



OTTAWA, September 29, 2023

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STATEMENT OF REASONS

SCOPE RULING – CARBON STEEL FASTENERS

CAMO Edge Screws National Nail

Pursuant to subsection 66(1) of the *Special Import Measures Act*, the Canada Border Services Agency (CBSA) made a scope ruling on September 29, 2023, that National Nail's CAMO Edge Screws are subject to the Canadian International Trade Tribunal's order issued on September 2, 2020, in Expiry Review No. RR-2019-002, concerning the dumping of certain carbon steel fasteners from China and Chinese Taipei, and the subsidizing of certain carbon steel fasteners from China.

Cet *Énoncé des motifs* est également disponible en français.
This *Statement of Reasons* is also available in French.

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SUMMARY OF EVENTS

[1] On May 3, 2023, the Canada Border Services Agency (CBSA) received an application for a scope ruling from National Nail of Grand Rapids, Michigan, as to whether its CAMO Edge Screws are subject to the Canadian International Trade Tribunal's (CITT) order issued on September 2, 2020, in Expiry Review No. RR-2019-002, concerning the dumping of certain carbon steel fasteners from the People's Republic of China (China) and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), and the subsidizing of certain carbon steel fasteners from China.

[2] The application for the scope ruling was complete and met all requirements under the *Special Import Measures Act* (SIMA) to warrant the initiation of a scope proceeding. The applicant provided arguments and evidence in support of its position that CAMO Edge Screws are not subject to the CITT's order.

[3] On June 2, 2023, pursuant to subsection 63(8) of the SIMA, the CBSA initiated a scope proceeding with respect to the goods that are the subject of the application.

[4] The administrative record for this scope proceeding closed on July 27, 2023.

[5] On August 21, 2023, the CBSA issued the *Statement of Essential Facts* (SEF) which contained its preliminary assessment that the CAMO Edge Screws are subject to the CITT's order in respect of carbon steel fasteners from China and Chinese Taipei.

[6] The CBSA received comments on the SEF from Leland Industries Inc. (Leland) and National Nail on August 28, 2023. On September 5, 2023, Leland submitted a reply to National Nail's comments on the SEF to the CBSA.

[7] On the basis of the information on the record and the consideration of the relevant factors contained in section 54.6 of the *Special Import Measures Regulations* (SIMR) and other relevant factors, on September 29, 2023, pursuant to paragraph 66(1) of the SIMA, the CBSA made a scope ruling that CAMO Edge Screws are subject to the CITT's order in respect of carbon steel fasteners from China and Chinese Taipei.

DESCRIPTION OF THE GOODS THAT ARE THE SUBJECT OF THE APPLICATION

[8] The goods in question in this scope proceeding, CAMO Edge Screws, are decking screws that uses National Nail's Marksman Pro tool to be fastened to timber and composite decking, in such a way that it is hidden below the surface of the decking material.

THE CITT'S FINDING

Background

[9] On December 9, 2004, the CBSA made a final determination of dumping respecting certain carbon steel fasteners and certain stainless steel fasteners from China and Chinese Taipei, and made a final determination of subsidizing of such goods from China. On the same date, the CBSA terminated the subsidy investigation of such goods from Chinese Taipei.

[10] On January 7, 2005, the CITT issued its findings in Inquiry No. NQ-2004-005. The CITT terminated its inquiry regarding the dumping and subsidizing of certain stainless steel screws from China, as the volume of such goods was negligible. In its injury findings, the CITT found that the dumping of certain carbon steel screws from China and Chinese Taipei and the subsidizing of such goods from China had caused injury to the domestic industry. Furthermore, the CITT found that the dumping of certain stainless steel screws from Chinese Taipei was threatening to cause injury to the domestic industry. On the same date, the CITT found that the dumping of certain carbon and stainless steel nuts and bolts from China and Chinese Taipei and the subsidizing of such goods from China have not caused injury and were not threatening to cause injury to the domestic industry.¹

[11] On January 6, 2010, in Expiry Review No. RR-2009-001, the CITT continued, with amendment, its findings concerning certain carbon steel fasteners from China and Chinese Taipei and rescinded its finding concerning certain stainless steel fasteners from Chinese Taipei.²

[12] On January 5, 2015, in Expiry Review No. RR-2014-001 and again on September 2, 2020, in Expiry Review No. RR-2019-002, the CITT further continued, with amendment, its orders concerning certain carbon steel fasteners originating in or exported from China and Chinese Taipei. In each order, the CITT excluded specific products.³

Description of the Subject Goods

[13] For the purpose of this scope proceeding, the goods that are subject to the CITT order (“subject goods”) are defined as:

Certain carbon steel fasteners originating in/or exported from the People's Republic of China and Chinese Taipei, excluding those specifically designed for application in the automotive or aerospace industry.

¹ <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353466/index.do>

² <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353752/index.do>

³ <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/354209/index.do>, <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/484648/index.do>

Inclusions

[14] The following carbon steel fasteners were included by the CITT's order:

	Imperial		Metric	
	Diameter	Length	Diameter	Length
Wood Screws	#4 to #24 (0.112" to 0.386")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Square and Hex Lag Screws	#14 to #24 (1/4" to 0.386")	3/4 to 4 in.	M6 to M10	20 mm to 100 mm
Sheet Metal/Tapping Screws	#4 to #24 (0.112" to 0.386")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Thread Forming Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Thread Cutting Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Thread Rolling Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Self-drilling Tapping Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Machine Screws	#4 to 3/8 in (0.112" to 3/8")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Flange Screws	1/4 to 5/8 in	3/8 to 4 in.	M6 to M16	10 mm to 100 mm

Exclusions

[15] The following carbon steel fasteners were excluded by the CITT's order:

- Acoustic lag screws
- Aster screws
- Chicago screws
- Collated screws
- Connector screws (kd)
- Decor screws
- Drawer handle screws
- Drive spikes RR
- Euro screws
- Hex socket cap screws
- Instrument screws
- Knurled head screws
- Machine screws with wings
- Optical screws
- Screw spikes RR

- Security screws
 - Self-clinching studs
 - Socket cap screws
 - Socket set screws
 - Square-head set screws
 - Thumb screws
 - U-drive screws
 - Wing screws
- Screws imported under tariff item Nos. 9952.00.00, 9964.00.00, 9969.00.00, 9972.00.00 and 9973.00.00 for use in the manufacture of snowmobiles, all-terrain vehicles, personal watercraft and three-wheeled motorcycles.
- R4™ screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent numbers 2 267 572 and 2 198 832 and a Climatek™ coating which is certified to meet the ICC Evaluation Service, Inc. (ICC-ES) “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- RSS™ rugged structural screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent numbers 2 267 572 and 2 140 472 and a Climatek™ coating which is certified to meet the ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- MSS™ zip tip metal siding screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent numbers 2 267 572 and 2 478 635 and a Climatek™ coating which is certified to meet the ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- MSS™ drill tip metal siding screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent numbers 2 267 572 and 2 478 635 and a Climatek™ coating which is certified to meet the ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- Pan™ head screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- Cabinet™ screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.

- FIN/Trim™ head screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- White FIN/Trim™ head screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- RT Composite™ Trim™ head screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- White RT Composite™ Trim™ head screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- Vinyl Window™ screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- Caliburn™ concrete screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- Kameleon™ composite deck screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES “Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals” (AC257); or equivalent.
- Sharp-pointed drywall screws with diameters ranging from #6 to #7, lengths ranging from 0.4375 in. to 2.25 in., with a coarse, fine or high-low thread, with a bugle, flat, pan, truss or wafer head, with a Phillips driver and a black phosphate or standard zinc finish.
- Self-drilling drywall screws with diameters ranging from #6 to #7, lengths ranging from 0.4375 in. to 2.25 in., with a fine thread, with a bugle, flat, flat truss, pan, pancake, truss or wafer head, with a Phillips driver and a black phosphate or standard zinc finish.

Exclusions from the CITT Order of January 5, 2015

[16] All carbon steel screws that are listed below are specifically excluded:

- TOPLoc™ or Splitstop™ composite decking fasteners for exclusive use in conjunction with TimberTech® composite material decking systems.
- Titen HD™ (THD) heavy-duty carbon steel screw anchors for concrete, manufactured for and imported by Simpson Strong-Tie, bearing Canadian trademark number TMA614622 and Canadian patent number CA2349358, with diameters of between 0.25 in. (1/4 in.) and 0.375 in. (3/8 in.), inclusive (i.e. between 6.35 mm and 9.525 mm, inclusive), and lengths of between 1.25 in. and 8.00 in., inclusive (i.e. between 31.75 mm and 203.2 mm, inclusive), tested or assessed in accordance with one or more of: ASTM E488 ("Standard Test Methods for Strength of Anchors in Concrete and Masonry Elements"); AC106 ("Acceptance Criteria for Predrilled Fasteners (Screw Anchors) in Masonry Elements"); AC193 ("Acceptance Criteria for Mechanical Anchors in Concrete Elements"); or ACI 355.2/ACI 355.2R ("Qualification of Post-Installed Mechanical Anchors in Concrete") as amended or replaced from time to time.

Amendment of the CITT Order of January 5, 2015, to exclude, effective May 16, 2016:

- Shoulder bolts made of steel, grade 5, and zinc-plated, with a hexagonal head, an unthreaded cylindrical shoulder section ranging from 1/4 inch to 3/4 inch in diameter, and a threaded section that is smaller in diameter than the shoulder ranging from 3/8 inch to 7/8 inch in length and between 10-24 and 5/8-11 in common thread sizes.

Amendment of the CITT Order of January 5, 2015, to exclude, effective July 12, 2017:

- Squeeeeeek No More® square-drive wood screws, manufactured by or on behalf of O'Berry Enterprises Inc. under U.S. patent Nos. 5,371,992, 5,372,466 or 6,250,186, for use in wood flooring, with scoring above the threaded portion of the screw that allows the upper portion of the screw and head to be easily broken off, 3" or 3.5" in length, of a #8 or #9 diameter, threaded in part with 8 threads per inch and in part with 9 threads per inch, with the remainder unthreaded, and covered in a Gleitmo 615 lubricant coating (or equivalent coating) and imported in packages of 500 screws or less.

Exclusions from the CITT Order of September 2, 2020

- Screws designed by 1833236 Ontario Inc. d.b.a. U2 Fasteners and marketed under the trade name Construction Screw™, which have the features and characteristics described in Canadian patent number 2 979 899, a U-Gold™ coating, and are certified to comply with the most recent versions of the International Building Code® and the International Residential Code® and recognized for use in wood chemically treated with waterborne alkaline copper quaternary, type D (ACQ-D); or equivalent.

- Screws designed by 1833236 Ontario Inc. d.b.a. U2 Fasteners and marketed under the trade name Vinyl Extrusion Screw™, which have the features and characteristics described in Canadian patent number 2 979 899 and a proprietary coating; or equivalent.
- Composite deck screws with a dual coarse thread design, a counter boring head, a #20 TORX® ttap® drive and in lengths of 2.5 in. or 3 in., packaged together with color matched plugs made from the same material as the deck boards, and a setting tool designed to drive the screw to the appropriate level below the surface of the board, as part of the Cortex® Hidden Fastening System for Decking; or equivalent.
- PVC trim screws with a dual coarse thread design, a counter boring head, a #20 TORX® ttap® drive and in lengths of 2 in. or 2.75 in., packaged together with color matched plugs made from the same material as the PVC trim, and a setting tool designed to drive the screw to the appropriate level below the surface of the trim, as part of the Cortex® Hidden Fastening System for PVC Trim; or equivalent.
- Fascia board screws with a coarse thread design, a flat head, a #20 TORX® ttap® drive and in a length of 1.75 in., packaged together with color matched plugs made from the same material as the fascia board, a counterbore tool designed to create a hole for the screw and plug, and a setting tool designed to drive the screw to the appropriate level below the surface of the board, as part of the Cortex® Hidden Fastening System for Fascia; or equivalent.
- TrapEase® 3 composite deck screws with a dual coarse thread design, a color matched counter boring head, a #20 TORX® ttap® drive and in lengths of 2.5 in. or 3 in., packaged together with a driver bit; or equivalent.
- TrapEase® FASCIA screws with a dual coarse thread design, a color matched flat head, a #20 TORX® ttap® drive and in a length of 1.75 in., packaged together with a counterbore tool designed to create a pilot hole for screw placement and a driver bit; or equivalent.
- TimberLOK® heavy duty structural wood screws with a coarse thread design, a blank shank diameter of approximately 0.189 in., a countersinking hex washer head with a 5/16" drive and a head marking indicating overall length in inches, in various lengths, which are certified to comply with the most recent versions of the International Building Code® and the International Residential Code® and recognized for use in wood chemically treated with waterborne alkaline copper quaternary, type D (ACQ-D), packaged together with a driver bit; or equivalent.
- HeadLOK® heavy duty structural wood screws with a coarse thread design, a blank shank diameter of approximately 0.191 in., a flat head with an 8 lobe SpiderDrive™ and a head marking indicating overall length in inches, in various lengths, which are certified to comply with the most recent versions of the International Building Code® and the International Residential Code® and recognized for use in wood chemically treated with waterborne alkaline copper quaternary, type D (ACQ-D), packaged together with a driver bit; or equivalent.

- FlatLOK® structural wood screws with a coarse thread design, a blank shank diameter of approximately 0.227 in., a flat head with a #40 TORX® ttap® drive and a head marking indicating overall length in inches, in various lengths, which are certified to comply with the National Building Code of Canada and recognized for use in wood chemically treated with waterborne alkaline copper quaternary (ACQ), packaged together with a driver bit; or equivalent.
- LedgerLOK® structural wood screws with a coarse thread design, a blank shank diameter of approximately 0.228 in., a hex washer head with a 5/16” drive or a flat head with a #40 TORX® ttap® drive, and a head marking indicating overall length in inches, in lengths of 3.625 in. or 5 in., which are certified to comply with the most recent versions of the International Building Code® and the International Residential Code® and recognized for use in wood chemically treated with waterborne alkaline copper quaternary, type D (ACQ-D), packaged together with a driver bit; or equivalent.
- ThruLOK® structural wood screws with a unique thread design, a Paddle Point™ tip, a blank shank diameter of approximately 0.228 in., a hex washer head with a 5/16” drive and a head marking indicating overall length in inches, in various lengths, which are certified to comply with the most recent versions of the International Building Code® and the International Residential Code® and recognized for use in wood chemically treated with waterborne alkaline copper quaternary, type D (ACQ-D), packaged and used together with ThruLOK® washers and nuts; or equivalent.
- KWIK HUS-EZ high-strength self-tapping/undercutting carbon steel screw anchors for cracked concrete, uncracked concrete, seismic, concrete over metal deck, and grouted masonry applications, with a hex washer head, bearing Canadian trademark number TMA1011376 and having the features and characteristics described in Canadian patent number CA2738182, with a diameter of 0.25 in. and lengths ranging from 1.875 in. to 4 in., tested or assessed in accordance with one or more of: ASTM E488 (“Standard Test Methods for Strength of Anchors in Concrete and Masonry Elements”); ICC-ES AC106 (“Acceptance Criteria for Predrilled Fasteners (Screw Anchors) in Masonry Elements”); ICC-ES AC193 (“Acceptance Criteria for Mechanical Anchors in Concrete Elements”); American Concrete Institute (ACI) 355.2 (“Qualification of Post-Installed Mechanical Anchors in Concrete”), or National Building Code of Canada (NBCC) requirement outlined in Canadian Standards Association (CSA) A23.3-14 Annex D as amended or replaced from time to time; or equivalent.
- KWIK HUS-EZ P high-strength self-tapping/undercutting carbon steel screw anchors for cracked concrete, uncracked concrete, seismic, concrete over metal deck, and grouted masonry applications, with a pan washer head and Torx® drive, bearing Canadian trademark number TMA1011376 and having the features and characteristics described in Canadian patent number CA2738182, with a diameter of 0.25 in. and lengths of 1.875 in. or 2.625 in., tested or assessed in accordance with one or more of: ASTM E488 (“Standard Test Methods for Strength of Anchors in Concrete and Masonry Elements”); ICC-ES AC106 (“Acceptance Criteria for Predrilled Fasteners (Screw Anchors) in Masonry Elements”); ICC-ES AC193 (“Acceptance Criteria for Mechanical Anchors in Concrete Elements”); ACI 355.2 (“Qualification of Post-Installed Mechanical Anchors in Concrete”), or NBCC requirement outlined in CSA A23.3-14 Annex D as amended or replaced from time to time; or equivalent.

- KWIK HUS-EZ E high-strength self-tapping/undercutting carbon steel screw anchors for cracked concrete, uncracked concrete, seismic and concrete over metal deck applications, with an externally threaded stud with hex washer head, bearing Canadian trademark number TMA1011376 and having the features and characteristics described in Canadian patent number CA2738182, with a diameter of 0.25 in. and a length of 1.625 in., tested or assessed in accordance with one or more of: ASTM E488 (“Standard Test Methods for Strength of Anchors in Concrete and Masonry Elements”); ICC-ES AC193 (“Acceptance Criteria for Mechanical Anchors in Concrete Elements”); ACI 355.2 (“Qualification of Post-Installed Mechanical Anchors in Concrete”), or NBCC requirement outlined in CSA A23.3-14 Annex D as amended or replaced from time to time; or equivalent.

- KWIK HUS-EZ I high-strength self-tapping/undercutting carbon steel screw anchors for cracked concrete, uncracked concrete, seismic and concrete over metal deck applications, with an internally threaded hex washer head, bearing Canadian trademark number TMA1011376 and having the features and characteristics described in Canadian patent number CA2738182, with a diameter of 0.25 in. and lengths of 1.625 in. or 2.5 in., tested or assessed in accordance with one or more of: ASTM E488 (“Standard Test Methods for Strength of Anchors in Concrete and Masonry Elements”); ICC-ES AC193 (“Acceptance Criteria for Mechanical Anchors in Concrete Elements”); ACI 355.2 (“Qualification of Post-Installed Mechanical Anchors in Concrete”), or NBCC requirement outlined in CSA A23.3-14 Annex D as amended or replaced from time to time; or equivalent.

- Hangermate® case hardened carbon steel screw anchors, produced from a single piece of steel, with type 17 gimlet or self-drilling points, diameters ranging from 3/16 in. to 5/16 in., lengths ranging from 1 in. to 4 in., and various heads with threaded rod coupler sizes ranging from 1/4 in. to 1/2 in. or acoustical ceiling eyelets, approved by FM Approvals or Underwriters Laboratory, coated with a zinc plating according to ASTM B633, SC1, Type III (Fe/Zn5), for vertical, horizontal, side or variable mounting in steel or wood and intended for use in hanging applications; or equivalent.

- Hangermate®+ case hardened carbon steel screw anchors, produced from a single piece of steel, with diameters of 1/4 in. or 3/8 in., lengths ranging from 1.625 in. to 2.5 in., and internally or externally threaded heads with threaded rod coupler sizes ranging from 1/4 in. to 1/2 in., certified to comply with the most recent versions of the International Building Code® and the International Residential Code®, tested or assessed in accordance with ASTM E488 (“Standard Test Methods for Strength of Anchors in Concrete and Masonry Elements”), ICC-ES AC193 (“Acceptance Criteria for Mechanical Anchors in Concrete Elements”), and ACI 355.2 (“Qualification of Post-Installed Mechanical Anchors in Concrete”), evaluated and qualified by an accredited independent testing laboratory for recognition in cracked and uncracked concrete including seismic and wind loading and for reliability against brittle failure, approved by FM Approvals, coated with a zinc plating according to ASTM B633, SC1, Type III (Fe/Zn5), for vertical mounting in normal-weight concrete, sand-lightweight concrete and concrete over steel deck, and intended for use in hanging applications; or equivalent.

- Screw-Bolt+™ case hardened carbon steel anchors, produced from a single piece of steel, with diameters ranging from 1/4 in. to 5/8 in., lengths ranging from 1.25 in. to 8 in., and a hex washer head or a flat head, certified to comply with the most recent versions of the International Building Code® and the International Residential Code®, tested or assessed in accordance with ICC-ES AC193 (“Acceptance Criteria for Mechanical Anchors in Concrete Elements”) and ACI 355.2 (“Qualification of Post-Installed Mechanical Anchors in Concrete”), evaluated and qualified by an accredited independent testing laboratory for recognition in cracked and uncracked concrete including seismic and wind loading and for reliability against brittle failure, coated with a zinc plating according to ASTM B633, SC1, Type III (Fe/Zn5) or a mechanically galvanized zinc plating according to ASTM B695, Class 55, for mounting in normal-weight concrete, lightweight concrete, concrete over steel deck, grouted concrete masonry and brick masonry; or equivalent.

[17] For additional information on the subject goods, please refer to the CITT’s *Orders and Reasons* in expiry reviews No. RR-2019-002⁴, No. RR-2014-001⁵ and No. RR-2009-001⁶ and the CBSA’s *Statement of Reasons* (SOR) respecting the fasteners final determinations⁷.

SCOPE PROCEEDING PROCESS

[18] At the initiation of the scope proceeding, a notice concerning the initiation of the scope proceeding and Requests for Information (RFIs) were sent to all known and potentially interested parties. The RFIs solicited information needed to consider the factors, as listed in section 54.6 of the SIMR and any other factor relevant to the scope proceeding. The applicant was also invited to provide additional information relevant to the scope proceeding.

[19] On August 21, 2023, the CBSA made its preliminary assessment in the scope proceeding as detailed in the SEF for the scope proceeding issued on that date. Subsequent to the publication of the SEF, various comments and responses to comments were received from interested parties. The CBSA considered the comments and responses in making its scope ruling. Details of these comments and responses, as well as the CBSA’s responses, are presented below.

INTERESTED PARTIES

Applicant

[20] The name and address of the applicant are as follows:

National Nail
2964 Clydon SW
Grand Rapids, Michigan 49519

⁴ <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/484648/index.do>

⁵ <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/354209/index.do>

⁶ <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353752/index.do>

⁷ <https://cbsa-asfc.gc.ca/sima-lms/i-i-e/ad1308/ad1308f-eng.html>

[21] National Nail is an original brand manufacturer that imports certain fasteners and fastener systems into Canada.

[22] A copy of the non-confidential version of the scope ruling application filed by National Nail is available on the CBSA's Listings of Exhibits website at:
<https://www.cbsa-asfc.gc.ca/sima-lmsi/sp-pp/fas2023/fas202301-ex-eng.html>.

[23] The CBSA invited National Nail to provide additional information in regards to the application, however no further information was submitted.

Canadian Industry

[24] At the initiation of the scope proceeding, the CBSA identified 4 Canadian producers of like goods based on information collected during the most recent re-investigation concluded November 14, 2019.

[25] The CBSA sent a Request for Information (RFI) to all producers of like goods. The CBSA received responses from two Canadian producers of like goods, namely: Infasco, a division of Ifastgroupe 2004 L.P. and Leland Industries Inc.

Importers

[26] At the initiation of the scope proceeding, the CBSA identified 98 known and potential importers of certain fasteners based on the CBSA's most recent normal value reviews concerning these goods, initiated May 18, 2023, as well as information available through the monitoring of import activity.

[27] The CBSA sent an Importer RFI to all known and potential importers of certain fasteners. The CBSA received submissions from 14 importers of certain fasteners. Five importers provided comments on the subjectivity of the goods in question, while the other nine did not provide comments in this regard.

Exporters and/or Foreign Producers

[28] At the initiation of the scope proceeding, the CBSA identified 79 known and potential exporters and/or producers of certain fasteners based on the CBSA's most recent normal value reviews concerning these goods, and information available through the monitoring of import activity.

[29] The CBSA sent an Exporter RFI to all known and potential exporters and/or producers. The CBSA received submissions from 16 exporters and/or producers of certain fasteners. Seven exporters and/or producers provided comments on the subjectivity of the goods in question, while the other nine did not provide comments in this regard.

POSITIONS OF THE PARTIES

Party Contending that the Goods in Question are Not Subject to the CITT order

[30] In addition to the information and arguments contained in National Nail's application, the CBSA received responses to its RFI from interested parties contending that the goods in question are not subject to the CITT order, namely: Chin Well Fasteners (Vietnam) Co.,⁸ Ltd., Dynamic Fastener Service, Inc.,⁹ LIV Building Products Inc.,¹⁰ Quincaillerie Richelieu Ltee,¹¹ Suzhou Hongly Hardware Co., Ltd.,¹² The Hillman Group Canada ULC,¹³ and U2 Fasteners.¹⁴

[31] The details of the information and arguments submitted by National Nail and each of these interested parties are available in the SEF issued on August 21, 2023.

[32] National Nail listed four exclusions from the CITT's order which they stated is relevant to the application for the scope proceeding:

- Kameleon™ composite deck screws marketed by GRK Canada Limited which have the features and characteristics described in Canadian patent number 2 267 572 and a Climatek™ coating which is certified to meet ICC-ES "Acceptance Criteria for Corrosion-resistant Fasteners and Evaluation of Corrosion Effects of Wood Treatment Chemicals" (AC257); or equivalent.
- TOPLoc™ or Splitstop™ composite decking fasteners for exclusive use in conjunction with TimberTech® composite material decking systems.
- "Composite deck screws with a dual coarse thread design, a counter boring head, a #20 TORX® ttap® drive and in lengths of 2.5 in. or 3 in., packaged together with color matched plugs made from the same material as the deck boards, and a setting tool designed to drive the screw to the appropriate level below the surface of the board, as part of the Cortex® Hidden Fastening System for Decking; or equivalent;
- TrapEase® 3 composite deck screws with a dual coarse thread design, a color matched counter boring head, a #20 TORX® ttap® drive and in lengths of 2.5 in. or 3 in., packaged together with a driver bit; or equivalent."

⁸ Exhibit 34 (NC) FAS 2023 SP1

⁹ Exhibit 58 (NC) FAS 2023 SP1

¹⁰ Exhibit 33 (NC) FAS 2023 SP1

¹¹ Exhibit 69 (NC) FAS 2023 SP1

¹² Exhibit 60 (NC) FAS 2023 SP1

¹³ Exhibit 43 (NC) FAS 2023 SP1

¹⁴ Exhibit 20 (NC) FAS 2023 SP1

[33] National Nail took the position that the goods subject to the application are equivalent to two of the four above-mentioned exclusions, specifically the Cortex® and TrapEase® 3 composite deck screws.

[34] In its application, National Nail, along with the supporting parties, argued that the Cortex® screws, TrapEase® 3 screws and the CAMO Edge Screws are used with an installation tool designed to drive the screw to the appropriate level below the surface of the board, they are part of a hidden fastening system for decking and they are packaged with a driver bit used with the installation tool that is used exclusively with the screw. Other similarities listed include the following:

- Both do not require pre-drilling
- Both can be used with many types of decking material, including many similar brands of material
- Both offer a warranty against corrosion
- Both offer protection against “strip-out”.

[35] Some parties in support of the applicant’s position indicated their respective products and stated that they are similar in dimensions and other features to the CAMO Edge Screws, along with the exclusions mentioned by the applicant.

Parties Contending that the Goods in Question are Subject to the CITT order

[36] The CBSA received responses to its RFI from interested parties contending that the goods in question are subject to the CITT order, namely: Honor Best Co., Ltd.,¹⁵ Infasco, a Division of Ifastgroupe 2004 L.P.,¹⁶ Leland Industries Inc.,¹⁷ Muro North America Inc.,¹⁸ and OMG, Inc.¹⁹

[37] The details of the information and arguments submitted by each of these interested parties are available in the SEF issued on August 21, 2023. The information and arguments are summarized below.

The CAMO Edge Screws have different physical characteristics from the four product exclusions

[38] Parties argued that the CAMO Edge Screws and the product exclusions do not share the same dimensions, explaining that the TrapEase® 3 decking screws come in lengths of 2.5 and 3 inches, while the CAMO Edge Screws come in lengths of 1-7/8 inches and 2-3/8 inches.

¹⁵ Exhibit 15 (NC) FAS 2023 SP1

¹⁶ Exhibit 40 (NC) FAS 2023 SP1

¹⁷ Exhibit 38 (NC) FAS 2023 SP1

¹⁸ Exhibit 48 (NC) FAS 2023 SP1

¹⁹ Exhibit 71 (NC) FAS 2023 SP1

[39] Parties also stated that the Kameleon™ screws have a specific patent that is required for the exclusion in the CITT order, and they also have a Climatex™ coating that is certified to meet ICC-ES Acceptance Criteria for Fasteners (AC257). In comparison, parties note that the CAMO Edge Screws do not have this patent and no documentation from National Nail’s submission indicates whether the screws’ ProTech coating meets the ICC-ES standard.

The CAMO Edge Screws have different functions from the four product exclusions

[40] Parties argued that the Cortex® decking screws have features, such as “collated plugs” that allow the screws to function with colour-matching plugs, whereas the CAMO Edge Screws do not have this feature and are left exposed after installation.

[41] Parties also argued that the TrapEase® 3 composite screws have various colour-matched heads for different decking brands, whereas the technical specifications for the CAMO Edge Screws indicate only two colours, green and black.

[42] Parties explained that the installation method for the CAMO Edge Screws differ from the product exclusions. The CAMO Edge Screws are installed through the side of a decking board, whereas the Cortex®, TrapEase® 3 and the Kameleon™ decking screws are installed vertically through the top of the board.

[43] Parties added that the Cortex® screws are sold as a kit, whereas the CAMO Edge Screws are sold without the installation tool and do not contain plugs in the package.

[44] Parties finalized their arguments by stating that a scope proceeding is not the best method for National Nail and that a product exclusion request to the CITT would be more suitable.

COMMENTS ON CBSA’S PRELIMINARY ASSESSMENT

[45] As previously indicated, following the publication of the SEF, counsel for National Nail²⁰ and Leland²¹ provided comments with respect to the SEF on August 28, 2023.

Leland’s Comments on the SEF²²

[46] Counsel for Leland stated that they agree with the preliminary assessment by the CBSA in the SEF. Leland referred to section 54.6 of SIMR and argued that the CAMO Edge Screws are significantly different from the OMG Cortex® and TrapEase® 3 screws in physical characteristics, product use and packaging. As such, Leland argued that the CBSA should find the CAMO Edge Screws to be subject to the CITT order.

²⁰ Exhibit 80 (NC) FAS 2023 SP1

²¹ Exhibit 79 (NC) FAS 2023 SP1

²² Exhibit 79 (NC) FAS 2023 SP1

National Nail's Comments on the SEF²³

[47] National Nail argued that it disagrees with the CBSA's preliminary assessment and argued that the CBSA has "unduly narrowly interpreted and applied the factors prescribed for consideration of scope proceedings that are set out in the [SIMR]".

[48] National Nail argued that the issue in this scope proceeding is whether the CAMO Edge Screw is "equivalent" to the decking screws excluded in the CITT order.

[49] National Nail stated that the screw is equivalent to the GRK, Timbertech and OMG decking screws "by virtue of being 'like or corresponding in signification, import, effect or function' and the distinctions being made by parties opposed are not material or relevant to the issue of 'equivalence'".

[50] National Nail cited subsection 54.6 of SIMR and the CITT order in Expiry Review No. RR-2009-001, and argued that the characteristics of the Kameleon™ deck screws marketed by GRK Canada Limited (GRK) are equivalent to the CAMO Edge Screws. National Nail further stated that "(1) both are 'deck screws'; (2) both benefit from patents; and (3) the [CITT] determined that the domestic industry does not produce substitutable deck screws (among other types of screws for which GRK requested exclusions)."

[51] The same arguments are presented when National Nail compares the CAMO Edge Screws to the TimberTech excluded goods. National Nail noted that the exclusion request from TimberTech indicates similarities with GRK products and that both are sold with its own "decking system".

[52] National Nail refers to the CITT's observations on OMG's product exclusion request in the *Statement of Reasons* for Expiry Review RR-2019-002, and argues that while OMG attempts to indicate that their products and the CAMO Edge Screws are used for different types of decking, "OMG fasteners are all 'wood screws' and as a result this is a distinction without a difference. Furthermore, OMG's statement that its products compete with other imported products rather than with domestically produced goods, applies equally to the CAMO Edge Screws, which have been sold in the Canadian market (albeit made in a non-subject country to date) for over 10 years."

[53] In addition, National Nail lists seven characteristics with which the OMG Cortex® Deck screws and CAMO Edge Screws are equivalent:

[...](1) both are "wood screws"; (2) both are for use as "deck screws"; (3) both are part of a "hidden fastening system" that uses a "setting tool" to install the screw; (4) both are high-end specialized products; (5) both leave a "clean finish" once installed; (6) both are priced at significantly higher prices than domestic products; and (7) both are similar to the GRK and Timbertech products which are also excluded by the Tribunal.

²³ Exhibit 80 (NC) FAS 2023 SP1

[54] National Nail refers to the CITT’s remarks for the product exclusion of the OMG TrapEase® 3 screws, which states that the TrapEase® 3 screws are “composite deck screws” with colour-matching heads for different decking brands “resulting in a clean finish when installed flush with the surface of the decking”, which is similar to the Cortex® screws, and that the OMG screws have “specific features not found on Leland’s Master Deckers®, which are necessary to avoid compromising the boards and to obtain the clean finish desired by end users.”

Leland’s Reply Submission²⁴

[55] Counsel for Leland replied that National Nail’s argument of equivalence is flawed for the following reasons:

- “National Nail uses an unreasonably narrow reading of dictionary definitions for the term “equivalent” to encourage the CBSA to take a narrow view of evaluating whether products are substantially the same;
- Adopting National Nail’s restrictive definition would read out the prescribed factors in the SIMR for making a scope ruling;
- The Tribunal has set parameters to determine whether a product is “equivalent” to an excluded product, which suggest the same factors prescribed in the [SIMR] to make a scope ruling and can should [*sic*] be used to determine if goods are “equivalent”; and,
- Applying all the SIMR factors, the CAMO Edge Screws are not substantially the same product as the excluded products.”

[56] Counsel for Leland replied that “National Nail’s position that general end use is enough to render two products “equivalent” is at odds with how Tribunal has worded its dozens of existing exclusions in *Carbon Steel Screws*.” They further argue that the CITT “has relied on specific product characteristics and not just end use in deciding whether the products should be excluded from the Order.”

[57] Counsel for Leland replied that National Nail confuses the test of the scope ruling with the test for product exclusions and, in its citations, ignores the CITT’s analysis relevant to the SIMR, “including end uses but also the physical characteristics and technical specifications of the product at issue in the [CITT]’s review of the CBSA scope ruling. The presence of “or equivalent” in *Carbon Steel Screws* exclusions does not justify ignoring factors that were such an integral part of the [CITT]’s analysis in *Western Alliance Tubulars*.”

[58] Counsel for Leland replied that National Nail extensively cited several items of evidence that was not on the record for this scope proceeding on or before July 27, 2023, contrary to the CBSA’s remark that no new factual information would be accepted. Leland provides an example and argued “National Nail cited extensively to the supporting documentation that OMG placed on the record during the previous *Carbon Steel Screws* expiry review but National Nail did not file this information with its materials prior to record close.” As such, Leland argues that the evidence not on the record should be disregarded.

²⁴ Exhibit 81 (NC) FAS 2023 SP

CBSA Response

[59] The CBSA examined all the information submitted by parties that are available on the record, and made its decision in consideration of the CITT order and the prescribed factors in the SIMR.

[60] In addition, while National Nail's application referred to the GRK and TimberTech screws, the application solely claimed equivalency with the OMG Cortex® and TrapEase® 3 decking screws.

[61] Paragraph 248 of the CITT's reasons in Carbon Steel Screws, Expiry Review No. RR-2019-002 provides clarification that the words "or equivalent" are added to a product description to allow parties who import substantially the same product to benefit from the exclusion.²⁵ Therefore, at issue before the CBSA, is the determination of whether CAMO Edge Screws are substantially the same as OMG Cortex® and TrapEase® 3 screws.

PROCEDURAL ISSUES

[62] The CBSA will normally not consider any new information submitted by participants subsequent to the closing of the record. However, in certain exceptional circumstances, it may be necessary to permit new information to be submitted. The CBSA considers a number of factors in deciding whether to accept new information submitted after the closing of the record including the availability of the information prior to the closing of the record.

[63] With respect to this scope proceeding, National Nail submitted comments on August 28, 2023 in which it expanded on its response to its submission and OMG's submission. National Nail's comments contained new information with respect to OMG's submission to the CITT's Expiry Review RR-2019-002. The comments were submitted by deadline for comments on the SEF, but one week after the scheduled deadline for the closing of the record. The CBSA decided not to accept the comments made regarding OMG's submission to the CITT's Expiry Review after determining that the evidence submitted consisted of new information, which was available to be submitted before the close of the record.

CBSA ANALYSIS

[64] As summarized above, representations were received from National Nail and Leland Industries Inc. regarding the CBSA's preliminary assessment in the SEF. After considering the comments and arguments raised by the interested parties, the CBSA maintains its preliminary assessment.

[65] In making a scope ruling under subsection 66(1) of SIMA, subsection 66(6) provides that the CBSA shall take into account any prescribed factors as well as any other factor that is considered relevant in the circumstances. A copy of the factors prescribed in section 54.6 of the SIMR is found in the **Appendix**.

²⁵ <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/484648/index.do>

[66] Accordingly, the CBSA considered the following factors in making its scope ruling:

- The physical characteristics of the goods;
- The uses of the goods;
- The packaging, including any other goods contained in the packaging, along with the promotional material and documentation concerning the goods in respect of which the scope proceeding has been initiated; and
- The description of the goods in the CITT finding

[67] The applicant claims that the goods subject to the scope application are equivalent to products excluded from the CITT's order. The applicant specifically references OMG's Cortex® and TrapEase® 3 composite decking screws.

[68] All three deck screws employ different hidden fastening mechanisms. CAMO Edge Screws are installed through the side of a decking board and are not visible after installation. OMG Cortex® screws are installed vertically through the face of the decking board and employ colour matched collated plugs. TrapEase® 3 screws are also installed vertically through the face of the board and are sold with colour-matched heads for different decking brands.

[69] While all three products are designed for use with synthetic decking, CAMO Edge Screws are also marketed for use with pressure treated lumber, cedar, redwood and hardwood decking.

[70] CAMO Edge and OMG screws differ in measurements and physical characteristics including length, thread diameter, head style and thread and point type.

[71] CAMO Edge screws are sold and packaged with a T15 Star drive bit designed to be used with a proprietary fastening tool which is sold separately. Cortex® screws are sold as a kit which includes plugs and setting tools. TrapEase® 3 screws are sold and packaged with a drive bit and installation guide.

[72] As such, due to the significant differences in physical characteristics, product use and packaging, the CBSA is of the view that CAMO Edge Screws are not substantially the same as OMG Cortex® and TrapEase® 3 screws.

SCOPE RULING

[73] On the basis of the information on the administrative record and having considered the relevant factors contained in section 54.6 of the SIMR and other relevant factors, on September 29, 2023, the CBSA made a scope ruling pursuant to subsection 66(1) of SIMA that CAMO Edge Screws are subject to the CITT's order issued on September 2, 2020, in Expiry Review No. RR-2019-002, concerning certain carbon steel fasteners originating in or exported from China and Chinese Taipei.

FUTURE ACTION

[74] Pursuant to subsection 66(4) of SIMA, this scope ruling takes effect on September 29, 2023.

[75] Pursuant to section 69 of SIMA, this scope ruling is binding with respect to any determination or re-determination made in respect of any goods to which the scope ruling applies that are released on or after the date it is made.

[76] Pursuant to subsection 66(7) of SIMA, a scope ruling made under subsection 66(1) is final and conclusive, subject to further appeal. Pursuant to subsection 61(1.1) of SIMA, a scope ruling may be appealed to the CITT by any interested person as defined in subsection 52.3(1) of the SIMR. The notice of appeal must be filed in writing with the CBSA and the CITT within 90 days after the day the scope ruling was made. A decision made by the CITT may be further appealed to the Federal Court of Appeal.

INFORMATION

[77] This SOR is available through the CBSA's website at the address below. For further information, please contact the officer identified as follows:

Mail: SIMA Registry and Disclosure Unit
Trade and Anti-dumping Programs Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th floor
Ottawa, Ontario K1A 0L8
Canada

Telephone: Rebecca Akuoko-Asibey 343-553-1411
Hugo Dumas 343-553-2007

E-mail: simaregistry@cbsa-asfc.gc.ca

Website: www.cbsa-asfc.gc.ca/sima-lmsi/



Simon Duval
Acting Director
Anti-dumping and Countervailing Investigations
Trade and Anti-dumping Programs Directorate

APPENDIX – PRESCRIBED FACTORS IN THE SIMR

The SIMR section 54.6 provides the following:

54.6 For the purpose of subsection 66(6) of the Act, the President may take the following factors into account in making a scope ruling:

(a) in all cases,

(i) the physical characteristics of the goods in respect of which the scope proceeding has been initiated, including their composition,

(ii) their technical specifications,

(iii) their uses,

(iv) their packaging, including any other goods contained in the packaging, along with the promotional material and documentation concerning the goods in respect of which the scope proceeding has been initiated, and

(v) their channels of distribution;

(b) for a ruling as to whether goods in respect of which the scope proceeding has been initiated are of the same description as goods to which an order of the Governor in Council or an order or finding of the Tribunal applies,

(i) the description of the goods referred to in that order or that order or finding,

(ii) in the case of an order or finding of the Tribunal, the reasons for the order or finding, and

(iii) any relevant decision by the Tribunal, the Federal Court of Appeal, the Supreme Court of Canada, or a panel under Part I.1 or II of the Act;

(c) for a ruling as to whether goods in respect of which the scope proceeding has been initiated are of the same description as goods to which an undertaking applies,

(i) the description of the goods referred to in the preliminary determination of dumping or subsidizing and in the undertaking, and

(ii) the reasons for the preliminary determination; and

(d) if the basis for a ruling referred to in paragraph (b) or (c) is whether goods in respect of which the scope proceeding has been initiated originate in a country that is subject to the applicable order, finding or undertaking or originate in a third country,

(i) the production activities undertaken in the third country in respect of the goods and undertaken in the subject country in respect of goods from which the goods are produced,

(ii) the nature of the goods when they were exported from the third country and of goods from which the goods are produced when they were exported from the subject country, and

(iii) the costs of production of the goods incurred in the third country.