

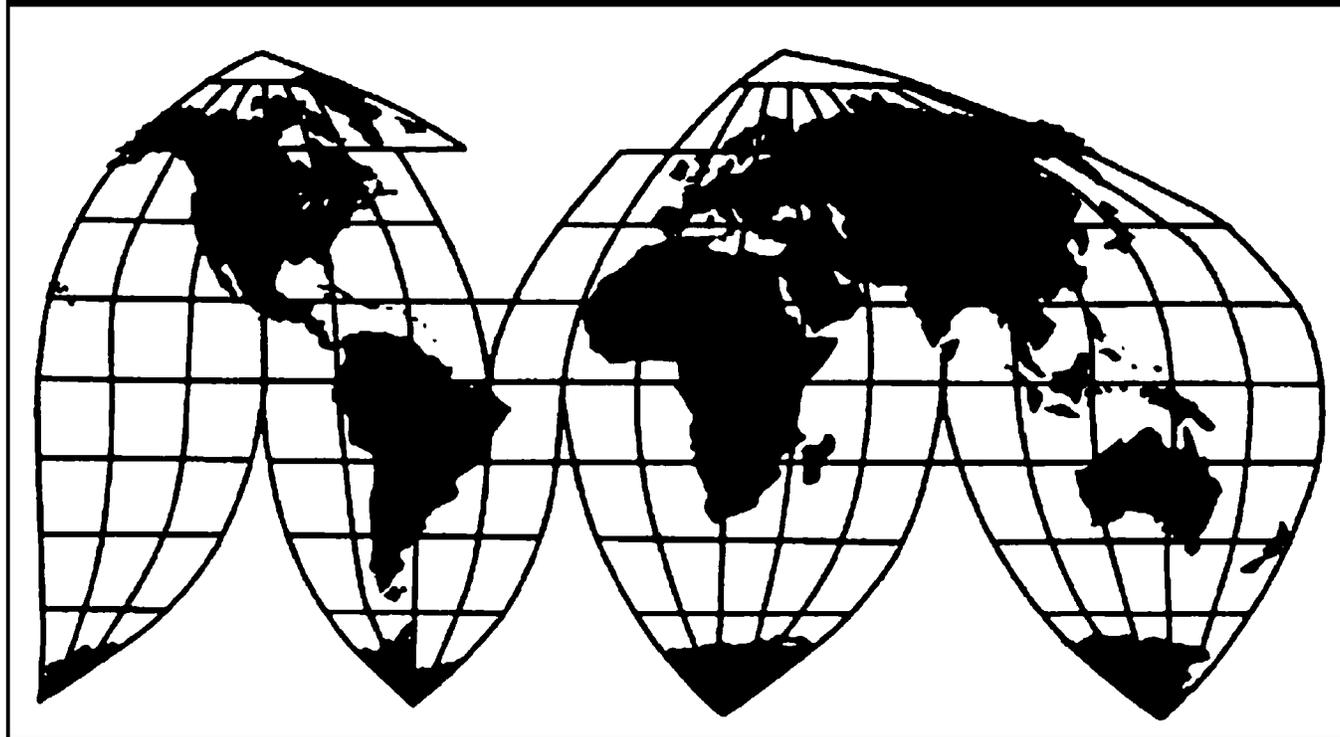
Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam

Investigation Nos. 701-TA-521 and 731-TA-1252-1255 and 1257 (Review)

Publication 5200

May 2021

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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CONTENTS

	Page
Determinations	1
Views of the Commission	3
Information obtained in these reviews	I-1
Background	I-1
Responses to the Commission’s notice of institution.....	I-2
Individual responses	I-2
Party comments on adequacy	I-2
The original investigations	I-2
Previous and related investigations.....	I-4
Commerce’s five-year reviews.....	I-5
The product.....	I-6
Commerce’s scope.....	I-6
U.S. tariff treatment.....	I-8
Description and uses.....	I-10
Manufacturing process	I-11
The industry in the United States	I-14
U.S. producers.....	I-14
Recent developments	I-14
U.S. producers’ trade and financial data	I-15
Definitions of the domestic like product and domestic industry	I-16
U.S. imports and apparent U.S. consumption	I-17
U.S. importers	I-17
U.S. imports	I-17
Apparent U.S. consumption and market shares.....	I-19
Cumulation considerations	I-21
The industry in Korea	I-22
The industry in Malaysia	I-23
The industry in Oman.....	I-25
The industry in Taiwan.....	I-27
The industry in Vietnam.....	I-29
Antidumping or countervailing duty orders in third-country markets.....	I-31
The global market	I-31

Appendixes

A. <i>Federal Register</i> notices	A-1
B. Company-specific data	B-1
C. Summary data compiled in prior proceedings	C-1
D. Purchaser questionnaire responses	D-1

Note: Information that would reveal confidential operations of individual concerns may not be published. Such information is identified by brackets or by headings in confidential reports and is deleted and replaced with asterisks in public reports.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-521 and 731-TA-1252-1255 and 1257 (Review)

Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam

DETERMINATIONS

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the countervailing duty order on steel nails from Vietnam and the antidumping duty orders on steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on June 1, 2020 (85 FR 33195) and determined on September 4, 2020 that it would conduct expedited reviews (86 FR 26545, May 14, 2021).

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

Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the countervailing duty order on steel nails from Vietnam and the antidumping duty orders on steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Background

Original investigations. On May 29, 2014, the Commission received antidumping and countervailing duty petitions filed by Mid Continent Nail Corporation (“Mid Continent Nail”).¹ The Commission made final affirmative determinations on July 6, 2015.² The U.S. Department of Commerce (“Commerce”) published antidumping duty orders on July 13, 2015, and the countervailing duty order on July 14, 2015.³

Current reviews. The Commission instituted these first five-year reviews on June 1, 2020.⁴ Mid Continent Steel & Wire, Inc. (“Mid Continent”), a subsidiary of Mid Continent Nail, filed the sole response to the Commission’s notice of institution.⁵ On September 4, 2020, the Commission determined that the domestic interested party group response to the notice of institution was adequate and that the respondent interested party group responses were inadequate. Finding that no other circumstances warranted conducting full reviews, the

¹ *Certain Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam*, Inv. Nos. 701-TA-521 and 731-TA-1252-1255 and 1257 (Final), USITC Pub. 4541 (July 2015) (“*Original Determinations*”) at 3 and I-1.

² *Original Determinations* at 3; *Certain Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam*, 80 Fed. Reg. 39,800 (July 10, 2015). Chairman Meredith M. Broadbent determined that an industry in the United States was not materially injured or threatened with material injury by reason of the subject imports. *Id.*

³ *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 Fed. Reg. 39,994 (July 13, 2015); *Certain Steel Nails From the Socialist Republic of Vietnam: Countervailing Duty Order*, 80 Fed. Reg. 41,006 (July 14, 2015).

⁴ *Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam; Institution of Five-Year Reviews*, 85 Fed. Reg. 33,195 (June 1, 2020).

⁵ Mid Continent’s Response to the Notice of Institution, EDIS Doc. 713741 (July 1, 2020) (“*Response*”) at 9. Mid Continent also filed comments on whether to expedite these reviews. Mid Continent’s Comments on Adequacy, EDIS Doc. 717222 (Aug. 13, 2020).

Commission determined to conduct expedited reviews of the orders.⁶ Mid Continent also submitted final comments in support of continuation of the orders.⁷

U.S. industry data are based on data that Mid Continent, which estimated that it accounted for half of domestic production of steel nails in 2019, provided in its response to the notice of institution.⁸ U.S. import data and related information are based on Commerce’s official import statistics and proprietary ***.⁹ Foreign industry data and related information are based on information provided by Mid Continent, questionnaire responses from the original investigations, as well as publicly available information gathered by Staff.¹⁰ Three U.S. purchasers of steel nails responded to the Commission’s adequacy phase questionnaire.¹¹

II. Domestic Like Product and Industry

A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the “domestic like product” and the “industry.”¹² The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹³ The Commission’s

⁶ *Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam; Scheduling of Expedited Five-Year Reviews*, 86 Fed. Reg. 26,545 (May 14, 2021). Commissioner David S. Johanson determined that circumstances warranted conducting full reviews due to changes in conditions of competition in the U.S. market after 2019, which would have been possible to examine through full reviews. The Commission’s decision to conduct expedited five-year reviews was made on September 4, 2020. However, Commerce conducted a full review on the antidumping duty order on subject imports from Oman. As a result, the Commission’s statutory deadline to complete its grouped expedited reviews was 120 days after Commerce published its final results regarding the order on Oman. See 19 U.S.C. § 1675(c)(3)(B); *Certain Steel Nails from the Sultanate of Oman: Final Results of the First Five-Year Sunset Review of the Antidumping Duty Order*, 86 Fed. Reg. 7,355 (Jan. 28, 2021).

⁷ Mid Continent’s Final Comments, EDIS Doc. 741806 (May 6, 2021).

⁸ Confidential Report, Memorandum INV-SS-104, EDIS Doc. 718020 (Aug. 24, 2020) (“CR”); *Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam*, Inv. Nos. 701-TA-521 and 731-TA-1252-1255 and 1257 (Review), USITC Pub. 5200 (May 2021) (“PR”) at Table I-1.

⁹ CR/PR at Tables I-5 – I-6.

¹⁰ These include Global Trade Atlas (“GTA”) data, which appear in the record in EDIS Docs. 716541 and 716546 (Aug. 5, 2020). See also generally the data tables in CR/PR at I-21 – I-32.

¹¹ CR/PR at App. D-3.

¹² 19 U.S.C. § 1677(4)(A).

¹³ 19 U.S.C. § 1677(10); see, e.g., *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 2013). (Continued...)

practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.¹⁴

Commerce has defined the imported merchandise within the scope of the orders under review as follows:

The merchandise covered by these investigations is certain steel nails having a nominal shaft length not exceeding 12 inches. Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of these investigations are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25.

If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

(...Continued)

Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁴ See, e.g., *Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

Also excluded from the scope are nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: (1) builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; (2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; (3) swivel seats with variable height adjustment; (4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); (5) seats of cane, osier, bamboo or similar materials; (6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); (7) furniture (other than seats) of wood (with the exception of (i) medical, surgical, dental or veterinary furniture; and (ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or (8) furniture (other than seats) of materials other than wood, metal, or plastics (e.g., furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following HTSUS subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of these investigations are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of these investigations are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of these investigations are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of these investigations are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of these investigations are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

Nails subject to the orders are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Nails subject to the orders also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the orders is dispositive.¹⁵

The steel nails covered by the scope of these reviews are produced from types of steel including low-carbon, stainless, and medium-to-high-carbon. They are packaged either in bulk (loose in a container) or collated (joined into strips for use in pneumatic nailing tools, *i.e.*, nail guns). While most nails are produced from a single piece of steel, some are produced from two or more pieces. The nails covered by the scope are used for various applications, including residential construction such as flooring/roofing, and industrial applications such as pallet manufacturing.¹⁶

Original investigations. In the original investigations, the Commission found that steel nails shared common physical characteristics and uses (as fasteners in construction or commercial use), were produced to the same industry-wide standards, were generally interchangeable within type, size, and finish, were sold primarily to distributors, and shared similar production processes. Accordingly, it defined a single domestic like product coextensive with the scope definition.¹⁷

¹⁵ *Certain Steel Nails from the Republic of Korea, Malaysia, Taiwan, and the Socialist Republic of Vietnam: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders*, 85 Fed. Reg. 63,094 (Oct. 6, 2020) and accompanying Issues and Decision Memorandum (Sep. 29, 2020) at 2-3; *Certain Steel Nails from the Socialist Republic of Vietnam: Final Results of the Expedited First Five-Year Sunset Review of the Countervailing Duty Order*, 85 Fed. Reg. 63,078 (Oct. 6, 2020) and accompanying Issues and Decision Memorandum (Sep. 29, 2020) at 4-6; and *Certain Steel Nails from the Sultanate of Oman: Final Results of the First Five-Year Sunset Review of the Antidumping Duty Order*, 86 Fed. Reg. 7,355 (Jan. 28, 2021) and accompanying Issues and Decision Memorandum (Jan. 22, 2021) at 2-3.

¹⁶ CR/PR at I-10 – I-11. See also *Original Determinations* at 7.

¹⁷ *Original Determinations* at 8.

Current reviews. In these reviews, Mid Continent agrees with the Commission’s domestic like product definition from the original investigations.¹⁸ The record contains no new information suggesting that the characteristics and uses of domestically produced steel nails have changed since the original investigations.¹⁹ Accordingly, we again define the domestic like product as steel nails, coextensive with the description of the scope.

B. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”²⁰ In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

Original investigations. In the original investigations, the Commission found that four domestic producers were subject to the related parties provision as they imported steel nails from certain subject countries during the period of investigation of January 2012 through December 2014 (“POI”). It found that appropriate circumstances did not exist to exclude any of these producers from the domestic industry. The Commission also found that *** was a related party as it was owned by an affiliate of an importer of subject merchandise. It found that appropriate circumstances existed to exclude *** from the domestic industry, as its interests were primarily and increasingly in importation of subject imports rather than in domestic production. The Commission therefore defined the domestic industry as consisting of all U.S. producers of the domestic like product, with the exception of ***.²¹

¹⁸ Response at 6.

¹⁹ See generally CR/PR at I-10 – I-13.

²⁰ 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

²¹ *Confidential Original Determinations* EDIS Doc. 716446 (July 6, 2015) at 10-15. See also *Original Determinations* at 8-11. Commissioners in the majority were evenly divided on whether to exclude *** under the related parties provision. Accordingly, the Commission’s examination of impact relied on two domestic industry datasets, one inclusive and the other exclusive of *** data. *Confidential Original Determinations* at 42.

Current reviews. In these reviews, Mid Continent agrees with the Commission’s domestic industry definition from the original investigations.²²

The record in these reviews indicates that Mid Continent is subject to the related parties provision because it is related to an importer of subject merchandise, ***, through common ownership.²³ Mid Continent estimated that it accounted for half of domestic production of steel nails during 2019 and supports continuation of the orders.²⁴ Mid Continent did not import or purchase subject imports of steel nails during the period of review of January 2015 through December 2019 (“POR”).²⁵ Moreover, there is nothing in the record indicating that Mid Continent’s affiliation with *** has caused it to behave differently from other domestic producers or that suggests its primary interest does not continue to be in domestic production. Based on the available facts on the record, we find that appropriate circumstances do not exist to exclude Mid Continent under the related parties provision of the statute.

In light of the foregoing, we define the domestic industry as consisting of all domestic producers of the domestic like product.

III. Cumulation

A. Legal Standard

With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows:

*the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.*²⁶

²² Response at 6.

²³ CR/PR at I-17. Mid Continent is the only domestic firm that provided information to the Commission for these five-year reviews. *Id.*, at I-14. The record of these reviews does not provide any information on imports of steel nails by *** during the period of review.

²⁴ Response, Exh. 1, at 1-2.

²⁵ Mid Continent’s Supplemental Response to the Notice of Institution, EDIS Doc. 714322 (July 10, 2020) at 3.

²⁶ 19 U.S.C. § 1675a(a)(7).

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.²⁷ The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

B. The Prior Proceedings and Arguments of the Party

In the original investigations, the Commission found a reasonable overlap of competition among subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam, and between imports from each subject country and the domestic like product.²⁸ Accordingly, the Commission cumulated subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam for purposes of its material injury analysis.²⁹

Mid Continent did not address cumulation in these reviews.

C. Analysis

In these reviews, the statutory threshold for cumulation is satisfied because all reviews were initiated on the same day: June 1, 2020.³⁰ In addition, we consider the following issues in deciding whether to exercise our discretion to cumulate the subject imports: (1) whether imports from any of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among subject imports and the domestic like

²⁷ 19 U.S.C. § 1677(7)(G)(i); *see also, e.g., Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

²⁸ *Original Determinations* at 12-13. The parties did not dispute the appropriateness of cumulation. *Original Determinations* at 12 n.57.

²⁹ *Original Determinations* at 13.

³⁰ *Initiation of Five-Year (Sunset) Reviews*, 85 Fed. Reg. 33,088 (June 1, 2020).

product; and (3) whether subject imports are likely to compete in the U.S. market under different conditions of competition.

1. Likelihood of No Discernible Adverse Impact

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.³¹ Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.³² With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked. Our analysis for each of the subject countries takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

Based on the record in these reviews, we find that imports from each subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation of the corresponding order(s).

Korea. In the original investigations, the volume of subject imports from Korea declined from *** short tons in 2012 to *** short tons in 2013 and increased to *** short tons in 2014.³³

In these reviews, subject import volume from Korea was *** short tons in 2015, *** short tons in 2016, *** short tons in 2017, *** short tons in 2018, and *** short tons in 2019.³⁴ The record shows that subject imports from Korea maintained a substantial presence in the U.S. market during the POR; in 2019, subject imports from Korea accounted for *** percent of apparent U.S. consumption by quantity.³⁵

In these expedited reviews, the record is limited concerning the steel nails industry in Korea. Mid Continent provided information concerning 13 possible producers of steel nails in Korea.³⁶ Publicly available export data show that Korea was a relatively large exporter of products classified under HS subheading 7317.00 – under which the vast majority of subject

³¹ 19 U.S.C. § 1675a(a)(7).

³² SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

³³ CR/PR at Table I-6.

³⁴ CR/PR at Table I-5.

³⁵ CR/PR at Tables I-5 – I-6.

³⁶ CR/PR at I-22.

merchandise are classified – although its exports declined overall, from 56,882 short tons in 2015 to 49,642 short tons in 2019. These data also indicate that the United States was Korea’s largest export market for this product category during the POR.³⁷

Based on the foregoing, particularly information available in the record regarding the Korean industry’s significant exports of subject merchandise to the United States despite the antidumping duty order and the significance of the United States as an export market for the product category including steel nails, we find that subject imports from Korea would not likely have no discernible adverse impact on the domestic industry if the order concerning these imports were revoked.

Malaysia. In the original investigations, the volume of subject imports from Malaysia increased from 31,941 short tons in 2012 to 33,451 short tons in 2013 and 35,656 short tons in 2014.³⁸

In these reviews, subject import volume from Malaysia was 40,151 short tons in 2015, 48,561 short tons in 2016, 42,419 short tons in 2017, 45,187 short tons in 2018, and 42,166 short tons in 2019.³⁹ The record shows that subject imports from Malaysia increased their presence in the U.S. market during the POR; in 2019, subject imports from Malaysia accounted for *** percent of apparent U.S. consumption by quantity, compared to 5.3 percent during 2014 (the last full year of the POI).⁴⁰

In these expedited reviews, the record concerning the steel nails industry in Malaysia is limited. Mid Continent provided information concerning four possible producers of steel nails in Malaysia.⁴¹ Publicly available export data show that Malaysia was a relatively large exporter of products classified under HS subheading 7317.00, ranging from a low of 54,663 short tons in 2015 to a high of 72,061 short tons in 2018.⁴² These data also indicate that the United States was Malaysia’s largest export market for this product category during the POR.⁴³

³⁷ CR/PR at Table I-7 shows that exports from Korea to the United States of this product category – HS subheading 7317.00, which includes both in-scope steel nails and out-of-scope products – were significantly higher by quantity than exports from Korea to any other market in each year of the POR.

³⁸ CR/PR at Table I-6.

³⁹ CR/PR at Table I-5.

⁴⁰ CR/PR at Tables I-5 – I-6.

⁴¹ CR/PR at I-23.

⁴² CR/PR at Table I-8. In 2019, Malaysia exported 56,980 short tons of the product category including steel nails. *Id.*

⁴³ CR/PR at Table I-8 shows that exports from Malaysia to the United States of this product category – HS subheading 7317.00, which includes both in-scope steel nails and out-of-scope products – (Continued...)

Based on the foregoing, particularly information available in the record regarding the Malaysian industry's significant exports of subject merchandise to the United States despite the antidumping duty order and the significance of the United States as an export market for the category including steel nails, we find that subject imports from Malaysia would not likely have no discernible adverse impact on the domestic industry if the order concerning these imports were revoked.

Oman. In the original investigations, the volume of subject imports from Oman increased from 7,445 short tons in 2012 to 38,887 short tons in 2013 and 48,296 short tons in 2014.⁴⁴

In these reviews, subject import volume from Oman was 52,742 short tons in 2015, 48,537 short tons in 2016, 47,196 short tons in 2017, 68,520 short tons in 2018, and 76,040 short tons in 2019.⁴⁵ The record shows that subject imports from Oman fluctuated but increased their presence in the U.S. market overall during the POR; in 2019, subject imports from Oman accounted for *** percent of apparent U.S. consumption by quantity, compared to 7.2 percent in 2014.⁴⁶

In these expedited reviews, the record is limited concerning the steel nails industry in Oman. Mid Continent provided information concerning a possible producer of steel nails in Oman.⁴⁷ Publicly available export data show that Oman was the world's second largest exporter of products classified under HS subheading 7317.00 in 2019.⁴⁸ During the POR, its exports increased overall, from 69,124 short tons in 2015 to 86,988 short tons in 2018.⁴⁹ These data also indicate that the United States was Oman's largest export market for this product category from 2015 to 2018.⁵⁰

(...Continued)

were significantly higher by quantity than exports from Malaysia to any other market in each year of the POR.

⁴⁴ CR/PR at Table I-6.

⁴⁵ CR/PR at Table I-5.

⁴⁶ CR/PR at Tables I-5 – I-6.

⁴⁷ CR/PR at I-25.

⁴⁸ CR/PR at Table I-12.

⁴⁹ CR/PR at Table I-9. Data for 2019 was not available. *Id.*, at Note. Due to the unavailability of reported Oman export figures for 2019, total Oman export figures reported in Table I-12 differ from those reported in Table I-9 as they reflect GTA mirror import data. *Id.*, at I-31.

⁵⁰ CR/PR at Table I-9. Exports from Oman to the United States of this product category – HS subheading 7317.00, which includes both in-scope steel nails and out-of-scope products – were significantly higher by quantity than exports from Oman to any other market in each year for which data are available during the POR. *Id.*, at Table I-9.

Based on the foregoing, particularly information available in the record regarding the Omani industry's significant exports of subject merchandise to the United States despite the antidumping duty order and the significance of the United States as an export market for the product category including steel nails, we find that subject imports from Oman would not likely have no discernible adverse impact on the domestic industry if the order concerning these imports were revoked.

Taiwan. In the original investigations, the volume of subject imports from Taiwan declined from *** short tons in 2012 to *** short tons in 2013 and increased to *** short tons in 2014.⁵¹

In these reviews, subject import volume from Taiwan was *** short tons in 2015, *** short tons in 2016, *** short tons in 2017, *** short tons in 2018, and *** short tons in 2019.⁵² The record shows that subject imports from Taiwan maintained a substantial presence in the U.S. market during the POR; in 2019, subject imports from Taiwan accounted for *** percent of apparent U.S. consumption by quantity.⁵³

In these expedited reviews, the record concerning the steel nails industry in Taiwan is limited. Mid Continent provided information concerning 22 possible producers of steel nails in Taiwan.⁵⁴ Publicly available export data show that Taiwan was the world's second largest exporter of products classified under HS subheading 7317.00 from 2015 to 2018; during the POR, its exports declined overall, from 105,773 short tons in 2015 to 66,948 short tons in 2019.⁵⁵ These data also show that the United States was Taiwan's largest market for this product category during the POR.⁵⁶

Based on the foregoing, particularly information available in the record regarding the Taiwanese industry's significant exports of subject merchandise to the United States despite the antidumping duty order, and the significance of the United States as an export market for the product category including steel nails, we find that subject imports from Taiwan would not

⁵¹ CR/PR at Table I-6.

⁵² CR/PR at Table I-5.

⁵³ CR/PR at Tables I-5 – I-6.

⁵⁴ CR/PR at I-27.

⁵⁵ CR/PR at Tables I-10, I-12.

⁵⁶ CR/PR at Table I-10 shows that exports from Taiwan to the United States of this product category – HS subheading 7317.00, which includes both in-scope steel nails and out-of-scope products – were significantly higher by quantity than exports from Taiwan to any other market in each year of the POR.

likely have no discernible adverse impact on the domestic industry if the order concerning these imports were revoked.

Vietnam. In the original investigations, the volume of subject imports from Vietnam increased from 28,904 short tons in 2012 to 43,875 short tons in 2013 and 47,718 short tons in 2014.⁵⁷

In these reviews, subject import volume from Vietnam was 641 short tons in 2015, 183 short tons in 2016, 4,023 short tons in 2017, 5,251 short tons in 2018, and 9,888 short tons in 2019.⁵⁸ The record thus shows that the volume of subject imports from Vietnam declined considerably following issuance of the antidumping and countervailing duty orders, although it increased towards the end of the POR; in 2019, subject imports from Vietnam accounted for *** percent of apparent U.S. consumption by quantity.⁵⁹

In these expedited reviews, the record is limited concerning the steel nails industry in Vietnam. Mid Continent provided information concerning three possible producers of steel nails in Vietnam.⁶⁰ The record also shows that Vietnam exported a small quantity of products classified under HS subheading 7317.00 during the POR relative to other subject countries and major reporting exporters.⁶¹ These data show that the United States was Vietnam's largest market for this product category from 2016 to 2018.⁶²

Based on the foregoing, and particularly information available in the record regarding Vietnam's continued and increasing exports of subject merchandise to the United States despite the antidumping duty order and the significance of the United States as an export market for the product category including steel nails, we find that subject imports from Vietnam would not likely have no discernible adverse impact on the domestic industry if the orders concerning these imports were revoked.

⁵⁷ CR/PR at Table I-6.

⁵⁸ CR/PR at Table I-5.

⁵⁹ CR/PR at Tables I-5 – I-6.

⁶⁰ CR/PR at I-29.

⁶¹ CR/PR at Tables I-11 – I-12. Due to the unavailability of reported Vietnamese export figures for 2019, total Vietnamese export figures reported in Table I-12 differ from those reported in Table I-9 as they reflect GTA mirror import data. *Id.*, at I-31. As previously stated, the pertinent product category, HS subheading 7317.00, includes both in-scope steel nails and out-of-scope products. *Id.* at Table I-11.

⁶² CR/PR at Table I-11 shows that annual exports from Vietnam to the United States of this product category – HS subheading 7317.00, which includes both in-scope steel nails and out-of-scope products – were significantly higher by quantity than exports from Vietnam to any other market in each year of the POR for which data were available.

2. Likelihood of a Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.⁶³ Only a “reasonable overlap” of competition is required.⁶⁴ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.⁶⁵

Fungibility. In the original investigations, the Commission found that subject imports from all five subject countries were fungible with both the domestic like product and with each other. This finding relied on market participants’ reports that steel nails from the various sources were interchangeable and competed against each other in a broad range of nail categories.⁶⁶

There is no new information in these current reviews to indicate that the interchangeability of steel nails from various sources has changed from the original investigations.

Channels of Distribution. In the original investigations, the Commission found an overlap in the channels of distribution for subject imports from all five countries and the domestic like product, as most steel nails were shipped to distributors.⁶⁷

⁶³ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. *See, e.g., Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁶⁴ *See Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); *Wieland Werke*, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. *See, e.g., Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-13 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff’d sub nom., Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int’l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

⁶⁵ *See generally, Cheflin Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int’l Trade 2002).

⁶⁶ *Original Determinations* at 12-13.

⁶⁷ *Original Determinations* at 13.

There is no new information in these current reviews to indicate that the channels of distribution have changed or are likely to change upon revocation.

Geographic Overlap. In the original investigations, the Commission found that the domestic like product and imports from each subject country were sold nationwide.⁶⁸

The record in these current reviews indicates that subject imports from Korea, Malaysia, Oman, and Taiwan entered the U.S. market through the northern, southern, eastern, and western borders of entry during the POR. Subject imports from Vietnam entered through the southern, eastern, and western borders of entry during 2015, and the northern, southern, eastern, and western borders between 2016 and 2019.⁶⁹ The record in these reviews thus shows that subject imports continue to overlap in the same geographic markets with domestically produced steel nails.

Simultaneous Presence in Market. In the original investigations, the Commission found that subject imports from all sources were simultaneously present in the U.S. market throughout the POI.⁷⁰

In these current reviews, the record indicates that subject imports from Korea, Malaysia, Oman, and Taiwan were reported in all 60 months of the POR, whereas subject imports from Vietnam were reported in 47 months.⁷¹ The record in these reviews thus shows that subject imports from all sources continue to be simultaneously present in the U.S. market.

Conclusion. The record in these expedited reviews contains limited information concerning subject imports in the U.S. market during the POR. The record, however, contains no information suggesting a change in the considerations that led the Commission in the original investigations to conclude that there was a reasonable overlap of competition between and among imports from the different subject sources and the domestic like product, and the available record information continues to support that all products are fungible, are sold through the same channels of distribution, compete in the same geographic markets, and were simultaneously present in the U.S. market. In light of this and the absence of any contrary argument, we find a likely reasonable overlap of competition between and among the domestic like product and subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam.

⁶⁸ *Original Determinations* at 13.

⁶⁹ CR/PR at I-21.

⁷⁰ *Original Determinations* at 13.

⁷¹ CR/PR at I-21.

3. Likely Conditions of Competition

In determining whether to exercise our discretion to cumulate the subject imports, we assess whether imports of steel nails from the subject countries would likely compete under similar or different conditions in the U.S. market if the orders under review were revoked.

The record of the original investigations, U.S. import data, and publicly available data, which constitute the available information for these current expedited first reviews concerning the subject industries, show that the industries in all five countries have some degree of export orientation and participated in the U.S. market prior to and following issuance of the orders. The record in these current reviews does not indicate that there would likely be any significant difference in the conditions of competition between subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam if the orders were revoked.

4. Conclusion

Based on the record, we find that subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam would not be likely to have no discernible adverse impact on the domestic industry if the corresponding orders were revoked. We also find a likely reasonable overlap of competition among subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam and between imports from each subject country and the domestic like product. Finally, we find that imports from each of the subject countries are likely to compete in the U.S. market under similar conditions of competition should the orders be revoked. We therefore exercise our discretion to cumulate subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam for our analysis of whether material injury to the domestic industry is likely to continue or recur if the orders were to be revoked.

IV. Revocation of the Antidumping and Countervailing Duty Orders Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁷² The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”⁷³ Thus, the likelihood standard is prospective in nature.⁷⁴ The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.⁷⁵

⁷² 19 U.S.C. § 1675a(a).

⁷³ SAA at 883-84. The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

⁷⁴ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

⁷⁵ See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”⁷⁶ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”⁷⁷

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”⁷⁸ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).⁷⁹ The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.⁸⁰

⁷⁶ 19 U.S.C. § 1675a(a)(5).

⁷⁷ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

⁷⁸ 19 U.S.C. § 1675a(a)(1).

⁷⁹ 19 U.S.C. § 1675a(a)(1). In its second administrative review of the antidumping duty order on steel nails from Oman, Commerce determined that duty absorption existed on all of the U.S. sales of the collapsed entity Overseas International Steel Industry LLC/Overseas Distribution Services Inc. *Certain Steel Nails from the Sultanate of Oman: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016-2017*, 83 Fed. Reg. 22,246 (May 14, 2018) and accompanying Preliminary Decision Memorandum at 18 (unchanged in the final results). In its second administrative review of the antidumping duty order on steel nails from Taiwan, Commerce determined that antidumping duties were being absorbed on Unicatch Industrial Co. Ltd.’s U.S. sales of the subject merchandise through its affiliated importer. *Certain Steel Nails from Taiwan: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review; 2016-2017*, 84 Fed. Reg. 11,506 (Mar. 27, 2019) and accompanying Issues and Decision Memorandum at 5.

⁸⁰ 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁸¹ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁸²

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.⁸³

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁸⁴ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to

⁸¹ 19 U.S.C. § 1675a(a)(2).

⁸² 19 U.S.C. § 1675a(a)(2)(A-D).

⁸³ See 19 U.S.C. § 1675a(a)(3). The SAA states that “{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

⁸⁴ 19 U.S.C. § 1675a(a)(4).

which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.⁸⁵

No respondent interested party participated in these expedited reviews.⁸⁶ The record, therefore, contains limited new information with respect to the steel nail industries in Korea, Malaysia, Oman, Taiwan, and Vietnam. There also is limited information on the steel nail market in the United States during the POR. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigations and the limited new information on the record in these reviews.

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁸⁷ The following conditions of competition inform our determinations.

1. Demand Conditions

In the original investigations, the Commission found that demand for steel nails is driven primarily by residential and non-residential construction activities. It also found that apparent U.S. consumption of steel nails increased from 584,957 short tons in 2012 to 633,415 short tons in 2013 and 674,510 short tons in 2014.⁸⁸

The record in these reviews indicates that demand for steel nails continues to be driven by construction activities.⁸⁹ Mid Continent asserts that construction and housing starts increased from 2015 to 2019.⁹⁰ In these reviews, apparent U.S. consumption of steel nails was *** short tons in 2019.⁹¹

⁸⁵ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

⁸⁶ CR/PR at I-2.

⁸⁷ 19 U.S.C. § 1675a(a)(4).

⁸⁸ *Original Determinations* at 18.

⁸⁹ Response at 26-28.

⁹⁰ Response at 27-28.

⁹¹ CR/PR at Table I-6.

2. Supply Conditions

In the original investigations, the Commission found that nonsubject imports accounted for the largest share of the U.S. steel nails market by quantity, followed by subject imports, and then by domestic producers. It found that domestic capacity utilization was flat, and observed that the composition of the domestic industry changed throughout the POI, as some firms ceased operations whereas others began production.⁹²

The record in these reviews indicates that nonsubject imports continued to account for the largest share – *** percent - of the U.S. steel nails market by quantity in 2019, followed by cumulated subject imports, with a *** percent share of apparent U.S. consumption, and the domestic industry, with a share of *** percent.⁹³ China, Turkey, India, and Canada were the largest nonsubject sources of steel nails during the POR.⁹⁴ Steel nails from China and the United Arab Emirates are currently subject to antidumping duty orders.⁹⁵

The record in these reviews indicates that the U.S. steel nails market experienced shortages and extended lead times towards the end of the POR.⁹⁶

⁹² *Original Determinations* at 18-19.

⁹³ CR/PR at Table I-6.

⁹⁴ CR/PR at Table I-5.

⁹⁵ CR/PR at I-31 and Table I-2. HTS subheadings 7317.00.55, 7317.00.65, and 7317.00.75 were also included in the Office of the United States Trade Representative's ("USTR's") third enumeration ("Tranche 3" or "List 3") of provisions covering goods produced in China that became subject to the additional 10 percent *ad valorem* duties as of September 24, 2018 under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. § 2411) ("section 301"). *Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 47,974 (Sep. 24, 2018). These duties were twice escalated in 2019, from 10 percent to 25 percent for steel nails produced in China after May 10, 2019 that entered the United States after June 1, 2019, and from 25 percent to 30 percent for steel nails from China entering the United States after October 1, 2019. *Implementing Modification to Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 21,892 (May 15, 2019); *Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 46,212 (Sep. 3, 2019).

⁹⁶ CR/PR at D-3 – D-4. *See also* Response at 30-31 (arguing that Mid Continent was unable to take advantage of a "supply gap" in the market caused by section 301 tariffs on Chinese steel nails).

3. Substitutability and Other Conditions

In the original investigations, the Commission found that steel nails were comparable between subject and domestic sources in terms of product range, such that there was a moderate-to-high degree of substitutability between the domestic like product and subject imports, particularly when produced to the same specifications. It found that most purchasers reported that price was one of the most important factors in their purchasing decisions, along with quality and availability, whereas the record was mixed regarding the importance of private labelling and brand availability. It also found that wire rod is the main raw material used to produce steel nails. Finally, it found that steel nail distributors sometimes provided additional services to their customers.⁹⁷

The record in these reviews indicates that the substitutability between the domestic like product and subject imports and the importance of price have not changed since the prior proceedings.⁹⁸ Accordingly, we again find that the domestic like product and subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam are moderately-to-highly substitutable, and that price is an important factor in purchasing decisions.

Steel nails classifiable under HTS statistical reporting numbers 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5560, 7317.00.5580, and 7317.00.6560 from all subject countries except Korea became subject to additional 25 percent *ad valorem* duties pursuant to Section 232 of the Trade Expansion Act of 1962⁹⁹ (“section 232 tariffs”), as of February 8, 2020.¹⁰⁰ Imports of steel nails described by these six HTS statistical reporting numbers originating in Korea are exempted from any duties or quota limits.¹⁰¹ Imports of wire rod, the

⁹⁷ *Original Determinations* at 19-22.

⁹⁸ Response at 12, 41, 43.

⁹⁹ 19 U.S.C § 1862.

¹⁰⁰ CR/PR at I-9.

¹⁰¹ CR/PR at I-9. We note that the Presidential Proclamation promulgating exemptions for Korea and certain other countries explicitly directs the Secretary of Commerce to monitor exempted imports. In the event of a surge of imports, the Proclamation directs the Secretary, with the concurrence of the United States Trade Representative, to reissue tariffs or quotas, as appropriate. *Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles into the United States*, 85 Fed. Reg. 5,281, 5,283 (Jan. 29, 2020).

principal raw material input for production of steel nails, are also subject to section 232 tariffs.¹⁰²

C. Likely Volume of Subject Imports

1. The Prior Proceedings

In the original investigations, the quantity of cumulated subject imports increased during the POI, from *** short tons in 2012 to *** short tons in 2013 and *** short tons in 2014. During this period, subject imports' market share rose from *** percent in 2012 to *** percent in 2013 and *** percent in 2014. The ratio of subject import volume to domestic production also was high and increased throughout the POI. The Commission found that the volume and increase in market penetration of cumulated subject imports were significant both in absolute terms and relative to apparent U.S. consumption and production.¹⁰³

2. The Current Reviews

We find that cumulated subject import volume would likely be significant in the event of revocation of the orders. Cumulated subject imports maintained a continuous and substantial presence in the U.S. market throughout the POR, even under the disciplining effect of the orders. Indeed, the record indicates that cumulated subject imports entered the United States in certain years of the POR at levels that exceeded those observed during the first two years of the original investigations: subject imports totaled *** short tons in 2015, *** short tons in 2016, *** short tons in 2017, *** short tons in 2018, and *** short tons in 2019.¹⁰⁴ Cumulated subject imports' market share by quantity was *** percent in 2019, slightly *** the levels observed during the original investigations.¹⁰⁵

¹⁰² CR/PR at I-9 n.23. Mid Continent argues that the section 232 tariffs on wire rod caused the cost of wire rod to increase in June 2018 before declining in June/July 2019 after tariff and quota exemptions were granted to Canada and Mexico. Response at 31-33.

¹⁰³ *Confidential Original Determinations* at 32-34. See also *Original Determinations* at 22-23.

¹⁰⁴ CR/PR at Table I-5. Cumulated subject imports totaled *** short tons in 2012, the first year of the POI. CR/PR at Table I-6.

¹⁰⁵ CR/PR at Table I-6.

Several factors support the conclusion that subject producers have the ability and incentive to export to the United States at significant levels within a reasonably foreseeable time if the orders were revoked.¹⁰⁶

Further, subject producers have the ability to increase exports to the United States. The information available indicates that capacity in the subject countries continues to be substantial,¹⁰⁷ and there is no new information in the record of the current reviews that would indicate that subject industries' production capacity or excess capacity has declined from the POI.¹⁰⁸

Publicly available export data indicate that the subject industries, viewed collectively, are substantial exporters of products classified under HS subheading 7317.00.¹⁰⁹ Cumulated global exports from the five subject countries of products classified under this subheading ranged from a low of 268,007 short tons (in 2019) and a high of 310,149 short tons (in 2018) during the POR.¹¹⁰ Furthermore, the United States remains a significant export market for subject producers. The available export data show that the United States was the largest export market for all of the subject industries.^{111 112}

On these bases, we find that the likely volume of subject imports would be significant in absolute terms and relative to consumption in the United States if the orders were revoked.

¹⁰⁶ As noted below, the available export data show that the United States was the largest export market for all of the subject industries.

¹⁰⁷ Response at 37, Exh. 3.

¹⁰⁸ See *Original Determinations* at Tables VII-2 – VII-7.

¹⁰⁹ As previously stated, this category, HTSUS subheading 7317.00, includes both subject and out-of-scope merchandise.

¹¹⁰ *Derived from* CR/PR at Table I-12. As previously stated, Omani and Vietnamese export figures in this data table reflect GTA mirror import data.

¹¹¹ CR/PR at Tables I-7 – I-11.

¹¹² On this record, we find that section 232 tariffs are not likely to appreciably impede increased volumes of cumulated subject imports upon revocation of the orders, and that the U.S. market is sufficiently attractive to encourage subject producers to export significant quantities of steel nails in the absence of the orders notwithstanding section 232 tariffs.

D. Likely Price Effects

1. The Prior Proceedings

In the original investigations, the Commission found that price was an important factor in purchasing decisions and that there was a moderate-to-high degree of substitutability between the domestic like product and subject imports. It used two alternative datasets in its pricing analysis. The dataset that included data from ***, a distributor that provided additional services to its customers, indicated mixed underselling and overselling by the subject imports. The dataset that excluded *** showed considerably more underselling. The Commission, considering all the pricing data on the record, found the underselling by the subject imports to be significant. It also noted that prices declined during the POI. The Commission found that these price declines occurred as increasing volumes of low-priced subject imports, which were good substitutes for the domestic like product, entered the U.S. market. It concluded that the cumulated subject imports had significant price-depressing effects.¹¹³

2. The Current Reviews

As stated above, in the absence of any evidence in these reviews that would indicate otherwise, we continue to find that the domestic like product and subject imports are moderately-to-highly substitutable and that price is an important factor in purchasing decisions. The record in these reviews does not contain new pricing data. As we have found above, cumulated subject import volumes would likely be significant upon revocation of the orders.

We find that these subject imports would likely engage in significant underselling of the domestic like product, as they did during the original investigations. Because price is important to purchasing decisions and the domestic like product and subject imports are moderately-to-highly substitutable, the presence of significant quantities of subject imports that would likely undersell the domestic like product would likely force the domestic industry to lower prices and/or forego price increases, or risk losing market share. In light of these considerations, we conclude that cumulated subject imports would likely have significant price effects upon revocation of the orders.

¹¹³ *Confidential Original Determinations* at 34-40. See also *Original Determinations* at 24-27.

E. Likely Impact

1. The Prior Proceedings

In the original investigations, the Commission found that the cumulated subject imports gained market share at the domestic industry's expense.¹¹⁴ Notwithstanding that the industry was able to maintain and increase production during a period of increased demand, the significant volumes of cumulated subject imports caused significant price depression. As a result, the industry's revenues did not increase commensurately with output, leading to a deterioration in the industry's employment and financial performance indicators. In considering alternative explanations for these trends, the Commission found that nonsubject imports were generally higher priced than subject imports and the domestic like product. It also found that the record did not support respondents' arguments that the industry was unable to produce a broad range of steel nails or offer steel nails for private label accounts, or that domestic producers' own increased imports and purchases of nails from affiliates in nonsubject countries suppressed the industry's performance. Thus, it concluded that subject imports were having a significant impact on the industry, based on their significant volume and price effects.¹¹⁵

2. The Current Reviews

In these expedited reviews, the limited information available on the domestic industry's condition indicates that, in 2019, the domestic industry's production capacity was *** short tons, its production was *** short tons, and its capacity utilization rate was *** percent.¹¹⁶ The industry's domestic shipments were *** short tons.¹¹⁷ Its net sales revenue was \$***, and its operating income was \$***, with an operating income margin of *** percent.¹¹⁸ The limited evidence in these reviews is insufficient for us to make a finding on whether the domestic

¹¹⁴ As previously stated, the Commissioners were equally divided on the question of whether to exclude domestic producer *** under the statute's related party provision, and discussed the industry's performance indicia alternately with *** excluded and with *** included. The Commission indicated that the same reasoning applied equally under either set of data. *Confidential Original Determinations* at 42. *See also Original Determinations* at 29.

¹¹⁵ *Original Determinations* at 28-33.

¹¹⁶ CR/PR at Table I-4.

¹¹⁷ CR/PR at Table I-4.

¹¹⁸ CR/PR at Table I-4.

industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the orders.

Based on the information available in these reviews, we find that revocation of the orders would likely lead to significant volumes of cumulated subject imports and that these imports would likely undersell the domestic like product to a significant degree, resulting in significant depression or suppression of prices for the domestic like product and/or a loss of market share for the domestic industry. We find that the likely loss of market share to subject imports and/or likely price suppression or depression caused by subject imports would likely adversely impact the domestic industry's production, shipments, sales, and revenue. These reductions would likely have a direct adverse impact on the domestic industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we find that subject imports would likely have a significant adverse impact on the domestic industry if the orders were revoked.

We have also considered the role of factors other than subject imports, including demand changes and the presence of nonsubject imports, so as not to attribute likely injury from other factors to the subject imports. Information on the record indicates that demand increased during the POR.¹¹⁹ Although demand may continue to increase moderately in the reasonably foreseeable future, we do not find it likely that any modest increase in demand would offset the likely impact of the subject imports if the orders were revoked, given the size and export orientation of the subject industries, and their history of underselling domestic producers' prices in the U.S. market.

We acknowledge that nonsubject imports have increased since the original investigations and, at times, entered the U.S. market at unit values comparable to those of subject imports.¹²⁰ However, there is no indication or argument on this record that the presence of nonsubject imports would prevent subject imports from Korea, Malaysia, Oman, Taiwan, and Vietnam from significantly increasing their presence in the U.S. market in the event of revocation of the orders. Given the moderate-to-high degree of substitutability between the subject imports and the domestic like product, and the importance of price in the U.S. market, the likely increase in subject imports upon revocation would likely undersell the domestic product and take appreciable market share from both the domestic industry and nonsubject sources. Therefore, the subject imports are likely to have adverse effects on the domestic

¹¹⁹ Response at 27-28.

¹²⁰ CR/PR at Tables I-5 – I-6.

industry, distinct from any adverse effects nonsubject imports may have on the domestic industry, in the event of revocation.

Accordingly, we find that revocation of the orders on steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam would likely have a significant impact on domestic producers of steel nails within a reasonably foreseeable time.

V. Conclusion

For the reasons above, we determine that revocation of the countervailing duty order on steel nails from Vietnam and the antidumping duty orders on steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Information obtained in these reviews

Background

On June 1, 2020, the U.S. International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ that it had instituted reviews to determine whether revocation of the countervailing duty order on steel nails from Vietnam and revocation of the antidumping duty orders on steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam would be likely to lead to continuation or recurrence of material injury.² All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.³ ⁴ The following tabulation presents information relating to the background and schedule of this proceeding:

Effective date	Action
June 1, 2020	Notice of initiation by Commerce (85 FR 33088, June 1, 2020)
June 1, 2020	Notice of institution by Commission (85 FR 33195, June 1, 2020)
September 4, 2020	Commission’s vote on adequacy
October 6, 2020	Commerce’s results of its expedited reviews on Korea (AD), Malaysia (AD), Taiwan (AD), and Vietnam (AD and CVD)
January 28, 2021	Commerce’s results of its full review on Oman (AD) ⁵
May 28, 2021	Commission’s determinations and views ⁶

¹ 19 U.S.C. 1675(c).

² 85 FR 33195, June 1, 2020. In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping and countervailing duty orders. 85 FR 33088, June 1, 2020. Pertinent Federal Register notices are referenced in app. A, and may be found at the Commission’s website (www.usitc.gov).

³ As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in app. B. Summary data compiled in the original investigations are presented in app. C.

⁴ Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the subject merchandise. Presented in app. D are the responses received from purchaser surveys transmitted to the purchasers identified in this proceeding.

⁵ 86 FR 7355, January 28, 2021.

⁶ If the Commission determines that expedited reviews are extraordinarily complicated, it may exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Responses to the Commission’s notice of institution

Individual responses

The Commission received one submission in response to its notice of institution in the subject reviews. It was filed on behalf of Mid Continent Steel & Wire, Inc. (“Mid Continent”), a domestic producer of steel nails (referred to herein as the “domestic interested party”).

A complete response to the Commission’s notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses. A summary of the number of responses and an estimate of coverage is shown in table I-1.

Table I-1

Steel nails: Summary of responses to the Commission’s notice of institution

Type of interested party	Completed responses	
	Number of firms	Coverage
Domestic:		
U.S. producer	1	50.0%

Note: The U.S. producer coverage figure presented is the domestic interested party’s estimate of its share of total U.S. production of steel nails during 2019. Domestic interested party’s response to the notice of institution, July 1, 2020, exh. 1, p. 2.

Party comments on adequacy

The Commission received a party comment on the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews from Mid Continent. Mid Continent requests that the Commission conduct expedited reviews of the antidumping and countervailing duty orders on steel nails.⁷

The original investigations

The original investigations resulted from petitions filed on May 29, 2014 with Commerce and the Commission by Mid Continent Nail Corporation, Poplar Bluff, Missouri.⁸ On May 20,

⁷ Domestic interested party’s comments on adequacy, August 13, 2020, p. 2.

⁸ In the original investigations, the petitioner alleged that an industry in the United States was materially injured and threatened with material injury by reason of subsidized and less than fair value imports of steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam. In the preliminary phase, the Commission found that steel nails from India and Turkey were negligible and terminated the antidumping and countervailing duty investigations with respect to those imports. In

2015, Commerce determined that imports of certain steel nails from Korea, Malaysia, Oman, and Taiwan were being sold at less than fair value (“LTFV”)⁹ and subsidized by the Government of Vietnam.¹⁰ On May 22, 2015, Commerce determined that imports of certain steel nails from Vietnam were being sold in the United States at LTFV.¹¹ The Commission determined on July 6, 2015 that the domestic industry was materially injured by reason of imports of certain steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam that had been found by Commerce to be sold in the United States at LTFV, and by reason of imports from Vietnam that had been found by Commerce to be subsidized by the Government of Vietnam.¹² On July 13, 2015, Commerce issued its antidumping duty orders with the final weighted average dumping margins ranging from 0.00¹³ to 11.80 percent for Korea; from 2.66 to 39.35 percent for Malaysia; 9.10 percent for Oman; from 0.00¹⁴ to 2.24 for Taiwan; and 323.99 percent for Vietnam.¹⁵ On July 14, 2015, Commerce issued its countervailing duty order on Vietnam with the net subsidy rates ranging from 288.56 to 313.97 percent.¹⁶

addition, Commerce made final negative countervailing duty determinations with respect to steel nails from Korea, Malaysia, Oman, and Taiwan. Certain Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam, Investigation Nos. 701-TA-521 and 731-TA-1252-1255 and 1257 (Final), USITC Publication 4541, July 2015, (“Original publication”), pp. 3, I-1.

⁹ 80 FR 28955 (Korea), 28959 (Taiwan), 28969 (Malaysia), and 28972 (Oman), May 20, 2015; 80 FR 34370, June 16, 2015 (Malaysia LTFV, amended).

¹⁰ 80 FR 28962, May 20, 2015.

¹¹ 80 FR 29622, May 22, 2015.

¹² 80 FR 39800, July 10, 2015.

¹³ Commerce determined that the estimated weighted-average final dumping margin was zero for U.S. imports from Korea for the single entity consisting of Jinheung Steel; Duo-Fast Korea Co., Ltd.; and Jinsco International Corporation (“Jinheung Steel Single Entity”). 80 FR 39994, July 13, 2015.

¹⁴ Commerce determined that the estimated weighted-average final dumping margin was zero for U.S. imports from Taiwan exported by Quick Advance Inc. and produced by Ko Nails, Inc. in Taiwan. 80 FR 39994, July 13, 2015.

¹⁵ 80 FR 39994, July 13, 2015; 82 FR 55090, November 20, 2017 (amended final determination and adjustment of rate for Taiwan (2.16 percent)).

¹⁶ 80 FR 41006, July 14, 2015.

Previous and related investigations

Steel nails has been the subject of several Commission investigations. A listing of these investigations is presented in table I-2.

Table I-2
Steel nails: Previous and related investigations

Year petition filed	Inv. no(s).	Product/ country	USITC Pub/ FR citation	Action/ status
1977	AA1921-189	Steel wire nails/ Canada	Pub. 937, Feb. 1979	ITC negative final
1979	731-TA-26	Steel wire nails/ Korea	Pub. 1088, Aug. 1980	ITC negative final
1981	731-TA-45-47	Steel wire nails/ Japan, Korea, and Yugoslavia	Pub. 1175, Aug. 1981	ITC negative preliminary for Yugoslavia, terminated investigation for Japan, and AD order issued for Korea (revoked in October 1984)
1982	701-TA-145	Steel wire nails/ Korea	47 FR 39549, Sept. 1982	Investigation terminated
1984	TA-201-51	Carbon and certain alloy steel products (including steel wire nails)/ Global	Pub. 1553, July 1984	ITC affirmative determination, July 1984
1985	731-TA-266	Steel wire nails/ China, Poland, and Yugoslavia	Pub. 1842, April 1986	Terminated investigations for Poland and Yugoslavia, AD order issued for China (revoked September 1987, retroactive to January 1986)
1987	C-594-701 and C-614-701	Steel wire nails/ New Zealand and Thailand	52 FR 36987 and 52 FR 37196, Oct. 1987	CVD revoked for New Zealand and Thailand in August 1995, (60 FR 40568)
1989	C-557-804	Steel wire nails/ Malaysia	54 FR 15534, April 1989	CVD investigation terminated by Commerce (54 FR 36841, September 1989)
1996	731-TA-757-759	Collated roofing nails/ China, Korea, and Taiwan	Pub. 3070, Nov. 1997	Terminated investigation for Korea, AD orders issued for China and Taiwan (both AD orders were revoked November 2002)
2001	TA-201-73	Steel (including carbon and alloy steel nails)/ Global	Pub. 3479, Dec. 2001	ITC negative determination
2007	731-TA-1114-1115	Steel nails/ China and United Arab Emirates	Pub. 4022, July 2008	Terminated investigation for UAE, AD order for China (currently in effect (84 FR 66151, Dec. 2019))
2011	731-TA-1185	Steel nails/ United Arab Emirates	Pub. 4321, May 2012	AD order (currently in effect (82 FR 48681, Oct. 2017))

Table continued on next page.

Table I-2--Continued
Steel nails: Previous and related investigations

Year petition filed	Inv. no(s).	Product/ country	USITC Pub/ FR citation	Action/ status
2014	701-TA-515-521 and 731-TA-1251-1257	Certain steel nails/ India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam	Pub. 4541, July 2015/ 85 FR 33088, June 2020	ITC terminated preliminary AD and CVD investigations for India and Turkey; Commerce negative final CVD determinations for Korea, Malaysia, Oman, and Taiwan; AD orders for Korea, Malaysia, Oman, Taiwan, and Vietnam subject to current five-year reviews; CVD order for Vietnam subject to current five-year review

Source: U.S. International Trade Commission publications and *Federal Register* notices.

Commerce's five-year reviews

Commerce is conducting expedited reviews with respect to the orders on imports of steel nails from Korea, Malaysia, Taiwan, and Vietnam and intends to issue the final results of these reviews based on the facts available not later than September 29, 2020.¹⁷ Commerce is conducting a full review with respect to the order on imports of steel nails from Oman and intends to issue the final result of this review not later than January 27, 2021.¹⁸ Commerce's Issues and Decision Memoranda, published concurrently with Commerce's final results, will contain complete and up-to-date information regarding the background and history of the orders, including scope rulings, duty absorption, changed circumstances reviews, and anti-circumvention. Upon publication, a complete version of the Issues and Decision Memoranda can be accessed at <http://enforcement.trade.gov/frn/>. The Issues and Decision Memoranda will also include any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping and countervailing duty orders on imports of steel nails from the subject countries are noted in the sections titled "The original investigations" and "U.S. imports," if applicable.

¹⁷ Letter from Alex Villanueva, Senior Director, Office I, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, July 21, 2020.

¹⁸ Letter from Alex Villanueva, Senior Director, Office I, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, July 31, 2020; correspondence from Mary Kolberg, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce to Mary Messer, Investigator, August 17, 2020.

The product

Commerce's scope

Commerce has defined the scope as follows:

The merchandise covered by these orders is certain steel nails having a nominal shaft length not exceeding 12 inches.¹⁹ Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of these orders are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

¹⁹ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

Also excluded from the scope are certain steel nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: (1) Builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; (2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; (3) swivel seats with variable height adjustment; (4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); (5) seats of cane, osier, bamboo or similar materials; (6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); (7) furniture (other than seats) of wood (with the exception of (i) medical, surgical, dental or veterinary furniture; and (ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or (8) furniture (other than seats) of materials other than wood, metal, or plastics (e.g., furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of these orders are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of these orders are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of these orders are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered

shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of these orders are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of these orders are thumb tacks, which are currently classified under HTSUS subheading 7317.00.10.00.

Certain steel nails subject to these orders are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to these orders also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.²⁰

U.S. tariff treatment

Steel nails are currently provided for in HTS subheadings 7317.00.55,²¹ 7317.00.65, and 7317.00.75 of the Harmonized Tariff Schedule of the United States (“HTSUS” or “HTS”). Steel nails imported from Korea, Malaysia, Oman, Taiwan, and Vietnam enter the U.S. market at a column 1-general duty rate of “Free.”²² Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

²⁰ 80 FR 39994, July 13, 2015 (antidumping duty orders); 80 FR 41006, July 14, 2015 (countervailing duty order).

²¹ Steel nails imported under HTS 7317.00.5501 (i.e., collated roofing nails) are excluded from the scope of these investigations.

²² HTSUS (2020) Revision 18, USITC Publication 5102, July 2020, p. 73-30.

Section 232 tariff treatment²³

Steel nails classifiable under HTS subheading 7317.00 were not originally included in the enumeration of steel mill products that were subject to the additional 25 percent ad valorem section 232 national-security duties under HTS chapter 99 as of March 23, 2018.²⁴ However, steel nails classifiable under HTS statistical reporting numbers 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5560, 7317.00.5580, and 7317.00.6560 were included in the enumeration of derivative iron and steel articles that became subject to additional 25 percent ad valorem section 232 duties, as of February 8, 2020.²⁵ At this time, imports of steel nails described by these six HTS statistical reporting numbers originating in Argentina, Australia, Brazil, Canada, Korea, and Mexico are exempted from any duties or quota limits; but imports originating in all other countries are subject to these 25 percent additional duties. See also U.S. note 16(a)(ii) to subchapter III of HTS chapter 99.²⁶

Treatment under section 232 with respect to the subject merchandise in these reviews is as follows:

Korea—Imports of steel nails are exempted from the section 232 additional duties which became effective as of February 8, 2020.

Malaysia, Oman, Taiwan, and Vietnam—Imports of steel nails as described in HTS statistical reporting numbers 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5560, 7317.00.5580, and 7317.00.6560 are subject to 25 percent ad valorem duties as of February 8, 2020.

²³ Imports of carbon and certain alloy steel wire rod (an input for steel wire and nails) are subject to additional 25 percent ad valorem section 232 duties or, in certain cases, quotas. For a detailed description, please see Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago, Investigation Nos. 701-TA-417 and 731-TA-953, 957-959, and 961 (Third Review), USITC Publication 5100, August 2020, pp. I-28 and I-29 and app. F.

²⁴ Section 232 of the *Trade Expansion Act of 1962*, as amended (19 U.S.C. 1862) authorizes the President, on advice of the Secretary of Commerce, to adjust the imports of an article and its derivatives that are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9705, March 8, 2018; 83 FR 11625, March 15, 2018.

²⁵ *Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles Into the United States*, Presidential Proclamation 9980, January 24, 2020; 85 FR 5281, January 29, 2020.

²⁶ See also U.S. note 16(a)(ii) to subchapter III of HTS chapter 99. *HTSUS* (2020) Revision 18, USITC Publication 5102, July 2020, pp. 99-III-6, 99-III-204.

Section 301 tariff treatment²⁷

Steel nails originating in China that enter the United States under HTS subheadings 7317.00.55, 7317.00.65, and 7317.00.75 are currently subject to additional 25 percent section 301 ad valorem duties,²⁸ effective May 10, 2019.²⁹ See also U.S. notes 20(e) and 20(f), subchapter III of chapter 99.³⁰

Description and uses³¹

Steel nails are small steel bars that are pointed on one end and have some type of head at the other end. (Flat heads are the most common).³² Steel nails are driven into wood or other

²⁷ Imports from China of carbon and certain alloy steel wire rod (an input for steel wire and nails), while subject to section 301 duties, are also subject to antidumping and countervailing duty orders in the United States, and have accounted for less than 0.05 percent of U.S. wire rod imports during January 2017-March 2020. EDIS Doc. 717962.

²⁸ Section 301 of the *Trade Act of 1974*, as amended (19 U.S.C. § 2411) authorizes the Office of the United States Trade Representative (“USTR”), at the direction of the President, to take appropriate action to respond to a foreign country’s unfair trade practices. On August 18, 2017, USTR initiated an investigation into certain acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation (82 FR 40213, August 24, 2017). On April 6, 2018, USTR published its determination that the acts, policies, and practices of China under investigation are unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under section 301(b) of the *Trade Act* (83 FR 14906, April 6, 2018).

²⁹ HTS subheadings 7317.00.55, 7317.00.65, and 7317.00.75 were included in the USTR’s third enumeration (“Tranche 3”) of products originating in China that became subject to an additional 10 percent ad valorem section 301 duties (Annexes A and C of 83 FR 47974), on or after September 24, 2018. Tranche 3 covered 6,031 tariff subheadings, with an approximate annual trade value of \$200 billion (83 FR 47974, September 21, 2018).

Escalation of this duty to 25 percent ad valorem was rescheduled from January 1, 2019 (annex B of 83 FR 14906, April 6, 2018) to March 2, 2019 (83 FR 65198, December 19, 2018), but was subsequently postponed until further notice (84 FR 7966, March 5, 2019), and then was implemented as of May 10, 2019 (84 FR 20459, May 9, 2019).

A subsequent modification was provided for subject goods exported from China prior to May 10, 2019 not to be subject to the escalated 25 percent duty, as long as such goods entered the United States prior to June 1, 2019 (84 FR 21892, May 15, 2019).

USTR proposed raising this additional duty from 25 percent to 30 percent on such products imported from China, on or after October 1, 2019 (Annex C – (List 3 - \$200 Billion Action), Part 1, of 84 FR 46212, September 3, 2019).

³⁰ *HTSUS* (2020) Revision 18, USITC Publication 5102, July 2020, pp. 99-III-23 to 99-III-24, 99-III-42, 99-III-213.

³¹ Unless otherwise noted, this information is based on Original publication, p. I-12.

³² Home Depot, “Types of Nails”, <https://www.homedepot.com/c/ab/types-of-nails/9ba683603be9fa5395fab909c451e98#:~:text=All%20types%20of%20nails%20consist,are%20some>

materials to fasten or join them together. The pointed end is driven into the surface of the material it is fastening, while the head serves as a point from which to drive the nail in without damaging the material the nail is fastening. The head also serves as a point from which to grasp and remove the nail if the object it is fastening needs to be disassembled. Steel nails can also be used as hooks or pegs from which to hang things.

Although most steel nails are produced from low-carbon steel, steel nails are also produced from stainless steel (to resist corrosion) and from medium- to high-carbon steel which has the ability to be hardened. Nails are packaged for shipment in bulk (loose in a carton or other container) or collated (joined with wire, paper strips, plastic strips, or glue into coils or straight strips for use in pneumatic nailing tools). Although most nails are produced from a single piece of steel, some nails are produced from two or more pieces. Examples of nails produced from two or more pieces include a nail with a decorative head such as an upholstery nail; a masonry anchor that comprises a zinc anchor and a steel wire nail; a nail with a large thin attached head (for nailing roofing felt, for example); and a nail with a rubber or neoprene washer assembled over its shaft (to seal the nail-hole in metal or fiberglass roofing, or siding).

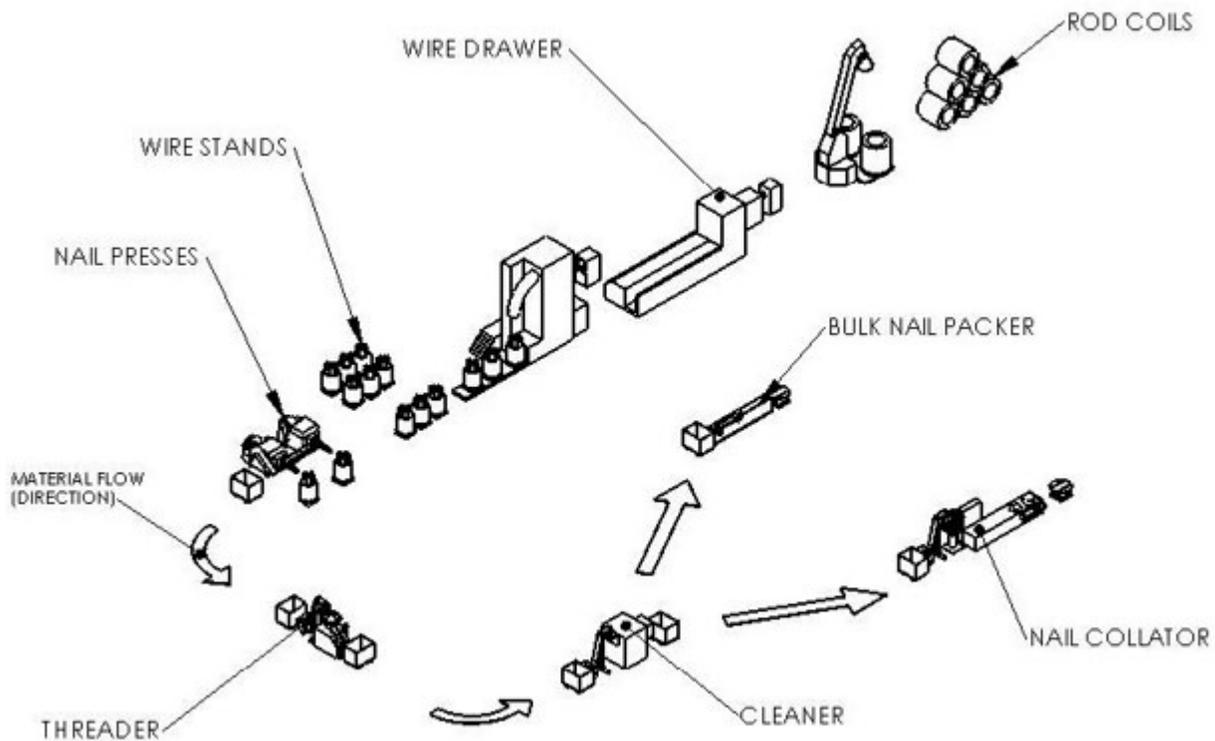
Manufacturing process³³

Most steel nails are produced from steel wire; although a small proportion of steel nails are produced from steel sheet or plate and are referred to as “cut nails.” Non-integrated producers of wire nails use purchased steel wire as a starting raw material, whereas integrated producers utilize their own facilities to produce wire for nails, using steel wire rod as their starting material. Some producers are further integrated through the steelmaking process, and produce steel wire rod from raw materials such as scrap, pig iron, and ferroalloys. Figure I-1 shows the general process for producing steel wire nails.

[%20of%20their%20characteristics.&text=Flat%20heads%20are%20the%20most%20common](#), retrieved August 5, 2020.

³³ Unless otherwise noted, this information is based on Original publication, pp. I-13-I-15.

Figure I-1
Steel nails: General process of producing nails



Note: All collated nails are vinyl coated in-line on the collating machine. All bulk nails are coated in-line at the cleaning station if required.

Source: Original publication, figure I-1, p. I-14.

To produce nails from wire, the wire is fed from a large coil into a nail machine that automatically straightens the wire, forms the head of the nail, and cuts the nail from the wire, simultaneously forming the point and ejecting the finished nail. Nail machines are of two general types: the first, known as a “cold-heading machine,” holds the wire near its end in gripper dies and forms the head by striking the leading end of the wire, forcing the end of the wire to fill a die cavity of the desired shape. The wire is fed through the grippers, and shape cutters form the point and cut the nail free from the wire coming off of the coil. The process is repeated for each individual nail produced by the cold-heading process. In the second type of nail machine, known as a “rotary heading machine,” the wire is fed continuously and cutting rollers cut individual nail blanks, simultaneously forming the point. The nail blanks are then inserted into a die ring and the heads are formed by compression of the end of the nail between the rotating ring and a heading roller. The completed nails are then ejected from the machine. Both types of nail machines are used to produce all styles of nails, and some

manufacturers have both types in their facilities. These automatic machines are capable of producing a range of nail sizes and head and point styles by changing tooling and adjustment.

Nails that have helical twist, serrations, and other configurations on the shanks require an additional forming process. These nails are fed into other machines that roll, twist, stamp, or cut to required forms. These operations may also require heating of the nails before forming.

After forming, nails are tumbled on themselves in rotating drums to remove particles of head flash and the whiskers, which often remain on the cut and pointed ends. The drum may contain a medium (such as sawdust) which effects cleaning and polishing of the nails during tumbling, otherwise the tumbled nails can be transferred to units that clean the nails with solvents or vapor degreasers.

Nails are produced with a number of finishes, depending upon the intended use: uncoated, zinc-coated (galvanized), vinyl resin, and cement coated are the most common finishes. Nails with galvanized coatings are intended for uses where corrosion and staining resistance are important. Resin coatings are used to aid in driving the nail. Cement coating is used to increase the resistance of the nail to withdrawal by increasing the friction between the nail and the wood into which it has been driven. Zinc-coated, or galvanized nails are produced by several methods: (1) produced using zinc-coated (galvanized) wire; (2) produced by a process of dipping formed nails into molten zinc and then spinning them in a centrifuge-like apparatus to throw off excess molten zinc; or (3) electroplated with zinc after forming. Nails for driving into concrete or other hard substances may be hardened by heat treatment. Nails for use in hand-held pneumatic nailing tools are processed through automatic equipment to collate the nails using paper strips, plastic strips, fine steel wire, or adhesive. Nails for use in nailing tools in some industrial applications—for the production of wooden pallets in particular—are packaged in bulk and fed to the nailing tools via automatic hopper-feeding systems. Nails for hand-driving are packaged in bulk (loose) in cartons or in smaller count boxes including one-pound and five-pound boxes for mass merchandise retail repair and modeling customers.

Cut nails are produced from steel sheet or plate rather than from wire and are rectangular rather than round. Cut nails are used primarily for joining to masonry or concrete. Although cut nails may be made for any carpentry use, the main use other than masonry is for flooring in applications where an antique appearance is required. Cut nails are made from high-carbon steel plate that is sheared into strips. The strips are fed into specially designed nail machines which shape the nails and form the heads. The cut nails are then case hardened in a furnace and packed in fifty-pound cartons (also known as large-count industry standard boxes) on pallets for the construction trades or either one-pound or five-pound boxes for mass merchandise retail repair and modeling customers.

The industry in the United States

U.S. producers

During the final phase of the original investigations, the Commission received U.S. producer questionnaires from thirteen firms, which accounted for nearly all of the U.S. production of steel nails during 2014.^{34 35}

In response to the Commission's notice of institution in these current reviews, the domestic interested party provided a list of fourteen known and currently operating U.S. producers of steel nails.³⁶ One firm (Mid Continent) providing U.S. industry data in response to the Commission's notice of institution estimated it accounted for approximately 50.0 percent of production of steel nails in the United States during 2019.³⁷

Recent developments³⁸

According to the domestic interested party's response to the notice of institution, demand for steel nails is largely determined by the size of the construction market, both residential and commercial, which is the single largest end-user of steel nails. Since the original investigations, several changes have occurred in the construction market. Compared to 2015, new private housing starts in 2019 increased by 16.0 percent. The value of residential and non-residential construction put in place increased by 21.6 percent and 12.0 percent, respectively. In addition, table I-3 presents events that have occurred in the U.S. industry since the original investigations.

³⁴ Original publication, p. III-1.

³⁵ Mid Continent alone accounted for *** percent of reported production in 2014. Certain Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam, Confidential Report, INV-NN-032, June 4, 2015, as revised in INV-NN-033, June 8, 2015, and INV-NN-034, June 10, 2015 ("Original confidential report"), p. III-2.

³⁶ Domestic interested party's response to the notice of institution, July 1, 2020, p. 2.

³⁷ Ibid., exh. 1, p. 2.

³⁸ Unless otherwise noted, information in this section was taken from the domestic interested party's response to the notice of institution, July 1, 2020, pp. 26-28.

Table I-3
Steel Nails: Recent developments in the U.S. industry

Item	Firm	Event
Closure	Davis Wire Corporation	Closed all operations at its plant in Pueblo, Colorado, in 2015, which included all of the company's nail operations.
Plant opening	Legacy Fasteners	Began producing steel nails and other fasteners in Poplar Bluff, Missouri in February 2017.
Closure	Stanley Black & Decker	Stopped production of steel nails in the United States in 2017.
Acquisition	Kyocera Corporation	Kyocera Corporation, headquartered in Japan, acquired SENCO Industrial Tools, a domestic manufacturer of steel nails and other fasteners, and renamed the firm "KYOCERA SENCO Industrial Tools, Inc." in August 2017. The firm maintains domestic operations in Cincinnati, Ohio.

Source: Domestic interested party's response to the notice of institution, July 1, 2020, pp. 26-28; Legacy Fasteners, LLC, "Our Legacy," <https://legacyfasteners.com/our-legacy>, retrieved July 14, 2020; Senco, "Senco Brands Acquired by Kyocera Corporation," August 8, 2017, <https://www.senco.com/company/press-news/2017/08/08/senco-brands-acquired-by-kyocera-corporation>, retrieved August 4, 2020.

U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution in the current five-year reviews.³⁹ Table I-4 presents a compilation of the trade and financial data submitted from all responding U.S. producers in the original investigations and these current reviews.

³⁹ Individual company trade and financial data are presented in app. B.

Table I-4
Steel nails: Trade and financial data submitted by U.S. producers, 2012-14, and 2019

Item	2012	2013	2014	2019
Capacity (short tons)	***	***	***	***
Production (short tons)	***	***	***	***
Capacity utilization (percent)	***	***	***	***
U.S. shipments:				
Quantity (short tons)	***	***	***	***
Value (\$1,000)	***	***	***	***
Unit value (dollar per short ton)	***	***	***	***
Net sales (\$1,000)	***	***	***	***
COGS (\$1,000)	***	***	***	***
COGS/net sales (percent)	***	***	***	***
Gross profit (loss) (\$1,000)	***	***	***	***
SG&A expenses (\$1,000)	***	***	***	***
Operating income (loss) (\$1,000)	***	***	***	***
Operating income (loss)/net sales (percent)	***	***	***	***

Note: For a discussion of data coverage, please see “U.S. producers” section.

Source: For the years 2012-14, data are compiled using data submitted in the Commission’s original investigations (excluding U.S. producer ***). For the year 2019, data are compiled using data submitted by the domestic interested party. Domestic interested party’s supplemental response to the notice of institution, July 10, 2020, exh. S-1.

Definitions of the domestic like product and domestic industry

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. Under the related parties provision, the Commission may exclude a U.S. producer from the domestic industry for purposes of its injury determination if “appropriate circumstances” exist.⁴⁰

⁴⁰ Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

In its original determinations, the Commission found a single domestic like product consisting of steel nails, coextensive with Commerce's scope, and it defined the domestic industry to include all domestic producers of nails, except one producer (***) for which appropriate circumstances were found to exclude it from the domestic industry.⁴¹ Domestic interested party Mid Continent indicated in its response to the notice of institution in these reviews that it is related to ***. Mid Continent is related to *** through ***.⁴²

U.S. imports and apparent U.S. consumption

U.S. importers

During the final phase of the original investigations, the Commission received U.S. importer questionnaires from 31 firms, which accounted for 67.7 percent of total U.S. imports of steel nails from subject countries during 2014.⁴³ Import data presented in the original investigations are based on official Commerce statistics and questionnaire responses.

Although the Commission did not receive responses from any respondent interested parties in these current reviews, in its response to the Commission's notice of institution, the domestic interested party provided a list of 198 known and currently operating U.S. importers of steel nails from Korea, 32 from Malaysia, 27 from Oman, 158 from Taiwan, and 21 from Vietnam.⁴⁴

U.S. imports

Table I-5 presents the quantity, value, and unit value of U.S. imports from subject countries as well as the other top sources of U.S. imports (shown in descending order of 2019 imports by quantity).

⁴¹ 85 FR 33195, June 1, 2020; and Original confidential views, p. 15.

⁴² Domestic interested party's response to the notice of institution, July 1, 2020, p. 6; and domestic interested party's supplemental response to the notice of institution, July 10, 2020, p. 2.

⁴³ Original publication, p. IV-1.

⁴⁴ Some firms were listed as being U.S. importers from more than one subject country. Domestic interested party's response to the notice of institution, July 1, 2020, exh. 2.

Table I-5
Steel nails: U.S. imports, 2015-19

Item	2015	2016	2017	2018	2019
	Quantity (short tons)				
Korea, subject	***	***	***	***	***
Malaysia	40,151	48,561	42,419	45,187	42,166
Oman	52,742	48,537	47,196	68,520	76,040
Taiwan, subject	***	***	***	***	***
Vietnam	641	183	4,023	5,251	9,888
Subtotal, subject	***	***	***	***	***
Korea, nonsubject	***	***	***	***	***
Taiwan, nonsubject	***	***	***	***	***
China	178,609	161,006	144,326	150,259	100,781
Turkey	28,254	27,399	35,237	36,081	48,009
India	19,610	25,094	32,545	38,884	33,649
Canada	27,026	30,821	44,904	43,056	26,797
All other sources	86,658	104,746	98,007	134,996	147,455
Subtotal, nonsubject	***	***	***	***	***
Total imports	599,599	589,939	619,117	652,989	583,922
	Landed, duty-paid value (\$1,000)				
Korea, subject	***	***	***	***	***
Malaysia	36,009	34,871	31,979	42,340	40,524
Oman	67,442	52,085	55,971	97,739	102,950
Taiwan, subject	***	***	***	***	***
Vietnam	645	123	3,117	4,849	9,572
Subtotal, subject	***	***	***	***	***
Korea, nonsubject	***	***	***	***	***
Taiwan, nonsubject	***	***	***	***	***
China	209,470	174,790	172,833	210,266	161,568
Turkey	30,516	25,756	32,582	39,798	49,207
India	25,894	25,974	33,245	46,643	39,556
Canada	42,270	44,690	60,287	66,364	42,850
All other sources	115,008	126,144	121,581	183,359	202,025
Subtotal, nonsubject	***	***	***	***	***
Total imports	713,529	641,639	679,545	857,779	788,458
	Unit value (dollars per short ton)				
Korea, subject	***	***	***	***	***
Malaysia	897	718	754	937	961
Oman	1,279	1,073	1,186	1,426	1,354
Taiwan, subject	***	***	***	***	***
Vietnam	1,006	673	775	923	968
Subtotal, subject	***	***	***	***	***
Korea, nonsubject	***	***	***	***	***
Taiwan, nonsubject	***	***	***	***	***
China	1,173	1,086	1,198	1,399	1,603
Turkey	1,080	940	925	1,103	1,025
India	1,320	1,035	1,022	1,200	1,176
Canada	1,564	1,450	1,343	1,541	1,599
All other sources	1,327	1,204	1,241	1,358	1,370
Subtotal, nonsubject	***	***	***	***	***
Total imports	1,190	1,088	1,098	1,314	1,350

Table notes continued on next page.

Table I-5--Continued
Steel nails: U.S. imports, 2015-19

Note: Because of rounding, figure may not add to total shown.

Note: Nonsubject imports from Korea consist of U.S. imports from Korean producers Jinheung Steel; Duo-Fast Korea Co., Ltd.; and Jinsco International Corporation. Nonsubject imports from Taiwan consist of U.S. imports from Taiwan exported by Quick Advance Inc. and produced by Ko Nails, Inc. in Taiwan.

Note: Nonsubject data for Korea and Taiwan is from January 1, 2015 through November 30, 2019. Data for December 2019 was not available at the time of report. Therefore, 2019 nonsubject imports presented for Korea and Taiwan may be understated and 2019 subject imports for Korea and Taiwan may be overstated.

Source: Compiled from official Commerce statistics and proprietary Customs data for HTS statistical reporting numbers 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, 7317.00.5518, 7317.00.5519, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560, and 7317.00.7500.

Apparent U.S. consumption and market shares

Table I-6 presents data on U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares.

Table I-6
Steel nails: U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares 2012-14, and 2019

Item	2012	2013	2014	2019
	Quantity (short tons)			
Included U.S. producers' U.S. shipments	***	***	***	***
Excluded U.S. producers' U.S. shipments	***	***	***	NA
U.S. imports from—				
Korea, subject	***	***	***	***
Malaysia	31,941	33,451	35,656	42,166
Oman	7,445	38,887	48,296	76,040
Taiwan, subject	***	***	***	***
Vietnam	28,904	43,875	47,718	9,888
Subtotal, subject	***	***	***	***
All other sources	***	***	***	***
Total imports	461,866	500,132	532,666	583,922
Apparent U.S. consumption	584,957	633,415	674,510	***

Table continued on next page.

Table I-6--Continued

Steel nails: U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares 2012-14, and 2019

Item	2012	2013	2014	2019
	Value (1,000 dollars)			
Included U.S. producers' U.S. shipments	***	***	***	***
Excluded U.S. producers' U.S. shipments	***	***	***	NA
U.S. imports from--				
Korea, subject	***	***	***	***
Malaysia	38,964	35,266	36,458	40,524
Oman	9,356	55,046	75,884	102,950
Taiwan, subject	***	***	***	***
Vietnam	28,927	39,158	41,524	9,572
Subtotal, subject	***	***	***	***
All other sources	***	***	***	***
Total imports	652,941	665,718	685,331	788,458
Apparent U.S. consumption	877,101	888,939	895,036	***
	Share of consumption based on quantity (percent)			
Included U.S. producer's share	***	***	***	***
Excluded U.S. producer's share	***	***	***	NA
U.S. imports from.--				
Korea, subject	***	***	***	***
Malaysia	5.5	5.3	5.3	***
Oman	1.3	6.1	7.2	***
Taiwan, subject	***	***	***	***
Vietnam	4.9	6.9	7.1	***
Subtotal, subject	***	***	***	***
All other sources	***	***	***	***
Total imports	79.0	79.0	79.0	***
	Share of consumption based on value (percent)			
Included U.S. producer's share	***	***	***	***
Excluded U.S. producer's share	***	***	***	NA
U.S. imports from.--				
Korea, subject	***	***	***	***
Malaysia	4.4	4.0	4.1	***
Oman	1.1	6.2	8.5	***
Taiwan, subject	***	***	***	***
Vietnam	3.3	4.4	4.6	***
Subtotal, subject	***	***	***	***
All other sources	***	***	***	***
Total imports	74.4	74.9	76.6	***

Table notes continued on next page.

Table I-6--Continued

Steel nails: U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares 2012-14, and 2019

Note: For a discussion of data coverage, please see "U.S. producers" and "U.S. importers" sections.

Source: For the years 2012-14, data are compiled using data submitted in the Commission's original investigations. For the year 2019, U.S. producers' U.S. shipments are compiled from the domestic interested party's response to the Commission's notice of institution and U.S. imports are compiled using official Commerce statistics and proprietary Customs data under HTS statistical reporting numbers 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, 7317.00.5518, 7317.00.5519, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560, and 7317.00.7500.

Cumulation considerations⁴⁵

In assessing whether imports should be cumulated in five-year reviews, the Commission considers, among other things, whether there is a likelihood of a reasonable overlap of competition among subject imports and the domestic like product. Additional information concerning geographical markets and simultaneous presence in the market is presented below.⁴⁶

Subject imports from Korea, Malaysia, Oman, and Taiwan were reported in all 60 months between 2015 and 2019 and subject imports from Vietnam were reported in 47 of the 60 months between 2015 and 2019. There were no subject imports of steel nails from Vietnam during five months in 2015, seven months in 2016, and one month in 2017. Subject imports from Korea, Malaysia, Oman, and Taiwan entered through the northern, southern, eastern, and western borders of entry in all years from 2015 through 2019. Subject imports from Vietnam entered through the southern, eastern, and western borders of entry during 2015 and the northern, southern, eastern, and western borders during 2016-19.

⁴⁵ Unless otherwise noted, this information is based on official U.S. import statistics and proprietary Customs data for HTS statistical reporting numbers 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, 7317.00.5518, 7317.00.5519, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560, and 7317.00.7500.

⁴⁶ In addition, available information concerning subject country producers and the global market is presented in the next section of this report.

The industry in Korea

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from two firms, which accounted for approximately *** percent of official U.S. reported imports of steel nails from Korea during the period of investigation.⁴⁷

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested party provided a list of 13 possible producers of steel nails in Korea.⁴⁸

Industry research found no significant changes to the steel nails industry in Korea since 2015.

Table I-7 presents export data for HS 7317.00, a category that includes steel nails and out-of-scope products, from Korea (by export destination in descending order of quantity for 2019).

⁴⁷ Original confidential report, p. VII-4.

⁴⁸ Domestic interested party's response to the notice of institution, July 1, 2020, exh. 3.

Table I-7

Nails, tacks, drawing pins, staples (other than in strips), and similar articles, of iron or steel, excluding such articles with heads of copper: Exports from Korea, by destination, 2015-19

Destination country	2015	2016	2017	2018	2019
	Quantity (short tons)				
United States	49,165	52,214	49,940	59,992	43,231
Australia	2,905	2,194	3,030	3,351	2,792
Canada	2,252	1,607	2,164	1,988	1,904
Japan	405	458	448	456	461
Mexico	213	251	257	176	330
United Kingdom	304	225	283	319	285
Philippines	73	119	157	21	148
China	264	127	164	161	63
Vietnam	41	45	18	56	56
Poland	0	0	3	35	37
All other	1,260	870	792	987	335
Total	56,882	58,109	57,256	67,542	49,642

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

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 7317.00. These data are believed to be overstated as HS subheading 7317.00 contains products outside the scope of these reviews (e.g., thumb tacks, nails suitable for use in powder-actuated handtools, and collated roofing nails).

The industry in Malaysia

During the final phase of the original investigations, the Commission received a foreign producer/exporter questionnaire from one firm, which accounted for approximately 138.8 percent of official reported U.S. imports of steel nails from Malaysia during the period of investigation.⁴⁹

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested party provided a list of four possible producers of steel nails in Malaysia.⁵⁰

Industry research found no significant changes to the steel nails industry in Malaysia since 2015.

⁴⁹ Original publication, pp. VII-5-VII-6.

⁵⁰ Domestic interested party's response to the notice of institution, July 1, 2020, exh. 3.

Table I-8 presents export data for HS 7317.00, a category that includes steel nails and out-of-scope products, from Malaysia (by export destination in descending order of quantity for 2019).

Table I-8
Nails, tacks, drawing pins, staples (other than in strips), and similar articles, of iron or steel, excluding such articles with heads of copper: Exports from Malaysia, by destination, 2015-19

Destination country	2015	2016	2017	2018	2019
	Quantity (short tons)				
United States	43,562	58,284	45,467	56,813	44,161
Indonesia	3,444	3,888	4,612	4,548	4,989
Canada	779	556	687	949	1,462
Singapore	2,511	1,908	1,812	1,402	1,382
Thailand	1,053	1,082	1,972	2,094	1,364
New Zealand	914	1,181	3,074	2,057	1,226
Netherlands	0	0	0	1,246	767
Australia	292	306	1,181	1,296	497
United Arab Emirates	240	197	199	103	172
Mexico	137	107	133	130	141
All other	1,730	1,767	3,238	1,423	819
Total	54,663	69,276	62,374	72,061	56,980

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

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 7317.00. These data are believed to be overstated as HS subheading 7317.00 contains products outside the scope of these reviews (e.g., thumb tacks, nails suitable for use in powder-actuated handtools, and collated roofing nails).

The industry in Oman

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from two firms. These firms' exports to the United States started in 2012 and accounted for approximately *** percent of official reported U.S. imports of steel nails from Oman during the period of investigation.⁵¹

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested party identified one possible producer of steel nails in Oman.⁵²

According to the American Steel Nail Coalition, U.S. imports of nails made by Oman Fasteners (a manufacturer of steel nails based in Oman) increased by 95 percent over the 12 months ending in May 2019, contributing to a 33 percent increase in total U.S. imports of nails during that period.⁵³ The Coalition also stated that Oman Fasteners was the only source of U.S. imports of nails from Oman, which suggests that Overseas International Steel Industry LLC, ***⁵⁴ is either no longer exporting steel nails to the United States or may have closed.

Table I-9 presents export data for HS 7317.00, a category that includes steel nails and out-of-scope products, from Oman (by export destination in descending order of quantity for 2018).

⁵¹ Original confidential report, p. VII-7.

⁵² Domestic interested party's response to the notice of institution, July 1, 2020, exh. 3.

⁵³ Heaton, Elizabeth, "U.S. Nail Makers Ask to Intervene to Maintain New Trump-Ordered Tariffs on Violators of Import Policy" *PR Newswire*, February 21, 2020. <https://www.prnewswire.com/news-releases/us-nail-makers-ask-to-intervene-to-maintain-new-trump-ordered-tariffs-on-violators-of-import-policy-301009262.html>, retrieved August 7, 2020.

⁵⁴ Original confidential report, p. VII-3.

Table I-9

Nails, tacks, drawing pins, staples (other than in strips), and similar articles, of iron or steel, excluding such articles with heads of copper: Exports from Oman, by destination, 2015-19

Destination country	2015	2016	2017	2018	2019
	Quantity (short tons)				
United States	61,640	51,767	49,512	82,004	--
United Arab Emirates	2,968	1,322	1,402	1,445	--
United Kingdom	0	0	1,713	1,400	--
Somalia	311	100	294	729	--
Qatar	25	36	232	474	--
Bahrain	451	402	460	345	--
Finland	0	48	99	161	--
Netherlands	0	0	19	88	--
El Salvador	0	0	0	76	--
Yemen	0	0	0	67	--
All other	3,729	1,729	141	200	--
Total	69,124	55,405	53,872	86,988	--

Note: Because of rounding, figures may not add to totals shown. Data for 2019 not available at the time of report.

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 7317.00. These data are believed to be overstated as HS subheading 7317.00 contains products outside the scope of these reviews (e.g., thumb tacks, nails suitable for use in powder-actuated handtools, and collated roofing nails).

The industry in Taiwan

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from eight firms, which accounted for approximately 92.7 percent of official reported U.S. imports of steel nails from Taiwan during the period of investigation.⁵⁵

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested party provided a list of 22 possible producers of steel nails in Taiwan.⁵⁶

Industry research found no significant changes to the steel nails industry in Taiwan since 2015.

Table I-10 presents export data for HS 7317.00, a category that includes steel nails and out-of-scope products, from Taiwan (by export destination in descending order of quantity for 2019).

⁵⁵ Original publication, p. VII-5.

⁵⁶ Domestic interested party's response to the notice of institution, July 1, 2020, exh. 3.

Table I-10

Nails, tacks, drawing pins, staples (other than in strips), and similar articles, of iron or steel, excluding such articles with heads of copper: exports from Taiwan, by destination, 2015-19

Destination country	2015	2016	2017	2018	2019
	Quantity (short tons)				
United States	91,157	90,173	87,569	71,359	54,723
Pakistan	2,375	2,459	2,790	2,794	2,568
Japan	1,342	1,168	1,551	2,308	1,233
Oman	1,323	1,455	1,482	1,085	1,140
Saudi Arabia	1,175	1,205	834	794	1,074
Australia	1,273	729	780	845	446
Belgium	282	248	116	121	319
Philippines	216	261	264	267	301
Germany	276	274	211	210	295
Qatar	590	435	401	313	290
All other	5,764	5,444	5,967	5,720	4,560
Total	105,773	103,852	101,966	85,816	66,948

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

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 7317.00. These data are believed to be overstated as HS subheading 7317.00 contains products outside the scope of these reviews (e.g., thumb tacks, nails suitable for use in powder-actuated handtools, and collated roofing nails).

The industry in Vietnam

During the final phase of the original investigations, no responses were received from Vietnamese nail producers. As such, the Commission presented data received in the preliminary phase investigations from the one firm that responded in that phase. This firm's exports to the United States accounted for approximately 96.5 percent of official reported U.S. imports of steel nails from Vietnam during the period of investigation.⁵⁷

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested party provided a list of three possible producers of steel nails in Vietnam.⁵⁸

Industry research found no significant changes to the steel nails industry in Vietnam since 2015.

Table I-11 presents export data for HS 7317.00, a category that includes steel nails and out-of-scope products, from Vietnam (by export destination in descending order of quantity for 2018).

⁵⁷ Original publication, p. VII-5.

⁵⁸ Domestic interested party's response to the notice of institution, July 1, 2020, exh. 3.

Table I-11

Nails, tacks, drawing pins, staples (other than in strips), and similar articles, of iron or steel, excluding such articles with heads of copper: Exports from Vietnam, by destination, 2015-19

Destination country	2015	2016	2017	2018	2019
	Quantity (short tons)				
United States	0	58	1,473	2,336	--
Korea	0	348	1,223	1,381	--
Myanmar	0	487	451	538	--
Canada	0	498	416	497	--
Japan	0	108	109	143	--
Thailand	0	184	73	124	--
Other Asia, N.E.S.	0	151	154	121	--
Netherlands	0	49	59	100	--
Belgium	0	38	32	72	--
Indonesia	0	41	57	44	--
All other	0	1,556	246	246	--
Total	0	3,518	4,294	5,602	--

Note: Because of rounding, figures may not add to totals shown. Data for 2019 not available at time of report.

Note: The abbreviation N.E.S. stands for 'not elsewhere specified'.

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 7317.00. These data are believed to be overstated as HS subheading 7317.00 contains products outside the scope of these reviews (e.g., thumb tacks, nails suitable for use in powder-actuated handtools, and collated roofing nails).

Antidumping or countervailing duty orders in third-country markets

Based on available information, steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam have not been subject to antidumping or countervailing duty investigations outside the United States.

The global market

Table I-12 presents global export data for HS 7317.00, a category that includes steel nails and out-of-scope products (by source in descending order of quantity for 2019). Except for roofing nails, nonsubject merchandise in the data is believed to be minimal. In the cases of Canada, Oman, and Vietnam, for which export quantity are not available for certain years, partner country import data (called “mirror exports”) are included. Overall, the volume of global exports from nonsubject countries decreased by approximately 5 percent between 2015 and 2019.

China is the largest exporter of steel nails by volume, accounting for 61.8 percent of global exports in 2019. In July 2019, following a second five-year review regarding China, the Commission determined that the revocation of the order on certain steel nails from China would likely lead to continuation or recurrence of material injury to the domestic industry.⁵⁹ Nevertheless, China remained the largest supplier of steel nails to the United States by volume in 2019,⁶⁰ although its share of total U.S. imports decreased from 23.4 percent in 2017 to 18.1 percent in 2019.⁶¹ Canada, India, and Turkey are also major nonsubject suppliers of steel nails to the United States, while Turkey, Poland, and Thailand are major nonsubject suppliers to the world.

In September 2017, following its first five-year review regarding the United Arab Emirates (UAE), the Commission determined that the revocation of the order on certain steel nails from the UAE would likely lead to a continuation or recurrence of material injury to the domestic industry. The following year, imports of steel nails to the United States decreased by 90.6 percent from 3,056 to 287 short tons. Although imports appear to have increased in 2019

⁵⁹ Domestic interested party’s response to the notice of institution, July 1, 2020, pp. 11-12.

⁶⁰ Official Commerce statistics under HTS statistical reporting numbers 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, 7317.00.5518, 7317.00.5519, 7317.00.5520, 7317.00.5530, 731.700.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560, and 7317.00.7500 (accessed August 5, 2020).

⁶¹ Domestic interested party’s response to the notice of institution, July 1, 2020, p. 31.

and 2020, they are still quite low compared to those of 2016. (The United States imported approximately 20,969 short tons of steel nails in 2016, compared 1,660 short tons in 2019, and 1,638 short tons between January and May of 2020).⁶²

Table I-12
Nails, tacks, drawing pins, staples (other than in strips), and similar articles, of iron or steel, excluding such articles with heads of copper: Global exports by major sources, 2015-19

Exporter	2015	2016	2017	2018	2019
	Quantity (short tons)				
Korea	56,882	58,109	57,256	67,542	49,642
Malaysia	54,663	69,276	62,374	72,061	56,980
Oman	58,668	52,095	50,935	72,287	79,632
Taiwan	105,773	103,852	101,966	85,816	66,948
Vietnam	14,340	8,401	12,115	12,443	14,805
All other major reporting exporters:					
China	1,192,638	1,128,968	1,088,055	1,201,500	1,078,487
Turkey	48,181	44,562	54,234	62,504	78,439
Poland	74,287	76,595	78,386	76,301	67,825
Thailand	24,030	29,287	32,364	46,455	51,995
Lithuania	34,030	34,635	38,325	42,129	41,012
Germany	34,942	36,913	37,451	36,081	35,315
Netherlands	19,888	16,659	19,037	32,392	30,226
Sri Lanka	7	23	6,292	20,060	29,850
Canada	28,020	34,064	47,816	43,313	27,086
United States	24,321	25,351	27,841	28,706	26,596
All other nonsubject countries	357,108	343,688	371,594	389,997	279,344
Total nonsubject countries	1,837,451	1,770,746	1,801,395	1,979,438	1,746,172

Note: Because of rounding, figures may not add to total shown. Mirror data used for Canada, Oman, and Vietnam for all years presented.

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 7317.00. These data are believed to be overstated as HS subheading 7317.00 contains products outside the scope of these reviews (e.g., thumb tacks, nails suitable for use in powder-actuated handtools, and collated roofing nails).

⁶² Census Trade Database, HTS statistical reporting numbers 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, 7317.00.5518, 7317.00.5519, 7317.00.5520, 7317.00.5530, 731.700.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560, 7317.00.7500 (accessed August 5, 2020).

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, Federal Register notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
85 FR 33088, June 1, 2020	<i>Initiation of Five-Year (Sunset) Reviews</i>	https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-14198.pdf
85 FR 33195, June 1, 2020	<i>Steel Nails From Korea, Malaysia, Oman, Taiwan, and Vietnam; Institution of Five-Year Reviews</i>	https://www.govinfo.gov/content/pkg/FR-2020-06-01/pdf/2020-11692.pdf

APPENDIX B
COMPANY-SPECIFIC DATA

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APPENDIX C

SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS

Table C-3

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Note: In the original investigations, Table C-3 was redacted in its entirety from USITC Publication 4145.

APPENDIX D

PURCHASER QUESTIONNAIRE RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from a domestic interested party and it named the following six firms as the top purchasers of steel nails: ***. Purchaser questionnaires were sent to these six firms and three firms (***) provided responses, which are presented below.

1. Have there been any significant changes in the supply and demand conditions for steel nails that have occurred in the United States or in the market for steel nails in Korea, Malaysia, Oman, Taiwan, and/or Vietnam since July 13, 2015?

Purchaser	Yes / No	Changes that have occurred
***	***	***
***	***	***
***	***	***

2. Do you anticipate any significant changes in the supply and demand conditions for steel nails in the United States or in the market for steel nails in Korea, Malaysia, Oman, Taiwan, and/or Vietnam within a reasonably foreseeable time?

Purchaser	Yes / No	Changes that have occurred
***	***	***
***	***	***
***	***	***

