May 24, 2017

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations


SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain steel nails (nails) from the Socialist Republic of Vietnam (Vietnam). On September 12, 2016, the Department published in the Federal Register a notice of initiation of this review, covering 11 companies.1 On October 5, 2016, Mid Continent Steel & Wire (the petitioner) withdrew its request for review of eight companies.2 On October 18, 2016, the Department issued its antidumping duty questionnaires to the two mandatory respondents, Truong Vinh and Rich State. On November 8, 2016, Truong Vinh and Rich State submitted a letter stating that neither company intended to respond to the Department’s

1 See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 81 FR 62720 (September 12 2016) (Initiation Notice).

The companies for which the petitioner withdrew its request for review were not the subject of review requests by any other interested party. The three companies remaining under review are: Truong Vinh Ltd. (Truong Vinh); Rich State Inc. (Rich State); and Dicha Sombrilla Co., Ltd. (Dicha Sombrilla) (Petitioner’s Review Request Withdrawal Letter).
antidumping questionnaires.³ The period of review (POR) is December 29, 2014, through June 30, 2016.

The Department preliminarily determines that Truong Vinh, Rich State, and Dicha Sombrilla did not demonstrate their eligibility for a separate rate and are, therefore, part of the Vietnam-wide entity.

BACKGROUND

On July 13, 2015, the Department published in the Federal Register the antidumping duty order on nails from Vietnam.⁴ On July 5, 2016, the Department published in the Federal Register an opportunity to request an administrative review of the Order.⁵ The Department received requests for review of 11 companies.⁶ On September 12, 2016, the Department published in the Federal Register a notice of initiation of this review, covering 11 companies.⁷ On September 28, 2016, the Department placed entry data from CBP on the record of this review.⁸ On October 5, 2016, the petitioner withdrew its request for review of eight of those companies.⁹ On October 18, 2016, the Department issued antidumping duty questionnaires to Truong Vinh and Rich State.¹⁰ On November 8, 2016, Truong Vinh and Rich State submitted a letter stating that neither company intended to respond further to the Department’s questionnaires.¹¹

³ See Letter from Truong Vinh and Rich State, “Truong Vinh Ltd. and Rich State Inc., Questionnaire Response, First Annual Administrative Review of the Antidumping Duty Order on Steel Nails from the Socialist Republic of Vietnam, (A-552-818),” dated November 8, 2016 (Refusal to Respond Letter). Therein, Truong Vinh and Rich State indicated that they would not respond to the Department’s questionnaire because they believe that their zinc anchors would be found outside of the scope of the Order based on an ongoing scope inquiry. As such, Truong Vinh and Rich State stated that they will not reply to the Department’s October 18, 2016, Request for Information, and that this letter constitutes their response to Sections A, C, and D of the Department’s questionnaire.


⁷ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 81 FR 62720 (September 12, 2016) (Initiation Notice).


¹⁰ See Letter to Truong Vinh Ltd. with attached Questionnaire, dated October 18, 2016 (Truong Vinh Questionnaire). See also Letter to Rich State, Inc. with attached Questionnaire, dated October 18, 2016 (Rich State Questionnaire).

SCOPE OF THE ORDER

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

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

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

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

Also excluded from the scope of this order are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.
Also excluded from the scope of this order are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

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

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

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

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

**Partial Rescission of Administrative Review**

On July 5, 2016, the Department published the *Opportunity Notice* in the *Federal Register*. The Department received multiple timely requests for an administrative review of the *Order* and, on September 12, 2016, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), the Department initiated a review of 11 companies in this proceeding. On October 5, 2016, the petitioner withdrew its request for review with respect to the following eight companies: Astrotech Steels Private Limited; Blue Moon Logistics Private Ltd.; Bollore Logistics Vietnam Co. Ltd.; Dahnay Logistics Private Ltd; FGS Logistics Co. Ltd.; Honour Lane Shipping Ltd; SDV Vietnam Co. Ltd.; and United Nail Products Co. Ltd. No other parties requested review of these eight companies. In response to the petitioner’s timely filed withdrawal request, we are rescinding this administrative review, pursuant to 19 CFR 351.213(d)(1), with respect to these companies.

**DISCUSSION OF THE METHODOLOGY**

A. **Non-Market Economy Status**

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12 *See Opportunity Notice.*

13 *See Initiation Notice.*

14 *See Petitioner’s Review Request Withdrawal Letter.*
The Department considers Vietnam to be a non-market economy (NME) country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested NME treatment for Vietnam. Therefore, for the preliminary results of this review, we treated Vietnam as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

B. Vietnam-Wide Entity and Separate Rates

There is a rebuttable presumption that all companies within Vietnam are subject to government control and, thus, should be assessed a single antidumping duty rate. It is our policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, we analyze each exporting entity in an NME country under the test established in Sparklers, as amplified by Silicon Carbide. However, if we determine that a company is wholly foreign-owned or located in a market economy (ME), then a separate rate analysis is not necessary to determine whether it is independent from government control.

Consistent with the Department’s policy in NME reviews, the Vietnam-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity in this review, the entity is not under review, and the entity’s rate of 323.99 percent is not subject to change.

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17 See Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers).
19 See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People’s Republic of China, 72 FR 52355, 52356 (September 13, 2007) (Petroleum Wax Candles).
Upon initiation of this review, we provided an opportunity for all companies listed in the *Initiation Notice* that wish to claim eligibility for separate rate status in this review to complete, as appropriate, a separate rate application (SRA) or a separate rate certification (SRC).\(^{22}\) SRAs and SRCs were due to the Department within 30 calendar days of the publication of the *Initiation Notice*.

As noted in the background section above, although mandatory respondents Truong Vinh and Rich State received the Department’s AD questionnaire, neither of the companies responded to it, nor did they provide a SRA, SRC, or a statement of no-shipments. Since the companies did not respond to the questionnaires and did not provide separate rate information, they have not established their eligibility for separate rate status. Further, Dicha Sombrilla did not file a SRA, SRC, or no-shipments letter. As such, consistent with the Department’s current practice regarding conditional review of the Vietnam-wide entity, we preliminarily find that none of the three companies under review (*i.e.*, Truong Vinh, Rich State, and Dicha Sombrilla) are eligible for a separate rate, and are therefore considered part of the Vietnam-wide entity.

Because no party requested a review of the Vietnam-wide entity, the entity is not under review and the entity’s rate is not subject to change. If our determination is unchanged in the final results, Truong Vinh’s, Rich State’s, and Dicha Sombrilla’s entries, will be liquidated at the rate previously established for the Vietnam-wide entity, which is 323.99 percent.

**Recommendation**

We recommend applying the above methodology for these preliminary results.

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Agree Disagree

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

\(^{22}\) See *Initiation Notice* 81 FR at 20325.