



DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-854]

Certain Steel Nails from Taiwan: Preliminary Determination of No Shipments in the Antidumping Duty Administrative Review; 2019-2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Create Trading Co., Ltd. (Create Trading), the sole company under review, made no shipments of certain steel nails from Taiwan during the period of review (POR), July 1, 2019, to June 30, 2020. We invite interested parties to comment on this preliminary determination of no shipments.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Suzanne Lam, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0783.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2020, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the antidumping duty order on certain steel nails from Taiwan.¹ Based on timely requests for administrative review,² on September 3, 2020, Commerce published the notice of initiation for an administrative review, covering 141 companies, in

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 85 FR 39531 (July 1, 2020).

² See Petitioner's Letter, "Request for Administrative Review," dated July 31, 2020; see also Letter, "Administrative Review Request," dated July 31, 2020, collectively from: Liang Chyuan Industrial Co., Ltd., Romp Coil Nail Industries Inc., UJL Industries Co., Ltd., Hor Liang Industrial Corp., Yu Chi Hardware Co., Ltd., Trim International Inc., China Staple Enterprise Corporation, Hoyi Plus Co., Ltd., and Zon Mon Co., Ltd.

accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.221(c)(1)(i).³

On September 21, 2020, the petitioner timely withdrew its request for administrative review of all companies it originally requested, except for one company, Create Trading.⁴ Subsequently, the nine Taiwanese companies that had self-requested an administrative review, also withdrew their requests for review.⁵ Accordingly, on October 15, 2020,⁶ and December 10, 2020,⁷ pursuant to 19 CFR 351.213(d)(1), Commerce rescinded the administrative review, in part, of all companies under review except for Create Trading. The review remains active only with respect to Create Trading, which filed a statement of no sales.⁸

On November 23, 2020, the petitioner submitted comments regarding Create Trading's statement of no sales.⁹ At Commerce's request, U.S. Customs and Border Protection (CBP) provided entry documents associated with Create Trading's claim.¹⁰ Subsequently, on March 5, 2021, Commerce requested additional information from Create Trading regarding the CBP entry documents *vis-a-vis* its statement of no sales.¹¹ On March 19, 2021, Create Trading responded to Commerce's request for information,¹² and on April 5, 2021, the petitioner submitted comments regarding Create Trading's response.¹³

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 54983 (September 3, 2020) (*Initiation Notice*).

⁴ See Petitioner's Letter, "Withdrawal of Request for Administrative Reviews," dated September 21, 2020.

⁵ See Letter, "Withdrawal of Administrative Review Request," dated November 30, 2020, collectively from: Liang Chyuan Industrial Co., Ltd., Romp Coil Nail Industries Inc., UJL Industries Co., Ltd., Hor Liang Industrial Corp., Yu Chi Hardware Co., Ltd., Trim International Inc., China Staple Enterprise Corporation, Hoyi Plus Co., Ltd., and Zon Mon Co., Ltd.

⁶ See *Certain Steel Nails From Taiwan: Partial Rescission of Antidumping Duty Administrative Review; 2019–2020*, 85 FR 65366 (October 15, 2020).

⁷ See *Certain Steel Nails from Taiwan: Partial Rescission of Antidumping Duty Administrative Review; 2019–2020*, 85 FR 79470 (December 10, 2020).

⁸ See Create Trading's Letter, "Statement of No Sales to the United States," dated September 21, 2020 (Statement of No Sales). Specifically, Create Trading certified that all of its exports of subject merchandise were produced by unaffiliated producers that had knowledge of final destination to the United States at the time of sale to Create Trading, and thus, Create Trading claims it has no reviewable sales for this POR.

⁹ See Petitioner's Letter, "Comments on Create Trading Co., Ltd.'s Statement of No Sales to the United States," dated November 23, 2020.

¹⁰ See Memorandum, "Create Trading Co., Ltd. – Placement of Entry Documentation on the Record," dated May 6, 2021.

¹¹ See Commerce's Letter, "Request for Information," dated March 5, 2021.

¹² See Create Trading's Letter, "Response to Request for Information," dated March 19, 2021.

¹³ See Petitioner's Letter, "Comments on Create Trading Co., Ltd.'s Response to Request for Information," dated April 2, 2021.

Scope of the Order¹⁴

The merchandise covered by this order is certain steel nails from Taiwan. The certain steel nails subject to the order are currently classifiable under Harmonized Tariff Schedule of the United States (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 this order also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description, available in the Appendix to this notice, remains dispositive.

Preliminary Determination of No Shipments

Create Trading reported that it had no reviewable sales during the POR because its unaffiliated producers had knowledge of the final destination of the subject merchandise that they produced and sold to Create Trading, and which Create Trading resold to U.S. customers during the POR. Create Trading provided sales documentation, such as invoices and packing lists from its unaffiliated producers, as well as accounting records as evidence in support of its claim.¹⁵ Based on the information provided by Create Trading, which we find is supported by entry documents provided by CBP, we preliminarily determine that Create Trading was not the first party in the transaction chain to have knowledge that the merchandise was destined for the United States, and, thus, Create Trading is not considered the exporter of subject merchandise during the POR for purposes of this review. Specifically, the record demonstrates that Create Trading's unaffiliated suppliers had knowledge that the steel nails they produced and sold to

¹⁴ 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) (*Order*).

¹⁵ See Create Trading's Statement of No Sales.

Create Trading were destined for the United States. Thus, we preliminarily determine that Create Trading had no shipments during the POR.

Commerce finds that, based on the clarification in the 2003 *Assessment of Antidumping Duties* notice regarding the reseller policy, we will not rescind the review in these circumstances but, rather, complete the review with respect to Create Trading and issue appropriate instructions to CBP after the completion of the review.¹⁶ Specifically, we find it appropriate in this case to instruct CBP at the completion of the review to liquidate any existing entries of subject merchandise produced by Create Trading's unaffiliated producers and exported by Create Trading at the rate applicable to the unaffiliated producers, which, as discussed below, in this case is the all-others rate.¹⁷

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.¹⁸ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.¹⁹ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.²⁰ Case and rebuttal briefs must be filed electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) and must also be served on interested parties.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed

¹⁶ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954, 23954 (May 6, 2003) (*Assessment of Antidumping Duties*).

¹⁷ See e.g., *Certain Frozen Warmwater Shrimp from India: Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 77610, 77612 (December 19, 2008) (*Shrimp from India*); *Certain Pasta from Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 23974, 23977 (April 29, 2011), unchanged in *Pasta From Turkey: Notice of Final Results of the 14th Antidumping Duty Administrative Review*, 76 FR 68399 (November 4, 2011).

¹⁸ See 19 CFR 351.309(c)(1)(ii).

¹⁹ See 19 CFR 351.309(d)(1).

²⁰ See 19 CFR 351.309(c)(2) and (d)(2); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.²¹ Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.²²

Commerce intends to issue the final results of this administrative review, including the results of its analysis raised in any written briefs, no later than 120 days after the publication of these preliminary results in the *Federal Register*, unless otherwise extended.²³

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.²⁴

As discussed above, we preliminarily determine that Create Trading was not the first party in the transaction chain to have knowledge that the merchandise was destined for the United States, and thus Create Trading is not considered the exporter of subject merchandise during the POR for purposes of this review. Consistent with the 2003 *Assessment of Antidumping Duties* notice and reseller policy, we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by Create Trading's unaffiliated producers and exported by Create Trading at the rate applicable to the producer(s).²⁵ Because none of the producers have their own rates, we will instruct CBP to liquidate entries at the all-others rate from the investigation, as revised, of 2.16 percent,²⁶ in accordance with the reseller policy.

²¹ See 19 CFR 351.310(c).

²² *Id.*

²³ See section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

²⁴ See 19 CFR 351.212(b).

²⁵ See, e.g., *Shrimp from India*, 73 FR at 77612; *Pasta From Turkey*, 76 FR at 68400.

²⁶ The all-others rate from the underlying investigation was revised in *Certain Steel Nails from Taiwan: Notice of Court Decision Not in Harmony with Final Determination in Less than Fair Value Investigation and Notice of Amended Final Determination*, 82 FR 55090, 55091 (November 20, 2017) (*Amended LTFV Final*).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be in effect for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (2) if the exporter is not a firm covered in a prior review, or the original investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recently completed segment for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be 2.16 percent, the all-others cash deposit rate established in the *Amended LTFV Final*.²⁷ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

²⁷ *Id.*

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and sections 19 CFR 351.213(h)(1) and 351.221(b)(4).

Dated: June 3, 2021.

Christian Marsh,
Acting Assistant Secretary
for Enforcement and Compliance.

Appendix

Scope of the Order

The merchandise covered by this order is certain steel nails having a nominal shaft length not exceeding 12 inches.²⁸ 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

²⁸ 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.

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 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 this order 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.

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