union Enterprise (Kunshan) Co., Ltd.	21.24 %
Beijing Hong Sheng Metal Products Co., Ltd. ....	Beijing Hong Sheng Metal Products Co., Ltd.	21.24 %
PT Enterprise Inc. ....	Shanxi Hairui Trade Co., Ltd.	21.24 %
PT Enterprise Inc. ....	Shanxi Pioneer Hardware Industrial Co., Ltd.	21.24 %
PT Enterprise Inc. ....	Shanxi Yuci Broad Wire Products Co., Ltd.	21.24 %
Shanxi Hairui Trade Co., Ltd. ....	Shanxi Pioneer Hardware Industrial Co., Ltd.	21.24 %



NAILS FROM THE PRC WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter	Producer	Weighted-Average Margin
Shanxi Hairui Trade Co., Ltd. ....	Shanxi Yuci Broad Wire Products Co., Ltd.	21.24 %
Shanxi Pioneer Hardware Industrial Co., Ltd. ....	Shanxi Pioneer Hardware Industrial Co., Ltd.	21.24 %
Shanxi Yuci Broad Wire Products Co., Ltd. ....	Shanxi Yuci Broad Wire Products Co., Ltd.	21.24 %
Yitian Nanjing Hardware Co., Ltd. ....	Yitian Nanjing Hardware Co., Ltd.	21.24 %
Chiiieh Yung Metal Ind. Corp. ....	Cym (Nanjing) Nail Manufacture Co., Ltd.	21.24 %
Shanghai Seti Enterprise International Co., Ltd. ....	Suzhou Yaotian Metal Products Co. Ltd.	21.24 %
Shanghai Curvet Hardware Products Co., Ltd. ....	Shanghai Curvet Hardware Products Co., Ltd.	21.24 %
Shanghai Curvet Hardware Products Co., Ltd. ....	Shanghai Tengyu Hardware Tools Co., Ltd.	21.24 %
Shanghai Tengyu Hardware Tools Co., Ltd. ....	Shanghai Tengyu Hardware Tools Co., Ltd.	21.24 %
Shanghai Tengyu Hardware Tools Co., Ltd. ....	Shanghai Curvet Hardware Products Co., Ltd.	21.24 %
Xuzhou CIP International Group Co., Ltd. ....	Xuzhou CIP International Group Co., Ltd.	21.24 %
Xuzhou CIP International Group Co., Ltd. ....	Qingdao International Fastening Systems Inc.	21.24 %
Wuhu Shijie Hardware Co., Ltd. ....	Wuhu Shijie Hardware Co., Ltd.	21.24 %
Wuhu Xin Lan De Industrial Co., Ltd. ....	Wuhu Xin Lan De Industrial Co., Ltd.	21.24 %
Tianjin Zhonglian Metals Ware Co., Ltd. ....	Tianjin Zhonglian Metals Ware Co., Ltd.	21.24 %
Huarong Hardware Products Co., Ltd. ....	Huarong Hardware Products Co., Ltd.	21.24 %
Mingguang Abundant Hardware Products Co., Ltd. ....	Mingguang Abundant Hardware Products Co., Ltd.	21.24 %
Shandong Oriental Cherry Hardware Group Co., Ltd. ....	Shandong Oriental Cherry Hardware Group Co., Ltd.	21.24 %
Shandong Oriental Cherry Hardware Import and Export Co., Ltd. ....	Shandong Oriental Cherry Hardware Import and Export Co., Ltd.	21.24 %
Shanghai Chengkai Hardware Product. Co., Ltd. ....	Shanghai Chengkai Hardware Product. Co., Ltd.	21.24 %
Shanghai Jade Shuttle Hardware Tools Co., Ltd. ....	Shanghai Jade Shuttle Hardware Tools Co., Ltd.	21.24 %
Shanghai Yueda Nails Industry Co., Ltd. ....	Shanghai Yueda Nails Industry Co., Ltd.	21.24 %
Besco Machinery Industry (Zhejiang) Co., Ltd. ....	Besco Machinery Industry (Zhejiang) Co., Ltd.	21.24 %
The Stanley Works (Langfang) Fastening Systems Co., Ltd. ....	The Stanley Works (Langfang) Fastening Systems Co., Ltd.	21.24 %
Guangdong Foreign Trade Import & Export Corporation ....	Shanghai Nanhui Jinjun Hardware Factory	21.24 %
Tianjin Jinghai County Hongli Industry and Business Co., Ltd. ....	Tianjin Jinghai County Hongli Industry and Business Co., Ltd.	21.24 %
PRC-Wide Rate .....		118.04 %

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all entries of subject merchandise from the Separate Rate Applicants entered, or withdrawn from warehouse, for consumption on or after January 23, 2008, the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

The Department continues to find that critical circumstances exist for the PRC-wide entity and therefore we will instruct CBP to continue to suspend liquidation of all entries of subject merchandise from the PRC-wide entity entered, or withdrawn from warehouse, for consumption on or after October 25, 2007, which is 90 days prior to the date of publication of the preliminary

determination. CBP shall continue to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

In accordance with the preliminary affirmative determination of critical circumstances, we instructed CBP to suspend liquidation of all entries of the subject merchandise from Xingya Group, which were entered or withdrawn from warehouse, on or after October 25, 2007, which is 90 days prior to January 23, 2008, the date of publication of the *Preliminary Determination* in the **Federal Register**. Because we do not find critical circumstances for Xingya Group in this final determination, we will instruct CBP to terminate suspension of liquidation, and release any cash deposits or bonds, on imports during the 90 day period prior to the date of publication of the *Preliminary Determination*.

Because the Department found that the weighted-average dumping margin for subject merchandise produced and exported by Paslode Shanghai is *de minimis*, the Department will instruct CBP not to suspend liquidation of any

entries of nails from the PRC as described in the “Scope of Investigation” section that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Department will not require any cash deposit or posting of a bond for ITW when the subject merchandise is produced and exported by Paslode Shanghai. Accordingly, we will direct CBP to terminate the suspension of liquidation for shipments of nails entered, or withdrawn from warehouse, for consumption on or after January 23, 2008, the date of publication of the *Preliminary Determination*. These suspension of liquidation instructions will remain in effect until further notice.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for



importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 6, 2008.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

#### Appendix I

##### Targeted Dumping:

*Comment 1:* Appropriateness of Implementing New Methodology in These Investigations

*Comment 2:* Identifying Alleged Targets

*Comment 3:* Statistical Validity of Standard Deviation Test

*Comment 4:* Reliance on Identical Product Comparisons for Determining Targeted Dumping

*Comment 5:* Alleged Masking of Dumping Under 33% Pattern Test Threshold

*Comment 6:* Flaws of "Gap Test"

*Comment 7:* Alleged Masking of Dumping by Respondents Under Standard Deviation Test

*Comment 8:* Statistical Validity of P/2 Test

*Comment 9:* Programming Errors

##### Surrogate Values:

*Comment 10:* Wire Rod Surrogate Value  
*Comment 11:* Surrogate Companies

*Comment 12:* Scrap Surrogate Value

*Comment 13:* Sigma Cap for Wire Rod

*Comment 14:* Carton Surrogate Value

*Comment 15:* Tape Surrogate Value

*Comment 16:* Wage Rate

*Comment 17:* Wire Drawing Powder Surrogate Value

*Comment 18:* Hydrochloric Acid Surrogate Value

*Comment 19:* Stainless Steel Wire Rod Surrogate Value

##### Company Specific Comments:

*Comment 20:* ITW

- A. Database Use
- B. Indirect Selling Expense Calculation
- C. Interest Expense
- D. Exclusion of Selling Expenses from SG&A Ratio
- E. Possible Unreported Factors of Production
- F. Unreported Indirect Labor Hours
- G. Unreported Market-Economy Purchases

*Comment 21:* Xingya Group

- A. Market Economy Ocean Freight
- B. Partial AFA for Certain CEP Expenses Reported by Ominfast, Partial AFA for Senco's Advertising Expenses, and Incorporation of Corrections for USBROKU, USDUTYU and EARLPYU
- C. Senco's Indirect Selling Expenses
- D. Application of Total AFA or an Intermediate Input Methodology to Xingya Group Due to the Misreporting of Its Production Process
- E. SXNC's Purchases of Collating Paper
- F. Partial AFA for Certain Misreported and Unreported SXNC Factors of Production

G. Critical Circumstances

##### Separate Rate Applicants:

*Comment 22:* Misidentification of Separate Rate Recipients

*Comment 23:* Separate Rate Calculation [FR Doc. E8-13474 Filed 6-13-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration (A-520-802)

#### Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value

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

**SUMMARY:** We determine that certain steel nails (nails) from the United Arab Emirates (UAE) are not being, or are not likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at not LTFV are shown in the "Final Determination" section of this notice.

**EFFECTIVE DATE:** June 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-4929, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 23, 2008, the Department published in the **Federal Register** the preliminary determination of sales at LTFV in the antidumping duty investigation of nails from the UAE. See *Certain Steel Nails From the United Arab Emirates: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 3945 (January 23, 2008) (*Preliminary Determination*).

In the *Preliminary Determination*, based on our examination of the petitioners'<sup>1</sup> targeted dumping allegation filed on October 26, 2007, we preliminarily determined that there is a pattern of export prices for comparable merchandise that differs significantly among purchasers. Therefore, based on the petitioners' allegation, we conducted an analysis to determine whether targeted dumping occurred. The Department further stated that it was in the process of re-assessing the framework and standards for both

<sup>1</sup> The petitioners are: Mid Continent Nail Corporation; Davis Wire Corporation; Gerdau Ameristeel Corporation (Atlas Steel & Wire Division); Maze Nails (Division of W.H. Maze Company); Treasure Coast Fasteners, Inc.; and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 6, 2008.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

#### Appendix I

##### Targeted Dumping:

*Comment 1:* Appropriateness of Implementing New Methodology in These Investigations

*Comment 2:* Identifying Alleged Targets

*Comment 3:* Statistical Validity of Standard Deviation Test

*Comment 4:* Reliance on Identical Product Comparisons for Determining Targeted Dumping

*Comment 5:* Alleged Masking of Dumping Under 33% Pattern Test Threshold

*Comment 6:* Flaws of "Gap Test"

*Comment 7:* Alleged Masking of Dumping by Respondents Under Standard Deviation Test

*Comment 8:* Statistical Validity of P/2 Test

*Comment 9:* Programming Errors

##### Surrogate Values:

*Comment 10:* Wire Rod Surrogate Value  
*Comment 11:* Surrogate Companies

*Comment 12:* Scrap Surrogate Value

*Comment 13:* Sigma Cap for Wire Rod

*Comment 14:* Carton Surrogate Value

*Comment 15:* Tape Surrogate Value

*Comment 16:* Wage Rate

*Comment 17:* Wire Drawing Powder Surrogate Value

*Comment 18:* Hydrochloric Acid Surrogate Value

*Comment 19:* Stainless Steel Wire Rod Surrogate Value

##### Company Specific Comments:

*Comment 20:* ITW

- A. Database Use
- B. Indirect Selling Expense Calculation
- C. Interest Expense
- D. Exclusion of Selling Expenses from SG&A Ratio
- E. Possible Unreported Factors of Production
- F. Unreported Indirect Labor Hours
- G. Unreported Market-Economy Purchases

*Comment 21:* Xingya Group

- A. Market Economy Ocean Freight
- B. Partial AFA for Certain CEP Expenses Reported by Ominfast, Partial AFA for Senco's Advertising Expenses, and Incorporation of Corrections for USBROKU, USDUTYU and EARLPYU
- C. Senco's Indirect Selling Expenses
- D. Application of Total AFA or an Intermediate Input Methodology to Xingya Group Due to the Misreporting of Its Production Process
- E. SXNC's Purchases of Collating Paper
- F. Partial AFA for Certain Misreported and Unreported SXNC Factors of Production

G. Critical Circumstances

##### Separate Rate Applicants:

*Comment 22:* Misidentification of Separate Rate Recipients

*Comment 23:* Separate Rate Calculation [FR Doc. E8-13474 Filed 6-13-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration (A-520-802)

#### Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value

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

**SUMMARY:** We determine that certain steel nails (nails) from the United Arab Emirates (UAE) are not being, or are not likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at not LTFV are shown in the "Final Determination" section of this notice.

**EFFECTIVE DATE:** June 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-4929, respectively.

##### SUPPLEMENTARY INFORMATION:

##### Background

On January 23, 2008, the Department published in the **Federal Register** the preliminary determination of sales at LTFV in the antidumping duty investigation of nails from the UAE. See *Certain Steel Nails From the United Arab Emirates: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 3945 (January 23, 2008) (*Preliminary Determination*).

In the *Preliminary Determination*, based on our examination of the petitioners'<sup>1</sup> targeted dumping allegation filed on October 26, 2007, we preliminarily determined that there is a pattern of export prices for comparable merchandise that differs significantly among purchasers. Therefore, based on the petitioners' allegation, we conducted an analysis to determine whether targeted dumping occurred. The Department further stated that it was in the process of re-assessing the framework and standards for both

<sup>1</sup> The petitioners are: Mid Continent Nail Corporation; Davis Wire Corporation; Gerdau Ameristeel Corporation (Atlas Steel & Wire Division); Maze Nails (Division of W.H. Maze Company); Treasure Coast Fasteners, Inc.; and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

targeted dumping allegations and targeted dumping analyses, and that it intended to develop a new framework in the context of this proceeding. We invited comments regarding certain principles involved in targeted dumping allegations and analyses. Accordingly, we received comments from the petitioners and the respondent Dubai Wire FZE/Global Fasteners Ltd (Dubai Wire) on February 15, 2008. These parties submitted rebuttal comments on March 10, 2008.

From March 3 through March 12, 2008, we verified the constructed value (CV) and sales questionnaire responses of Dubai Wire. On March 31 and April 1, 2008, we issued the CV and sales verification reports, respectively. See Memorandum to the File entitled "Verification of the Cost Response of Dubai Wire FZE in the Antidumping Investigation of Certain Steel Nails from the UAE," dated March 31, 2008 (CVR), and Memorandum to the File entitled "Verification of the Sales Response of Dubai Wire FZE and Its Affiliate Global Fasteners Ltd in the Antidumping Investigation of Certain Steel Nails from the United Arab Emirates," dated April 1, 2008 (SVR).

On April 21, 2008, the Department issued a decision memorandum in this investigation and the companion investigation on nails from the People's Republic of China (PRC) (*Nails from the PRC*), in which the Department described the application of a new methodology to analyze targeted dumping. Based on this analysis, the Department did not find a pattern of export prices for identical merchandise that differed significantly among purchasers. See Memorandum to David Spooner, Assistant Secretary for Import Administration, entitled "Post-Preliminary Determinations on Targeted Dumping," dated April 21, 2008; and Memorandum to James Maeder, Director, AD/CVD Operations, Office 2, entitled "Post-Preliminary Determination on Targeted Dumping: Results for Dubai Wire FZE/Global Fasteners Ltd," dated April 21, 2008. As a result, we applied the average-to-average methodology to all U.S. sales and found a *de minimis* margin (0.09 percent) for Dubai Wire. On April 24, 2008, the Department issued a letter to all parties in the two investigations providing clarifications concerning the post-preliminary determinations.

On April 30, 2008, the petitioners and Hilti, Inc. (Hilti), an importer of the subject merchandise, filed case briefs. Dubai Wire filed a case brief on May 1, 2008. On May 7, 2008, the petitioners and Dubai Wire filed rebuttal briefs.

On May 6, 2008, National Nail Corp., an importer of subject merchandise in *Nails from the PRC*, requested that the Department confirm that the scope of this investigation excludes plastic cap roofing nails.<sup>2</sup> The Department rejected this request, and all submissions associated with this request, as untimely filed on June 2, 2008. See Letter from Irene Darzenta Tzafolias to White and Case, dated June 2, 2008.

On May 15, 2008, Illinois Tool Works, Inc. and Paslode Fasteners (Shanghai) Co., Ltd. (collectively, ITW) submitted the public version of their scope arguments contained in the public version of ITW's rebuttal brief filed on May 8, 2008, in *Nails from the PRC*. See "Scope Comments" section, below.

As the Department established a separate briefing schedule on targeted dumping issues, the petitioners and Suzhou Xingya Nail Co., Ltd., Senco-Xingya Metal Products (Taicang) Co., Ltd., Senco Products, Inc., and Omnifast LLC (collectively, Xingya Group), a respondent in *Nails from the PRC*, submitted case briefs with respect to these issues on May 7, 2008.<sup>3</sup> On May 14, 2008, the Xingya Group, ITW, and Dubai Wire submitted rebuttal briefs to the petitioners' targeted dumping brief.<sup>4</sup> On May 19, 2008, we held a joint public hearing on the targeted dumping issues raised in this investigation and *Nails from the PRC*.

#### Period of Investigation

The period of investigation (POI) is April 1, 2006, through March 31, 2007. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2007).

#### Scope of Investigation

The merchandise covered by this investigation includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not

limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to this proceeding are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65 and 7317.00.75.

Excluded from the scope of this proceeding are roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope of this proceeding are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of this proceeding are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10. Also excluded from the scope of this proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this proceeding are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or

<sup>2</sup> The May 6, 2008, submission was filed on the record of the UAE investigation on May 7, 2008. On May 12, 2008, the petitioners submitted a letter for the record of the PRC investigation opposing National Nail Corp.'s exclusion request. This letter was submitted for the record of the UAE investigation on May 27, 2008. National Nail Corp. responded to this letter on May 20, 2008.

<sup>3</sup> The public version of Xingya Group's brief was submitted for the record of this investigation on May 12, 2008.

<sup>4</sup> Dubai Wire resubmitted its rebuttal brief on May 16, 2008, as the Department rejected the original rebuttal brief because it contained arguments that did not address comments made in the petitioners' targeted dumping case brief. See Memorandum to The File entitled "Return of Dubai Wire FZE (Dubai Wire) Rebuttal Brief on Targeted Dumping Issues," dated May 16, 2008. The public versions of the petitioners' and ITW's targeted dumping rebuttal briefs filed in *Nails from the PRC* were submitted to this record on May 15, 2008.

equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

### Scope Comments

#### Banded Brads and Finish Nails

On July 30, 2007,<sup>5</sup> Stanley Fastening Systems, LP (Stanley), an interested party in this proceeding, requested that banded brads and finish nails imported with a “nailer kit” or “combo kit” as a single package be excluded from this investigation as being outside the “class or kind”<sup>6</sup> of merchandise.<sup>7</sup> Based on the scope exclusion request from Stanley, the fact that the petitioners are in agreement with this request, and that there appears to be no impediment to enforceability by CBP, we preliminarily determined that the above-described products are not subject to the scope of this investigation. Since the *Preliminary Determination*, no party to this proceeding has commented on this issue and we have found no additional information that would compel us to reverse our preliminary finding. Thus, for purposes of the final determination, we continue to find that the above-described products are not subject to the scope of this investigation.

#### Fasteners Suitable for Use in Gas-Actuated Hand Tools

In its case brief filed on April 30, 2008, Hilti, an interested party in this proceeding, reiterated its request, submitted on January 8, 2008, that the Department modify the scope of the investigation to exclude fasteners suitable for use in gas-actuated hand tools.<sup>8</sup> Hilti claimed that modification of the scope to exclude these fasteners was

supported by the petitioners<sup>9</sup> and, additionally, because the description of the excluded nails is framed solely in terms of their physical characteristics, the exclusion could be easily administered by CBP. Furthermore, Hilti pointed out that the principles and rationale the Department applied to Stanley’s scope request (see discussion above) in the *Preliminary Determination* applied equally to Hilti’s scope request.

Hilti rebutted ITW’s January 8, 2008, submission arguing that ITW offered no material reason for seeking the imposition of antidumping duties against the product at issue, other than its assertion that it is a U.S. manufacturer of such merchandise. Moreover, Hilti claimed that ITW has never opposed the petitioners’ own initial exclusion of nails suitable for use in powder-actuated hand tools, which Hilti claimed are functionally similar and competitive with nails suitable for use in gas-actuated tools, but simply classified under a different HTSUS subheading.

In its rebuttal brief submitted on May 8, 2008, in *Nails from the PRC*,<sup>10</sup> ITW reiterated its arguments in its January 8, 2008, submission that, because it is the only U.S. producer of the product at issue, the petitioners’ agreement to the proposed exclusion is not relevant in light of ITW’s opposition. In addition, ITW claimed that it is perfectly reasonable and legitimate for it to oppose a petition generally, while at the same time opposing certain exclusions to that petition.

Based on the scope exclusion request from Hilti, the fact that the petitioners are in agreement with this request, and that there appears to be no impediment to enforceability by CBP,<sup>11</sup> we have determined that the above-described products are not subject to the scope of this investigation.<sup>12</sup>

#### Aluminum Nails and Stainless Steel Nails

On February 27, 2008, Duo-Fast Northeast (Duo-Fast), an interested party in this proceeding, requested that the Department exclude two types of nails from the scope of this proceeding:

<sup>9</sup> On January 9, 2008, the petitioners filed a letter stating that they agree with Hilti’s January 8, 2008, scope exclusion request.

<sup>10</sup> This brief was submitted for the UAE record on May 15, 2008.

<sup>11</sup> See Memorandum to the File from Kate Johnson, Senior Case Analyst, entitled “Scope Exclusion Request,” dated May 1, 2008.

<sup>12</sup> While the Department notes ITW’s objection, it strives to craft a scope that both includes the specific products for which the petitioners have requested relief, and excludes those products which may fall within the general scope definition, but for which the petitioners do not seek relief.

(1) aluminum nails, and (2) stainless steel nails.<sup>13</sup> The plain language of the scope indicates that the scope does not cover aluminum nails because nails made from aluminum are not made from steel and are, thus, not subject merchandise. However, stainless steel nails are explicitly covered in the scope of this proceeding, as the plain language of the scope covers nails produced from any type of steel, without limitation. Therefore, we have not modified the scope of investigation in accordance with Duo-Fast’s requests.

#### Targeted Dumping

We have analyzed the case and rebuttal briefs with respect to targeted dumping issues submitted for the record in this investigation and in *Nails from the PRC*. As a result of our analysis, we made certain changes in the targeted dumping test we applied in the post-preliminary determination for purposes of the final determination. These changes continued to result in a negative targeted dumping finding for Dubai Wire. For further discussion, see Comments 1 through 9 in the “Issues and Decision Memorandum” (*Decision Memo*) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated June 6, 2008, which is hereby adopted by this notice. See also Memorandum to The File entitled “Dubai Wire FZE/Global Fasteners Ltd. Final Determination Margin Calculation,” dated June 6, 2008.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the parties to this investigation are addressed in the *Decision Memo*. A list of the issues that parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 1117 of the main Department building. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Decision Memo* are identical in content.

<sup>13</sup> On March 18, 2008, the petitioners submitted a letter for the record opposing Duo-Fast’s exclusion request.

<sup>5</sup> This submission was filed on the record of Nails from the PRC on July 30, 2007, and on the record of the instant investigation on January 7, 2008.

<sup>6</sup> A “nailer kit” consists of a pneumatic nailer, a “starter box” of branded products and a carrying case. A “combo kit” consists of an air compressor, a pneumatic nailer, and a “starter box” of banded products and related accessories, such as an air hose.

<sup>7</sup> On December 12, 2007, Stanley revised its July 30, 2007, scope exclusion request arguing that its new request reflects a broader exclusion and could be easily administered by U.S. Customs and Border Protection (CBP) because the description of the excluded brads and finish nails is framed solely in terms of their physical characteristics.

<sup>8</sup> We stated in the *Preliminary Determination* that we received this request too late to consider for purposes of the preliminary determination, but would consider it for the final determination.

**Verification**

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by Dubai Wire for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by Dubai Wire. See CVR and SVR.

**Changes Since the Preliminary Determination**

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for Dubai Wire. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memo.

**Final Determination Margins**

We determine that the weighted-average dumping margins are as follows:

%	Weighted-Average Margin Percentage
Dubai Wire FZE/Global Fasteners Ltd. ....	0.00
All Others .....	0.00

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Termination of Suspension of Liquidation**

Because the estimated weighted-average dumping margin for the sole investigated company is 0.00 percent (*de minimis*), we will direct CBP to terminate the suspension of liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after January 23, 2008, and to release any bond or other security, and refund any cash deposit.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination.

**Return or Destruction of Proprietary Information**

This notice will serve as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or

conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: June 6, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

**Appendix - Issues in Decision Memorandum****Targeted Dumping Issues**

*Comment 1:* Appropriateness of Implementing New Methodology in this Investigation

*Comment 2:* Identifying Alleged Targets

*Comment 3:* Statistical Validity of Standard Deviation Test

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*Comment 5:* Alleged Masking of Dumping Under 33-Percent Pattern Test Threshold

*Comment 6:* Flaws of "Gap Test"

*Comment 7:* Alleged Masking of Dumping by Respondents Under Standard Deviation Test

*Comment 8:* Statistical Validity of P/2 Test

*Comment 9:* Programming Errors

**Company-Specific Calculation Issues**

*Comment 10:* Addition of G&A, Financial and Selling Expenses to GFL Processing Costs

*Comment 11:* Weight-Averaging of Dubai Wire and GFL Expenses for G&A and Financial Expense Ratios

*Comment 12:* Scrap Offset Revisions

*Comment 13:* Affiliated Party Loans and Leases

*Comment 14:* Calculation of Financial Expense Offset

*Comment 15:* Adjustment of GFL CV Profit Ratio for COM Revisions

*Comment 16:* Calculation of CV Selling Expenses and Profit Based on GFL Screw Sales

*Comment 17:* LOT Adjustment for CV Comparisons

[FR Doc. E8-13490 Filed 6-13-08; 8:45 am]

**BILLING CODE 3510-DS-S**