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DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-960, A-583-845)

Certain Standard Steel Fasteners from the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations

EFFECTIVE DATE: (Insert date of publication in Federal Register.)

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD

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Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW,

Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

On September 23, 2009, the Department of Commerce (the Department) received petitions concerning imports of certain standard steel fasteners (fasteners) from the People's Republic of China (PRC) and Taiwan filed in proper form by Nucor Fastener (Petitioner). See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Standard Steel Fasteners from the People's Republic of China and Taiwan, dated September 23, 2009 (Petition). On September 30, 2009, the Department issued additional requests for information and clarification of certain areas of the Petition. Petitioner timely filed additional information pertaining to Taiwan and the PRC on October 5, 2009. See Petition for the Imposition of Antidumping Duties on Certain Standard Steel Fasteners from Taiwan: Response to Deficiency Questionnaire, dated

October 5, 2009 (Taiwan Deficiency Response); see also Petition for the Imposition of Antidumping Duties on Certain Standard Steel Fasteners from the People's Republic of China: Response to Deficiency Questionnaire, dated October 5, 2009 (PRC Deficiency Response). Petitioner further timely filed additional information pertaining to general issues in the Petition on October 6, 2009 (see Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Taiwan: Response to General Issues Deficiency Questionnaire, dated October 6, 2009 (Supplement to the AD/CVD Petitions)), on October 8, 2009 (see Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Antidumping Duties on Certain Standard Steel Fasteners from Taiwan: Submission of Additional Information Related to The Calculation of Industry Standing, dated October 8, 2009 (Industry Support Supplement)), also on October 8, 2009, (see Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Taiwan: Response to General Issues Deficiency Questionnaire, dated October 8, 2009 (Second Supplement to the AD/CVD Petitions)), also on October 8, 2009, (see Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Antidumping Duties on Certain Standard Steel Fasteners from Taiwan: Confirmation of Simultaneous Filing at DOC and ITC, dated October 8, 2009 (Simultaneous Filing Supplement)), on October 9, 2009 (see Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Standard Steel Fasteners from the People's Republic of China and Antidumping Duties on Certain Standard Steel Fasteners from Taiwan: Revised Description of Scope and Uses and Technical Characteristics/U.S. Producers List, dated October 9, 2009 (Third Supplement to the AD/CVD Petitions)), and on

October 13, 2009 (see Certain Standard Steel Fasteners from the People’s Republic of China and Certain Standard Steel Fasteners from Taiwan).

The period of investigation (POI) for the PRC is January 1, 2009, through June 30, 2009. The POI for Taiwan is July 1, 2008, through June 30, 2009. See 19 CFR 351.204(b)(1).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Tariff Act), Petitioner alleges that imports of certain standard steel fasteners from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Tariff Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Tariff Act, and has demonstrated sufficient industry support with respect to the antidumping duty investigations that Petitioner is requesting the Department to initiate (see “Determination of Industry Support for the Petitions” section below).

Scope of the Investigations

The products covered by these investigations are fasteners from the PRC and Taiwan. For a full description of the scope of the investigations, please see “Scope of Investigations,” in Appendix I of this notice. The Department, after consulting with Petitioner, made minor changes to the scope language submitted by Petitioner in the Third Supplement to the AD/CVD Petitions. See Memorandum to the file from Steve Bezirgianian, Analyst, entitled “Certain Standard Steel Fasteners from the People’s Republic of China (A-570-960 and C-570-961) and Taiwan (A-583-845): Revisions to Petitioner’s Proposed October 9, 2009, Scope Language,” dated October 13, 2009.

Comments on Scope of Investigations

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief.

Moreover, as discussed in the preamble to the regulations (Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by Monday, November 2, 2009, which is twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of fasteners to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide information or comments that they believe are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics; and 2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison

criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe fasteners, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by October 27, 2009. Additionally, rebuttal comments must be received by November 3, 2009.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Tariff Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Tariff Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Tariff Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Tariff Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support,

the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (the Commission), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the Commission must apply the same statutory definition regarding the domestic like product (see section 771(10) of the Tariff Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See USEC, Inc. v. United States, 132 F. Supp. 2d 1, 8 (Ct. Int’l Trade 2001), citing Algoma Steel Corp., Ltd. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d 865 F.2d 240 (Fed. Cir. 1989), cert. denied 492 U.S. 919 (1989).

Section 771(10) of the Tariff Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that fasteners constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: Certain Standard Steel Fasteners from the People’s

Republic of China (PRC Checklist), at Attachment II, Industry Support, and Antidumping Duty Investigation Initiation Checklist: Certain Standard Steel Fasteners from Taiwan (Taiwan Checklist), at Attachment II, Industry Support, on file in the Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Tariff Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of Investigations” section above. To establish industry support, Petitioner provided its production of the domestic like product for the year 2008, and compared this to the estimated total production of the domestic like product for the entire domestic industry. See Volume I of the Petition, at 2-3, Exhibit I-10; see also Supplement to the AD/CVD Petitions, at 17-18, Exhibit I-Supp-6, and Industry Support Supplement, at Attachment 1. To estimate 2008 production of the domestic like product, Petitioner used its own data and industry specific knowledge. See Industry Support Supplement, at Attachment I; see also PRC Checklist at Attachment II, Taiwan Checklist at Attachment II. Petitioner calculated total domestic production based on its own production plus estimates regarding the other producers of the domestic like product in the United States. Id. We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, see Initiation Checklist at Attachment II.

Our review of the data provided in the Petitions, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support. First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support

(e.g., polling). See section 732(c)(4)(D) of the Tariff Act; see also PRC Checklist at Attachment II, and Taiwan Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Tariff Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product. See PRC Checklist at Attachment II, and Taiwan Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Tariff Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Tariff Act. Id.

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Tariff Act and it has demonstrated sufficient industry support with respect to the antidumping duty investigations that it is requesting the Department initiate. Id.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Tariff Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, increased import penetration, declining sales, reduced production, reduced capacity, , increased raw material cost, abandoned product lines, reduced shipments, reduced wages and hours worked, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See PRC Checklist at Attachment III, Injury, and Taiwan Checklist at Attachment III, Injury.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of fasteners from the PRC and Taiwan. The sources of data for the deductions and adjustments relating to the U.S. price, the factors of production (for the PRC), and price-based NV (for Taiwan) are also discussed in the country-specific initiation checklists. See PRC Checklist and Taiwan Checklist.

U.S. Price

The PRC

For the PRC, Petitioner calculated export price (EP) based on documentation of offers for sale obtained from a confidential source. See PRC Initiation Checklist; see also Petition Vol. II at 3 and Exhibit II-2. Based on the terms of sale, Petitioner adjusted the export price for brokerage and handling, ocean freight, insurance and port expenses, as well as U.S. inland freight expenses. See PRC Initiation Checklist; see also Petition Vol. II at 5-13 and Exhibit II-5.

Taiwan

For Taiwan, Petitioner based U.S. price on EP because, it maintains, Taiwanese producers typically sell the subject merchandise either directly to unaffiliated U.S. customers or via an unaffiliated trading company to the U.S. customer. Petitioner obtained POI prices of fasteners produced by the Taiwanese manufacturer Jinn Her Enterprise Co., Ltd. (Jinn Her). Petitioner substantiated the U.S. prices used with affidavits from persons who obtained the information. Petitioner deducted, where appropriate, movement expenses (foreign inland freight, foreign port, brokerage and handling charges, ocean freight, and U.S. inland freight). Petitioners also deducted an amount for imputed credit expenses, based upon the presumed terms of payment. See Taiwan Checklist; see also Petition Vol. IV at 2-8 and Exhibits IV-1 to IV-15, and Taiwan Deficiency Response at Exhibits IV-Supp-1 to IV-Supp-5.

Normal Value

The PRC

Petitioner claims the PRC is a non-market economy (NME) country and that no determination to the contrary has been made by the Department. See Petition Vol. II at 14. In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of the PRC investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issue of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner contends that India is the appropriate surrogate country for the PRC because: 1) it is at a level of economic development comparable to that of the PRC and 2) it is a significant producer and exporter of comparable merchandise. See Petition Vol. II at 14-16. Based on the information provided by Petitioner, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Petitioner calculated the NV and dumping margins using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioner calculated NV based on consumption rates of the factors of production on the average consumption rates of a fasteners producer in the United States (Surrogate Domestic Producer) for identical or similar merchandise. See Petition Vol. II at 2 and 16-17 and Exhibit II-16. In calculating NV, Petitioner based the quantity of each of the inputs used to manufacture and pack fasteners in the PRC on product-specific production costs and/or consumption rates of the Surrogate Domestic Producer during the POI. See Petition Vol. II at 16-17 and Exhibit II-16. Petitioner states that the actual usage rates of the foreign manufacturers of fasteners, Autocraft Industrial (Autocraft) and Shanghai Prime Machinery Co., Ltd. (Shanghai Prime), are not reasonably available; however, Petitioner notes that according to the information available to Petitioner, the production of fasteners by Autocraft and Shanghai Prime relies on similar production methods to the Surrogate Domestic Producer. See Petition Vol. II at 16 and 19 and 16-17 and Exhibit II-16.

Petitioner determined the consumption quantities of all raw materials and packing materials based on the production experience of the Surrogate Domestic Producer. See Petition Vol. II at 2 and 19-20. Petitioner valued the factors of production based on reasonably available, public surrogate country data, specifically, Indian import statistics from the Global Trade Atlas (GTA). See the PRC Deficiency Response at 1 and Exhibits II-Supp-1 and 2. Petitioner excluded from these import statistics imports from countries previously determined by the Department to be NME countries. Petitioner also excluded import statistics from Indonesia, the Republic of Korea, and Thailand, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. Id., at 1 and Exhibits II-Supp-1 and 2. In addition, the Petitioner made currency conversions, where necessary, based on the POI-average rupee/U.S. dollar exchange rate, as reported on the Department's web site. See Petition Vol. II at 21 and Exhibit II-8. Petitioner determined labor costs using the labor consumption, in hours, derived from the Surrogate Domestic Producer's experience. See Exhibit II-16 and PRC Deficiency Response at Exhibit II-Supp-2. Petitioner valued labor costs using the Department's NME Wage Rate for the PRC at <http://ia.ita.doc.gov/wages/05wages/05wages-051608.html>. See Petition Vol. II at 26. For purposes of initiation, the Department determines that the surrogate values used by Petitioner are reasonably available and, thus, acceptable for purposes of initiation.

Petitioner determined electricity costs using the electricity consumption, in kilowatt hours, derived from the Surrogate Domestic Producer's experience. See Petition Vol. II at 26 and Exhibit II-16. Petitioner valued electricity using the Indian electricity rate reported by the Central Electric Authority of the Government of India. See PRC Deficiency Response at 3 and Exhibits II-Supp-2 and II-Supp-5.

Petitioner determined natural gas costs using the natural gas consumption derived from the Surrogate Domestic Producer's experience. See Volume II of the Petition at Exhibit II-16.

Petitioner valued natural gas using the CRISIL natural gas rate that the Department relied upon in several recent investigations. See, e.g., Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China, 72 FR 40274 (July 24, 2007). Petitioner converted the amounts denominated in Indian rupees to USD using the Department's published exchange rates for the time period for the prospective POI. See Volume II of the Petition at 25-26 and Exhibit II-22.

Petitioner determined nitrogen costs using a price quote from Boruka Gases Ltd, which was previously relied upon in Frontseating Valves from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances, 74 FR 10886 (March 13, 2009) and Petition Vol. II at 25 and Exhibit II-20, and the Supplement to the Petition Vol. II at 2.

Petitioner determined the consumption of all packing materials based on the Surrogate Domestic Producer's experience. See Volume II of the Petition at 28 and Exhibit II-16. Petitioner valued packing materials based on Indian import statistics from GTA, and as noted above, excluded NME countries as well as countries with general export subsidies. See the Supplement to the AD PRC Petition at Exhibit II-Supp-1. In addition, Petitioner made currency conversions, where necessary, based on the POI-average rupee/USD exchange rate, as reported on the Department's website. See the Supplement to the AD PRC Petition at Exhibit II-Supp-3.

Petitioner based factory overhead, selling, general and administrative (SG&A), and profit on data from Sundaram Fasteners Ltd. (SFL), a producer of similar merchandise, for the 2007 –

2008 fiscal year. See Petition Vol. II at 27–28 and Exhibit II- 24. For purposes of the initiation, the Department finds Petitioner’s use of SFL’s unconsolidated financial ratios appropriate.

Taiwan

Petitioner based NV on price quotes for fasteners offered for sale in Taiwan by Jinn Her. These price and adjustment data were obtained through market research commissioned by petitioner. The price and adjustment data involve merchandise that is both commonly sold in the home market, and is substantially identical to the merchandise sold in the United States. Since the prices quoted were on an “ex-works” basis, Petitioner made no adjustments for movement expenses. Petitioner adjusted NV for imputed credit expenses. For comparison to EP, petitioner then added U.S. credit expenses. See Taiwan Checklist.

Fair-Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of fasteners from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of U.S. prices and NV calculated in accordance with section 773(c) of the Tariff Act, the estimated dumping margins for fasteners from the PRC range from 66.87 percent to 205.97 percent. See PRC Checklist and PRC Deficiency Response at Exhibit II-Supp-4. Based on a comparison of U.S. price and NV, the estimated dumping margins for fasteners from Taiwan range from 51.39 percent to 114.14 percent. See Taiwan Checklist; see also Petition Vol. IV at 18-19 and Exhibit IV-20, and Taiwan Deficiency Response at 11 and Exhibit IV-Supp-8.

Initiation of Antidumping Investigations

Based upon the examination of the Petition on fasteners from the PRC and Taiwan, the Department finds the Petition meets the requirements of section 732 of the Tariff Act.

Therefore, we are initiating antidumping duty investigations to determine whether imports of fasteners from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Tariff Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Targeted-Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted-dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted-dumping allegations, 19 CFR 351.301(d)(5). See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations, 73 FR 74930 (December 10, 2008). The Department stated that “withdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.” Id., 73 FR at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted-dumping allegation in either of these investigations pursuant to section 777A(d)(1)(B) of the Tariff Act, such allegations are due no later than 45 days before the scheduled date of the country-specific preliminary determination.

Respondent Selection

The PRC

For this investigation, the Department will request quantity and value information from all known exporters and producers identified with complete contact information in the Petition. The

quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation, 73 FR 10221, 10225 (February 26, 2008); Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China, 70 FR 21996, 21999 (April 28, 2005). The Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html>, and a response to the quantity and value questionnaire is due no later than November 3, 2009. Also, the Department will send the quantity and value questionnaire to those PRC companies identified in the Petition at Exhibit I-4 and in the General Issues Deficiency Response at Exhibit I-Supp-1.

Taiwan

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the Harmonized Tariff Schedule of the United States (HTSUS) numbers 7318.15.2030, 7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085, the six HTSUS categories most specific to the subject merchandise, during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this Federal Register notice. We note that Petitioner has stated that five of the six HTS categories covering subject merchandise “are broad basket categories that also cover products outside the scope of this investigation.” See Petition at 9 and Exhibit I-5. Accordingly,

the Department invites additional comments regarding the CBP data and respondent selection, including the propriety of basing respondent selection upon CBP data in this investigation, within ten days of publication of this Federal Register notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's web site at <http://ia.ita.doc.gov/apo>.

Separate Rates Application

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, dated April 5, 2005 (Separate Rates and Combination Rates Bulletin), available on the Department's web site at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China, 72 FR 43591, 43594-95 (August 6, 2007). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the Federal Register. The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for

consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the “Respondent Selection” section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate-rate status. The quantity and value questionnaire will be available on the Department’s web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of the publication of this initiation notice in the Federal Register.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

[W]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Tariff Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the representatives of the Governments of the PRC and Taiwan. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC and the Government of Taiwan, consistent with 19 CFR 351.203(c)(2).

Commission Notification

We have notified the Commission of our initiations, as required by section 732(d) of the Tariff Act.

Preliminary Determinations by the Commission

The Commission will preliminarily determine, no later than November 7, 2009, whether there is a reasonable indication that imports of fasteners from the PRC and Taiwan are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination with respect to any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Tariff Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

Date

Appendix I

Scope of the Investigations

The merchandise covered by the investigations consists of certain standard nuts, standard bolts, and standard cap screws, of steel other than stainless steel. Standard nuts, standard bolts, and standard cap screws covered by the investigations may have a variety of finishes, including but not limited to coating in paint, phosphates, and zinc. Standard bolts and standard cap screws covered by the investigations have a shank or thread with an actual and/or nominal diameter between 6 millimeters and 32 millimeters (inclusive). Standard bolts and standard cap screws covered by the investigations also possess a circular or hexagonal head, the surface of which may be flat or rounded (also known as “dome-shaped” or “button-headed”). Standard bolts covered by the investigations may have an attached washer face or the equivalent (e.g., a flanged head or chamfered corners on the underside of a fastener with a hexagonal-shaped head). Standard cap screws covered by the investigations have a permanently-attached washer face. Standard nuts are covered by the investigations if they are suitable for attachment to bolts and/or cap screws covered by the investigations.

Standard bolts, standard cap screws, and standard nuts are covered by the investigations whether imported alone, attached to other subject and/or non-subject merchandise (e.g., tension control assemblies), or unattached and in combination with other subject merchandise and/or non-subject merchandise.

Standard nuts, standard bolts, and standard cap screws meet the requirements of one or more nationally recognized consensus industry standard specifications (including but not limited to those referenced below). Subject merchandise is typically certified to the specifications published by one or more consensus standards organizations such as the following: the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), the International Organization for Standardization (ISO), and the Industrial Fasteners Institute. Common specifications to which subject merchandise is certified include, but are not limited to: ASTM A194, ASTM A307, ASTM A325, ASTM A325M, ASTM A354, ASTM A449, ASTM A490, ASTM A563, ASTM F568M, ASTM F1852, ASTM F2280, SAE J429, SAE J1199, ISO 898-1, ISO 898-2, ISO 4759-1, ISO 8992, and comparable foreign and domestic specifications (including, but not limited to, metric versions of specifications such as those listed above).

Excluded from the scope of the investigations are bolts, cap screws, and nuts produced for an original equipment manufacturer (OEM) part number specific to any “automobile” as defined in 49 U.S.C. Section 32901(a)(3), any “work truck” as defined in 49 U.S.C. Section 32901(a) (19), or any “medium-duty passenger vehicle” as defined in 40 C.F.R. Section 86.1803-01 (2009).

Also excluded from the scope of the investigations are bolts, cap screws, and nuts produced for an OEM part number specific to any “aircraft” as defined in 14 C.F.R. Section 1.1 (2009).

Also excluded from the scope of the investigations are track bolts. Track bolts have a circular, rounded head and a shank which, immediately beneath the head, possesses an oval or elliptical shape, such that the non-round shape would restrict rotational movement of the bolt. Also excluded from the scope of the investigations are carriage bolts. Carriage bolts have a circular, rounded head and a shank which, immediately beneath the head, possesses a non-round shape (e.g., square, finned), such that the non-round shape would restrict rotational movement of the bolt. Also excluded from the scope of the investigations are socket screws. Socket screws have a head with a recessed cavity into which a shaped bit may be inserted to turn and drive the fastener.

Unless explicitly excluded from the scope of the investigations, bolts, cap screws, and nuts meeting the description of subject merchandise are covered by the investigations.

Merchandise covered by the investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings: 7318.15.2030, 7318.15.2055, 7318.15.2065, 7318.15.8065, 7318.15.8085, and 7318.16.0085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigations is dispositive.