



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-816]

Certain Steel Nails from Malaysia: Final Results of the Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On December 6, 2016, the Department of Commerce Department) published a notice of preliminary results of a changed circumstance review (CCR) of the antidumping duty order on certain steel nails (nails) from Malaysia. Based on our analysis of the comments from interested parties, we continue to find that Inmax Sdn. Bhd. (Inmax Sdn) and Inmax Industries Sdn. Bhd. (Inmax Industries) (collectively, Inmax Companies) should be collapsed. The combined entity's antidumping duty cash deposit rate is the current antidumping duty cash deposit rate assigned to Inmax Sdn for purposes of determining antidumping duty liability.

DATES: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Moses Song, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5041.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated this CCR on November 17, 2015, and published the *Preliminary Results* on December 6, 2016.¹ For a description of events that have occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the *Order*³ is certain steel nails having a nominal shaft length not exceeding 12 inches.⁴ Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. A complete description of the scope

¹ See *Certain Steel Nails from Malaysia: Initiation of Antidumping Duty Changed Circumstances Review*, 80 FR 71772 (November 17, 2015) ("Initiation Notice"); see also *Certain Steel Nails from Malaysia: Preliminary Results of the Changed Circumstances Review*, 81 FR 87907 (December 6, 2016) ("Preliminary Results").

² See "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Changed Circumstances Review of Certain Steel Nails from Malaysia," dated concurrently with and hereby adopted in this notice ("Issues and Decision Memorandum").

³ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (the *Order*).

⁴ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

of the *Order* is contained in the Issues and Decision Memorandum.⁵

Analysis of Comments Received

All issues raised by interested parties in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is appended to this notice.

Final Results of the Changed Circumstances Review

Upon review of the comments received and the record evidence, the Department continues to find that the Inmax Companies meet the criteria to be collapsed into a single entity and should be collapsed for purposes of antidumping duty liability in this proceeding. While, historically, the Department has not applied 19 CFR 351.401(f) in the context of CCRs, the Department finds that for purposes of this particular segment of the proceeding, the criteria in the regulation are relevant to ensure that the administration and effect of the underlying antidumping duty order are not undermined.⁶

Specifically, we determine that: (1) Inmax Sdn and Inmax Industries have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and, (2) there is a “significant potential for the manipulation of price or production,” if we do not collapse the companies. We conclude that allowing a company to avoid paying the cash deposits, specifically determined for it as a

⁵ See Issues and Decision Memorandum.

⁶ See, *Hontex Enters. v. United States*, 342 F. Supp. 2d 1225, 1234 (CIT 2004) (upholding Commerce’s going beyond the traditional regulatory analysis to address significant potential for manipulation through criteria other than those listed in the regulations); see also, *Certain Carbon Steel Cut-To-Length Plate from Austria*, 82 FR 16366 (April 4, 2017) and accompanying Issues and Decision Memorandum, at Comment 5 (“While the regulations only addresses certain types of entities, ‘the Department has found it to be instructive’ in determining whether other types of entities should be collapsed.”).

result of an investigation, through use of affiliated production facilities, is an evasion of the antidumping duty order, thereby warranting a CCR.

Accordingly, as discussed further in the Issues and Decision Memorandum, we find, in sum, that: (1) there were sufficient changed circumstances which established good cause to initiate and conduct this review; (2) the Inmax Companies should be collapsed; (3) the collapsed entity of the Inmax Companies is subject to the cash deposit rate assigned to Inmax Sdn in the investigation; and, (4) the results of this review are applied prospectively, from the date of the publication of the *Final Results*.⁷

Instructions to U.S. Customs and Border Protection

As a result of this determination, the Department finds that both Inmax Sdn and Inmax Industries are subject to the cash deposit rate currently assigned to Inmax Sdn (*i.e.*, 39.35 percent).⁸ Therefore, the Department will instruct U.S. Customs and Border Protection to continue suspension of liquidation and to collect estimated antidumping duties for all shipments of subject merchandise produced and exported by Inmax Sdn and/or Inmax Industries at the current cash deposit rate currently applicable to such entries, *i.e.*, the cash deposit rate of 39.35 percent assigned to Inmax Sdn, from the date of the publication of the *Final Results*.⁹ This cash deposit requirement shall remain in effect until further notice.

Notification to Parties

This notice is the only reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed

⁷ See the *Order*, 80 FR 39994; see also Issues and Decision Memorandum.

⁸ See the *Order*, 80 FR 39994 (July 13, 2015).

⁹ *Id.*

under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a sanctionable violation.

The Department is issuing and publishing these results in accordance with sections 751(b)(1) and (4) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 19 CFR 351.221(c)(3)(i).

Dated: July 14, 2017.

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of Issues
- V. Recommendation

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