

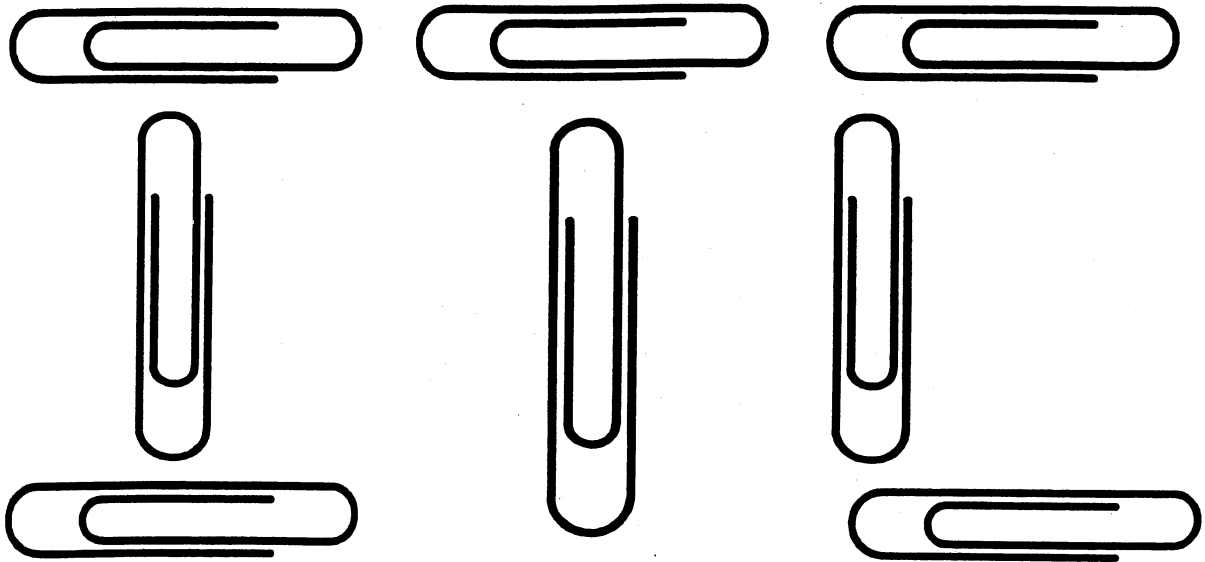
# Certain Paper Clips from the People's Republic of China

Investigation No. 731-TA-663 (Final)

Publication 2829

November 1994

U.S. International Trade Commission



# U.S. International Trade Commission

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# **U.S. International Trade Commission**

Washington, DC 20436

## **Certain Paper Clips from the People's Republic of China**



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## CONTENTS

	<i>Page</i>
<b>Part I: Determination and views of the Commission</b> . . . . .	I-1
Determination . . . . .	I-3
Views of the Commission . . . . .	I-5
Additional views of Vice-Chairman Nuzum . . . . .	I-15
<b>Part II: Information obtained in the investigation</b> . . . . .	II-1
Introduction . . . . .	II-3
Background . . . . .	II-3
The nature and extent of sales at LTFV . . . . .	II-3
The product . . . . .	II-4
Description and uses . . . . .	II-4
Manufacturing process . . . . .	II-5
U.S. tariff treatment . . . . .	II-5
Interchangeability . . . . .	II-5
The U.S. market . . . . .	II-9
Apparent U.S. consumption . . . . .	II-9
U.S. producers . . . . .	II-11
U.S. importers . . . . .	II-13
Channels of distribution . . . . .	II-14
Consideration of material injury to an industry in the United States . . . . .	II-14
U.S. production, capacity, and capacity utilization . . . . .	II-15
U.S. producers' domestic shipments . . . . .	II-16
Certain paper clips . . . . .	II-16
No. 1 paper clips . . . . .	II-17
No. 3 paper clips . . . . .	II-17
Jumbo paper clips . . . . .	II-17
Other wire paper clips . . . . .	II-18
U.S. producers' imports . . . . .	II-18
U.S. producers' inventories . . . . .	II-19
U.S. employment, wages, and productivity . . . . .	II-19
Financial experience of U.S. producers . . . . .	II-20
Overall establishment operations . . . . .	II-20
Operations on certain paper clips . . . . .	II-20
Investment in productive facilities . . . . .	II-21
Capital expenditures . . . . .	II-21
Research and development expenses . . . . .	II-21
Capital and investment . . . . .	II-22
Consideration of the question of threat of material injury to an industry in the United States . . . . .	II-22
U.S. importers' inventories . . . . .	II-23
Ability of foreign producers to generate exports and the availability of export markets other than the United States . . . . .	II-24

CONTENTS--Continued

	<i>Page</i>
<b>Part II: Information obtained in the investigation--Continued</b>	
Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury . . . . .	II-25
U.S. imports . . . . .	II-25
U.S. market penetration by imports . . . . .	II-27
Prices . . . . .	II-27
Marketing considerations . . . . .	II-27
Bundling of paper clips and other office products . . . . .	II-28
Product comparisons . . . . .	II-28
Questionnaire price data . . . . .	II-29
Price trends for ACCO- and Noesting-produced certain paper clips . . . . .	II-30
Price trends for imported Chinese certain paper clips . . . . .	II-31
Price trends for imported Chinese ideal clips and metal binder clips, and ACCO-produced plastic paper clips . . . . .	II-31
Input cost trends . . . . .	II-31
Price comparisons between ACCO-produced and imported Chinese certain paper clips . . . . .	II-31
Price comparisons between Noesting-produced and imported Chinese certain paper clips . . . . .	II-32
Exchange rates . . . . .	II-32
Lost sales and lost revenues . . . . .	II-33
 <b>Appendixes</b>	
A. <i>Federal Register</i> notices . . . . .	A-1
B. List of witnesses appearing at the public hearing . . . . .	B-1
C. Summary tables . . . . .	C-1
D. Impact of imports on U.S. producers' growth, investment, ability to raise capital, and existing development and production efforts . . . . .	D-1
E. Additional pricing data . . . . .	E-1
 <b>Figures</b>	
1. Illustrations of certain wire paper clips . . . . .	II-6
2. Illustrations of other paper fasteners . . . . .	II-7
3. Paper clip manufacturing flow chart . . . . .	II-8
4. Certain paper clips: U.S. shipments of domestic product, U.S. imports, by sources, 1991-93, Jan.-June 1993 and Jan.-June 1994 . . . . .	II-10
5. Certain paper clips: Shipments by U.S. producers, by types, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-17

CONTENTS--Continued

Page

Figures--Continued

6.	Certain paper clips: Delivered prices of product 1 sold by ACCO and Noesting, and weighted-average delivered prices of imported Chinese product 1, by quarters, Jan. 1991-Jun. 1994 . . . . .	II-30
7.	Certain paper clips: Delivered prices of product 2 sold by ACCO and Noesting, and weighted-average delivered prices of imported Chinese product 2, by quarters, Jan. 1991-Jun. 1994 . . . . .	II-30
8.	ACCO's prices for low-carbon steel wire and paper clip product 1, by quarters, Jan. 1991-Jun. 1994 . . . . .	II-31
9.	Indexes of the nominal exchange rates between the U.S. dollar and Chinese yuan, by quarters, Jan. 1991-Mar. 1994 . . . . .	II-32

Tables

1.	Certain paper clips: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1991-93, Jan.-June 1993 and Jan.-June 1994 . . . . .	II-10
2.	Certain paper clips: U.S. capacity, production, and capacity utilization, by products, 1991-93, Jan.-June 1993 and Jan.-June 1994 . . . . .	II-15
3.	Certain paper clips: Shipments by U.S. producers, by types, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-16
4.	No. 1 paper clips: Shipments by U.S. producers, by types, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-17
5.	No. 3 paper clips: Shipment by U.S. producers, by types, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-17
6.	Jumbo paper clips: Shipments by U.S. producers, by types, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-18
7.	Other wire paper clips: Shipments by U.S. producers, by types, 1991-93, Jan.-June 1993, and Jan.-June 1994. . . . .	II-18
8.	Certain paper clips: U.S. producers' imports, by sources, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-18
9.	Certain paper clips: End-of-period inventories of U.S. producers, by products, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-19
10.	Average number of total employees and PRWs in U.S. establishments wherein certain paper clips are produced, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, by products, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-19
11.	Income-and-loss experience of U.S. producers on the overall operations of their establishments wherein certain paper clips are produced, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-20
12.	Income-and-loss experience of U.S. producers on their operations producing certain paper clips, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-21

CONTENTS--Continued

	<i>Page</i>
<b>Tables--Continued</b>	
13. Value of assets of U.S. producers' operations producing certain paper clips, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-21
14. Capital expenditures by U.S. producers of certain paper clips, by products, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-21
15. Research and development expenses of U.S. producers of certain paper clips, by products, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-22
16. Certain paper clips: End-of-period inventories of U.S. importers, by products and by sources, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-23
17. Certain paper clips: U.S. imports, by sources, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-26
18. Certain paper clips: Apparent U.S. consumption and market penetration, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	II-27
19. Certain paper clips: Delivered prices and total quantities of product 1 sold by ACCO and Noesting, and weighted-average delivered prices of imported Chinese product 1, by quarters, Jan. 1991-June 1994 . . . . .	II-30
20. Certain paper clips: Delivered prices and total quantities of product 2 sold by ACCO and Noesting, and weighted-average delivered prices of imported Chinese product 2, by quarters, Jan. 1991-June 1994 . . . . .	II-30
21. Other paper clip products: Weighted-average delivered prices and total quantities of imported Chinese products 3 and 5, and delivered prices of ACCO-produced product 4, by quarters, Jan. 1991-June 1994 . . . . .	II-30
22. Certain paper clips: Margins of underselling/(overselling), by products, domestic producers, and quarters, Jan. 1991-June 1994 . . . . .	II-32
C-1. Certain paper clips: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-3
C-1A. Certain paper clips: Summary data, compiled from questionnaire responses, concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-4
C-2. Certain paper clips: Summary data concerning the U.S. market (with producer data for all firms except Work Services), 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-5
C-2A. Certain paper clips: Summary data, compiled from questionnaire responses, concerning the U.S. market (with producer data for all firms except Work Services), 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-6
C-3. No. 1 paper clips: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-6
C-4. No. 3 paper clips: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-6
C-5. Jumbo paper clips: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-6
C-6. Other wire paper clips: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-6
C-7. Ideal clamps/butterfly clips: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-6



CONTENTS--Continued

	<i>Page</i>
<b>Tables--Continued</b>	
C-8. Metal binder clips: Summary data concerning the U.S market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-7
C-9. Plastic paper clips: Summary data concerning the U.S market, 1991-93, Jan.-June 1993, and Jan.-June 1994 . . . . .	C-7
E-1. Certain paper clips: Delivered prices of ACCO-produced Silverette No. 1 gem clips and weighted-average delivered prices of imported Chinese No. 1 gem clips, and margins of underselling, by quarters, Jan. 1991-June 1994 . . . . .	E-3
E-2. Certain paper clips: Unit values and total quantities of ACCO-produced and imported Chinese product 1, by quarters, Jan.1991-June 1994 . . . . .	E-3
E-3. Certain paper clips: Unit values and total quantities of ACCO-produced and imported Chinese product 2, by quarters, Jan.1991-June 1994 . . . . .	E-3

# GLOSSARY OF ABBREVIATIONS

ACCO	ACCO USA, Incorporated
Abel	Abel Unlimited, Incorporated
Act	Tariff Act of 1930
American Pin	American Pin, Incorporated
A&W	A&W Products Company
Boise Cascade	Boise Cascade Office Products
Charles Leonard	Charles Leonard, Incorporated
China	People's Republic of China
CNIF	Customs' Net Import File
Commission	U.S. International Trade Commission
Commerce	U.S. Department of Commerce
Conference transcript	Transcript of the conference in the preliminary investigation
FMV	Foreign market value
FOB	Free on Board
GATT	General Agreement on Tariffs and Trade
GSA	General Services Administration
Hearing transcript	Transcript of the hearing in the final investigation
HTS	Harmonized Tariff Schedule of the United States
IDC	Individual Development Center
IDL	IDL Corporation
IMF	International Monetary Fund
Labelon	Labelon Corporation
LTFV	Less than fair value
Noesting	Labelon/Noesting Company
NOPA	National Office Products Association
Officemate	Officemate International
OPNNA	OPNNA Corporation
PRW	Production and related workers
Quill	Quill Corporation
Sirich	Sirich International
S.P. Richards	S.P. Richards Company
Staples	Staples, Incorporated
USP	U.S. price
Woolworth	F.W. Woolworth Company
Work Services	Work Services Corporation
ZLIP	Zhejiang Light Industrial Products Import and Export Corporation
ZMEC	Zhejiang Machinery and Equipment Import and Export Corporation

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

**PART I**

**DETERMINATION AND VIEWS OF THE COMMISSION**



# UNITED STATES INTERNATIONAL TRADE COMMISSION

## Investigation No. 731-TA-663 (Final)

### Certain paper clips from China

#### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of certain paper clips, provided for in subheading 8305.90.30 of the Harmonized Tariff Schedule of the United States,<sup>2</sup> that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

#### Background

The Commission instituted this investigation effective May 16, 1994, following a preliminary determination by the Department of Commerce that imports of certain paper clips from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 8, 1994 (59 F.R. 29614). The hearing was held in Washington, DC, on October 4, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

<sup>2</sup> The imported paper clips covered by this investigation include paper clips made wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e.g., copper), the foregoing with a wire diameter between 0.64 and 1.91 millimeters (0.025 and 0.075 inches), regardless of physical configuration, except as specifically excluded. Such products may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as "No. 1" clips, "No. 3" clips, "jumbo" or "giant" clips, "gem" clips, "frictioned" clips, "Perfect Gems," "Marcel Gems," "universal" clips, "nifty" clips, "peerless" clips, "ring" clips, and "glide-on" clips. Specifically excluded from the scope of this investigation are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal and are covered under a separate subheading of the HTS.



## IEWS OF THE COMMISSION

Based on the record in this investigation, we unanimously determine that an industry in the United States is materially injured by reason of imports of certain wire paper clips from the People's Republic of China that the Department of Commerce ("Commerce") has determined are being sold in the United States at less than fair value ("LTFV").<sup>1</sup>

### I. Like Product and Domestic Industry

#### A. In General

In determining whether an industry in the United States is materially injured or is threatened with material injury by reason of the subject imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 ("the Act") defines the relevant industry as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product . . ."<sup>2</sup> In turn, the statute defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . ."<sup>3</sup>

Commerce has defined the imported product subject to this investigation as:

certain paper clips, wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e.g., copper), with a wire diameter between 0.025 inches and 0.075 inches (0.64 to 1.91 millimeters), regardless of physical configuration, except as specifically excluded. The products subject to this investigation may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as "No. 1 clips," "No. 3 clips," "Jumbo" or "Giant" clips, "Gem clips," "Frictioned clips," "Perfect Gems," "Marcel Gems," "Universal clips," "Nifty clips," "Peerless clips," "Ring clips," and "Glide-On clips."

Commerce specifically excluded from the scope of this investigation plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal and that are covered under a separate subheading of the *Harmonized Tariff Schedule of the United States* (HTSUS).<sup>4</sup>

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<sup>1</sup> 19 U.S.C. § 1673d(b). Material retardation is not an issue in this investigation.

<sup>2</sup> 19 U.S.C. § 1677(4)(a).

<sup>3</sup> 19 U.S.C. § 1677(10). The Commission's like product determinations are factual, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case by case basis. *Torrington Company v. United States*, 747 F. Supp. 744, 748-749 (CIT 1990), *aff'd* 938 F.2d 1278 (1991). In analyzing like product issues, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities and production employees; (5) customer or producer perceptions; and, where appropriate, (6) price. *Calabrian Corp. v. United States*, 794 F. Supp. 377, 382 n.4 (CIT 1992); *Torrington*, 747 F. Supp. at 749; *Asociacion Colombiana de Exportadores de Flores v. United States*, 693 F. Supp. 1165, 1168 n. 4, 1180 n. 7 (CIT 1988). No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation. See S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); *Torrington*, 747 F. Supp. at 748-49. Generally, the Commission requires "clear dividing lines among possible like products" and disregards minor variations among them. *Torrington*, 747 F. Supp. at 748-49.

<sup>4</sup> 59 Fed. Reg. 51168 (Oct. 7, 1994) (Notice of Final Determination of Sales of Less Than Fair Value: Certain Paper Clips From the People's Republic of China. The relevant HTSUS subheading is 8305.90.30).

Paper clips are office products used to fasten papers together temporarily. The paper clips included within Commerce's scope ("certain wire paper clips") are limited to those, made wholly of base metal wire, within a specified range of diameters, principally three categories of clips, referred to commercially as No. 1 clips, No. 3 clips, and jumbo or giant clips.

In the preliminary investigation,<sup>5</sup> respondents contended that the Commission should expand the like product to include plastic paper clips, ideal clamps, and binder clips in the like product.<sup>6 7</sup> Due in part to limited data in the preliminary investigation, we did not include these other paper fasteners in the like product.

After examining the evidence which is more complete in this final investigation, we again decline to include any of these three other types of paper fasteners in the like product. We do note that there are some similarities between wire paper clips and these other types of paper fasteners. For example, all of these products are used to hold papers together temporarily, and plastic and wire paper clips are generally the same size. Ideal clamps and wire paper clips are also produced by somewhat similar manufacturing processes in that both are manufactured by cutting and bending wire of a particular diameter to a particular shape that allows the end product to hold papers together.<sup>8</sup> Finally, all of these other paper fasteners also share the same channels of distribution as wire paper clips.

However, the record demonstrates that there are more differences than similarities between "certain wire paper clips" and the three other types of paper fasteners. All of the other three types of paper fasteners have a significantly higher cost of production and price than wire paper clips, and they are all produced on different equipment. Furthermore, binder clips and plastic paper clips are produced by different manufacturing processes and are made from different materials than wire paper clips, and ideal clamps are made with a heavier gauge wire than wire paper clips.<sup>9 10</sup>

In addition, questionnaire responses from producers, purchasers, and importers indicate that these other paper fasteners are not perceived as practical substitutes for wire paper clips. The intended uses of wire paper clips differ somewhat from those of other paper fasteners in that binder clips and ideal clamps are designed to hold larger amounts of paper than wire paper clips and do not hold small amounts of paper well. While plastic paper clips hold similar amounts of paper as wire clips, they are also used to color-code stacks of paper and to clip computer disks together with less chance of damage. There is also information on the record that plastic paper clips are considered more fragile than wire clips.

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<sup>5</sup> *Certain Paper Clips from the People's Republic of China*, Inv. No. 731-TA-663 (Preliminary), USITC Pub. 2707 (November 1993) (hereinafter "Preliminary Determination").

<sup>6</sup> Binder clips are specialized fasteners with extra-strong holding capacity. The clip consists of a small sheet of tempered spring steel which in the cross section has been formed in a triangular shape. The interrupted or open apex of the triangle creates intersecting compressed surfaces which, when spread apart, accept a stack of documents for holding. Fold-back wire loop handles are attached adjacent and parallel to the plane of the open apex to permit the spreading of the intersecting surfaces so that documents can be introduced for holding. Releasing pressure on the handles allows the open apex to return to the original position and clip the documents. Confidential Report (CR) at I-5, n. 4; Public Report (PR) at II-4, n. 4.

Ideal clamps, commonly referred to as butterfly clips, are generally manufactured from wire diameters ranging from 0.062 to 0.072 inches. In contrast to the subject paper clips, these products are used to hold relatively larger quantities of paper together. *Id.*

<sup>7</sup> Respondents' Post-Conference Brief at 12. Respondents did not participate in this final investigation but we stated in our preliminary determination that we would revisit this issue in any final investigation.

<sup>8</sup> CR at I-9, n. 9. PR at II-5, n. 9. Preliminary determination at I-8.

<sup>9</sup> Questionnaire responses.

<sup>10</sup> *Id.* Hearing transcript, p. 92.



Based on the record evidence, we find that the significant differences between these other three types of paper fasteners and certain wire paper clips support not including them in the like product. We thus define the like product to be "certain wire paper clips" as described in Commerce's scope of investigation, and we define the domestic industry to be all producers of those paper clips. These producers include ACCO, of Wheeling Il., Noesting of Mount Vernon, N.Y., Work Services of Wichita Falls, Texas, and Trico Manufacturing of Hartsville, S.C.<sup>11</sup>

## B. Related Parties

Under section 771(4)(B) of the Act, producers who are related to exporters or importers or are themselves importers of allegedly dumped or subsidized merchandise, may be excluded from the domestic industry under "appropriate circumstances."<sup>12</sup> Application of the related parties provision is within the Commission's discretion based upon the facts presented in each case.<sup>13</sup>

The related parties provision may be employed to avoid distortion in the aggregate data bearing on the condition of the domestic industry that might result from including related parties whose operations are shielded from the effects of the subject imports.<sup>14</sup> The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation.<sup>15</sup>

In the preliminary investigation respondents argued that there were appropriate circumstances to exclude Noesting from the domestic industry as a related party because it imported paper clips from China during the period of investigation.<sup>16</sup> Since Noesting is, indeed, a related party, we must consider whether appropriate circumstances exist to exclude it from the domestic industry.

We decided not to exclude Noesting from the domestic industry for the following reasons: First, representatives of Noesting testified at the Commission's staff conference that Noesting imported paper clips from China to satisfy certain customers' needs for low-priced merchandise, in order not to lose those customers.<sup>17</sup> <sup>18</sup> Second, throughout the period of investigation, regardless of whether Noesting was or was not importing Chinese paper clips, Noesting's financial performance was not significantly different from other domestic

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<sup>11</sup> Trico Manufacturing was represented at the Commission hearing, but failed to respond to the Commission questionnaire.

<sup>12</sup> 19 U.S.C. § 1677(4)(B).

<sup>13</sup> Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (CIT 1992), aff'd without opinion, App. No. 92-1383 (Fed. Cir. March 5, 1993); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (CIT 1987).

<sup>14</sup> Heavy Forged Handtools from the People's Republic of China, Inv. No. 731-TA-457 (Final), USITC Pub. 2357 at 18 (February 1991). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include:

- (1) the percentage of domestic production attributable to related producers;
- (2) the reason why importing producers choose to import the articles under investigation -- to benefit from the unfair trade practice or to enable them to continue production and compete in the domestic market; and
- (3) the competitive position of the related domestic producer vis-a-vis other domestic producers.

See Torrington, 790 F. Supp. at 1168 (referencing and upholding this practice); Empire Plow, 675 F. Supp. at 1353.

<sup>15</sup> See, e.g., Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 at 12 (January 1986).

<sup>16</sup> CR at I-18 and I-30; PR at II-13 and II-18.

<sup>17</sup> CR at I-30; PR at II-18.

<sup>18</sup> Id.

producers, suggesting that Noesting was not benefiting from its importations of the subject merchandise.<sup>19</sup> Third, Noesting is a small producer accounting for only as little as \*\*\* and no more than \*\*\* percent of domestic production during the period of investigation. As a small producer, its inclusion in the industry does not skew the data for the industry.<sup>20</sup> We also note that Noesting stopped importing paper clips from China by the end of 1993.<sup>21</sup> For these reasons, we do not find appropriate circumstances exist to exclude Noesting as a related party.<sup>22</sup>

In this final investigation we have also obtained information that ACCO imported paper clips from China over the period of the investigation, and thus is a related party.<sup>23</sup> However, ACCO's total imports from China in 1993 comprised, by volume and value, only \*\*\* percent of its total shipments of certain paper clips. This small percentage demonstrates that ACCO's primary focus is on domestic production and not importation. Therefore, we decline to exclude ACCO from the domestic industry.

## II. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether the domestic industry is materially injured by reason of LTFV imports, the Commission considers all relevant economic factors which have a bearing on the state of the industry in the United States.<sup>24</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."<sup>25</sup>

In examining the domestic wire paper clip industry, we note several pertinent conditions of competition. First, the industry is mature; consequently there has been little product innovation during the investigative period. In addition, no new production processes or technologies have emerged, no new markets have developed, and no new firms have entered into production. However, the market for paper clips has changed in that large discount retailers of office supply products have increased in number, causing producers to shift sales to these chains. The record indicates that it may be more costly for producers to compete in this new segment of the retail market because there are greater marketing and advertising expenses.

We also considered the role of "bundling," the practice of selling several different office products together under a single purchase order. Respondents in the preliminary investigation argued that "bundling" sales of other office products with sales of paper clips distorted the price impact of the dumped imports, and consequently exaggerated the margins

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<sup>19</sup> Producer's Questionnaire from Noesting, Inc. (Aug. 19, 1994).

<sup>20</sup> CR at I-14; PR at II-11.

<sup>21</sup> CR at I-30; PR at II-18.

<sup>22</sup> Commissioner Crawford concurs that Noesting is a related party, but finds that appropriate circumstances exist to exclude Noesting from the domestic industry. First, subject imports accounted for \*\*\* percent of Noesting's 1993 shipments. Second, Noesting imported the subject imports to satisfy its customers' needs, not to be able to continue production. Both of these facts indicate that Noesting's primary interest does not lie in production. Finally, Noesting's products do not compete directly with subject imports because Noesting sells to companies near its plant to take advantage of reduced shipping costs and to companies that have strong preferences to buy American products. For these reasons, Commissioner Crawford finds that appropriate circumstances exist to exclude Noesting from the domestic industry. Thus, while she finds the discussion of the data for the condition of all domestic producers useful, her analysis of the price effects of the dumped imports and impact of the dumped imports is focused on the effects on ACCO, the dominant domestic producer.

<sup>23</sup> CR at I-18 and I-30; PR at II-13 and II-18.

<sup>24</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>25</sup> 19 U.S.C. § 1677(7)(C)(iii).

of underselling and significance of lost sales. They argued that the domestic industry was using paper clips in bundled sales as a "loss leader."<sup>26</sup> In this final investigation, nearly all the purchasers who completed questionnaires reported buying paper clips as part of a "bundle" of standard office supplies, but that the prices of the paper clips are determined independently of the prices for the other products included in the bundle. Therefore, we find that, although bundling is a common method of selling paper clips, it does not affect the prices for paper clips.<sup>27</sup>

As a final condition of competition, parties indicated that there is a slight increase in paper clip production and sales as businesses purchase more office products prior to their year-end closing for tax purposes.<sup>28</sup> Having identified the conditions of competition specific to the paper clip industry, we next turn to an examination of the specific performance indicators of this industry.

Industry performance improved from 1991 to 1993 as production, domestic shipments, capacity utilization, and employment improved. Profitability declined from 1991 to 1992 and then increased in 1993. By interim 1994, however, all of these indices except the quantity of shipments declined when compared to interim (January - June) 1993.<sup>29</sup>

Domestic consumption of paper clips increased nearly fifteen percent by quantity from 1991 to 1992, but then decreased slightly the following year; consumption was slightly higher in interim 1994 as compared to interim 1993. Production rose from 1991 through 1993, with a substantial increase from 1992 to 1993. Production of paper clips was lower during interim 1994 when compared to interim 1993.<sup>30</sup>

Domestic shipments of certain wire paper clips increased each year in the period of investigation, and were higher in interim 1994 as compared to interim 1993. The value of those shipments also rose during the period of investigation but not at the same rate as the increase in quantity. To the contrary, while shipments were rising, the unit value of those shipments dropped consistently throughout the period of investigation.<sup>31</sup> The decline in the unit values appears to reflect, at least in part, ACCO's decision to increase its production of less costly small-diameter No. 1 paper clips, while reducing its production of slightly larger-diameter No. 1 paper clips.<sup>32</sup> The value and quantity of net sales, reflecting increases in shipments, increased throughout the period of investigation, although the increase in the quantity of net sales was greater than the increase in the value of net sales during this period.<sup>33</sup>

End-of-period capacity rose during the period of investigation primarily due to the addition by ACCO of more production shifts for No. 1 and jumbo clips, and the installation

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<sup>26</sup> In the context of a bundled sale of various products, a loss leader is a product sold below the marginal cost of production that induces a potential purchaser to order the bundle from the producer. Presumably, profits realized from the bundled sale as a whole offset the loss incurred by the seller on the loss leader. Petitioners' Prehearing Brief at 36-39; Petitioners' Posthearing Brief at 2-6.

<sup>27</sup> CR at I-52; PR at II-28.

<sup>28</sup> CR at I-22; PR at II-16.

<sup>29</sup> CR at I-21 and I-40-41; PR at II-15 and II-20-21.

<sup>30</sup> CR at I-21, Table 2; PR at II-15, Table 2.

<sup>31</sup> CR at I-24, Table 3; PR II-16, Table 3.

<sup>32</sup> No. 1 paper clips accounted for almost \*\*\* percent of total U.S. production in 1993. CR at I-21, Table 2; PR at II-15, Table 2.

<sup>33</sup> The quantity of net sales increased \*\*\* percent from 1991 to 1992; \*\*\* percent from 1992 to 1993, and was \*\*\* percent higher in interim 1994 when compared to interim 1993. From 1991 to 1992 the value of net sales rose only \*\*\* percent. The value of net sales rose \*\*\* percent from 1992 to 1993 and was \*\*\* percent higher in interim 1994 as compared to interim 1993. CR at C-3, Table C-1; PR at C-3, Table C-1. During the periods 1991-1992 and 1992-1993, the unit sales value of the paper clips declined by \*\*\* percent and \*\*\* percent respectively. The unit sales value was \*\*\* percent lower in interim 1994 when compared to interim 1993. *Id.*

of new equipment to produce jumbo clips.<sup>34</sup> Capacity was slightly lower in interim 1994 when compared to interim 1993. Capacity utilization rose only slightly from 1991 to 1992, but rose substantially from 1992 to 1993. Capacity utilization was lower in interim 1994 compared to interim 1993.<sup>35</sup>

During the period of investigation the number of PRWs increased.<sup>36</sup> The hours worked and the wages paid the PRWs also increased from 1991 to 1993, but were smaller in interim 1994 compared to interim 1993.<sup>37</sup> This same trend occurred in the hourly wages and hourly total compensation paid to the PRWs during the period of investigation.<sup>38</sup>

Although some indicators showed improvement, other indicators did not. For example, inventories of certain wire paper clips held by domestic producers more than doubled from 1991 to 1993 and were higher in interim 1994 compared to interim 1993.<sup>39</sup>

The domestic industry experienced an increase in operating losses from 1991 to 1992. In 1993 there was a small level of operating income but interim 1994 data indicated a return to operating losses.<sup>40</sup> Gross profit steadily increased from 1991 to 1993, although in interim 1994 gross profits were lower than in interim 1993.<sup>41 42 43</sup>

### III. MATERIAL INJURY BY REASON OF LTFV IMPORTS

In final antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports that Commerce has determined are sold at LTFV.<sup>44</sup> The Commission must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product, but only in the context of U.S. production operations.<sup>45</sup>

Although the Commission may consider alternative causes of injury to the industry other than the LTFV imports, it is not to weigh causes.<sup>46 47 48 49</sup> For the reasons discussed

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<sup>34</sup> CR at I-20; PR at II-15.

<sup>35</sup> CR at I-20-I-21; PR at II-15.

<sup>36</sup> CR at I-34, Table 10; PR at II-19, Table 10.

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> CR at I-31; PR at II-19.

<sup>40</sup> CR at I-38, Table 12; PR at II-21, Table 12.

<sup>41</sup> Id.

<sup>42</sup> Based on the foregoing, Commissioner Rohr and Commissioner Newquist determine that the domestic industry is experiencing material injury.

<sup>43</sup> \*\*\*. Verification Report, Office of Investigations (Oct. 6, 1994) at 5.

<sup>44</sup> 19 U.S.C. § 1673d(b).

<sup>45</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission also may consider "such other economic factors as are relevant to the determination." Id.

<sup>46</sup> See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

[T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry. S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

<sup>47</sup> For Chairman Watson's interpretation of the statutory requirement regarding causation, see Certain Calcium Aluminate Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772, at I-14, n.68 (May 1994).

<sup>48</sup> Commissioners Rohr and Newquist further note that the Commission need not determine that imports are "the principal, a substantial, or a significant cause of material injury." S. Rep. 249, 96th Cong. 1st Sess. 57 and 74 (1979); see also, e.g., Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. at 1101.

below, we find that the domestic wire paper clip industry is materially injured by reason of LTFV imports from China.<sup>50</sup>

### A. Volume of Imports

Imports of certain wire paper clips from China increased from 4.2 billion clips to 5.6 billion clips from 1991 to 1992, and declined to 4.9 billion clips in 1993.<sup>51</sup> There was an additional decline in interim 1994 when compared to interim 1993, from 2.4 billion clips to 2.2 billion clips.<sup>52</sup> However, in spite of these recent declines, imports from China accounted for more than one-third of the U.S. market during the entire period of investigation.<sup>53</sup> Thus, the volume of Chinese paper clips in the U.S. market was significant throughout the period.<sup>54</sup>

### B. Price Effects of Imports

The record indicates that there is significant direct competition between subject imports and the domestic product. There are few quality distinctions between the products, although a few purchasers indicated quality problems with Chinese clips. Information from purchasers revealed that quality is not a major competitive issue; instead, price is the primary factor they consider when purchasing paper clips. One purchaser characterized paper clips as a commodity item that is very price sensitive.<sup>55</sup> Another purchaser stated that it submits purchase orders to qualified suppliers and generally buys from the supplier that offers the lowest price.<sup>56</sup>

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<sup>49</sup> (...continued)

<sup>49</sup> Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the LTFV imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of LTFV imports, not by reason of LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249 at 75. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. *Id.* at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

<sup>50</sup> Vice Chairman Nuzum provides additional discussion of her analysis in her *Additional Views*, *infra.*

<sup>51</sup> CR at I-44, Table 16; PR at II-26, Table 17. However, 1993 levels were 15.9% higher than 1991 levels.

<sup>52</sup> *Id.*

<sup>53</sup> There is some evidence that paper clips imported from Hong Kong may have been produced in China, and, thus, our description of import levels of paper clips from China could be somewhat understated. The imports from Hong Kong increased from 1991 to 1992, but declined dramatically in 1993. There were no imports from Hong Kong in 1994. CR at I-48, Table 17; PR at II-26, Table 17.

<sup>54</sup> Chairman Watson determined that, although the volume and market share of subject imports were significant throughout the POI, in this investigation these levels alone would not have led to his affirmative determination absent the adverse price effects and their consequent impact on the domestic industry.

<sup>55</sup> CR at I-64; PR at II-33.

<sup>56</sup> *Id.*

ACCO, by far the largest domestic producer, chose to compete directly with the Chinese imports by sharply reducing its prices and increasing its production of lower cost, smaller diameter wire paper clips.<sup>57</sup> ACCO manufactures three types of No. 1 gem style paper clips distinguished by differences in the diameter of the wire. To be price competitive, ACCO shifted its sales emphasis to the smaller wire diameter "World" paper clips. For sales of these "World" paper clips, in comparison to the Chinese paper clips, there was underselling by the Chinese producers in only 2 of the 14 quarters; the prices were very close throughout the period of investigation. This pattern of pricing is consistent with petitioners' contention that ACCO cut its prices and shifted its product mix in order to retain market share.<sup>58</sup>

We note that the lack of significant underselling is not necessarily probative of a lack of adverse price effects in this investigation. Given the importance of price to purchasers and ACCO's announced strategy of cutting its prices in order to retain market share, we would not necessarily expect to see significant underselling by the subject imports. Nevertheless, it does appear that domestic producer prices were depressed in 1991 at least in part because of the Chinese paper clips.<sup>59</sup>

The pricing information also demonstrates that Chinese imports have suppressed prices in the domestic industry to a significant degree. There was a substantial decline in prices for both the Chinese imports and domestic product from 1991 to 1992. During the early part of the period of investigation, the cost of low carbon steel wire (the primary raw material in the production of paper clips) declined fairly steadily.<sup>60</sup> In the latter part of 1993, however, wire prices rose; yet, ACCO's prices did not increase with this increased cost of

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<sup>57</sup> Noesting was unable to compete directly on price with Chinese imports. Throughout the period of investigation, Chinese paper clips consistently undersold Noesting's product by substantial margins. Noesting was able to maintain its presence in the market by selling to companies which had a strong "Buy American" policy. CR at I-23; PR at II-17.

<sup>58</sup> Commissioner Crawford does not join the following discussion of price effects. She evaluates the effects of the dumping on domestic prices by comparing domestic prices that existed when the imports were dumped with what domestic prices would have been if the imports had been priced fairly. In this investigation, the size of the dumping margin suggests that few, if any, of the Chinese imports would have entered the domestic market had they been fairly priced. Because domestic capacity utilization was \*\*\* percent in 1993, the domestic industry had sufficient capacity to supply the market share held by subject imports. Although nonsubject imports are not a major force in competition with the Chinese imports, the available domestic capacity normally indicates that the domestic industry would have increased its output and sales, rather than its prices, if subject imports had been priced fairly. That is, competition for sales among domestic producers would have prevented price increases. However, this industry is dominated by one producer, ACCO, that accounts for \*\*\* percent of domestic production. As such, ACCO would have had sufficient market power to increase prices by restricting the supply of paper clips in the market, and therefore was in a position to choose whether to raise its prices or increase its sales. Because of ACCO's market power, it would have been able to increase its prices significantly if Chinese imports had been priced fairly.

<sup>59</sup> We also note that ACCO's "Silverette" clip is physically more comparable to the Chinese product than is its "World" clip. Because of cost considerations, however, ACCO decided to compete with the Chinese imports with its less expensive "World" clip. Moreover, ACCO's prices for the Silverette clip, which apparently is not sold in direct competition with the Chinese clips, were significantly higher than prices for the Chinese clips, further indicating the price effects of the unfair imports. CR at I-54, n. 92, I-55-I-56, Tables 19 and 20 and E-3, Table E-1; PR at II-29, n. 92; II-29-30, Tables 19 and 21 and E-3, Table E-1.

<sup>60</sup> The primary raw material input, low-carbon steel wire, is an important component of the total cost of producing certain paper clips, accounting for approximately \*\*\* percent of the cost of goods sold in 1993. CR at I-59; PR at II-31.

the primary raw material.<sup>61</sup> The continuing low prices of the Chinese imports appear to have prevented expected responsive price increases by ACCO.<sup>62 63</sup>

### C. Impact of Imports on the Domestic Industry

In assessing the impact of the LTFV imports on the domestic industry, we consider the data on the domestic industry as a whole.<sup>64</sup> ACCO, representing by far the predominant share of domestic production,<sup>65</sup> was the one producer in the industry that chose to compete directly with the Chinese imports on the basis of price throughout the period of the investigation. With the increase of low priced imports of paper clips from China from 1991 to 1992,<sup>66</sup> ACCO took steps to compete aggressively with those imports and retain its share of the market. It lowered its prices and shifted its marketing emphasis to its less expensive "World" clip product, in an apparent attempt to maintain its market share.<sup>67</sup>

The data and trends concerning the condition of the domestic industry as a whole correlate with the experience of ACCO, the largest domestic producer.<sup>68</sup> From 1992 to 1993 the industry data reflected that ACCO's aggressive pricing strategy was working as shipments, production, and the U.S. producers' share of U.S. consumption increased in 1993 after a decline from 1991 to 1992.<sup>69</sup> From 1992 to 1993 there was also an improvement in the industry's financial performance.<sup>70</sup>

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<sup>61</sup> CR at I-59; PR at II-30.

<sup>62</sup> CR at I-57, Figures 6 & 7, I-58-I-61 and Figure 8; PR at II-29-30, Figures 6 and 7, II-30 and Figure 8.

<sup>63</sup> Chairman Watson finds that the pricing comparisons in this investigation may not be particularly probative because the effects of volume discounts on pricing levels were not taken into account. He therefore finds that, in this price-sensitive market, subject imports appear to have had adverse price effects despite the evidence of overselling. He notes, however, that price declines may also have been attributable, in part, to ACCO's shift of distribution channels to larger retailers and buying groups, who typically have greater purchasing power than the small business supply store and can demand greater price concessions from suppliers.

<sup>64</sup> 19 U.S.C. § 1677(4)(A).

<sup>65</sup> ACCO accounts for approximately \*\*\* percent of the domestic industry. CR at I-14; PR at II-11.

<sup>66</sup> CR at I-48, Table 17; PR at II-26, Table 17.

<sup>67</sup> Commissioner Crawford does not join in the following discussion. She evaluates the impact on the domestic industry by comparing the state of the industry when the imports were dumped with what the state of the industry would have been if the imports had been priced fairly. In assessing the impact of subject imports on the domestic industry, she considers, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital and research and development as required by 19 U.S.C. § 1677(C)(iii). These factors either encompass or reflect the volume and price effects of the dumped imports, and so she gauges the impact of the dumping through those effects. In this regard, the impact on the domestic industry's prices and sales is critical because the impact on other industry indicators (e.g. employment, wages, etc.) is derived from this impact. In this investigation, the size of the dumping margin suggests that few, if any, subject imports would have entered the domestic market had they been fairly priced. With limited competition, ACCO would have been able to dominate the U.S. market. ACCO's market power would have allowed it to choose a combination of price and production levels that would maximize its profits. Given the large volume of Chinese imports that would have been displaced, ACCO would have been able to increase its prices while at the same time increasing the absolute quantity of its production and sales. The combination of these increases would have increased ACCO's revenues and profits significantly. Consequently, Commissioner Crawford concludes that the domestic industry would have been materially better off if subject imports had been fairly priced. Therefore, she determines that the domestic industry is materially injured by reason of the dumped imports from China.

<sup>68</sup> Compare CR at I-38, Table 12 to I-39; PR at II-21, Table 12 to II-21.

<sup>69</sup> CR at I-50, Table 18; PR at II-27.

<sup>70</sup> CR at I-38, Table 12; PR at II-21.

Nonetheless, price pressure from the Chinese imports continued throughout the period of investigation.<sup>71</sup> Although the Chinese import levels did not increase after 1992, these imports maintained a market penetration level between 30 and 40 percent throughout the period of investigation.<sup>72</sup> Initially, the industry appeared to be able to absorb the declining prices, in part because the cost of raw materials decreased in the early part of the investigative period. The financial data showed operating losses in 1991 and 1992, but positive operating income in 1993. Despite this improvement, however, prices remained at depressed levels even as the cost of raw materials increased in the latter part of the period of investigation.<sup>73</sup> Thus, we find financial data and other indices<sup>74</sup> of the industry's condition took a downward turn during interim 1994 when compared to interim 1993.<sup>75 76</sup>

#### IV. CONCLUSION

Based on the foregoing, we determine that the domestic industry producing certain paper clips is materially injured by reason of the LTFV imports from China.

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<sup>71</sup> Most importantly, the cost of carbon steel wire, the primary raw material for the domestic production of certain wire paper clips, fluctuated, reaching its highest point in 1991, its lowest point during the second quarter of 1993, and reaching a somewhat intermediate level by the third quarter of 1993. CR at I-59; PR at II-31.

<sup>72</sup> CR at I-50, Table 18; PR at II-27, Table 18.

<sup>73</sup> CR at I-60, Figure 8; PR at II-31, Figure 8.

<sup>74</sup> Discussion of these indices can be found supra at 8-10.

<sup>75</sup> CR at I-38, Table 12; PR at II-21, Table 12.

<sup>76</sup> Chairman Watson gave less weight to the declining profitability data for interim 1994. He notes that a significant percentage of the decline during this period is attributable to factors unrelated to the subject imports, such as increased raw material costs and increased allocation for factory overhead and SG&A expenses.

He notes that \*\*\* profitability improved overall from 1991 to 1993, coincident with declining raw material costs and increased sales quantities, but declined during interim 1994 as prices remained low despite the increasing raw material and other costs. Therefore, it appears that there was a cost/price squeeze during this period.

With respect to overhead and SG&A expenses, Chairman Watson notes that \*\*\* per unit factory overhead and SG&A expenses declined from 1991 to 1993 as sales quantities increased, indicative of economies of scale at greater sales quantities. However, he finds it unusual that \*\*\* per unit factory overhead and SG&A expenses increased from 1993 to interim 1994, even though \*\*\* and the rate of sales quantities during interim 1994 was greater than during 1993. He also notes that for each unit sold, more depreciation expenses were allocated during interim 1994 than during interim 1993 even though capital expenditures for paper clips declined throughout the entire POI, and quantities sold during the former period were greater than quantities sold during the latter period.



**ADDITIONAL VIEWS OF VICE CHAIRMAN JANET A. NUZUM**

**Certain Paper Clips from the People's Republic of China  
Inv. No. 731-TA-663 (Final)**

I concur with my colleagues in reaching an affirmative determination in this investigation with respect to imports of certain paper clips from China that the Department of Commerce has determined are being sold at less than fair value ("LTFV"). These views provide additional discussion of my particular analysis of the record which led me to an affirmative determination.<sup>77</sup>

**I. CONDITIONS OF COMPETITION**

Before addressing the relationship between the subject imports and the domestic industry, I believe it is useful to identify certain conditions of competition that are distinctive to this industry.<sup>78</sup> These conditions of competition form the context for analyzing the volume and price effects of imports and their impact on domestic producers.

One condition of competition in the paper clip industry is the practice of "bundling" a sale of paper clips with the sale of other office supply products to a single customer. When bundling occurs, paper clips are included as one line item on a purchase order with other office products.<sup>79</sup> During the Commission's preliminary investigation, respondents contended that bundling affects the significance of the margins of underselling, information concerning lost sales, and other indicia of the impact of subject imports on the domestic industry. Respondents argued that producers reduce the price for paper clips in order to earn a greater profit on other products in the bundle.

The Commission carefully examined the impact of bundling on paper clip prices. Nearly all purchasers that responded to the Commission's questionnaire reported buying paper clips as part of a bundle of standard office supplies. Most of these purchasers, however, reported that paper clip prices are determined independently of the prices for other products in the bundle.<sup>80</sup> Seven out of nine purchasers who responded to a supplemental purchaser questionnaire concerning bundling corroborated the view that, in most cases, paper clip prices are determined separately from the prices of other office products.<sup>81</sup> Based on this information, I conclude that bundling does not significantly affect paper clip prices.

Another condition of competition is the maturity of the paper clip industry. This is a mature industry which has seen few technological advances in recent years.<sup>82</sup> It appears unlikely that the industry will achieve significant expansion through new technologies or other innovations in the near future. The industry's ability to respond to competitive pressures, whether from purchasers or other suppliers, depends in large measure on its ability to keep costs down.

Finally, there was some disagreement between petitioners and respondents during the preliminary investigation concerning factors affecting domestic consumption of paper clips. ACCO believes that the increasing amount of paperwork in contemporary office environments promotes increased consumption of paper clips. Respondents, by contrast, appeared to believe that paper clip consumption is affected by overall economic activity.

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<sup>77</sup> My views on the issues of like product and domestic industry are wholly contained in the Commission's views.

<sup>78</sup> 19 U.S.C. §1677(7)(C)(iii).

<sup>79</sup> CR at I-52, PR at II-28. One purchaser reported that as many as 50-500 office supplies may be sold as a bundle, and that paper clips typically account for between 10 and 25 percent of this bundle.

<sup>80</sup> CR at I-52, PR at II-28.

<sup>81</sup> CR at I-53, PR at II-28.

<sup>82</sup> CR at I-22, PR at II-16.

Respondents argued that paper clip consumption was adversely affected by the recent recession because of a link between such consumption and overall economic activity. Respondents also indicated that businesses attempting to downsize their operations in response to the economic slowdown also had an adverse effect on paper clip consumption.<sup>83</sup> I note that during the period examined domestic consumption increased by more than 10 percent from 1991 to 1992, but showed little change thereafter.<sup>84</sup> These trends in consumption neither clearly support nor clearly refute either petitioners' or respondents' arguments.

## II. ANALYSIS OF IMPORT VOLUMES, PRICE EFFECTS, AND IMPACT ON DOMESTIC PRODUCERS OF PAPER CLIPS

Imports of paper clips from China entered the United States market in large volumes throughout the period, consistently remaining above 30 percent of domestic consumption in terms of quantity.<sup>85</sup> The volume of imports from China increased from 4.2 billion clips in 1991 to 5.6 billion clips in 1992, before declining to 4.9 billion clips in 1993. Paper clip imports from China in interim 1994 were 2.2 billion, as compared to 2.3 billion in interim 1993.

I also assessed the significance of import volumes in the context of trends in domestic consumption and domestic producer market share. Domestic consumption increased by more than 10 percent from 1991 to 1992 (by quantity). From 1992 to 1993, domestic consumption declined slightly, but was slightly higher in interim 1994 as compared to interim 1993.<sup>86</sup> In short, growth in domestic consumption occurred early in the period; consumption in the later part of the period was relatively flat.

The increase in imports of Chinese paper clips during 1991-92 outpaced the increase in domestic consumption, resulting in an increase in market share held by Chinese imports.<sup>87</sup> Similarly, the decline in imports of Chinese paper clips from 1992-93 was sharper than the decline in consumption, resulting in a decrease in market share held by the Chinese product in 1993, although slightly higher than the 1991 market share. Although imports of Chinese paper clips continued their decline between the interim periods while consumption increased slightly, the rate of decline slowed. While subject import market share was lower in interim 1994 as compared to interim 1993, it was still more than one-third of domestic consumption.<sup>88</sup>

Petitioners asserted that the largest domestic paper clip producer, ACCO, responded to the competition from LTFV imports by dramatically cutting prices in order to "retain and regain market share lost to Chinese imports."<sup>89</sup> The record indeed indicates that domestic producers initially lost some market share from 1991 to 1992 (as market share held by subject imports increased), but then significantly increased their market share from 1992 to 1993 (as market share held by subject imports declined).<sup>90</sup> Domestic market share also was

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<sup>83</sup> CR at I-13, PR at II-9.

<sup>84</sup> CR at I-11, Table 1, PR at II-10.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> CR at I-50, Table 18, PR at II-27.

<sup>88</sup> *Id.*

<sup>89</sup> Petitioners' Prehearing Br. at 2, Posthearing Br. at 7.

<sup>90</sup> The decrease in subject import market share during 1992-93 was much less than the increase in domestic producer market share, thus suggesting that imports from countries other than China were displaced the most. A significant portion of non-Chinese paper clip imports came from Hong Kong, however. Although the record is not conclusive, there is evidence indicating that paper clip imports from Hong Kong are actually manufactured in China and transshipped through Hong Kong to the United States. CR at I-50, Table 18, PR at II-27. If true, then it does appear that the increase in

(continued...)

slightly higher in interim 1994 as compared to interim 1993.<sup>91</sup> Nevertheless, Chinese paper clips continued to hold more than one third of the domestic market in 1993 and interim 1994. On the basis of these facts, I conclude that the volume of subject imports is significant.

With respect to examining the price effects of the subject imports on the domestic industry, the record reflects a wide-spread view among purchasers that price is a critical factor in purchasing decisions. For example, one large purchaser indicated if a U.S. supplier wants its business, the supplier must meet or beat competing prices for paper clips. Two purchasers described paper clips as a commodity item that is very price sensitive. Other purchasers had similar comments.<sup>92</sup>

With a few exceptions, importers and most purchasers consider domestic and Chinese paper clips to be comparable in terms of quality.<sup>93</sup> This is not surprising since paper clips are not specialized or significantly differentiated products. Indeed, petitioners characterized paper clips as a "commodity product."<sup>94</sup>

In analyzing price effects, I also took into account the size of the dumping margins found by the Department of Commerce. Here, the dumping margins were relatively large, ranging between 46.01 and 60.70 percent for three Chinese producer/exporters, and an "all others" margin of 126.94 percent.<sup>95</sup> These large dumping margins combined with the relatively high degree of substitutability between the Chinese and U.S. paper clips and the consistently significant level of Chinese paper clips in the market support the likelihood of adverse price effects by the subject imports.

I also note that only one domestic producer, ACCO, attempted to meet the competition from Chinese paper clips on the basis of price.<sup>96</sup> Since ACCO is the largest domestic producer of paper clips, accounting for more than three-quarters of domestic production throughout the period, ACCO's prices reflect the vast majority of domestic producer prices. Further, the Commission's staff report did not aggregate all domestic producer prices because of some difficulties with the data such that aggregating prices might have resulted in some skewing of price levels and trends.<sup>97</sup> Thus, I placed greater weight on the comparisons of ACCO's prices with those of the Chinese product than I did on comparisons involving other producer prices.<sup>98</sup>

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<sup>90</sup> (...continued)

domestic market share during 1992-93 came primarily at the expense of paper clips manufactured in China, whether or not imported from there.

<sup>91</sup> CR at I-11, Table 1, PR at II-10.

<sup>92</sup> CR at I-64 - I-67, PR at II-33. One customer indicated that it had purchased domestic paper clips from Noesting, but switched to Chinese paper clips when Noesting's prices "skyrocketed." CR at I-67, PR at II-33.

Certain purchasers, however, have Buy American policies. See, e.g., CR at E-3, PR at E-3, Petitioners' Posthearing Br. at Exh. 2(A).

<sup>93</sup> CR at I-53, PR at II-28. Out of ten purchasers who were contacted concerning lost sales and lost revenue allegations, only two indicated that there were quality problems with the Chinese product. One other purchaser indicated that Chinese paper clips are superior in quality.

<sup>94</sup> Hearing Transcript at 15.

<sup>95</sup> 59 Fed. Reg. 51168, 51176 (October 7, 1994).

<sup>96</sup> Petitioners' Posthearing Br. at Exh. 2(A).

<sup>97</sup> CR at I-56, n.92, PR at II-29.

<sup>98</sup> The second-largest domestic producer of paper clips, Noesting, was unable to reduce its prices in order to compete with the subject imports head-to-head, although Noesting contends that it, too, felt pressure to reduce prices because of the subject imports. Hearing Transcript at 38; Petitioners' Posthearing Br. at 8. Noesting sold its paper clips to purchasers with Buy American policies, among others.

With respect to underselling, the record indicates underselling of ACCO's products by the subject imports during the first half of 1991.<sup>99</sup> Thereafter, the Chinese paper clips oversold ACCO's products in all but two calendar quarters during the remainder of the period.<sup>100</sup> The absence of significant underselling, however, is not necessarily indicative of a lack of adverse price effects. Given the importance of price as a factor in purchasing decisions and the increase in market share held by domestic producers, the fact that Chinese paper clips were priced higher than, and thus oversold, ACCO's paper clips for much of the period after 1991 tends to corroborate petitioners' contention that ACCO reduced its prices in order to compete with the Chinese paper clips. Further, I note that most of the overselling margins were fairly small -- less than 5 percent.<sup>101</sup> This suggests that ACCO was attempting to cut its prices just enough to meet Chinese prices.

ACCO's prices for No. 1 gem clips, the largest selling clips in the U.S. market, declined fairly sharply in 1991, showed little change in 1992 and most of 1993, and then declined again in the last quarter of 1993. ACCO's prices for jumbo clips, the second-largest selling clips, followed a very similar trend except for an increase in the last quarter of the period.<sup>102</sup> Prices for Chinese No. 1 clips demonstrated a trend similar to that for ACCO's No. 1 clips. Prices for Chinese jumbo clips initially showed no clear trend in 1991, but then fell in 1992 and remained at lower levels throughout the rest of the period.

Thus, the pricing data tend to support petitioners' argument that ACCO initially reduced its prices to compete with the Chinese product and then kept its prices at these reduced levels. The lack of significant underselling by the subject imports, in my view, is therefore not probative of whether subject imports had adverse price effects. The relevant question here is what impact the pricing strategy that ACCO adopted in order to compete with the subject imports had on its, and the industry's, performance.

At first glance, the domestic industry's performance shows signs of improvement through much of the period. Positive trends in several indicators include increases in domestic production, shipments and net sales throughout 1991-93. Several of these trends continued in the interim period, although domestic production declined.<sup>103</sup> Domestic capacity increased during 1991-93 as equipment and workers were added to produce No. 1 and giant paper clips. In interim 1994, however, capacity also was slightly lower as compared to interim 1993.<sup>104</sup>

Although several industry indices showed improvement, others did not. For example, domestic producer inventories increased sharply throughout the period, both in absolute terms and relative to domestic shipments. Inventories of paper clips more than doubled from 1991-93 and continued to increase significantly between the interim periods. As a percentage of shipments, inventories increased from approximately 10 percent in 1991 to nearly 20 percent in 1993, and were higher in interim 1994 as compared to interim 1993.<sup>105</sup>

Although net sales increased from 1991 to 1992, the average per unit sales price declined more sharply than did average per unit cost of goods sold.<sup>106</sup> Consequently, the industry's operating losses increased from 1991 to 1992.<sup>107</sup>

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<sup>99</sup> CR at I-61, Table 22, PR at II-32. The subject imports were consistently and substantially priced below Noesting's prices throughout the period of investigation. Id.

<sup>100</sup> CR at I-61, Table 22, PR at II-32.

<sup>101</sup> Id.

<sup>102</sup> CR at I-55, Tables 19 and 20, PR at II-30. \*\*\*.

<sup>103</sup> CR at I-21, Table 2, I-24, Table 3, I-38, Table 12, PR at II-16, II-21.

<sup>104</sup> CR at I-20, I-21, Table 2, PR at II-15.

<sup>105</sup> CR at I-32, Table 9, PR at II-19.

<sup>106</sup> CR at I-37, I-38, Table 12, PR at II-21.

<sup>107</sup> CR at I-38, Table 12, PR at II-21.

From 1992 to 1993, the industry continued to cut certain costs.<sup>108</sup> Although average unit sales prices fell further during this period, the industry managed to earn a very modest operating profit.<sup>109</sup> It appears that the strategy of cutting prices to maintain market share was beginning to show positive results.<sup>110</sup>

Beginning in the middle of 1993 and continuing into interim 1994, however, raw material costs increased. Raw material cost is an important component of total cost of production of paper clips, accounting for more than two-thirds of cost of goods sold in 1993.<sup>111</sup> While raw material costs climbed, domestic prices remained flat. The industry's inability to raise prices appears to be due at least in part to the fact that Chinese paper clips continued to be a viable alternative source of supply for purchasers that placed great importance on price.<sup>112</sup> The industry saw a return to operating losses in interim 1994 as compared to a modest operating profit in interim 1993.<sup>113</sup>

In sum, although the industry was able to regain market share from the Chinese product, it did so with an aggressive pricing strategy that squeezed the industry. The strategy was viable only as long as production costs did not increase. Once costs started to climb, domestic producers could not raise their prices because the significant volume of subject paper clips from China kept a lid on prices in the market. For these reasons, I conclude that the subject imports adversely impacted the domestic industry.

### III. CONCLUSION

The record indicates that subject imports were present in the market in significant volumes throughout the period, that price is a critical factor for many purchasers, and that most of the domestic industry responded to the increase in subject imports by cutting prices. Subject imports suppressed domestic prices to a significant degree towards the end of the period of investigation when raw material costs increased and producers were not able to raise their prices. This led to operating losses for the industry in interim 1994. I conclude, therefore, that the domestic paper clip industry is materially injured by reason of the LTFV imports from China.

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<sup>108</sup> One example of cost-cutting was ACCO's decision to increase production of a lower-cost paper clip. ACCO produces three different types of No. 1 clips, which are "World", "Silverette" and "Premier" clips. These clips differ in terms of the diameter of the wire. ACCO indicated that it increased production of its "World" clips, which are the smallest in diameter and, of the three, cost least to produce. CR at I-56, n.92, PR at II-29.

<sup>109</sup> *Id.*

<sup>110</sup> As noted earlier, Noesting indicated it was unable to compete with the Chinese clips on the basis of price. Noesting was able to maintain its production of paper clips by, among other things, finding a customer with a strict "buy-American" policy. Noesting indicated that were it not for this customer, its business would have continued to decline during the period. CR at I-23, PR at II-17.

Noesting also relied on importing and selling Chinese paper clips in order to maintain some customer relationships. However, Noesting eventually stopped importing Chinese paper clips \*\*\*. CR at I-31, n.54, PR at II-18.

<sup>111</sup> CR at I-59, PR at II-31.

<sup>112</sup> It appears that many purchasers have considerable flexibility in selecting among paper clip suppliers. For example, one purchaser indicated that it had switched from purchasing Chinese paper clips to domestic paper clips once domestic producer prices were sufficiently low. CR at I-64, PR at II-33. Another purchaser indicated that it generally purchased from whichever supplier offered the lowest price. CR at I-65, PR at II-33. This evidence suggests that purchasers would have little difficulty shifting their purchases back to Chinese paper clips in response to increases in domestic producer prices.

<sup>113</sup> CR at I-38, Table 12, PR at II-21.



**PART II**

**INFORMATION OBTAINED IN THE INVESTIGATION**





## INTRODUCTION

Following a preliminary determination by Commerce that imports of certain paper clips<sup>1</sup> from China are being, or are likely to be, sold in the United States at LTFV (59 F.R. 25885; May 18, 1994), the Commission, effective May 16, 1994, instituted investigation No. 731-TA-663 (Final) under section 735(b) of the Act (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was posted in the Office of the Secretary of the Commission, Washington, DC, and published in the *Federal Register* on June 8, 1994 (59 F.R. 29614).<sup>2</sup> The hearing was held in Washington, DC, on October 4, 1994.<sup>3</sup>

On October 7, 1994, Commerce published in the *Federal Register* its notice of final affirmative determination of LTFV imports from China. The briefing and vote was held on November 4, 1994, and the Commission notified Commerce of its final injury determination on November 14, 1994.

## BACKGROUND

This investigation results from a petition filed by counsel for ACCO, Wheeling, IL, and Noesting, Mount Vernon, NY, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain paper clips from China. In response to that petition the Commission instituted investigation No. 731-TA-663 (Preliminary) under section 733 of the Act (19 U.S.C. § 1673b(a)) and, on November 29, 1993, determined that there was a reasonable indication of such material injury. There have been no previous Commission investigations concerning paper clips.

## THE NATURE AND EXTENT OF SALES AT LTFV

On October 7, 1994, Commerce published in the *Federal Register* its final determination that certain paper clips from China are being, or are likely to be, sold in the United States at LTFV, as provided in section 735 of the Act. The estimated company-specific weighted-average LTFV dumping margins found by Commerce are shown in the following tabulation:

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<sup>1</sup> The imported paper clips covered by this investigation include paper clips made wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e.g., copper), the foregoing with a wire diameter between 0.64 and 1.91 millimeters (0.025 and 0.075 inches), regardless of physical configuration, except as specifically excluded. Such products may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as "No. 1" clips, "No. 3" clips, "jumbo" or "giant" clips, "gem" clips, "frictioned" clips, "Perfect Gems," "Marcel Gems," "universal" clips, "nifty" clips, "peerless" clips, "ring" clips, and "glide-on" clips; they are provided for in subheading 8305.90.30 and reported under statistical reporting number 8305.90.3010 of the HTS. Specifically excluded from the scope of this investigation are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal and are covered under a separate subheading of the HTS.

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

<sup>3</sup> A list of witnesses who appeared at the hearing is presented in app. B.

<i>Chinese manufacturer/producer/exporter</i>	<i>Weighted-average margin percentage</i>
Lansheng . . . . .	57.64
ZLIP . . . . .	46.01
ZMEC . . . . .	60.70
All others (including Abel) <sup>1</sup> . . . . .	126.94

<sup>1</sup> Based on best information available.

In determining separate LTFV dumping margins for specific Chinese manufacturers/producers/exporters, Commerce compared the USP of Chinese-produced certain paper clips to the FMV. USP was based on the purchase price of sales made directly to unrelated parties prior to importation into the United States, that is, FOB foreign port prices. Because Commerce determined that the paper clip industry in China is not a market-oriented industry, Chinese producers of certain paper clips were considered nonmarket economy producers. As such, Commerce used surrogate values in calculating FMV. India and Pakistan were used as the preferred surrogates for purposes of calculating the factors of production.

## THE PRODUCT

### Description and Uses

Paper clips are steel wire products that have been formed in such a way as to provide spring-like tension when used to hold pieces of paper together. These rectangular-shaped products, which are among the most commonly used office supplies in the world, are generally manufactured from steel wire, whether or not galvanized, and whether or not plated with nickel, copper, or other base metals, or coated with vinyl.<sup>4</sup> Although paper clips are produced in a variety of sizes having different wire diameters, the most commonly used products fall within three categories commercially referred to as No. 1 clips, No. 3 clips, and jumbo or giant clips.<sup>5</sup> The wire diameters of No. 1 clips range between 0.034 and 0.041 inches, whereas the wire diameter of No. 3 clips is 0.034 inch. For

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<sup>4</sup> Paper clips are also manufactured from plastic. Plastic paper clips are produced from thermoplastic resins (most commonly acrylonitrile, butadiene, and styrene) which have been processed in standard injection molding machines. During the manufacturing process, the resin or plastic is fed from a hopper into a heated chamber of the injection molding machine where it is softened. After softening, a ram or screw forces the plastic into a mold depicting the shape of the desired paper clip. A specified pressure is maintained within the chamber until the plastic has hardened sufficiently for removal from the mold. Color concentrates are used to match exacting end-user requirements. Plastic paper clips, however, are not used as extensively as wire paper clips and require relatively higher production costs and different manufacturing technology and skills. Other products that are not similar in appearance to wire paper clips but are used to hold paper together are binder clips and ideal clamps/butterfly clips.

A binder clip is a specialized fastener for extra-strong holding capacity. The clip consists of a small sheet of tempered spring steel which in the cross section has been formed in a triangular shape. The interrupted or open apex of the triangle creates intersecting compressed surfaces which, when spread apart, accept a stack of documents for holding. Fold-back wire loop handles are attached adjacent and parallel to the plane of the open apex to permit the spreading of the intersecting surfaces so that documents can be introduced for holding. Releasing pressure on the handles allows the open apex to return to the original position and clip the documents.

Ideal clamps, which are commonly referred to as butterfly clamps, are generally manufactured from wire diameters ranging from 0.062 to 0.072 inches. In contrast to the subject paper clips, these products are used to hold relatively larger quantities of paper together.

<sup>5</sup> Whereas ACCO refers to these clips by the trade name "jumbo" clips, Noesting refers to them as "giant" clips. In the remainder of this report, such clips will be referred to exclusively as jumbo clips.

jumbo clips, the wire diameters range between 0.046 and 0.050 inches. Figure 1 provides an illustration of these three types of paper clips, as well as other types of subject wire paper clips.<sup>6</sup> Other paper fasteners not within the scope of the investigation are shown in figure 2.

### Manufacturing Process

The manufacture of certain paper clips (figure 3) begins when purchased wire is drawn down to a predetermined size on high-speed wire drawing machines and recoiled on large spools. During the drawing process, the wire is cleaned with a special filtered oil lubricant. The wire is then drawn from the spools and bent in several places by wedges positioned in a rotary forming device. After bending to form the paper clip, the wire is cut, tumbled in corncob grits to remove oil (if necessary), and automatically delivered to small boxes that move along a conveyor and align themselves to the chutes of individual machines. Each box is designed to hold 100 paper clips.<sup>7</sup>

The filled paper boxes are automatically accumulated into groups (with each group numbering 10 boxes) and then fed into an over-wrap machine where the groups are sealed into a plastic shrink-wrap. Twenty-five of these groups are then loaded manually into large cardboard boxes, which are sealed and stacked onto pallets for shipment. The packaging of paper clips is the only labor-intensive operation in the production process \*\*\* ; \*\*\* packaging line is fully automated.<sup>8</sup>

The equipment used to manufacture paper clips in the United States and China is dedicated to making either No. 1 clips, No. 3 clips, or jumbo clips.<sup>9</sup> Although producers in both countries are capable of adjusting their equipment to accommodate different wire sizes, wire-forming machines can not be used interchangeably to produce different size clips without considerable retooling adjustments.<sup>10</sup> In addition, the forming machines in China are capable of producing 200 clips per minute, whereas machines in the United States are capable of producing 4,000 clips per minute.<sup>11</sup>

### U.S. Tariff Treatment

Imports of paper clips subject to this investigation are provided for in subheading 8305.90.30 (statistical reporting number 8305.90.3010) of the HTS, which covers paper clips and parts thereof, the foregoing wholly of wire of base metal. The column 1-general (most-favored-nation) rate of duty (applicable to products of China) is 3.8 percent ad valorem; the column 2 rate of duty, to which China would be subject absent a waiver under the Trade Act of 1974, is 45 percent ad valorem.

### Interchangeability

The petitioners in this investigation state that paper clips produced in the United States are essentially the same in terms of quality and function as those imported from China.<sup>12 13</sup> However, paper clips from China are nickel plated after the forming process, which is more time consuming

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<sup>6</sup> In this investigation, the Commission also collected data on a category termed "other wire paper clips," which constitutes all wholly-wire paper clips (other than No. 1, No. 3, and jumbo clips) falling within the scope of the investigation.

<sup>7</sup> ACCO and Noesting \*\*\*. They also note that, in China, the count is determined by weight.

<sup>8</sup> Field trip to \*\*\*.

<sup>9</sup> The manufacturing process used to produce ideal clamps is essentially the same as that used to produce the subject paper clips although the equipment is different. As with paper clips, the manufacturing equipment is dedicated to the production of only one of several product sizes.

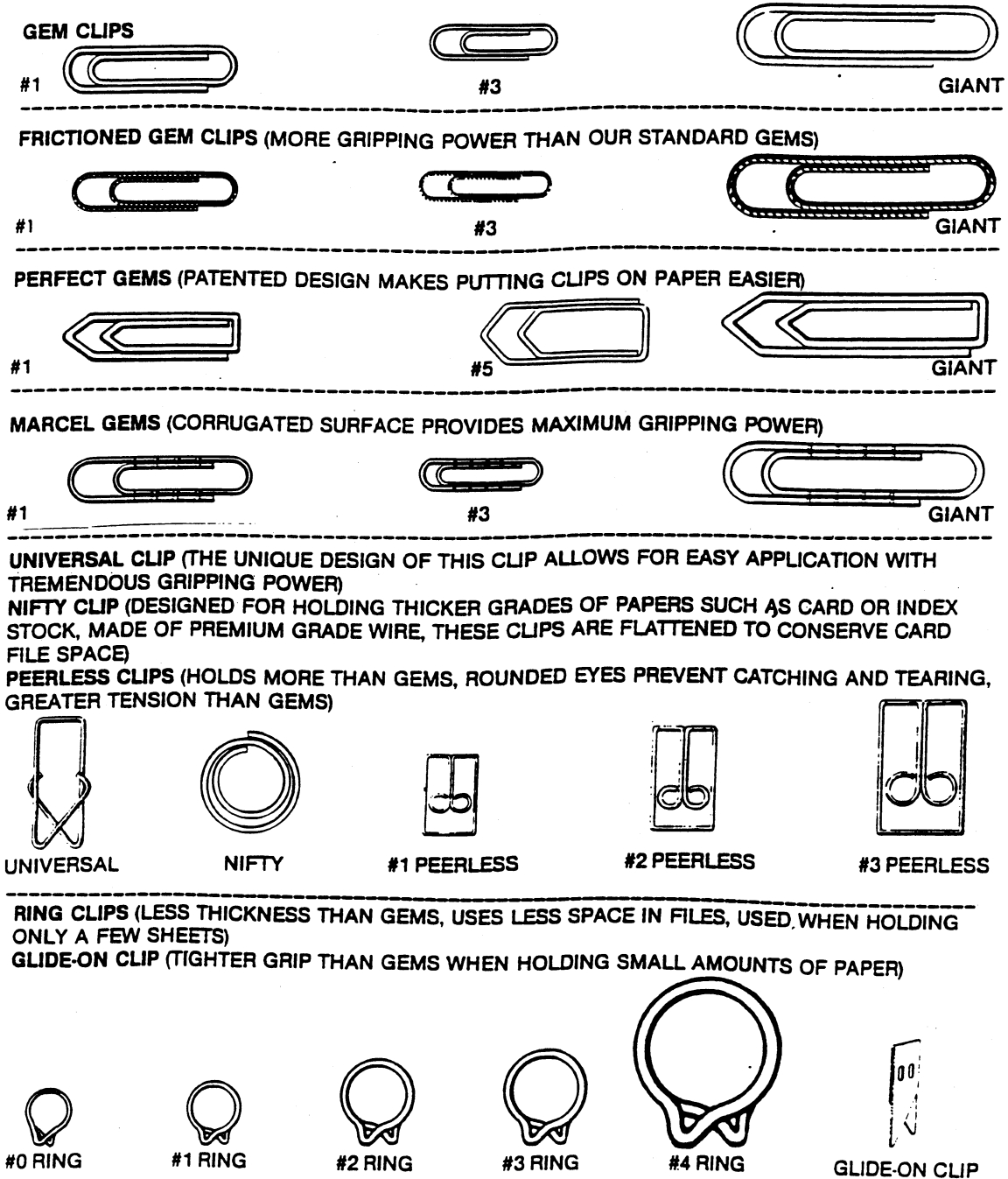
<sup>10</sup> Field trip to Noesting, July 19, 1994.

<sup>11</sup> Field trip to Noesting, July 19, 1994.

<sup>12</sup> Posthearing brief of petitioners, exhibit 2A; hearing transcript, pp. 34 and 41; and field trip to Noesting, July 19, 1994.

<sup>13</sup> Respondents did not enter an appearance in the Commission's final investigation.

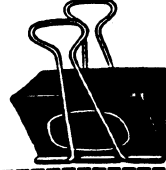
**FIGURE 1**  
**ILLUSTRATIONS OF CERTAIN WIRE PAPER CLIPS**



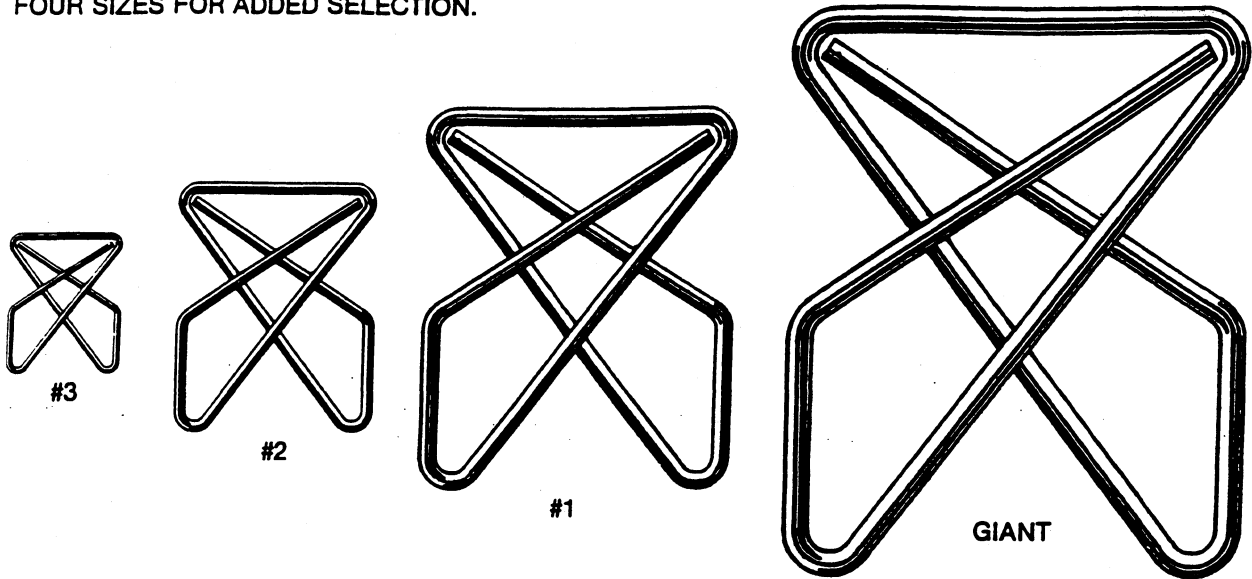
Source: Noesting product catalog.

**FIGURE 2**  
**ILLUSTRATIONS OF OTHER PAPER FASTENERS**

**BINDER CLIPS**—EXCELLENT FOR HOLDING LARGE NUMBERS OF SHEETS, REMOVEABLE HANDLES FOR PERMANENT BINDING. THESE CLIPS COME IN THREE STANDARD SIZES: SMALL, MEDIUM AND LARGE. OTHER SIZES UPON REQUEST.



**IDEAL PAPER CLAMPS**—HEAVY DUTY FOR BULKY PAPERS, LARGER WIRE DIAMETER THAN CLIPS—FOUR SIZES FOR ADDED SELECTION.



**"PETTIE" PAPER FASTENERS**—PINCH TYPE FASTENER USED WITH FEW SHEETS, USUALLY FOR PERMANENT FASTENING, ONE TIME USE, SHARP PRONG PIERCES PAPERS, AVAILABLE IN THREE SIZES, #0 FOR 2-6 SHEETS, #1 FOR 2-12 SHEETS, #2 FOR 2-24 SHEETS.



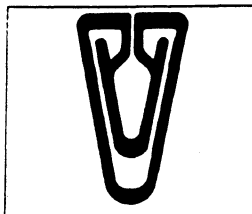
#0



#1



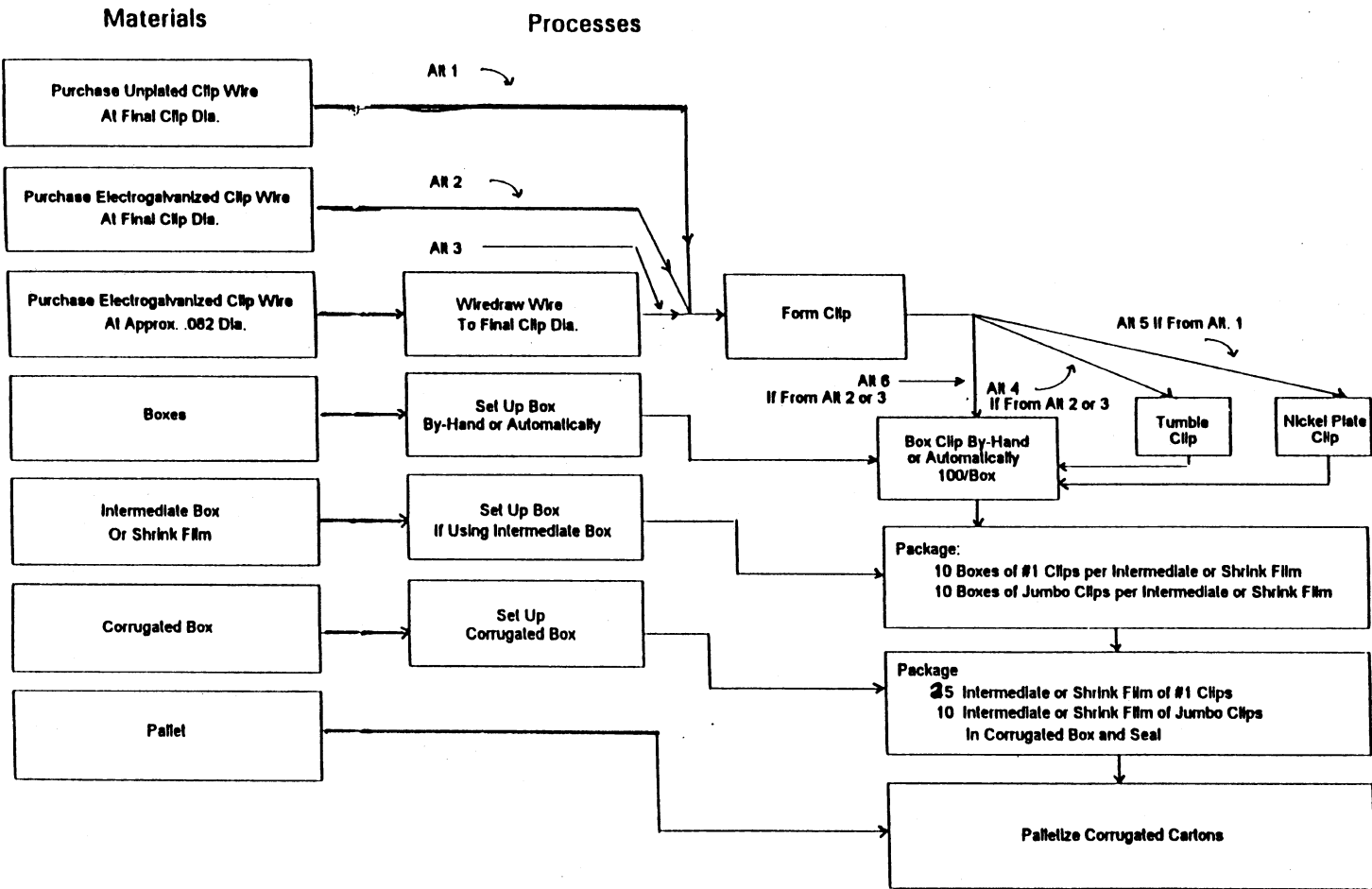
#2



Plastic Clip

Source: Noesting and ACCO product catalogs.

**FIGURE 3  
PAPER CLIP MANUFACTURING FLOW CHART**



Source: ACCO.

and labor intensive whereas U.S. paper clips are manufactured from wire that is electrogalvanized by the wire manufacturer. \*\*\*.<sup>14</sup> The average customer would not perceive a difference in the quality of the paper clips as a result of the differences in size and coating. Nearly all U.S. producers and importers reported that U.S. and Chinese paper clips are used interchangeably (see discussion in the *Prices* section of this report).

## THE U.S. MARKET

### Apparent U.S. Consumption

Data in this section on apparent U.S. consumption of certain paper clips were compiled from information submitted in response to Commission questionnaires and from official import statistics. As the Commission received questionnaire responses from the three principal U.S. producers of certain paper clips, reported 1993 U.S. shipments are believed to account for nearly 100 percent of actual 1993 U.S. shipments of paper clips.<sup>15</sup> In contrast, reported imports from China represent 53 percent, by quantity, and 69 percent, by value, of 1993 official statistics on imports from China. Accordingly, official statistics are used for imports.<sup>16 17</sup>

Apparent U.S. consumption of certain paper clips, in terms of quantity, increased overall during the 1991-93 period by a total of \*\*\* (table 1 and figure 4). This indicator increased slightly when the January-June periods of 1993 and 1994 are compared. Value-based data show a more modest increase during 1991-93 (\*\*\* percent), but a \*\*\*-percent increase in the interim periods. The share of the quantity of U.S. producers' shipments in apparent consumption increased \*\*\* during 1991 to 1993, and remained at that level in January-June 1994. U.S. producers' market shares by value were 3-7 percentage points higher.

Parties in the preliminary investigation disagreed as to the nature of the dynamic trends in the paper clip market. ACCO believes that the paper clip market is growing because of the increasing amount of paperwork in contemporary office environments.<sup>18</sup> Respondents, on the other hand, felt that overall paper clip consumption has been adversely affected by the recent recession inasmuch as there is some link between such consumption and general economic activity, and because businesses have attempted to "downsize" their operations in response to the economic slowdown.<sup>19</sup> With regard to consumption trends among the various sizes of paper clips, parties agreed that there appears to be a slight preference for the larger jumbo clips as opposed to the No. 1 or No. 3 clips. The petitioners argued, however, that potential substitute products such as plastic clips and metal binder clips have not made significant inroads into the market for basic wire paper clips.<sup>20</sup>

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<sup>14</sup> \*\*\*.

<sup>15</sup> The extent of U.S. shipments accounted for by Trico Manufacturing (a.k.a. Stem Manufacturing), the fourth firm named in the petition, is not known, as this firm did not respond to the Commission's questionnaire. However, this firm produces very small quantities of the subject paper clips. Petition, p. 5 and hearing transcript, p. 100.

<sup>16</sup> Summary data are presented in app. C. In addition, summary data based on questionnaire responses alone are presented in the "A" tables of app. C for information.

<sup>17</sup> Apparent U.S. consumption of various types of wire paper clips such as No. 1, No. 3, jumbo clips, and other wire paper clips has been calculated using questionnaire data because official statistics do not provide a clear breakdown by these types. These data show that, among the various types of the subject paper clips, the volume of No. 3 clips and other wire paper clips made up less than 1 percent of apparent U.S. consumption. Accordingly, the vast majority of the paper clips subject to this investigation consist of No. 1 clips and jumbo clips (see app. C).

<sup>18</sup> Conference transcript, p. 39.

<sup>19</sup> Conference transcript, pp. 74, 90. Respondents acknowledged, however, that most wholesalers and distributors of paper clips view the current market favorably.

<sup>20</sup> Conference transcript, p. 40, and hearing transcript, pp. 20-21 and 83.

**TABLE 1**

**CERTAIN PAPER CLIPS: U.S. SHIPMENTS OF DOMESTIC PRODUCT, U.S. IMPORTS, BY SOURCES, AND APPARENT U.S. CONSUMPTION, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

Item	1991	1992	1993	Jan.-June--	
				1993	1994
<i>Quantity (million units)</i>					
Producers' U.S. shipments . . . . .	***	***	***	***	***
U.S. imports from--					
China . . . . .	4,189	5,623	4,857	2,387	2,200
Other sources . . . . .	2,521	2,519	809	431	446
Total . . . . .	6,710	8,142	5,666	2,818	2,646
Apparent consumption . . . . .	***	***	***	***	***
<i>Value (1,000 dollars)</i>					
Producers' U.S. shipments . . . . .	***	***	***	***	***
U.S. imports from--					
China . . . . .	3,911	5,494	4,482	2,182	2,077
Other sources . . . . .	4,177	3,383	1,769	911	1,238
Total . . . . .	8,087	8,877	6,251	3,093	3,315
Apparent consumption . . . . .	***	***	***	***	***
<i>Share of the quantity of U.S. consumption (percent)</i>					
Producers' U.S. shipments . . . . .	***	***	***	***	***
U.S. imports from--					
China . . . . .	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
<i>Share of the value of U.S. consumption (percent)</i>					
Producers' U.S. shipments . . . . .	***	***	***	***	***
U.S. imports from--					
China . . . . .	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***

Note.--Because of rounding, figures may not add to the totals shown; shares are computed from the unrounded figures. Official import quantities have been converted from kilograms to units based on conversion factors supplied by petitioners.

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of Commerce.

**FIGURE 4**

**CERTAIN PAPER CLIPS: U.S. SHIPMENTS OF DOMESTIC PRODUCT AND U.S. IMPORTS, BY SOURCES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*



Consumption of paper clips worldwide is believed to parallel trends in U.S. consumption. ACCO noted that consumption of wire paper clips is growing steadily, particularly in the developing world.<sup>21</sup> It also commented that the paper clip market in other developed countries is more fragmented than in the United States, in that those markets have no counterpart to ACCO in terms of size.<sup>22</sup> Over the past few decades, the world market has been characterized by a shift in the primary source for imports into the United States, with Japan playing that role in the 1970s, Taiwan in the early 1980s, and China in the late 1980s and early 1990s.<sup>23</sup>

There is apparently no reliable source of public data on the U.S. paper clip industry. At the conference, parties referred to data on office supply products maintained by NOPA, Alexandria, VA. This organization, however, indicated to the Commission that it classified paper clips in a large residual category ("office supplies: other") and could not provide separate data on paper clip consumption.<sup>24</sup>

### U.S. Producers

In their petition, ACCO and Noesting identified four U.S. producers of the paper clips subject to this investigation: themselves, Work Services, Wichita Falls, TX, and Stem Manufacturing Co., Huntsville, SC (sic).<sup>25</sup> The petitioners did not, however, provide a list of firms producing products that potentially compete with wholly-wire paper clips, such as plastic-covered clips, vinyl-covered clips, plastic clips, or binder clips. Although it is not known how many of these firms operate in the United States, on the basis of review of various business digests such as the *Thomas Register* the Commission sent 13 questionnaires to firms believed to produce such products, as well as wholly-wire paper clips. Seven companies responded, three of which (the petitioners and Work Services) provided data on paper clip production and shipments<sup>26</sup> and one of which, Constructive Workshops, provided data on binder clips. Three firms reported no production of any of the products covered by the Commission's questionnaire, and six other firms did not respond to the questionnaire. There is no indication on the record that any of the non-responding firms were significant producers of the products covered by the questionnaire during the period examined.

ACCO and Noesting reported production of the full line of wire paper clips, whereas Work Services reported production only of \*\*\*. ACCO also reported production of plastic clips, whereas Noesting reported production of ideal clips. None of the three reporting U.S. producers of certain paper clips reported production of binder clips.

ACCO is the larger of the two petitioners, with \*\*\*, and is the world's largest producer of paper clips.<sup>27</sup> It was formerly known as the American Clip Co., and has been manufacturing paper clips in the United States since 1905. It is a wholly owned subsidiary of ACCO World, Inc., Deerfield, IL, which in turn is a 100-percent owned division of American Brands, Inc., Old Greenwich, CT. As indicated in the section of this report entitled *Apparent U.S. Consumption*, ACCO World is the only paper clip producer that has rationalized its production on a global basis. The following tabulation lists the various ACCO World worldwide divisions and/or subsidiaries.<sup>28</sup>

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<sup>21</sup> Conference transcript, p. 42.

<sup>22</sup> Conference transcript, p. 42. ACCO is the only paper clip manufacturer that has rationalized its production on a global basis. ACCO further noted that imports from China are a factor in European markets as well as the U.S. market.

<sup>23</sup> Conference transcript, p. 14.

<sup>24</sup> Telephone conversation with Ann Griffith, NOPA, Nov. 5, 1993; postconference brief of Crowell & Moring, p. 5.

<sup>25</sup> The Commission later learned that this firm is actually Trico Manufacturing, located in Hartsville, SC, which did not respond to the Commission's questionnaire.

<sup>26</sup> \*\*\* support the petition.

<sup>27</sup> Petition, p. 4.

<sup>28</sup> Only \*\*\* exports paper clips to the United States.

<i>Company</i>	<i>Country</i>	<i>Extent ownership (in percent)</i>	<i>Startup date</i>
Val-Rex SARL . . . . .	France	***	***
ACCO-Rexel, Ltd. . . . .	UK-Wales	***	***
ACCO Jamaica, Ltd. . . . .	Jamaica	***	***
ACCO Canada, Inc. . . . .	Canada	***	***
C.A. ACCO Mfg. . . . .	Venezuela	***	***
ACCO Mexicana S.A. de C.V. .	Mexico	***	***

ACCO's production facility for paper clips, located in Wheeling, IL, dates from 1976. Along with paper clips, ACCO produces vinyl report binders, three- and two-hole punches, three-ring binders, and metal paper fasteners in the Wheeling plant; it produces plastic paper clips in a separate facility in St. Charles, IL.<sup>29</sup> ACCO services the entire U.S. market from its Wheeling plant.

Noesting, the second-largest U.S. producer of paper clips, was founded in 1913 in Bronx, NY, and continued to produce paper clips at that location until 1994 when it relocated to White Plains, NY. Noesting, however, used to have three separate paper-clip-producing facilities, including plants in Chicago, IL, and Beacon, NY. These latter two plants were shut down in 1987 and 1988.<sup>30</sup>

On December 31, 1993, Noesting formed a partnership with Labelon, Canandaigua, NY, a company that primarily manufactures fax paper and transparencies. In addition, prior to the partnership Labelon manufactured/distributed brass paper fasteners, map tacks, map flags, write-on-it-tape, rubber stamp kits, pins, thumbtacks, pushpins, and a few other minor products. Labelon contributed the inventory, equipment, and sales of these products to the partnership. The partnership had no effect on its core business as all other assets and sales remained with Labelon. Noesting manufactured/distributed paper clips, paper fasteners, pins, parcel handles, pin tickets, thumbtacks, pushpins, tag fasteners, and butcher supplies and contributed all of its assets, excluding the building, to the partnership. This included inventory, equipment, and sales. The joint venture between Noesting and Labelon, Labelon/Noesting Co., was created to jointly manufacture and distribute the various products contributed to the partnership. Noesting brought manufacturing expertise and Labelon brought distribution to the partnership.

In general, Noesting produces a wider variety of paper clips than does ACCO, with some specialization in niche varieties of paper clips such as peerless, regal, nifty, and glide-on clips.<sup>31</sup> Noesting also serves the entire domestic market, selling to a wide range of customers.

Work Services, \*\*\* responding producer of certain paper clips, holds a different position in the market in that \*\*\*. Work Services was formed in December 1989 from \*\*\*. \*\*\*.<sup>32</sup> Work Services' facility is dedicated to the production of the subject paper clips.<sup>33</sup>

Trico was formed in 1965 as a "janitorial service."<sup>34</sup> It began manufacturing and marketing paper clips and staples after 1975.<sup>35</sup> It is "the only minority manufacturer of paper clips and staples in the United States."<sup>36</sup>

<sup>29</sup> ACCO noted that \*\*\*. Questionnaire response of ACCO, p. 7.

<sup>30</sup> Field trip to Noesting, July 19, 1994.

<sup>31</sup> Noesting indicated, however, that it produces these types in very small quantities. Field trip to Noesting, July 19, 1994.

<sup>32</sup> Noesting testified at the conference that prior to the award of the contract to Work Services, it had supplied most of the U.S. Government's requirements for paper clips. It alleged that, since the conclusion of the contract with Work Services, the U.S. Government will not allow the contract to be competitively bid.

<sup>33</sup> \*\*\*.

<sup>34</sup> Hearing transcript, p. 95.

<sup>35</sup> Hearing transcript, p. 96.

<sup>36</sup> Hearing transcript, p. 99.

Constructive Workshops is dedicated to serving the needs of persons with disabilities through the creation of integrated vocational training and employment opportunities for those individuals who are physically, mentally, emotionally, and/or socioeconomically challenged. It manufactures binder clips in New Britain, CT.

### U.S. Importers

The petition identified 22 firms that allegedly imported certain paper clips from China during calendar years 1990, 1991, and 1992. Because the petition defined the scope of the investigation as comprising all imports entering under HTS statistical reporting number 8305.90.3010, the Commission sent importers' questionnaires to 26 firms importing more than \$50,000 each under this number in fiscal years 1991-93, according to the CNIF.<sup>37</sup> The Commission sent questionnaires to all firms identified in the petition, four additional firms not named in the petition but identified through the CNIF, as well as the 13 firms that received a producer's questionnaire.

The Commission received data from 14 firms, all of which provided usable data on imports of certain paper clips, ideal and binder clips, and plastic paper clips.<sup>38</sup> Eleven firms reported imports of No. 1 clips, three firms of No. 3 clips, and 12 firms of jumbo clips. Nine companies reported imports from China, and seven firms from other sources. Three companies reported imports of ideal clips, one company reported imports of metal binder clips, and no firm reported imports of plastic paper clips. Responding importers accounted for 69 percent, by value, of imports from China in 1993, according to official import statistics.

Importers of paper clips are either firms that stock the product and then sell to retail stores ("wholesalers/distributors"), or large mass merchandisers or "superstores." The majority of responding importers fell into the former category. Several wholesalers noted in telephone conversations that superstores have come to dominate the market for imported paper clips and, as a result, wholesalers are getting cut out of the market.<sup>39</sup> Responding importers of Chinese product and their shares of reported imports from China in 1993, by quantity and value, are shown in the following tabulation (in percent):

<i>Firm</i>	<i>Share of reported 1993 imports from China</i>	
	<i>Quantity</i>	<i>Value</i>
Officemate . . . . .	***	***
Charles Leonard . . . . .	***	***
Staples . . . . .	***	***
Quill. . . . .	***	***
Noesting . . . . .	***	***
Abel . . . . .	***	***
Sirich . . . . .	***	***
IDL . . . . .	***	***
American Pin . . . . .	***	***
	100.0	100.0

According to parties in the preliminary investigation, there is no concentration of imports of paper clips into any particular geographic region.<sup>40</sup> Most firms reported serving a national market,

<sup>37</sup> According to the CNIF, there were approximately 50 firms importing under HTS item No. 8305.90.3010, but many made only one or two small entries each year.

<sup>38</sup> Accordingly, 16 firms did not respond to the questionnaire, or provided data that were incomplete or otherwise unusable and 9 firms stated they had no imports. Companies known to be significant importers of paper clips from China that did not respond or provided unusable data include \*\*\*.

<sup>39</sup> Telephone conversation with \*\*\*, Oct. 26, 1993.

<sup>40</sup> Conference transcript, p. 96.

but a few companies concentrated on either the east or west coasts. One firm, \*\*\*. Other than this firm, no companies reported either domestic or foreign ownership.

**Channels of Distribution**

U.S. producers of the subject paper clips sell to virtually all channels of distribution within the office products industry, including mass marketers, warehouse clubs, office superstores, wholesalers, mail order catalogs, small, medium, and large dealers, and the U.S. Government. As shown in the tabulation below (in percent), the majority of the subject U.S.-produced paper clips sold in 1993 went to dealers or warehouse clubs:

	<i>Share</i>
Large dealers . . . . .	33.3
Warehouse clubs . . . . .	19.3
Small and medium dealers . . . . .	13.2
Wholesalers . . . . .	9.1
U.S. Government . . . . .	8.7
Mail order catalogs . . . . .	7.0
Office superstores . . . . .	6.0
Mass marketers . . . . .	3.0
Other . . . . .	<u>.3</u>
	100.0

The responding importers sell paper clips and binder clips to many of the same channels of distribution, including wholesalers, contract stationers, dealers, buying groups, and mail order catalogs. With regard to plastic paper clips, \*\*\*.<sup>41</sup>

**CONSIDERATION OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES**

Section 771(7)(B) of the Act (19 U.S.C. § 1677(7)(B)) provides that in making its determination in this investigation the Commission--

shall consider (I) the volume of imports of the merchandise which is the subject of the investigation, (II) the effect of imports of that merchandise on prices in the United States for like products, and (III) the impact of imports of such merchandise on domestic producers of 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.

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<sup>41</sup> Field visit with ACCO, Oct. 26, 1993.

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 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)(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, and (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 like product.

Available information on the volume of imports is presented in the section of this report entitled *U.S. Imports*. Information on the other factors specified is presented in this section and (except as noted) is based on the questionnaire responses of three firms that are believed to account for virtually 100 percent of U.S. production of certain paper clips during 1993.

### **U.S. Production, Capacity, and Capacity Utilization**

Reported U.S. end-of-period capacity to produce the varieties of paper clips subject to investigation rose \*\*\* percent between 1991 and 1993 (table 2). When the January-June periods of 1993 and 1994 are compared, capacity to produce these clips remained stable. \*\*\*.

**TABLE 2**  
**CERTAIN PAPER CLIPS: U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION, BY PRODUCTS, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

Production of certain paper clips demonstrated a similar trend during 1991-93 rising \*\*\* percent. Production in January-June 1994 dipped slightly from its level in the corresponding period of 1993. As with capacity, the trends in production of No. 1 and jumbo clips generally paralleled the trend in production of all subject clips. Capacity to produce No. 3 clips and other wire paper clips remained constant and production was low throughout the period.

Capacity utilization for No. 1 clips rose from \*\*\* percent in 1991 to \*\*\* percent in 1993. Capacity utilization for jumbo clips was consistently higher than for any subcategory throughout the period examined (except 1992 when ACCO's new jumbo paper clip forming machine came on line), demonstrating a generally increasing trend. Utilization ratios for No. 3 clips and other wire paper clips were very low throughout the period.

Information on capacity, production, and capacity utilization of facilities producing ideal clamps/butterfly clips, binder clips, and plastic paper clips, as well as summary data on subject paper clips, are presented in appendix C. Additionally, tables C-2 and C-2A present overall producers' information without Work Services' data.

The three responding producers reported capacity on different bases. ACCO generally operates its plant \*\*\*. Noesting \*\*\*.<sup>42</sup> Work Services works \*\*\* a week.<sup>43</sup>

Parties indicated that there is a slight degree of seasonality in paper clip production and sales, owing to the year-end closing for tax purposes of most businesses; thus, production picks up a bit towards the end of the year.<sup>44</sup> There have been very few technological advances in paper clip production in recent years. ACCO reported installation of new equipment into its plant during the later part of 1993. The equipment in ACCO's plant is considered to be state-of-the-art and is less than 20 years old.<sup>45</sup> Paper clip forming machinery is run continuously and there are no definable production runs for paper clips. In that regard, the equipment is run to match overall sales forecasts.

Responding producers indicated that the equipment used to manufacture paper clips is dedicated to production of that product. ACCO testified at the conference that it is very difficult to retool its equipment to produce different sizes of wire paper clips, and such retooling is not generally done. Other products, such as ideal clamps or binder clips, are never produced on machinery used in producing wire paper clips.<sup>46</sup> Plastic paper clips are produced through an injection-molding process and, for ACCO, in a separate location.

No producer reported any plant closing during the period examined. As indicated in the section of this report entitled *U.S. Producers*, Noesting reported that it closed two plants just prior to the period examined, and petitioners reported that Labelon, currently a partner of Noesting, produced paper clips in the United States as recently as the late 1980s.<sup>47</sup>

The supply of labor, raw materials, and capital equipment presented no problem for U.S. producers of paper clips during the period examined. Noesting procures its raw materials (wire) from local suppliers in Connecticut, whereas ACCO currently sources the majority of its needs from a supplier in \*\*\*. ACCO commented that the price of galvanized wire has been \*\*\*.<sup>48</sup>

### U.S. Producers' Domestic Shipments

ACCO, Noesting, and Work Services reported data on their domestic shipments of certain paper clips. No producer reported any export shipments. ACCO reported shipment data for plastic paper clips, Noesting reported such data for ideal and binder clips, and Constructive Workshops reported such data for binder clips; these data are presented in appendix C.

### Certain Paper Clips

Total shipments of certain paper clips by U.S. producers rose by \*\*\* percent by quantity and \*\*\* percent by value between 1991 and 1993, and continued to climb by \*\*\* percent, respectively, during the interim periods (table 3 and figure 5). Unit values fell throughout the period, from \*\*\* in 1993 and from \*\*\* during the interim periods.

**TABLE 3**  
**CERTAIN PAPER CLIPS: SHIPMENTS BY U.S. PRODUCERS, BY TYPES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

<sup>42</sup> Noesting reported \*\*\*. Noesting indicated in conversations that \*\*\*. Field trip to Noesting, July 19, 1994.

<sup>43</sup> \*\*\*.

<sup>44</sup> Field trip to Noesting, July 19, 1994.

<sup>45</sup> ACCO did note, however, that \*\*\*. Conference transcript, pp. 24, 38 and hearing transcript, pp. 33-34.

<sup>46</sup> Binder clips are made using cold-rolled spring steel that is stamped then "formed" into the triangular shape of the finished product. It is then sent to a line that adds bent steel wire handles to form the binder clip.

<sup>47</sup> Petition, p. 5.

<sup>48</sup> Conference transcript, p. 24, and field visit with ACCO, Oct. 26, 1993.

**FIGURE 5**

**CERTAIN PAPER CLIPS: SHIPMENTS BY U.S. PRODUCERS, BY TYPES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

ACCO and Noesting both offered explanations for the rise in U.S. shipments of certain paper clips between 1991 and 1993. ACCO noted that in late 1991 it adopted a "low-price strategy" that resulted in a temporary increase in business.<sup>49</sup> Noesting, for its part, indicated that in 1992 it gained a customer that had a strict "buy-American" policy, and stated that without this customer, its business would have continued to decline.<sup>50</sup>

**No. 1 Paper Clips**

All three producers reported domestic shipments of No. 1 paper clips during the period examined. Trends in U.S. producers' domestic shipments of No. 1 clips mirrored those in shipments of the subject paper clips (table 4). Shipment unit value steadily declined during 1991-93 while quantities increased.

**TABLE 4**

**NO. 1 PAPER CLIPS: SHIPMENTS BY U.S. PRODUCERS, BY TYPES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

Both the quantity and value of domestic shipments of No. 1 clips marginally increased in the first two quarters of 1994 when compared with their levels in the corresponding 1993 period. Unit values, however, continued their downward trends of the previous periods.

**No. 3 Paper Clips**

ACCO and Noesting reported domestic shipments of No. 3 paper clips during the period examined. The volume and value of domestic shipments of such clips showed an upward movement during 1991-93 and a sharp drop in value during the interim periods. Unit values of such shipments rose \*\*\* percent between 1991 and 1993, in contrast to a \*\*\*-percent drop during the interim periods (table 5).

**TABLE 5**

**NO. 3 PAPER CLIPS: SHIPMENTS BY U.S. PRODUCERS, BY TYPES, 1991-93, JAN.-JUNE. 1993, AND JAN.-JUNE. 1994**

\* \* \* \* \*

**Jumbo Paper Clips**

The petitioning firms were the only producers to report shipments of jumbo paper clips. Both the quantity and value of domestic shipments of such clips rose during the period examined (table 6). Their unit value, in contrast, fell in each succeeding period.

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<sup>49</sup> Conference transcript, p. 19, and hearing transcript, pp. 44-46.

<sup>50</sup> Conference transcript, p. 27. This customer, \*\*\*. Postconference brief of Ackerson & Bishop at 13.

**TABLE 6**  
**JUMBO PAPER CLIPS: SHIPMENTS BY U.S. PRODUCERS, BY TYPES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

**Other Wire Paper Clips**

As with No. 3 and jumbo clips, only ACCO and Noesting reported domestic shipments of other wire paper clips.<sup>51</sup> The volume and value of shipments of such products fell in 1992, regained most of the loss in 1993, and then fell again in January-June 1994 (table 7).

**TABLE 7**  
**OTHER WIRE PAPER CLIPS: SHIPMENTS BY U.S. PRODUCERS, BY TYPES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

**U.S. Producers' Imports**

Both petitioning firms reported data on imports of certain paper clips (table 8). Noesting reported imports from China and ACCO imported from China and Tiawan. ACCO testified at the conference that it imports from Tiawan in order to take advantage of the inexpensive packaging available there; it imports Tiawanese paper clips exclusively in blister packs.<sup>52</sup> Imports by ACCO from China and Tiawan comprised \*\*\* percent, by both volume and value, of its 1993 shipments of certain paper clips.

**TABLE 8**  
**CERTAIN PAPER CLIPS: U.S. PRODUCERS' IMPORTS, BY SOURCES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

For its part, Noesting indicated that it imports from China to satisfy certain customers' needs for low-priced merchandise; the alternative, according to Noesting, would be to lose the customer.<sup>53</sup> Imports by Noesting from China comprised \*\*\* percent by volume and \*\*\* percent by value of its 1993 shipments of certain paper clips. Its imports from China \*\*\* until late 1993 when Noesting ceased importing entirely.<sup>54</sup> Noesting accounted for between \*\*\* and \*\*\* percent of total imports from China during 1991-93 (such imports accounted for between \*\*\* and \*\*\* percent of total Chinese imports as reported by Commerce).

---

<sup>51</sup> These products are believed to consist primarily of wholly-wire paper clips, such as peerless, universal, and regal clips, having wire diameters within the parameters specified in the scope of the investigation.

<sup>52</sup> Conference transcript, p. 64, and hearing transcript, p. 81. ACCO packs its domestic paper clips exclusively in paperboard boxes.

<sup>53</sup> Field trip to Noesting, July 19, 1994.

<sup>54</sup> \*\*\*.



## U.S. Producers' Inventories

All three responding producers reported data on their end-of-period inventories of certain paper clips, and of No. 1, No. 3, jumbo, and other wire paper clips, as appropriate, during the period examined (table 9). With regard to certain paper clips, inventories more than doubled from 1991 to 1993 and continued to rise in January-June 1994.

**TABLE 9**

**CERTAIN PAPER CLIPS: END-OF-PERIOD INVENTORIES OF U.S. PRODUCERS, BY PRODUCTS, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

Parties to the proceeding generally played down the importance of quick delivery in the paper clip market. ACCO claims a turnaround of \*\*\* in filling orders from its warehouse, whereas Noesting estimates a \*\*\* lead time for its operations.<sup>55</sup> Both producers asserted that price plays a more important role than does quick delivery in winning and keeping customers.<sup>56</sup> Further, \*\*\*.<sup>57</sup> Importers generally indicated that they could match U.S. producers' response time for orders from stock.

## U.S. Employment, Wages, and Productivity

ACCO, Noesting, and Work Services reported data on the number of production and related workers engaged in the production of certain paper clips, the total hours worked by such workers, and the wages and total compensation paid to such workers during the period examined (table 10). The number of production workers employed in the production of certain paper clips rose by \*\*\* between 1991 and 1993, but decreased by \*\*\* in January-June 1994 when compared with the corresponding 1993 period. Hours worked, wages, and total compensation for these workers also rose between 1991 and 1993, but fell when the January-June periods are compared. Productivity also rose markedly overall between 1991 and 1993, and hourly compensation rose slightly; productivity rose slightly in January-June 1994 compared with the corresponding period of 1993.

**TABLE 10**

**AVERAGE NUMBER OF TOTAL EMPLOYEES AND PRWs IN U.S. ESTABLISHMENTS WHEREIN CERTAIN PAPER CLIPS ARE PRODUCED, HOURS WORKED, WAGES AND TOTAL COMPENSATION PAID TO SUCH EMPLOYEES, AND HOURLY WAGES, PRODUCTIVITY, AND UNIT PRODUCTION COSTS, BY PRODUCTS, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

The petitioning companies differed as to the type of labor used in their production facilities. Noesting characterized the labor used in its plant as primarily unskilled, except for maintenance workers. In contrast, ACCO said that although it needs only two employees to run its entire paper clip forming operation, those workers need to be relatively highly-skilled.<sup>58</sup> Because of the introduction of new equipment and technology during the last decade, ACCO's labor productivity has increased approximately \*\*\* percent annually. ACCO also \*\*\*.<sup>59</sup> Noesting's employees are represented by the Leather Goods, Plastics, Handbags, and Novelty Union; ACCO and Work Services are not unionized.

<sup>55</sup> Questionnaire responses of ACCO and Noesting, respectively, p. 42.

<sup>56</sup> Field trip to Noesting, July 19, 1994.

<sup>57</sup> Excepting \*\*\*.

<sup>58</sup> Hearing transcript, p. 45. ACCO noted that in its plant, \*\*\*. Field visit with ACCO, Oct. 26, 1993.

<sup>59</sup> Field visit with ACCO, Oct. 26, 1993.

## Financial Experience of U.S. Producers

Financial information was provided on paper clip operations in addition to overall establishment operations by three producers.<sup>60</sup> These data, representing 100 percent of reported 1993 production of paper clips, are presented in this section. The data of the largest producer, ACCO, have been verified and the resulting financial revisions are included.

### Overall Establishment Operations

Income-and-loss data on the U.S. producers' overall establishment operations are presented in table 11. In addition to the products under investigation, the predominant producer, ACCO, indicated that it produces vinyl ring binders, paper punches, fasteners, and screen filters. Certain paper clips accounted for approximately \*\*\* percent of its overall establishment net sales for the most recent fiscal period (1993). ACCO and its parent, ACCO World, are subsidiaries of American Brands, Inc.

TABLE 11

INCOME-AND-LOSS EXPERIENCE OF U.S. PRODUCERS ON THE OVERALL OPERATIONS OF THEIR ESTABLISHMENTS WHEREIN CERTAIN PAPER CLIPS ARE PRODUCED, FISCAL YEARS 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

\* \* \* \* \*

Total office products sold by ACCO World and its subsidiaries accounted for approximately \*\*\* percent of American Brands' 1993 total revenues. The certain paper clips under investigation represented approximately \*\*\* percent of office products' 1993 revenues and \*\*\* of American Brands' total 1993 revenues. The two major business segments of American Brands are tobacco products (*Benson and Hedges*, *Tareyton*, *Carlton*, *Pall Mall*, and *Lucky Strike* brands are examples)<sup>61</sup> with 54 percent of 1993 total revenues and golf and leisure products (*Titleist*, *Pinnacle*, and *Foot-Joy* brands are examples) with 14 percent of 1993 total revenues.

As explained in ACCO's parent corporation's 1992 annual report, "The economies in all ACCO's major markets remained in recession during 1991, and the industry was particularly affected by the decline in U.S. white collar employment, as well as competitive pressures."<sup>62</sup> American Brands indicated in its 1993 annual report that "White collar employment growth, an important underlying factor in office products demand, has resumed in both the U.S. and the U.K., but at a slower pace than in the 1980s."<sup>63</sup>

### Operations on Certain Paper Clips

Income-and-loss data for the U.S. producers' paper clip operations are presented in table 12. ACCO's predominance as the major U.S. paper clip producer is illustrated by its share of total U.S. producers' net sales, which in 1993 was approximately \*\*\* percent of revenues and \*\*\* percent of quantities sold. A plant tour<sup>64</sup> revealed \*\*\* automated equipment used in the production of paper clips. ACCO is able to manufacture \*\*\*. ACCO's labor costs, on a per-unit basis, remained relatively constant during the period of investigation. The per-unit (*1,000 paper clips*) income-and-

<sup>60</sup> ACCO, Noesting, and Work Services.

<sup>61</sup> American Brands, Inc. announced that it has entered into an agreement for the sale of The American Tobacco Company, its domestic tobacco subsidiary, to B.A.T. Industries, plc for a price of \$1 billion, *Report to Stockholders*, Apr. 26, 1994.

<sup>62</sup> *American Brands, Inc. Annual Report, 1992*, p. 24.

<sup>63</sup> *American Brands, Inc. Annual Report, 1993*, p. 17.

<sup>64</sup> Verification visit with ACCO, Sept. 28, 1994.

loss experience, including the major categories of manufacturing costs for ACCO as submitted on its questionnaire, are presented in the following tabulation:

\* \* \* \* \*

**TABLE 12**  
**INCOME-AND-LOSS EXPERIENCE OF U.S. PRODUCERS ON THEIR OPERATIONS PRODUCING CERTAIN PAPER CLIPS, FISCAL YEARS 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

The total U.S. industry per-unit experience is \*\*\*.  
 Selected income-and-loss data of ACCO are presented in the following tabulation (*in thousands of dollars*):

\* \* \* \* \*

\*\*\*  
 \*\*\*<sup>65</sup>  
 \*\*\*<sup>66</sup> \*\*\*<sup>67</sup> \*\*\*<sup>68</sup>

**Investment in Productive Facilities**

The value of property, plant, and equipment for the U.S. producers is presented in table 13. The return on total assets for these producers could not be presented since \*\*\*.

**TABLE 13**  
**VALUE OF ASSETS OF U.S. PRODUCERS' OPERATIONS PRODUCING CERTAIN PAPER CLIPS, FISCAL YEARS 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

**Capital Expenditures**

The capital expenditures reported by the U.S. producers are presented in table 14.

**TABLE 14**  
**CAPITAL EXPENDITURES BY U.S. PRODUCERS OF CERTAIN PAPER CLIPS, BY PRODUCTS, FISCAL YEARS 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

**Research and Development Expenses**

The research and development expenses reported by the U.S. producers are presented in table 15.

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<sup>65</sup> *American Brands, Inc. Annual Report, 1993*, p. 25.  
<sup>66</sup> Field visit with ACCO, Oct. 26, 1993.  
<sup>67</sup> Telephone conversation with John Wozny, Plant Controller, Aug. 30, 1994.  
<sup>68</sup> Telephone conversation with Peter Levy, President, Aug. 31, 1994.

**TABLE 15**

**RESEARCH AND DEVELOPMENT EXPENSES OF U.S. PRODUCERS OF CERTAIN PAPER CLIPS, BY PRODUCTS, FISCAL YEARS 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

**Capital and Investment**

The Commission requested the U.S. producers to describe any actual or potential negative effects of imports of paper clips from China on their existing development and production efforts, growth, investment, and ability to raise capital. Their responses are shown in appendix D.

**CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES**

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 merchandise, the Commission shall consider, among other relevant economic factors<sup>69</sup>--

- (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
- (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
- (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
- (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
- (V) any substantial increase in inventories of the merchandise in the United States,
- (VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

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<sup>69</sup> Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 706 or 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.<sup>70</sup>

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

### U.S. Importers' Inventories

Of the 14 firms reporting imports of the subject paper clips, 13 also reported end-of-period inventories of those imports. These data are presented in table 16.

**TABLE 16**

**CERTAIN PAPER CLIPS: END-OF-PERIOD INVENTORIES OF U.S. IMPORTERS, BY PRODUCTS AND BY SOURCES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

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<sup>70</sup> Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

End-of-period inventories of certain paper clips from China peaked in 1992 at \*\*\*, a \*\*\*-percent increase over 1991, before falling \*\*\* percent to \*\*\*. Inventory levels fell \*\*\* percent at the end of June 1994 from what they were at the comparable point in 1993. Trends in end-of-period inventories for the various subcategories of subject paper clips were similar, trending downward since 1992.

Firms that reported imports from China generally reported that they sell either from stock or, on limited occasions, will order direct for a customer. If they source from stock, they view themselves as essentially competitive with U.S. producers when it comes to quick delivery.<sup>71</sup> Wholesalers/distributors tended to source from stock, whereas large retail outlets such as \*\*\* would generally order direct from the factory in China.<sup>72</sup> Importers did not report any problem in sourcing from China other than the long lead times. Importers are generally more likely to keep inventories than U.S. producers, as seen by comparing table 16 with table 9.

In its questionnaire, the Commission requested importers to list any expected deliveries of certain paper clips from China after June 30, 1994. Data received in response to this request are presented in the following tabulation:

<i>Importer</i>	<i>Product</i>	<i>Quantity (million units)</i>	<i>Expected delivery</i>
***	( )	***	***
***	( )	( )	( )
***	***	***	***
	***	***	***
Total		129.5	

<sup>1</sup> Unspecified.

### **Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other Than the United States**

In their petition, ACCO and Noesting alleged that there are at least two factories producing certain paper clips in China, one separate firm exporting paper clips, and four additional firms that both produce and export those products. These firms were said to be located in the Shanghai, Guangdong, and Zhejiang regions, and in the Shenzhen Special Economic Zone.<sup>73</sup> Parties in opposition to the petition did not dispute these allegations in the preliminary investigation but none of the firms were represented by counsel and the Commission has not received data from them pertaining to their operations. The Commission also requested the American Embassy in Beijing, the American Consulate in Hong Kong, and the American Institute in Taiwan to provide data on these firms' operations. No data have been supplied in response to this request. Finally, the Commission attempted to obtain information on the industry in China from officials at the Ministry of Foreign Economic Relations & Trade in Beijing; this attempt was also unsuccessful.<sup>74</sup>

As noted in the section of this report entitled *The Product*, the production process for paper clips differs somewhat in China from that employed in the United States. For example, the clips are plated with nickel after forming, whereas U.S.-produced clips are generally made from plated wire.<sup>75</sup> Further, the machinery in China is of the "Far-Eastern slide type," which reportedly is far less efficient than that generally used in the United States.<sup>76</sup> To the best of petitioners' knowledge, such

<sup>71</sup> Hearing transcript, pp. 48, 97.

<sup>72</sup> \*\*\*, for example, reported a 90-day delivery period for paper clips imported directly from China.

<sup>73</sup> Petition, pp. 9-10.

<sup>74</sup> These officials had supplied information to the Commission in past investigations involving China.

<sup>75</sup> Petition, p. 27. ACCO notes that \*\*\*. Field visit with ACCO, Oct. 26, 1993.

<sup>76</sup> Petition, app. C. ACCO believes that \*\*\*. Field visit with ACCO, Oct. 26, 1993.

equipment is dedicated to the production of paper clips, and to various sizes of such clips.<sup>77</sup> The petition estimates the total production capacity for paper clips in China to be 10-12 billion clips per year.<sup>78</sup>

According to the petition, China began to be a force in the paper clip market in 1976, and has held a steady presence since then.<sup>79</sup> The petitioners also believe that reported imports from Hong Kong are actually originating in China, because they know of no production facilities for paper clips physically located in Hong Kong.<sup>80</sup> Three importers, **\*\*\***, stated that they purchased certain paper clips from Hong Kong that were manufactured in China. **\*\*\***.

## **CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY**

### **U.S. Imports**

The petition defined "certain paper clips" as "the substantial majority" of imports entering under HTS statistical reporting number 8305.90.3010; "paper clips and parts thereof, wholly of wire."<sup>81</sup> Data on U.S. imports of these products, based on HTS item No. 8305.90.3010, are presented in table 17. Data on imports of binder clips, which enter under HTS statistical reporting numbers 8305.90.3010 and 8305.90.3050, and plastic paper clips, which enter under HTS subheading 3926.10.00, are based on responses to Commission questionnaires, and are presented in appendix C.

Of the 39 importers who received questionnaires, only 14 responded, all of which provided at least some usable data on imports and shipments of those imports. Based on official import statistics for 1993, responding importers accounted for 53 percent, by quantity, of total imports from China of the subject merchandise. Data presented in the body of this report, therefore, are based on official import statistics. Data on U.S. imports of certain paper clips, and separate data on No. 1 clips, No. 3 clips, jumbo clips, and other wire paper clips, based on questionnaire data, are presented in appendix C.

The volume of imports of certain paper clips from China increased from 4.2 billion clips in 1991 to 5.6 billion clips in 1992 before falling 14 percent to 4.9 billion clips in 1993. Subject imports declined 8 percent in January-June 1994 from their level in the comparable period of 1993. Nonsubject imports declined throughout the period examined in quantity terms. Value-and unit value-based data demonstrate similar patterns.

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<sup>77</sup> Hearing transcript, p. 37.

<sup>78</sup> Petition, p. 46.

<sup>79</sup> Petition, p. 29. Petitioners stated at the public hearing that "during the late 1980's several companies or individuals decided to move paper clip production to China to begin producing large quantities of paper clips for export to the United States. Most of these machines came from Taiwan." Hearing transcript, p. 22.

<sup>80</sup> Hearing transcript, pp. 76-77.

<sup>81</sup> Petition, p. 7. The scope of the investigation as defined by Commerce is identical to the cited tariff description except for a limitation put on the diameter of the wire; i.e. that the wire have a diameter of between 0.64 and 1.91 millimeters. Ideal clamps would fit the description of metal paper clips having wire diameters exceeding 1.91 millimeters and wholly of wire. The extent to which imports under HTS statistical reporting number 8305.90.3010 consist of these products is not known. Accordingly, data under HTS statistical reporting number 8305.90.3010, when used as a proxy for data on "certain paper clips" as defined by Commerce, may be somewhat overstated.

TABLE 17

## CERTAIN PAPER CLIPS: U.S. IMPORTS, BY SOURCES, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

Item	1991	1992	1993	Jan.-June--	
				1993	1994
<i>Quantity (million units)</i>					
China . . . . .	4,189	5,623	4,857	2,387	2,200
Hong Kong . . . . .	1,002	1,476	73	34	0
Subtotal . . . . .	5,191	7,099	4,930	2,421	2,200
Taiwan . . . . .	1,470	995	728	392	404
Other sources . . . . .	49	47	8	5	42
Total . . . . .	6,710	8,142	5,666	2,818	2,646
<i>Value (1,000 dollars)</i>					
China . . . . .	3,911	5,494	4,482	2,182	2,077
Hong Kong . . . . .	953	1,261	65	31	0
Subtotal . . . . .	4,864	6,755	4,547	2,213	2,077
Taiwan . . . . .	3,115	2,021	1,630	839	991
Other sources . . . . .	108	101	74	40	247
Total . . . . .	8,087	8,877	6,251	3,093	3,315
<i>Unit value (per 1,000 units)</i>					
China . . . . .	\$0.93	\$0.98	\$0.92	\$0.91	\$0.94
Hong Kong . . . . .	.95	.85	.89	.92	-
Subtotal . . . . .	.94	.95	.92	.91	-
Taiwan . . . . .	2.12	2.03	2.24	2.14	2.45
Other sources . . . . .	2.20	2.14	9.65	8.28	5.92
Average . . . . .	1.21	1.09	1.10	1.10	1.25
<i>Share of total quantity (percent)</i>					
China . . . . .	62.4	69.1	85.7	84.7	83.1
Hong Kong . . . . .	14.9	18.1	1.3	1.2	0
Subtotal . . . . .	77.4	87.2	87.0	85.9	-
Taiwan . . . . .	21.9	12.2	12.8	13.9	15.3
Other sources . . . . .	.7	.6	.1	.2	1.6
Total . . . . .	100.0	100.0	100.0	100.0	100.0
<i>Share of total value (percent)</i>					
China . . . . .	48.4	61.9	71.7	70.5	62.6
Hong Kong . . . . .	11.8	14.2	1.0	1.0	0
Subtotal . . . . .	60.2	76.1	72.7	71.5	-
Taiwan . . . . .	38.5	22.8	26.1	27.1	29.9
Other sources . . . . .	1.3	1.1	1.2	1.3	7.5
Total . . . . .	100.0	100.0	100.0	100.0	100.0

Note.--Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures. Official import quantities have been converted from kilograms to units based on conversion factors supplied by petitioners.

Source: Compiled from official statistics of Commerce.



## U.S. Market Penetration by Imports

As the Commission received usable data from the three known U.S. producers of certain paper clips, reported U.S. shipments are believed to constitute virtually 100 percent, by quantity, of U.S. shipments of such merchandise during the period examined. Reported shipments of total imports of certain paper clips, however, constitute 53 percent, by volume, of total 1993 imports of such products according to official U.S. import statistics. As a result, data on the penetration of the U.S. market for certain paper clips by imports of such clips, as presented in table 18, are based on a combination of information submitted in response to Commission questionnaires and on official U.S. import statistics.

**TABLE 18**  
**CERTAIN PAPER CLIPS: APPARENT U.S. CONSUMPTION AND MARKET PENETRATION, 1991-93,**  
**JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

The share of imports from China in the quantity of apparent U.S. consumption increased from \*\*\* in 1991 to \*\*\* in 1992 before tailing off to \*\*\* in 1993. The Chinese market share declined when the January-June periods of 1993 and 1994 are compared. In value terms, the Chinese share of the market for certain paper clips also increased between 1991 and 1992, gaining nearly \*\*\* points, and then fell, by nearly \*\*\* points, in 1993. The decline in subject import market share when the 6-month interim periods are compared was over \*\*\* points.<sup>82</sup>

### Prices

#### Marketing Considerations

\*\*\* U.S. producers and \*\*\* importers of the Chinese product reported pricing and related information concerning their U.S. sales of paper clips. ACCO is the dominant U.S. producer, while \*\*\* are the largest responding U.S. importers of Chinese paper clips, accounting for \*\*\* of reported U.S. imports during 1993. U.S. producers and importers sell paper clips to virtually all channels of distribution within the office products industry. Most of the U.S. producers and importers of the Chinese paper clips market their product nationwide. All three responding U.S. producers reported that U.S. inland transportation costs, which accounted for \*\*\* of the delivered price, are not an important factor in their customers' sourcing decisions.<sup>83</sup> Four of the responding importers reported that their U.S. inland transportation costs are not important, accounting for \*\*\* of the delivered price. Four other importers, however, maintained that U.S. inland transportation costs are important, accounting for \*\*\* of the delivered price.

U.S. producers typically offer price quotes for paper clips in response to purchase orders issued by purchasers.<sup>84</sup> The quantity and duration of the purchase order varies from order to order. Paper clip prices are primarily determined by the volume purchased, although customers can also receive advertising allowances and supplemental discounts for their overall purchases of office products. \*\*\*<sup>85</sup> Typical payment terms are net 30 days.

The responding U.S. importers reported that the majority of Chinese paper clips are sold on a contract basis. These contracts typically fix the price for 6-12 months. Prices for imported Chinese paper clips are based on market conditions (competitive offers), cost, the quantity of paper

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<sup>82</sup> Hong Kong imports, as a share of consumption, rose from \*\*\* percent in 1991 to \*\*\* percent in 1992 before falling to \*\*\* percent in 1993.

<sup>83</sup> \*\*\*.

<sup>84</sup> \*\*\*.

<sup>85</sup> \*\*\*.

clips purchased, and the customer's total purchases from the importer. Most importers issue price lists which are used as a starting point in price negotiations. Most importers quote prices on either a delivered basis or an FOB point-of-entry basis with freight prepaid. Typical payment terms are also net 30 days.

U.S. producers and importers of Chinese subject paper clips reported that, although there are numerous possible substitute products, these alternative products are generally not practical as substitutes for the subject paper clips. U.S. producers and importers reported that binder clips and paper clamps are too bulky to be used for small stacks of paper, that fasteners require a paper punch and are more difficult to use, and that staples require a stapler and are used for permanent fastening. Plastic paper clips and ideal clips can be employed in most of the same uses, but generally are much more expensive.

### **Bundling of Paper Clips and Other Office Products**

\*\*\*  
\*\*\*

Nearly all of the purchasers that completed purchaser questionnaire responses reported buying paper clips as part of a "bundle" of standard office supplies. Other office products typically sold along with paper clips include data binders, report covers, punches, staples, staplers, ring binders, tacks, tape dispensers, rubber bands, thumbtacks, etc. Most of these purchasers reported that prices for paper clips are determined independently of the prices paid for the other office products included in the bundle.<sup>86</sup>

The Commission collected additional questionnaire information concerning the bundling of paper clip sales and sales of other office products. \*\*\* purchasers accounting for \*\*\* percent, by quantity, of apparent U.S. consumption of paper clips in 1993 responded to the Commission's request for additional information. \*\*\* of these purchasers, accounting for \*\*\* percent of the U.S. market, reported buying other office products from the same firms that supply paper clips. However, \*\*\* responding purchasers reported that paper clip prices are determined separately from the prices of other office products. \*\*\* purchasers, accounting for \*\*\* percent of the U.S. market, reported that paper clip prices are affected by their purchases of other office products, citing reasons such as annual volume rebates on their total office supply purchases and a desire for a single office supply source. \*\*\* purchasers reported that paper clip prices are not affected by their purchases of other office products.<sup>87</sup> \*\*\*

### **Product Comparisons**

Sales of paper clips are potentially differentiated by factors such as quality, delivery lead times, reliability of supply, available product line, and minimum order size. Nearly all U.S. producers and importers reported that domestic and imported Chinese paper clips are used interchangeably. \*\*\*<sup>88</sup> Nearly all of the responding importers reported that there are no quality differences between U.S.-produced and imported Chinese paper clips.<sup>89</sup> Most of the responding purchasers reported that there are no significant differences between U.S.-produced and imported Chinese paper clips.<sup>90</sup>

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<sup>86</sup> \*\*\*  
<sup>87</sup> \*\*\*  
<sup>88</sup> \*\*\*  
<sup>89</sup> \*\*\*  
<sup>90</sup> \*\*\*

\*\*\*. Importers reported average lead times for sales from stock that varied between no lead time (immediate pick up) and 3 days. Importers' average lead times for production orders can be as long as 3 months.

\*\*\*

### Questionnaire Price Data

The Commission requested U.S. producers and importers to provide quarterly U.S. FOB prices (i.e., plant and U.S. point-of-shipment, respectively), delivered prices, total quantity shipped, and total FOB and delivered values shipped of five paper clip products.<sup>91</sup> For each product listed below, the Commission requested price data for the largest sale for each quarter during January 1991-June 1994.

Product 1: No. 1 gem style paper clips with smooth finish, packaged in boxes/plastic bags.<sup>92</sup>

Product 2: Jumbo gem style paper clips with smooth finish, packaged in boxes/plastic bags.

Product 3: No. 2 ideal clamps, small.

Product 4: Paper clips of plastic resin, of triangular shape and in varying colors, one and one-half to two and one-half inches in length.

Product 5: No. 50 binder clips.

Two U.S. producers and \*\*\* importers of the Chinese subject product provided pricing data, although not necessarily for all products or quarters during January 1991-June 1994. The responding U.S. producers accounted for \*\*\* of total reported U.S. shipments of the subject product during 1993. The responding importers of the Chinese products accounted for 32.9 percent of imports from China in 1993.<sup>93</sup> Delivered prices for sales of certain paper clip products 1 and 2 are presented in tables 19 and 20 and figures 6 and 7.<sup>94</sup> Delivered prices for products 3-5 are shown in table 21.

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<sup>91</sup> The Commission also requested pricing data from purchasers. The Commission received some form of price data from \*\*\* purchasers (\*\*\*). During 1993, these \*\*\* purchasers accounted for \*\*\* boxes of paper clips, or \*\*\* percent of 1993 apparent U.S. consumption. However, of these \*\*\* purchasers, only \*\*\* (\*\*\* supplied usable price data for its largest quarterly purchases of the subject products. During 1993, \*\*\* accounted for \*\*\* boxes of paper clips, or only \*\*\* percent of 1993 apparent U.S. consumption. Since \*\*\* price data represents such a small share of the U.S. paper clip market it was not presented in this report.

<sup>92</sup> ACCO-produced and imported Chinese No. 1 gem clips are differentiated somewhat by the fact that the ACCO-produced No. 1 gem clip category includes World (0.034 inch diameter), Silverette (0.036 inch diameter), and premier (0.041 inch diameter) brand paper clips, whereas the imported Chinese No.1 gem clips are generally 0.035-0.036 inches in diameter (Noesting's No.1 gem clip is also 0.036 inches in diameter). During Jan. 1991-June 1994, ACCO's sales of *World*, *Silverette*, and *Premier* paper clips accounted for \*\*\* percent, respectively, of ACCO's total sales of No. 1 paper clips. ACCO reported that it has been shifting to \*\*\* paper clips during the past three years. ACCO maintains that the 0.001-0.002 inch diameter difference between ACCO's *World* paper clip and imported Chinese No. 1 gem clip does not affect performance and customers consider the *World* and imported Chinese No. 1 gem clips to be interchangeable. Pricing data presented in this section for ACCO product 1 are for its *World* brand clip. Delivered prices for ACCO's largest quarterly sales of its *Silverette* paper clips are presented in appendix E.

<sup>93</sup> The Commission received usable largest sale price information from three importers, \*\*\* and received unit value information from \*\*\*. Unit value data are shown in appendix E. The Commission also received import pricing data from \*\*\*. Several importers (e.g. \*\*\*, etc.) sell paper clips at a different level of distribution and could not provide useful pricing data.

<sup>94</sup> Prices for ACCO- and Noesting-produced certain paper clips are presented separately for the following reasons: \*\*\*.

**TABLE 19**

**CERTAIN PAPER CLIPS: DELIVERED PRICES AND TOTAL QUANTITIES OF PRODUCT 1 SOLD BY ACCO AND NOESTING, AND WEIGHTED-AVERAGE DELIVERED PRICES OF IMPORTED CHINESE PRODUCT 1, BY QUARTERS, JAN. 1991-JUNE 1994**

\* \* \* \* \*

**TABLE 20**

**CERTAIN PAPER CLIPS: DELIVERED PRICES AND TOTAL QUANTITIES OF PRODUCT 2 SOLD BY ACCO AND NOESTING, AND WEIGHTED-AVERAGE DELIVERED PRICES OF IMPORTED CHINESE PRODUCT 2, BY QUARTERS, JAN. 1991-JUNE 1994**

\* \* \* \* \*

**FIGURE 6**

**CERTAIN PAPER CLIPS: DELIVERED PRICES OF PRODUCT 1 SOLD BY ACCO AND NOESTING, AND WEIGHTED-AVERAGE DELIVERED PRICES OF IMPORTED CHINESE PRODUCT 1, BY QUARTERS, JAN. 1991-JUNE 1994**

\* \* \* \* \*

**FIGURE 7**

**CERTAIN PAPER CLIPS: DELIVERED PRICES OF PRODUCT 2 SOLD BY ACCO AND NOESTING, AND WEIGHTED-AVERAGE DELIVERED PRICES OF IMPORTED CHINESE PRODUCT 2, BY QUARTERS, JAN. 1991-JUNE 1994**

\* \* \* \* \*

**TABLE 21**

**OTHER PAPER CLIP PRODUCTS: WEIGHTED-AVERAGE DELIVERED PRICES AND TOTAL QUANTITIES OF IMPORTED CHINESE PRODUCTS 3 AND 5, AND DELIVERED PRICES OF ACCO-PRODUCED PRODUCT 4, BY QUARTERS, JAN. 1991-JUNE 1994**

\* \* \* \* \*

*Price trends for ACCO- and Noesting-produced certain paper clips*

During January 1991-June 1994, delivered prices for ACCO-produced products 1 and 2 \*\*\* by \*\*\* and \*\*\* percent, respectively. \*\*\*.

Noesting \*\*\*. Delivered prices for Noesting-produced products 1 and 2 \*\*\*.

**Price trends for imported Chinese certain paper clips**

During January 1991-June 1994, delivered prices for imported Chinese products 1 and 2 \*\*\* by \*\*\* percent and \*\*\* percent, respectively. \*\*\*.

**Price trends for imported Chinese ideal clips and metal binder clips, and ACCO-produced plastic paper clips**

Prices for imported Chinese product 3 (ideal clips) \*\*\*. Prices for imported Chinese product 3 were \*\*\*. Prices for imported Chinese product 5 (metal binder clips) \*\*\*. Overall, prices for imported Chinese product 5 \*\*\* by \*\*\* percent. Prices for ACCO-produced product 4 (plastic paper clips) \*\*\*.

**Input cost trends**

The primary raw material input used in the production of certain paper clips is low-carbon steel wire. The raw material cost is an important component of the total cost of producing certain paper clips, accounting for roughly \*\*\* percent of the cost of goods sold in 1993. Quarterly indexes of ACCO's low-carbon steel wire costs and prices for product 1 are presented in figure 8. ACCO's low-carbon steel wire costs \*\*\*. ACCO's low-carbon steel wire costs were \*\*\*. Overall, ACCO's product 1 prices \*\*\* by \*\*\* percent.

**FIGURE 8  
ACCO'S PRICES FOR LOW-CARBON STEEL WIRE AND PAPER CLIP PRODUCT 1, BY QUARTERS,  
JAN. 1991-JUNE 1994**

\* \* \* \* \*

**Price comparisons between ACCO-produced and imported Chinese certain paper clips<sup>95</sup>**

The reported price data for ACCO's and importers' largest quarterly sales of products 1 and 2 during January 1991-June 1994 resulted in 28 delivered price comparisons (table 22). The imported Chinese products were priced below the ACCO-produced products in 5 quarters by an average of 4.6 percent, were priced above the ACCO-produced products in 21 quarters by an average of 3.6 percent, and were priced the same in 2 quarters. The imported Chinese product 1 was priced below the ACCO-produced product 1 in 2 quarters by an average of 1.3 percent, was priced above the ACCO-produced product 1 in 11 instances by an average of 3.3 percent, and was priced the same in 1 quarter. The imported Chinese product 2 was priced below the ACCO-produced product 2 in 3 quarters by an average of 6.7 percent, was priced above the ACCO-produced product 2 in 10 instances by an average of 3.9 percent, and was priced the same in 1 quarter.

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<sup>95</sup> The Commission also received price data for sales of U.S.-produced plastic paper clips and imported Chinese ideal and binder clips. On average, during January 1991-June 1994, prices for U.S.-produced plastic paper clips were \*\*\* per thousand versus \*\*\* per thousand for U.S.-produced jumbo paper clips. On average, during the same period, prices for imported Chinese ideal and binder clips were \*\*\* per thousand and \*\*\* per thousand, respectively, versus \*\*\* per thousand for imported Chinese jumbo paper clips.

**TABLE 22**  
**CERTAIN PAPER CLIPS: MARGINS OF UNDERSELLING/(OVERSELLING), BY PRODUCTS, DOMESTIC PRODUCERS, AND QUARTERS, JAN. 1991-JUNE 1994**

\* \* \* \* \*

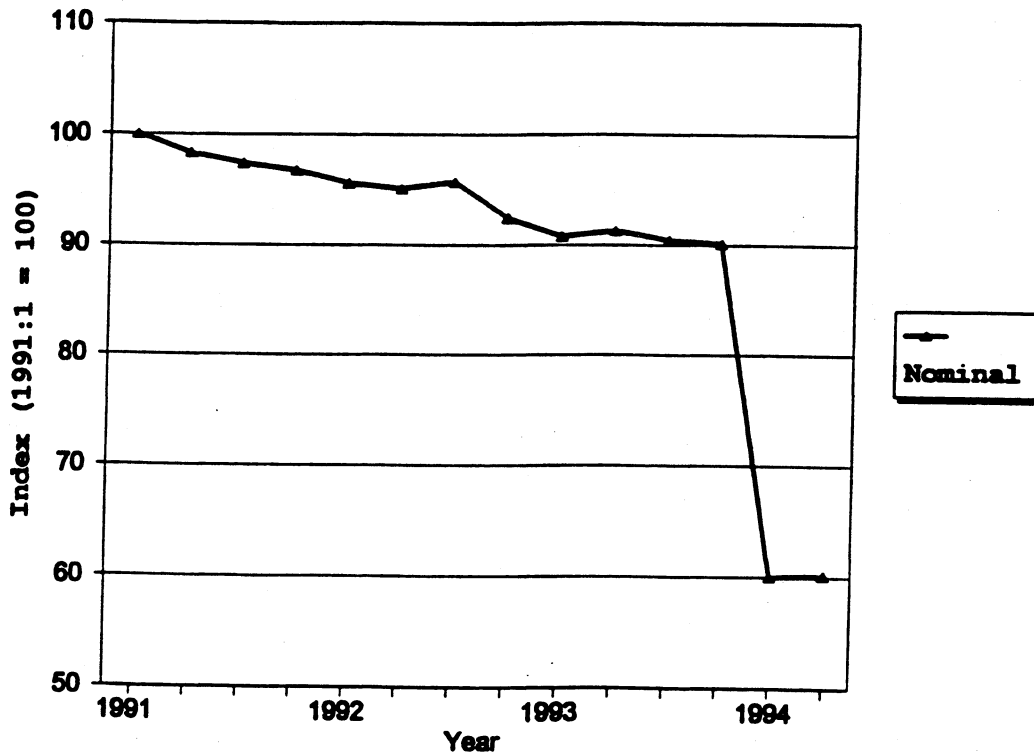
*Price comparisons between Noesting-produced and imported Chinese certain paper clips*

The reported price data for Noesting's and importers' largest quarterly sales of products 1 and 2 during January 1991-June 1994 resulted in 12 delivered price comparisons (table 22). The imported Chinese products were priced below the Noesting-produced products in all 12 quarters by an average of 39.4 percent. The imported Chinese product 1 was priced below the Noesting-produced product 1 in 6 quarters by an average of 37.5 percent. The imported Chinese product 2 was priced below the Noesting-produced product 2 in 6 quarters by an average of 41.1 percent.

**Exchange Rates**

The nominal value of the Chinese yuan (figure 9) depreciated by 9.9 percent in relation to the U.S. dollar during January 1991-December 1993. Beginning January 1, 1994, the People's Bank of China changed the manner in which the official exchange rate was determined. In the first quarter of 1994, the nominal value of the Chinese yuan fell 33 percent. Producer price index information for China is unavailable, thus real exchange rates cannot be calculated.

**FIGURE 9**  
**INDEXES OF THE NOMINAL EXCHANGE RATES BETWEEN THE U.S. DOLLAR AND CHINESE YUAN, BY QUARTERS, JAN. 1991-MAR. 1994**



Source: IMF, *International Financial Statistics*, June 1994.

### Lost Sales and Lost Revenues

The responding U.S. producers reported lost sale and lost revenue allegations as shown in the following tabulation.

	<u>Customers</u>	<u>Sales</u>	<u>Quantity</u> <i>(boxes)</i>	<u>Value</u>
Lost sales . . . . .	***	***	***	***
Lost revenues . . . . .	***	***	***	***

The Commission interviewed \*\*\* purchasers named in \*\*\* of the lost sale allegations concerning \*\*\* of paper clips worth \*\*\* and \*\*\* of the lost revenue allegations worth \*\*\*. The information obtained from these purchasers is discussed below.

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\*\*\* 96 \*\*\* 97 \*\*\*.  
\*\*\* 98 \*\*\*.  
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\*\*\*.  
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<sup>96</sup> \*\*\* reported that \*\*\*.  
<sup>97</sup> \*\*\* reported that \*\*\*.  
<sup>98</sup> \*\*\* reported that \*\*\* would \*\*\*.





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



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**INTERNATIONAL TRADE  
COMMISSION****[Investigation No. 731-TA-663 (Final)]****Certain Paper Clips From the People's  
Republic of China****AGENCY: International Trade  
Commission.****ACTION: Institution and scheduling of a  
final antidumping investigation.**

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**SUMMARY: The Commission hereby gives  
notice of the institution of final  
antidumping investigation No. 731-TA-  
663 (Final) under section 735(b) of the  
Tariff Act of 1930 (19 U.S.C. 1673d(b))  
(the Act) to determine whether an  
industry in the United States is  
materially injured, or is threatened with  
material injury, or the establishment of  
an industry in the United States is  
materially retarded, by reason of  
imports from the People's Republic of  
China (China) of certain paper clips  
wholly of wire of base metal, provided  
for in subheading 8305.90.30 of the  
Harmonized Tariff Schedule of the  
United States (HTS).<sup>1</sup>****For further information concerning  
the conduct of this investigation,  
hearing procedures, and rules of general  
application, consult the Commission's  
rules of practice and procedure, part  
201, subparts A through E (19 CFR part**

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<sup>1</sup> The products covered by this investigation are certain paper clips, wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e.g., copper), with a wire diameter between 0.025 inches and 0.075 inches (0.64 to 1.91 millimeters), regardless of physical configuration, except as specifically excluded. The products subject to this investigation may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as "No. 1 clips", "No. 3 clips", "Jumbo" or "Giant" clips, "Gem clips", "Marcel Gems", "Universal clips", "Nifty clips", "Peerless clips", "Ring clips", and "Glide-on clips". Specifically excluded from the scope of this investigation are plastic and vinyl covered paper clips, or other paper fasteners that are not made wholly of wire of base metal and are covered under a separate subheading of the HTS.

201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: May 16, 1994.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202-205-3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N.B.1).

**SUPPLEMENTARY INFORMATION:**

**Background**

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain paper clips from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on October 13, 1994, by ACCO USA, Inc. (Wheeling, IL) and Noesting, Inc. (Bronx, NY). Commerce postponed the date of its final determination until September 30, 1994.

**Participation in the Investigation and Public Service List**

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List**

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the Federal

Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Staff Report**

The prehearing staff report in this investigation will be placed in the nonpublic record on September 21, 1994, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

**Hearing**

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on October 4, 1994, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 26, 1994. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 28, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

**Written Submissions**

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is September 28, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is October 13, 1994; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 13, 1994. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also

conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

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

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

Issued: May 31, 1994.

By order of the Commission:

Denna R. Koehnka,

Secretary.

[FR Doc. 94-13905 Filed 6-7-94; 8:45 am]

SELLING CODE 7220-22-P

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[A-570-826]

**Notice of Final Determination of Sales at Less Than Fair Value: Certain Paper Clips From the People's Republic of China**

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

**EFFECTIVE DATE:** October 7, 1994.

**FOR FURTHER INFORMATION CONTACT:** Dorothy Tomaszewski or Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0631 or (202) 482-0922, respectively.

**FINAL DETERMINATION:** We determine that certain paper clips (paper clips) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

**Case History**

Since the preliminary determination on May 11, 1994 (59 FR 25885, May 18, 1994), the following events have occurred.

On May 24, 1994, the three participating respondent manufacturers submitted revised information on factors of production. We also issued an additional supplemental questionnaire to respondents (named below), to which respondents responded on June 2, 1994.

From June 10 through June 24, 1994, we verified that responses of the exporters, Shanghai Lansheng Corporation (Lansheng), Zhejiang Machinery and Equipment Import and Export Corporation (ZMEC), and Zhejiang Light Industrial Products Import and Export Corporation (ZLIP); and the manufacturers, Wuyi Cultural and Educational Commodities General Factory (Wuyi), Shanghai Stationery Pins Factory Fengbin (Fengbin), and Jiaying Stationery Pins Factory (Jiaying). Petitioners, ACCO International Inc. and Noesting Inc., and respondents filed case briefs on August 8, 1994, and rebuttal briefs on August 15, 1994. A public hearing was held on August 17, 1994.

#### Scope of Investigation

The products covered by this investigation are certain paper clips, wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e. g., copper), with a wire diameter between 0.025 inches and 0.075 inches (0.64 to 1.91 millimeters), regardless of physical configuration, except as specifically excluded. The products subject to this investigation may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as "No. 1 clips," "No. 3 clips," "Jumbo" or "Giant" clips, "Gem clips," "Frictioned clips," "Perfect Gems," "Marcel Gems," "Universal clips," "Nifty clips," "Peerless clips," "Ring clips," and "Glide-on clips".

Specifically excluded from the scope of this investigation are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal and are covered under a separate subheading of the Harmonized Tariff Schedule of the United States (HTSUS).

The products subject to this investigation are classifiable under subheading 8305.90.3010 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

#### Period of Investigation

The period of investigation (POI) is May 1, 1993, through October 31, 1993.

#### Best Information Available

As stated in the preliminary determination, we have based the duty deposit rate for all exporters other than the three identified above (the "all others" rate) on best information available (BIA). One exporter, Abel Industries, indicated that it would not participate in the investigation. Further, given that information has not been presented to the Department to demonstrate otherwise, Abel and all other PRC companies not participating in this investigation are not entitled to separate dumping margins. As such, because Abel decided not to participate in this investigation, we are basing the "All Others" rate, which will also apply to Abel, on BIA. This is similar to our use of the BIA-based "All Others" rate in other recent antidumping duty investigations. (See, e.g., 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)).

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns less adverse margins to those respondents that cooperated in an investigation and margins based on more adverse assumptions for those respondents that did not cooperate in an investigation. As outlined in the Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Belgium (58 FR 37083, July 9, 1993), when a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's investigation, it is appropriate for the Department to assign to that company the higher of (a) the highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. Here, since at least one PRC exporter failed to respond to our questionnaire, and because we presume all exporters to be centrally controlled absent verified information to the contrary, we are assigning a margin of 126.94 percent (the highest margin in the petition, as recalculated by the Department for methodological inconsistencies at the time of the initiation of this case) as BIA to all exporters other than those responding exporters which have shown their independence from control in common with one or more other exporters of the subject merchandise.

#### Separate Rates

The three participating exporters, ZMEC, ZLIP and Lansheng, have each requested a separate rate. ZMEC and ZLIP are companies owned by "all the people" and for five of the six months of the POI, Lansheng also was owned by "all the people." In the sixth month, Lansheng was restructured into a share company. To establish whether a firm is sufficiently independent to be entitled to a separate rate, the Department employs the criteria developed in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991) (Sparklers) and amplified in *Silicon Carbide*. Under this analysis, the Department assigns a separate rate only when an exporter can demonstrate the absence of both *de jure*<sup>1</sup> and *de facto*<sup>2</sup> governmental control over export activities.

#### De Jure Analysis

The PRC laws placed on the record of this case establish that the responsibility for managing companies owned by "all the people" has been transferred from the government to the enterprise itself. These laws include: "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People," adopted on April 13, 1988 (1988 Law); "Regulations for Transformation of Operational Mechanism of State-Owned Industrial Enterprises," approved on August 23, 1992 (1992 Regulations); and the "Temporary Provisions for Administration of Export Commodities," approved on December 21, 1992 (Export Provisions). The 1988 Law states that enterprises have the right to set their own prices (see Article 26). This principle was restated in the 1992 Regulations (see Article IX). The Export Provisions list those products subject to direct government control. Paper clips do not appear on the Export Provisions list and are not, therefore,

<sup>1</sup> Evidence supporting, though not requiring, a finding of *de jure* absence of central control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies.

<sup>2</sup> The factors considered include: (1) whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see *Silicon Carbide*).

subject to the constraints of these provisions.

Consistent with Silicon Carbide, we determined that the existence of these laws demonstrates that ZMEC and ZLIP, companies owned by "all the people," are not subject to *de jure* control.

Since Lansheng was initially a company owned by "all the people," the laws cited above establish that the government devolved control over Lansheng by law. The only additional law that may be pertinent to the *de jure* analysis of Lansheng as a share company is the Company Law (effective July 1, 1994). While Lansheng indicated that it was organized consistent with the Company Law, the law did not enter into force until nine months after the POI. In any event, this law does not alter the government's *de jure* devolution of control that occurred when the company was owned by "all the people." Therefore, we have determined that Lansheng is not subject to *de jure* control.

In light of reports<sup>3</sup> indicating that laws shifting control from the government to the enterprises themselves have not been implemented uniformly, an analysis of *de facto* control is critical to determining whether respondents are, in fact, subject to governmental control.

#### De Factor Control Analysis

We analyze below the issue of *de factor* control based on the criteria set forth in *Silicon Carbide*.

#### ZMEC

In the course of verification, we confirmed that ZMEC's export prices are neither set by, nor subject to approval, by any government authority. This point was supported by ZMEC's sales documentation and company correspondence. We also confirmed, based on examination of documents related to sales negotiations, written agreements and other correspondence, that ZMEC has the authority to negotiate and sign contracts and other agreements independent of government authority. We further found that ZMEC retained proceeds from its export sales and made independent decisions regarding disposition of profits and financing of losses. ZMEC's financial and accounting records as well as joint venture and purchase contracts supported this

conclusion. Finally, we have determined that ZMEC has autonomy from the central government in making decisions regarding the selection of management. Although ZMEC's appointment of management is acknowledged by the Zhejiang Machinery Bureau (ZMB), we have concluded that this does not constitute control by ZMB. Based on our examination of minutes of management nomination meetings, appointment announcements and correspondence between ZMEC and ZMB, verification established that the ZMB's involvement in ZMEC's management appointment process reflects nothing more than an administrative formality<sup>4</sup>. Furthermore, based on examination of correspondence files, we found no evidence of involvement by Zhejiang Commission of foreign and Economic cooperation (ZCOFTEC), or any other government authority, in any aspect of ZMEC's operations. For these reasons, we have determined that ZMEC is not subject to *de facto* control by governmental authorities.

#### ZLIP

During verification, our examination of correspondence and sales documentation revealed no evidence that ZLIP's export prices are set, or subject to approval, by any governmental authority. That ZLIP has the authority to negotiate and sign contracts and other agreements independent of any government authority was evident from our examination of correspondence and written agreements and contracts. We also confirmed that ZLIP retained proceeds from its export sales and made independent decisions regarding disposition of profits and financing of losses (based on our examination of bank account records, financial records, and purchase contracts).

Based on our examination of management appointment announcements and other correspondence, we have determined that ZLIP had autonomy from the central government in making decisions regarding the selection of management. According to ZLIP's company charter, both the general manager and the deputy general manager are appointed by the local administering authority, the ZCOFTEC. While this may indicate that ZLIP is subject to the control of ZCOFTEC, there is no evidence that any

other exporter of the subject merchandise, is currently under the control of ZCOFTEC. Therefore, we have concluded that ZLIP is entitled to a separate rate.<sup>5</sup>

#### Lansheng

In conducting a *de facto* analysis of Lansheng, we have examined the factors set forth in *Silicon Carbide*, and whether the change in corporate structure alters our conclusion regarding those factors. Lansheng's sales documentation and correspondence supports the conclusion that no government entity exercises control over Lansheng's export prices. Additionally, our examination of numerous contracts with domestic and foreign trading companies demonstrates that Lansheng has the authority to negotiate and sign contracts and other agreements without interference from any governmental entity. We confirmed during verification that this situation did not change after Lansheng became a share company.

Before Lansheng became a share company, the general manager of its predecessor company, Shanghai Stationery & Sporting Goods Import and Export Company (Shanghai Stationery), was elected on February 27, 1993. The election proceeded in the following manner. First, for every ten employees, there was one elected representative. Second, the representatives then elected the general manager. Third, once the general manager was elected, the company sent a letter, announcing the election to the Shanghai Commission of Foreign Trade and Economic Cooperation (Shanghai COFTEC). Shanghai COFTEC then approved the manager and sent a letter of congratulation to the company. While Shanghai COFTEC technically had the authority to reject an elected manager, it reportedly had never done so. After Lansheng became a share company, the same manager continued to lead the company. At the first general shareholder's meeting, when Lansheng's Board of Directors was elected, the shares held by the State Assets Management Bureau (SAMB) were voted by the general manager of the former company, Shanghai Stationery. Subsequently, the newly elected Board

<sup>3</sup> All non-responding exporters are presumed to be under the control of the central government. Moreover, there is no basis on which to conclude that Abel, the only exporter that has not participated in this proceeding, is subject to control by ZCOFTEC. Abel is located in Shenzhen Province, and ZCOFTEC is an agency of Zhejiang Province. Therefore, there is no basis to conclude that any non-responding exporter is controlled by ZCOFTEC. ZMEC, also located within Zhejiang Province, is not subject to such control by ZCOFTEC.

<sup>4</sup> See "PRC: Government Findings on Enterprise Autonomy," in Foreign Broadcast Information Service-China-93-133 (July 14, 1993) and 1992 Central Intelligence Agency Report to the Joint Economic Committee, Hearings on Global Economic and Technological Change: Former Soviet Union and Eastern Europe and China, Pt. 2 (102 Cong., 2d Sess.)

<sup>5</sup> As we confirmed at verification, the ZMB simply maintains communication with all companies in the machinery industry in the Zhejiang Province and provides general news, trade and statistical services for all companies in this industry.

of Directors appointed the former general manager as Chairman of the Board for Lansheng (see the Final Concurrence Memorandum in this proceeding, which attaches the Department's report of its verification of Lansheng in the Antidumping Investigation of Certain Cased Pencils from the PRC). There is no evidence that any government entity participated in the election of the Board of Directors or the decision to retain current management.

We also found that Lansheng retained proceeds from export sales and made independent decisions regarding the disposition of profits and financing of losses both before and after becoming a share company. This point was supported through examination of Lansheng's bank account records and bank loan applications. (See Lansheng's verification report.)

As indicated above, Lansheng's change to a share company did not have any effect on the actual day-to-day operations. The record shows that, following its conversion to a share company, 25.1 percent of Lansheng's shares were sold publicly, with the proceeds returning to the company as new capital investment. The remaining 74.9 percent of the shares represents the value of the assets in the original company, Shanghai Stationery (which was owned by "all the people"). Evidence on the record indicates that these remaining shares are held in trust by the SAMB, just as its assets were held in trust when Lansheng was owned by "all the people." The company's management, which has remained the same throughout its transition to a share company, votes these shares at the general shareholders' meetings of Lansheng. This evidence supports the conclusion that, under the new corporate structure, the government has not exerted control over Lansheng through the exercise of shareholder rights or otherwise: operational control remains in the hands of company management.

#### Conclusion

In the case of ZMEC and Lansheng, the record demonstrates an absence of *de jure* and *de facto* government control. With respect to ZLIP, we have determined that ZLIP is not controlled by the central government and that, although ZLIP may be controlled by ZCOFTEC, ZCOFTEC does not control any other PRC exporter of paper clips. Accordingly, we determine that each should receive a separate rate.

#### Fair Value Comparisons

To determine whether sales by the three responding exporters of paper clips from the PRC to the United States were made at less-than-fair-value prices, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

#### United States Price

USP and ZMEC, ZLIP and Lansheng was calculated on the same basis as in the preliminary determination. The following adjustments were made to the reported U.S. sales of these exporters pursuant to our findings at verification (see Calculation Memorandum, on file in room B-099 of the Main Commerce Department Building, for details on these adjustments):

- \* We adjusted foreign inland freight for ZMEC based on verified distances between factory and port of exportation.
- \* Minor adjustments were also made to ZMEC's reported ocean freight and marine insurance charges.
- \* We adjusted ZLIP's and ZMEC's respective USP for unreported bank transactions fees based on findings at verification.
- \* In the case of ZMEC, three unreported sales were discovered at verification which were verified and included in the final determination. Commission fees related to these unreported sales were verified and also included in the final determination.
- \* Several CIF sales reported by ZMEC were clarified and verified as C&F sales and considered as such for the final determination.
- \* The reported quantity for one of Lansheng's transactions was adjusted.

#### Foreign Market Value

We calculated FMV based on factors of production cited in the preliminary determination, making adjustments based on verification findings (see Calculation Memorandum). To calculate FMV, the verified factor amounts were multiplied by the appropriate surrogate values for the different inputs. We have used the same surrogate values used in the preliminary determination with the exception of nickel and sodium hydroxide. Instead of using the value for non-alloy nickel bar, we used for this final determination the value for unwrought nickel, which was found to be the form of nickel used for plating purposes. We also used a surrogate value for sodium hydroxide in liquid (rather than solid flake) form based on verification findings. We correctly valued two other proprietary factors

whose names had been incorrectly reported.

Based on verification, we adjusted certain factors' values to reflect the actual purity used in the production of subject merchandise.

We have adjusted the surrogate inland freight charge for transporting factor inputs from supplier to factory to reflect the surrogate value for the actual quantity being transported. We recalculated inland freight distances between factory and input supplier based on verified distances for Jiaying and Fengbin.

For Wuyi and Jiaying, we used verified packing factor amounts to calculate packing cost for the final calculations.

In the case of Fengbin, three additional proprietary factors of production were identified after the preliminary determination. These factors were verified and considered for the final determination. In addition, factors of production, labor and energy used in electroplating subject merchandise were adjusted to reflect allocation based on actual electroplating process time.

In the case of Jiaying, verification findings made it possible to calculate type-specific FMVs for No. 1 and Giant paper clips for the final determination. Reported direct labor was adjusted based on verification findings.

In the case of Wuyi, total reported clip production was found to be overstated at verification and adjustments to factors of production were made accordingly. For certain factors, adjustments were made to reflect actual amounts consumed during the POI instead of simple averages. Adjustments were also made to material, labor and electricity factors used in electroplating subject merchandise, to reflect actual quantities consumed for paper clip plating during the POI. We also made a downward adjustment to reported electricity usage in the clip production process based on verification findings.

#### Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the factors of production, to the extent possible, in one or more market economy countries that are (1) at a level of economic development comparable to that of the non-market economy country, and (2) significant producers of comparable merchandise. The Department has determined that India and Pakistan are the countries most comparable to the PRC in terms of overall economic development. (See memorandum from the Office of Policy to the file, dated November 29, 1993.) Although India is



the preferred surrogate country for purposes of calculating the factors of production, we have resorted to Pakistan for certain surrogate values where Indian values were either unavailable or significantly outdated. We have obtained and relied upon published, publicly available information, wherever possible.

#### Verification

As provided in section 776(b) of the Act, we verified the information submitted by respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

#### Interested Party Comments

##### *Comment 1: PRC Exporters and Separate Rates*

##### ZMEC and ZLIP

Petitioners argue that ZLIP and ZMEC are both subject to control by one or more government agencies in the Zhejiang Province. Since the ZCOFTEC has the authority under the company charter to appoint ZLIP's general manager and deputy general manager, petitioners contend that ZLIP's operations are overseen by ZCOFTEC. Petitioners argue that ZMEC also is under the supervision of the ZCOFTEC since ZCOFTEC communicates with ZMEC, an export trading company located in the Zhejiang province. Petitioners also note that ZMEC's appointment of its general manager is subject to approval by another Zhejiang province government agency, the ZMB.

Respondents counter that little evidence is provided to support Petitioners' claim that ZMEC and ZLIP are both subject to the control of the ZCOFTEC and the ZMB. The fact that the ZCOFTEC communicates to all export trading companies in the Zhejiang province does not evince governmental control over the companies' operations, with respect to ZMB, respondents argue that the ZMB's role is also limited to the communication of market information, and statistical services to companies in the machinery industry. Even though the ZMB has the right under law to object to any general manager nomination, respondents state that this responsibility does not allow the ZMB total control over ZMEC's operations. In fact, no evidence was found to indicate that the ZMB has ever actually exercised that right in the case of ZMEC. Furthermore, respondents note that evidence on the record regarding other aspects of *de facto* control demonstrates

that both ZLIP and ZMEC clearly are independent from central or provincial government control. Both companies act independently without governmental interference in setting their own export prices, negotiating contracts and agreements, and disposing of profits and financing of losses. Respondents argue that the "totality of information" contradicts petitioners' assertions that ZLIP and ZMEC are controlled by the governmental body and therefore, should not be assigned company-specific, separate rates.

##### Lansheng

Petitioners contend that the record in this investigation reflects no *de facto* evidence of Lansheng's independence from government control. The fact that the SAMB holds 74.5 percent of the shares in Lansheng allows the SAMB to have absolute control over the selection of the company board of directors and the appointment of the company's general managers and chairman of the board. Because the SAMB, a governmental agency, has control over the company's operations, petitioners argue, Lansheng should not be considered for a separate rate.

Respondents argue that the record shows the role of the SAMB in the operation of Lansheng to be extremely limited. The shares held by the SAMB are "entrusted" to the management of the company and, therefore, the SAMB's role is similar to that of an "inactive investor", or title holder. Respondents point to the fact that Lansheng will be free to sell all of its shares to the public within three years as an indication of the limited role of the SAMB during Lansheng's transition from a state-owned company to a share company. Respondents state that the functions of the board of directors and general manager are not governed by the SAMB but are defined in the company's articles of association. Respondents contend that petitioners fail to recognize that the Department considers evidence relating to all aspects of *de facto* control and does not necessarily preclude a respondent from a separate rate based on information dealing with one aspect of governmental control. According to respondents, evidence regarding other factors of *de facto* control further demonstrates that Lansheng's operations are not subject to governmental control by the SAMB or any other governmental entity. Therefore, respondents argue, Lansheng should be given a separate rate.

##### DOC Position

We agree with respondents, as explained above in the "Separate Rates"

section, that each exporter should receive a separate rate.

##### *Comment 2: Universe of Manufacturers/Sellers*

Petitioners argue that only a fraction of the manufacturers and sellers of paper clips in the PRC during the POI participated in the investigation, and cite several firms which were listed in the petition and submissions by respondents that did not respond to the questionnaire. Two of these firms are reported as being located in Zhejiang Province, where ZLIP and ZMEC are located. Petitioners cite several cases stating that all PRC firms owned by the same governmental authority, and which produced or sold the subject merchandise during the POI, must cooperate in the investigation in order for respondent firms to receive a separate rate from the Department (see, e.g., Final Determination of Sales at Less Than Fair Value: Helical Spring Lock Washers from the People's Republic of China (HSLW) (58 FR 48833, September 20, 1993)). Because certain firms mentioned in previous submissions did not participate in the investigation, petitioners assert that it is impossible for the Department to determine that the respondent firms seeking a separate rate are actually independent and not related to any other, unidentified or non-participating PRC company involved in the production and sale of the subject merchandise to the United States.

ZMEC, ZLIP and Lansheng argue that the Department should not preclude them from receiving their own company-specific separate rate simply because other potentially state-owned paper clip manufactures and exporters did not respond to the Department's questionnaire. Respondents cite Silicon Carbide, wherein "state-ownership" is not considered to be indicative of common control by a single entity. Respondents assert that any state-owned company is entitled to a separate rate if it can prove absence of *de facto* and *de jure* control by a government entity. Firms which refuse to participate or which do not satisfy the above-mentioned separate rates test are assumed to be under central government control and are assigned a country-wide "all-others" rate. Respondents assert that AMEC, ALIP and Lansheng have established that there is an absence of *de facto* and *de jure* control by the central government and, therefore, that they qualify for company-specific separate rates, even though other state-owned firms in the PRC did not participate in the investigation.

**DOC Position**

We agree with respondents that each participating exporter in this investigation (*i.e.*, ZMEC, ZLIP and Lansheng) is entitled to its company-specific separate rate regardless of whether other potential PRC exporters and sellers of subject merchandise participated in this investigation. Petitioners' concern that all firms that produced paper clips during the POI did not participate in the investigation is misplaced. Each of the three exporters investigated established that they were independent of any central government control and, therefore, received a company-specific separate rate. The "all other" exporters are presumed to be under central government control and, therefore, received a single rate, which, in this case, was based on BIA due to Abel's failure to respond to the questionnaire (see "Best Information Available" section of this notice, above). Because the "all other" exporters are presumed to be under central government control and the three responding companies have established that they are not under central government control, the responding firms and the "all other" exporters are not within a common sphere of control.

**Comment 3: Choice of "All-Others" Rate**

Petitioners assert that the Department incorrectly calculated the margin to be used as the "all-others" rate in the preliminary determination by using the information set forth in the October 13, 1993, petition. Petitioners assert that the Department should have chosen the highest margin (150.00 percent) set forth in the petition, as amended on January 26, 1994. According to petitioners, the margin resulting from the amended petition is based on Petitioners' updated values for certain chemicals used to plate paper clips. Petitioners claim that the January 26, 1994, submission clarified that the values which the Department had disregarded in adjusting the petition for initiation purposes were not being used as "surrogate values" in the manner in which the Department might apply Indian and Pakistani values. Petitioners state that the values set forth in the amended petition's exhibits reflect the actual experience of an affiliate of one of the petitioners in producing wire paper clips in Mexico. Those values were provided because, given the specialized nature of the particular inputs, petitioners were unable to obtain publicly available published information from an appropriate surrogate country. By basing these values on the actual experience of

petitioners' affiliate; petitioners claim to have followed the established practice of the Department to permit a petitioner in an antidumping case to base certain values and costs on petitioners' own experience. Petitioners cited to several past cases to support this argument (e.g., Final Determination of Sales at Less Than Fair Value: Sebacic Acid from the People's Republic of China (Sebacic Acid) (58 FR 37908, May 31, 1994)).

Respondents request that the Department continue to reject petitioners' unsubstantiated and untimely petition amendments for purposes of determining the "all others" rate. According to respondents, the amended data submitted by petitioners should not be accepted by the Department since the data is from a Mexican affiliate and this does not satisfy the requirement that costs submitted under the rubric of "petitioners' data" be based on U.S. cost. Second, respondents contend that the amended data should not be considered for the final determination since petitioners did not demonstrate that Mexico qualifies as a reasonable surrogate country for the PRC. Finally, respondents claim that petitioners' amendments to the petition were filed in an untimely fashion.

**DOC Position**

We agree with respondents and will continue to use the highest margin in the petition, as recalculated by the Department in the initiation notice (126.94 percent). Petitioners failed to provide any explanation or documentation of their efforts to find surrogate country value information. Moreover, petitioners' use of Mexican values is tantamount to selecting Mexico as a surrogate country, regardless of how petitioners choose to characterize their intentions. Petitioners never explicitly stated why their use of Mexican values is appropriate in light of the Department's hierarchy for selecting surrogate country economies.

**Comment 4: Application of BIA/"All Others" Rate to Respondents Who Did Not Sell Subject Merchandise to the United States During the POI**

Respondents request that the Department not apply the "all others" rate based on BIA to the ten PRC companies that responded to the Department's November 4, 1993, survey advising that they had not shipped the subject merchandise to the U.S. during the POI. Because the "no-shipment" companies responded to the Department's survey and were cooperative, respondents argue that the Department should modify the "all

others" rate with respect to these companies. Respondents note that the Department did not issue further questionnaires to these companies or otherwise indicate that these responses were considered to be incomplete. Moreover, respondents assert that the Department was not precluded from verifying the statements of the "no-shipment" companies. Respondents cite *Olympic Adhesive, Inc. v. United States*, where the Court of Appeals Federal Circuit held that "a 'No' answer is a complete answer."

Therefore, respondents contend, these ten companies complied with Department regulations and should not be given the same BIA rate as respondents which refused to respond to the Department's questionnaires entirely. Respondents argue that these companies should be considered cooperative respondents and should not be assigned a margin based on BIA. Instead, respondents request that these ten companies be given a margin based on a weighted-average of the other participating exporters' margins.

Petitioners assert that respondents' request that the Department modify the "all others" rate for the ten "no-shipment" companies should not be granted. First, petitioners state that the Department's recent determinations involving the PRC assigned companies a rate based on the highest margin stated in the petition because the companies in question were unable to show entitlement to a separate rate. Petitioners contend that claims by these PRC firms that they did not produce or sell paper clips exported to the U.S. during the POI is not factual information that can be used by the Department to calculate an appropriate antidumping margin. Petitioners further argue that any reference to the use in past cases of a weighted-average of other respondents' margins are inapposite, because the cited determinations do not discuss a method for assigning an antidumping duty rate to companies which did not submit factual information. In addition, petitioners state the 1991 determinations cited by respondents have been superseded by more recent decisions by the Department, in which the highest margin alleged in the petition was selected for firms deemed ineligible for a separate rate. Petitioners also maintain that the respondents' assertion that the application of the highest margin alleged in the petition to the no-shipment firms constitutes punitive "BIA" is incorrect. Petitioners counter that the Department regulations authorize the reliance on factual information submitted in support of the

petition, if the Department does not receive a complete, accurate, and timely response to its request for factual information. Given the lack of factual information from the non-shipping firms, petitioners maintain that the Department properly assigned to those firms an "all others" rate based on factual information from the petition. Finally, petitioners argue that to give the non-participating firms a rate based on an average of separate rates assigned to the respondent exporters would reward companies that remained outside of the Department's investigation. Such firms, by not participating, would actually receive a margin that is lower than half of the responding firms which submitted factual information.

#### DOC Position

We agree with petitioners. Even though the ten companies reported that they made no sales of subject merchandise to the U.S. during the POI, the companies did not take the opportunity to answer the ownership and government control questions presented in the November 3, 1993, survey and/or complete the Separate Rates attachment of the Department's questionnaire, which the Department issued both to PRC government agencies and directly to all but one<sup>6</sup> of the ten companies. The companies did not respond to the Department's requests for factual information in an accurate and timely fashion. On the contrary, the companies did not submit any factual information pertaining to their respective ownership and control status to demonstrate that they are eligible for a separate rate. Therefore, we reject respondents' request to modify the "all others" rate for the ten "no-shipment" companies.

#### *Comment 5: Double-Counting of Indirect Expenses in Manufacturers' FMV Calculations*

Respondents claim that the Department's preliminary calculation includes the cost of chemical factor inputs used in the electroplating stage of paper clip production both in the cost of manufacture (i.e., raw material valuation) and in factory overhead (which was based on an industry-specific income statement in the Reserve Bank of India Bulletin). Respondents believe that all materials, other than steel, nickel and nickel sulfate, should be treated by the Department in its final determination as

<sup>6</sup> One company was not issued a questionnaire despite being named in the petition because there was no indication that it had shipped subject merchandise to the United States during the POI.

indirect, not direct materials. According to respondents, these remaining chemicals are used to bathe the unfinished products during the electroplating stage and are not actually incorporated into the finished product and, therefore, are properly included in factory overhead. In support of this, respondents cite the Final Determination of Extruded Rubber Thread from Malaysia (57 FR 38465, August 25, 1992) which stated that a particular input "is properly treated as variable overhead rather than a direct cost because it is not part of the finished good." Specifically, respondents claim that the factory overhead components of the income statement included the item "other manufacturing expenses." Respondents maintain that although the income statement includes a separate line for "raw materials, components, etc. consumed", it does not contain any similar category for indirect materials. Respondents cite additional cases to note the treatment of indirect materials in past NME cases and request the Department to correct its calculation of cost of manufacture by including only direct materials in the final determination.

Petitioners contend that the chemical materials used in the electroplating process should be treated as direct materials in the final determination because respondents have failed to provide any evidence that double-counting actually did occur. Furthermore, petitioners assert that respondents' argument that plating chemicals are indirect materials is based on a faulty premise that the chemicals are not physically incorporated into the finished product. According to petitioners, the chemicals which form the bath used to plate the clips are actually incorporated into the clips by ensuring the nickel remains attached to the wire. Without these chemicals, the nickel would not stay on the wire. Petitioners further cite several cases involving the PRC where chemicals used in plating were valued as direct materials. Petitioners request that the Department follow prior determinations and treat plating chemicals as direct materials.

#### DOC Position

We agree with petitioners that the chemical inputs in the plating process are direct materials because the chemicals are physically incorporated into, and become part of, the finished product during the plating process (see *HSLW*; Final Determination of Sales at Less than Fair Value: Chrome-Plated Lug Nuts from the People's Republic of China (50 FR 46153, 10 September

1991) and *Sparkers*). There is no evidence on the record to prove that the chemical inputs used in the plating process are actually included in the factory overhead category of "other manufacturing expenses." Therefore, we have treated the chemical inputs as direct materials for the calculations in the final determination.

#### *Comment 6: Treatment of Chemical Inputs Having Lower Concentration Levels*

If the Department decides to value plating chemicals as direct materials, respondents request the Department to adjust the surrogate values of those chemicals (which respondents contend represent values for undiluted products) to reflect verified actual concentration levels of chemicals used by the manufacturers.

Petitioner argue that no authority exists for the Department to adjust its surrogate value calculations to reflect the concentration levels of chemical inputs used by the manufacturers because the Department would have to make an assumption regarding the purity level of the surrogate value selected. In this case, petitioners contend that there is no information on the record to base the percentage of purity of each of the published values.

#### DOC Position

The Department is faced with three options in determining the appropriate purity-concentration of the chemical factors in the *Indian Import Statistics*: assume the value is based on 100 percent purity for all factors; assume it is based on normal commercial strengths for chemical factors, as stipulated in the *Condensed Chemical Dictionary*; or assume the value is based on verified chemical strengths used by the manufacturers in the plating process. Unlike in *Sebacic Acid* (which petitioners cite for the prospect that the Department should not make unsubstantiated assumptions about the purity of the Indian import statistics for chemicals, information on the record in this investigation provides us with the basis upon which to infer purity percentages of Indian imports. Therefore, we have applied commercial strengths based on the *Condensed Chemical Dictionary* as the most reasonable method for valuing purity concentration of these chemical factors for commercial use.

#### *Comment 7: Surrogate Country Value for Nickel and Nickel Sulfate*

Respondents contend that the surrogate values for nickel and nickel sulfate used in the preliminary

determination are unreasonable because they represent a price which is approximately four times the international market price of those inputs. Therefore, respondents request the Department to revise its calculations for the final determination to adjust the surrogate values for nickel and nickel sulfate.

Petitioners assert that respondents have not standing to criticize the use of the surrogate values since respondents failed to submit any information on publicly available published information in a timely manner, as requested by the Department. Moreover, petitioners contend that in past cases involving the PRC, the Department has maintained that to reject Indian surrogate values simply because respondents allege that those values did not reflect world market prices would be overly subjective on the part of the Department (*HSLW, Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from the People's Republic of China* (57 FR 29705, July 6, 1992)).

#### DOC Position

We used a value for non-alloy nickel bar in the preliminary determination based on *Indian Import Statistics*. After consulting with nickel specialists and conducting independent research, it was discovered that unwrought nickel is the usual input for nickel plating. Accordingly, we have thus use this value for nickel for our final determination. In order not to overstate the value of nickel used in the plating process of paper clips, we have used the basket category for unwrought nickel in the Indian Import Statistics, to calculate the surrogate value of nickel used in the plating process for the final determination. Because we have learned nothing to call into question the surrogate value used for nickel sulfate, the value used for that factor remains unchanged.

#### *Comment 8: Response Errors of ZMEC and ZLIP*

Petitioners note the failure by ZMEC to report relevant sales during the POI and to account for downward adjustments, such as related bank charges and commission fees, to U.S. price. Specifically, petitioner cite unreported bank transaction charges and three unreported sales and their accompanying commission fees discovered during ZMEC's verification. Petitioners request that the Department account for these omissions and draw, when appropriate, adverse inferences from respondents' failure to submit the

forementioned information prior to verification.

Petitioners also suggest that bank transaction charges discovered during ZLIP's verification require the Department to draw adverse inferences.

Respondents contend that the omissions are minor and insignificant, and are consistent in nature with minor errors found in virtually every verification conducted by the Department. Therefore, respondents conclude that there is no reasonable basis to warrant the use of "adverse inferences" in the final determination.

#### DOC Position

Petitioners are correct that unreported information discovered at verification must be evaluated in terms of the relative seriousness of the omission itself and to what extent its discovery calls into question the integrity of the entire response. However, we agree with respondents. The omissions are minor and do not significantly erode our confidence in the integrity of ZLIP's or ZMEC's response. Accordingly, the verified information related to these omissions has been used for the final determination.

#### *Comment 9: Use of Semi-Skilled Labor Rates for PRC Production of Subject Merchandise*

Petitioners assert that the Department should use the Indian value for semi-skilled labor, rather than that of unskilled labor, in determining the value of labor used to produce paper clips in the PRC. Furthermore, according to petitioners, respondents have failed to support their claim that all labor used in the process was unskilled is not supported by any evidence on the record.

Respondents counter that verification of all three respondent manufacturers revealed no discrepancies regarding labor in the forming or electroplating workshops. Therefore, respondents conclude that the record does not support petitioners' assertion that the Department should use semi-skilled labor rates in the final determination.

#### DOC Position

We agree with respondents. Verification revealed no reason to infer that respondents' used semi-skilled labor in the production of paper clips. Further, even if we were to determine the use of semi-skilled labor rates to be appropriate, petitioners provided no basis for calculating a value for semi-skilled labor in the petition.

#### *Comment 10: Use of Verified Packing Data*

Respondents request that the Department use the packing amounts verified at the manufacturers when calculating the manufacturers' packing material expenses in the final determination. While packing material and packing labor were verified at Jiaying and Wuyi, only packing labor was verified at Fengbin. Respondents request that the Department use an average of packing materials data (from the other two manufacturers), rather than punitive data, for the final determination with respect to Fengbin's packing materials. Respondents assert that the Department should grant this request since Fengbin provided complete responses to the Department's questionnaires which were substantially verified. Furthermore, according to respondents, the use of an average of the verified packing material amounts would more accurately reflect the experiences of the PRC manufacturers.

Petitioners request that the Department base its calculation of packing expenses on surrogate value information or on information set forth in the petition. In addition, since Fengbin failed to provide verified packing material data during this investigation, petitioners request that the Department use as BIA the information contained in the petition for Fengbin's packing materials.

#### DOC Position

For Jiaying and Wuyi, we have used the verified packing material data. It is the Department's practice to use partial BIA to correct minor data deficiencies. Fengbin's omission from its response of packing material data constitutes such a deficiency. Therefore, we continue to use the petition's packing material value as BIA for Fengbin's packing expenses in the final margin calculations.

#### Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) and 735(c)(4)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of paper clips from the PRC that are entered, or withdrawn from warehouse, for consumption on or after May 18, 1994, which is the date of publication of our notice of preliminary determination in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FMV exceeds the USP as shown below. These suspension of liquidation

instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Margin percentage
Lansheng .....	57.64
ZLIP .....	46.01
ZMEC .....	60.70
All Others (including Abel) .....	126.94

#### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry within 45 days. 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 cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act of 19 CFR 353.20(a)(4).

Dated: September 30, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration

[FR Doc. 94-24935 Filed 10-6-94; 8:45 am]

BILLING CODE 3510-05-M



**APPENDIX B**

**LIST OF WITNESSES APPEARING AT THE HEARING**





## CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the Commission's hearing:

Subject : PAPER CLIPS FROM THE PEOPLE'S REPUBLIC OF CHINA  
Inv. No. : 731-TA-663 (Final)  
Date and Time : October 4, 1994 - 9:30 a.m.

Sessions were held in the Main Hearing Room, 500 E Street, S.W., Washington, D.C.

Petitioner

### **In support of Imposition of Antidumping Duties:**

Popham, Haik, Schnobrich  
& Kaufman, Ltd. and Robins,  
Kaplan, Miller & Ciresi  
Washington, D.C.  
on behalf of

ACCO USA, Inc. and Noesting, Inc.:

**Desmond R. LaPlace**, Vice Chairman of the Board,  
ACCO World Corporation

**Gershen M. Abraham**, Vice President of Manufacturing  
and Engineering, ACCO World Corporation

**Peter B. Levy**, President, Noesting Incorporated

**Charles H. Frohman**, Executive Vice President, Noesting  
Incorporated

**Ann E. Feely**, International Trade Specialist

**Frederick P. Waite**--OF COUNSEL  
(Popham, Haik, Schnobrich & Kaufman, Ltd. and Robins)

**M. Roy Goldberg**--OF COUNSEL  
(Robins, Kaplan, Miller & Ciresi)

TRICO Manufacturing Company  
Hartsville, South Carolina

**William H. Ellison**, President, TRICO  
Manufacturing Company



**APPENDIX C**  
**SUMMARY TABLES**



TABLE C-1

## CERTAIN PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

(Quantity = million units; value = 1,000 dollars; unit values, unit labor costs, and unit COGS are per 1,000 units; period changes = (percent, except where noted))

Item	Reported data					Period changes			
	1991	1992	1993	Jan.-June-- 1993	1994	1991-93	1991-92	1992-93	Jan.-June 1993-94
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share <sup>1</sup>	***	***	***	***	***	***	***	***	***
Importers' share <sup>1</sup> :									
China	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share <sup>1</sup>	***	***	***	***	***	***	***	***	***
Importers' share <sup>1</sup> :									
China	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
China:									
Imports quantity	4,189	5,623	4,857	2,387	2,200	+15.9	+34.2	-13.6	-7.8
Imports value	3,911	5,494	4,482	2,182	2,077	+14.6	+40.5	-18.4	-4.8
Unit value	\$0.93	\$0.98	\$0.92	\$0.91	\$0.94	-1.2	+4.6	-5.6	+3.2
Ending inventory quantity	962	1,129	809	989	534	-15.9	+17.4	-28.3	-46.0
Other sources:									
Imports quantity	2,521	2,519	809	431	446	-67.9	-0.1	-67.9	+3.5
Imports value	4,177	3,383	1,769	911	1,238	-57.6	-19.0	-47.7	+36.0
Unit value	\$1.66	\$1.34	\$2.19	\$2.11	\$2.78	+32.0	-18.9	+62.8	+31.4
Ending inventory quantity	227	126	103	85	121	-54.4	-44.6	-17.6	+42.4
All sources:									
Imports quantity	6,710	8,142	5,666	2,818	2,646	-15.6	+21.3	-30.4	-6.1
Imports value	8,087	8,877	6,251	3,093	3,315	-22.7	+9.8	-29.6	+7.2
Unit value	\$1.21	\$1.09	\$1.10	\$1.10	\$1.25	-8.5	-9.5	+1.2	+14.1
U.S. producers <sup>1</sup> --									
Average capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization <sup>1</sup>	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventory/shipments <sup>2</sup>	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Total compensation (\$1,000)	***	***	***	***	***	***	***	***	***
Hourly total compensation	***	***	***	***	***	***	***	***	***
Productivity (1,000 units per hour)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net sales--									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit sales value	***	***	***	***	***	***	***	***	***

See footnote at end of table.

TABLE C-1--CONTINUED

CERTAIN PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

(Quantity=*million units*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per 1,000 units*; period changes=*(percent, except where noted)*)

Item	Reported data			Jan.-June--		Period changes			Jan.-June
	1991	1992	1993	1993	1994	1991-93	1991-92	1992-93	1993-94
U.S. producers'--Continued									
Cost of goods sold (COGS) . . . . .	***	***	***	***	***	***	***	***	***
Gross profit (loss) . . . . .	***	***	***	***	***	***	***	***	***
SG&A expenses . . . . .	***	***	***	***	***	***	***	***	***
Operating income (loss) . . . . .	***	***	***	***	***	***	***	***	***
Capital expenditures . . . . .	***	***	***	***	***	***	***	***	***
Unit COGS . . . . .	***	***	***	***	***	***	***	***	***
Unit SG&A expenses . . . . .	***	***	***	***	***	***	***	***	***
Unit operating income (loss) . . . . .	***	***	***	***	***	***	***	***	***
COGS/sales <sup>1</sup> . . . . .	***	***	***	***	***	***	***	***	***
Operating income (loss)/sales <sup>1</sup> . . . . .	***	***	***	***	***	***	***	***	***

<sup>1</sup> "Reported data" are in percent and "period changes" are in percentage points.

Note.--Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated from the unrounded figures, using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of Commerce.

TABLE C-1A

CERTAIN PAPER CLIPS: SUMMARY DATA, COMPILED FROM QUESTIONNAIRE RESPONSES, CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

\* \* \* \* \*

TABLE C-2

CERTAIN PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET (WITH PRODUCER DATA FOR ALL FIRMS EXCEPT WORK SERVICES), 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

(Quantity=million units; value=1,000 dollars; unit values, unit labor costs, and unit COGS are per 1,000 units; period changes=(percent, except where noted))

Item	Reported data					Period changes			
	1991	1992	1993	Jan.-June--		1991-93	1991-92	1992-93	Jan.-June 1993-94
				1993	1994				
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share: <sup>1</sup>									
Work Services	***	***	***	***	***	***	***	***	***
All other firms	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
Importers' share: <sup>1</sup>									
China	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share: <sup>1</sup>									
Work Services	***	***	***	***	***	***	***	***	***
All other firms	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
Importers' share: <sup>1</sup>									
China	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
China:									
Imports quantity	4,189	5,623	4,857	2,387	2,200	+15.9	+34.2	-13.6	-7.8
Imports value	3,911	5,494	4,482	2,182	2,077	+14.6	+40.5	-18.4	-4.8
Unit value	\$0.93	\$0.98	\$0.92	\$0.91	\$0.94	-1.2	+4.6	-5.6	+3.2
Ending inventory quantity	962	1,129	809	989	534	-15.9	+17.4	-28.3	-46.0
Other sources:									
Imports quantity	2,521	2,519	809	431	446	-67.9	-0.1	-67.9	+3.5
Imports value	4,177	3,383	1,769	911	1,238	-57.6	-19.0	-47.7	+36.0
Unit value	\$1.66	\$1.34	\$2.19	\$2.11	\$2.78	+32.0	-18.9	+62.8	+31.4
Ending inventory quantity	227	126	103	85	121	-54.4	-44.6	-17.6	+42.4
All sources:									
Imports quantity	6,710	8,142	5,666	2,818	2,646	-15.6	+21.3	-30.4	-6.1
Imports value	8,087	8,877	6,251	3,093	3,315	-22.7	+9.8	-29.6	+7.2
Unit value	\$1.21	\$1.09	\$1.10	\$1.10	\$1.25	-8.5	-9.5	+1.2	+14.1
U.S. producers' <sup>2,3</sup>									
Average capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization <sup>1</sup>	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventory/shipments <sup>1</sup>	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Total compensation (\$1,000)	***	***	***	***	***	***	***	***	***
Hourly total compensation	***	***	***	***	***	***	***	***	***
Productivity (1,000 units per hour)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net sales--									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit sales value	***	***	***	***	***	***	***	***	***

See footnotes at end of table.

TABLE C-2--CONTINUED

CERTAIN PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET (WITH PRODUCER DATA FOR ALL FIRMS EXCEPT WORK SERVICES), 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

(Quantity=*million units*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per 1,000 units*; period changes=*percent, except where noted*)

Item	Reported data			Jan.-June--		Period changes			Jan.-June
	1991	1992	1993	1993	1994	1991-93	1991-92	1992-93	1993-94
	U.S. producers'--Continued <sup>3</sup>								
Cost of goods sold (COGS) . . . . .	***	***	***	***	***	***	***	***	***
Gross profit (loss) . . . . .	***	***	***	***	***	***	***	***	***
SG&A expenses . . . . .	***	***	***	***	***	***	***	***	***
Operating income (loss) . . . . .	***	***	***	***	***	***	***	***	***
Capital expenditures . . . . .	***	***	***	***	***	***	***	***	***
Unit COGS . . . . .	***	***	***	***	***	***	***	***	***
Unit SG&A expenses . . . . .	***	***	***	***	***	***	***	***	***
Unit operating income (loss) . . . . .	***	***	***	***	***	***	***	***	***
COGS/sales <sup>1</sup> . . . . .	***	***	***	***	***	***	***	***	***
Operating income (loss)/sales <sup>1</sup> . . . . .	***	***	***	***	***	***	***	***	***

<sup>1</sup> "Reported data" are in percent and "period changes" are in percentage points.

<sup>2</sup> An increase of less than 0.05 percentage points.

<sup>3</sup> Producers' data presented are for all firms except Work Services.

Note.--Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated from the unrounded figures, using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized. Official import quantities have been converted from kilograms to units based on conversion factors supplied by petitioners.

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of Commerce.

TABLE C-2A

CERTAIN PAPER CLIPS: SUMMARY DATA, COMPILED FROM QUESTIONNAIRE RESPONSES, CONCERNING THE U.S. MARKET (WITH 'PRODUCER' DATA FOR ALL FIRMS EXCEPT WORK SERVICES), 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

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TABLE C-3

NO. 1 PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

\* \* \* \* \*

TABLE C-4

NO. 3 PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

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TABLE C-5

JUMBO PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

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TABLE C-6

OTHER WIRE PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

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TABLE C-7

IDEAL CLAMPS/BUTTERFLY CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994

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**TABLE C-8**

**METAL BINDER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*

**TABLE C-9**

**PLASTIC PAPER CLIPS: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-93, JAN.-JUNE 1993, AND JAN.-JUNE 1994**

\* \* \* \* \*



**APPENDIX D**

**IMPACT OF IMPORTS ON U.S. PRODUCERS' GROWTH, INVESTMENT,  
ABILITY TO RAISE CAPITAL, AND EXISTING DEVELOPMENT  
AND PRODUCTION EFFORTS**



Response of U.S. producers to the following questions:

1. Since January 1, 1991, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of certain paper clips from China?

\*\*\*

Description of actual negative impact

\*\*\*

\*\*\*

\*\*\*

\*\*\*

Description of actual negative impact

\*\*\*

\*\*\*

Description of actual negative impact

\*\*\*

2. Does your firm anticipate any negative impact of imports of certain paper clips from China?

\*\*\*

Description of anticipated negative impact

\*\*\*

\*\*\*

Description of anticipated negative impact

\*\*\*

\*\*\*

Description of anticipated negative impact

\*\*\*

3. Has the scale of capital investment undertaken been influenced by the presence of imports of certain paper clips from China?

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**APPENDIX E**  
**ADDITIONAL PRICING DATA**





**TABLE E-1**

**CERTAIN PAPER CLIPS: DELIVERED PRICES OF ACCO-PRODUCED SILVERETTE NO. 1 GEM CLIPS AND WEIGHTED-AVERAGE DELIVERED PRICES OF IMPORTED CHINESE NO. 1 GEM CLIPS, AND MARGINS OF UNDERSELLING, BY QUARTERS, JAN. 1991-JUNE 1994**

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**TABLE E-2**

**CERTAIN PAPER CLIPS: UNIT VALUES AND TOTAL QUANTITIES OF ACCO-PRODUCED AND IMPORTED CHINESE PRODUCT 1, BY QUARTERS, JAN. 1991-JUNE 1994<sup>1</sup>**

\* \* \* \* \*

**TABLE E-3**

**CERTAIN PAPER CLIPS: UNIT VALUES AND TOTAL QUANTITIES OF ACCO-PRODUCED AND IMPORTED CHINESE PRODUCT 2, BY QUARTERS, JAN. 1991-JUNE 1994**

\* \* \* \* \*

