



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-835]

### **Boltless Steel Shelving Units Prepackaged for Sale from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that boltless steel shelving units prepackaged for sale (boltless steel shelving) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

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

**FOR FURTHER INFORMATION CONTACT:** Eliza DeLong or Eric Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3878 or (202) 482-1988, respectively.

### **SUPPLEMENTARY INFORMATION:**

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 19, 2023.<sup>1</sup> On September 14, 2023, Commerce postponed the preliminary

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<sup>1</sup> See *Boltless Steel Shelving Units Prepackaged for Sale from India, Malaysia, Taiwan, Thailand and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 88 FR 32188 (May 19, 2023) (*Initiation Notice*).

determination of this investigation until November 21, 2023.<sup>2</sup>

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Scope of the Investigation

The product covered by this investigation is boltless steel shelving from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

### Scope Comments

In accordance with the *Preamble* to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>6</sup> As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily did not modify the scope language as it appeared in the *Initiation Notice*. In the Preliminary Scope Decision

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<sup>2</sup> *See Boltless Steel Shelving Units Prepackaged for Sale from India, Malaysia, Taiwan, Thailand and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 88 FR 63063 (September 14, 2023).

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>5</sup> *See Initiation Notice*, 88 FR at 32189.

<sup>6</sup> *See* Memorandum, "Preliminary Scope Decision Memorandum," dated November 13, 2023 (Preliminary Scope Decision Memorandum).

Memorandum, Commerce established deadlines for parties to submit scope case and rebuttal briefs as well as a deadline to request a hearing on issues raised in the scope briefs.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Because Vietnam is a non-market economy country, within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act.

Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences, to assign a dumping margin for the Vietnam-wide entity. Further, we are preliminarily not individually examining Thanh Phong Production and Trade Limited Company as a mandatory respondent because it did not have any sales of subject merchandise during the POI. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

### Vietnam-Wide Entity

Commerce finds that two companies, Cuong Nghia Imp. Exp. and Parkway Thanh Phong Co., have not established eligibility for a separate rate and are considered to be part of the Vietnam-wide entity for the preliminary determination.

### Combination Rates

In the *Initiation Notice*,<sup>7</sup> Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.<sup>8</sup> In this investigation, we assigned producer/exporter

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<sup>7</sup> *See Initiation Notice*, 88 FR at 32188.

<sup>8</sup> *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <https://access.trade.gov/Resources/policy/bull05-1.pdf>.

combination rates for Xinguang (Vietnam) Logistic Equipment Co., Ltd (Xinguang Vietnam), *i.e.*, the sole respondent eligible for a separate rate.

#### Preliminary Determination

For the period October 1, 2022, through March 31, 2023, Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

| <b>Exporter</b>                                | <b>Producer</b>                                | <b>Estimated Weighted-Average Dumping Margin (percent)</b> |
|------------------------------------------------|------------------------------------------------|------------------------------------------------------------|
| Xinguang (Vietnam) Logistic Equipment Co., Ltd | Xinguang (Vietnam) Logistic Equipment Co., Ltd | 118.66                                                     |
| Vietnam-Wide Entity                            |                                                | 224.94 <sup>9</sup>                                        |

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) for the producer/exporter combination listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnam producers/exporters of subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Vietnam-wide entity; and (3) for all third-country exporters of subject merchandise not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Vietnam producer/exporter combination (or the Vietnam-wide entity) that supplied that third-country exporter. These suspension of liquidation instructions will remain in effect until further notice.

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<sup>9</sup> The Vietnam-Wide rate based on facts available with adverse inferences.

## Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

## Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

## Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this investigation.<sup>10</sup> Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.<sup>11</sup> Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.<sup>12</sup>

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.<sup>13</sup> Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision

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<sup>10</sup> Case briefs and rebuttal briefs submitted in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum.

<sup>11</sup> *See* 19 CFR 351.309(d); *see also* *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

<sup>12</sup> *See* 19 CFR 351.309(c)(2) and (d)(2).

<sup>13</sup> We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).<sup>14</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 3, 2023, pursuant to 19 CFR 351.210(e), Edsal Manufacturing Co., Inc. (the petitioner), requested that Commerce postpone the final determination and that provisional

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<sup>14</sup> See *APO and Service Final Rule*.

measures be extended to a period not to exceed 135 days.<sup>15</sup> On November 20, 2023, Xinguang Vietnam also requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed 135 days.<sup>16</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce’s final determination will be issued no later than 135 days after the date of publication of this preliminary determination.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: November 21, 2023.

**Abdelali Elouaradia,**  
*Deputy Assistant Secretary  
for Enforcement and Compliance.*

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<sup>15</sup> See Petitioner’s Letter, “Petitioner’s Request for Postponement of Final Determination,” dated November 3, 2023.

<sup>16</sup> See Xinguang Vietnam’s Letter, “Request to Extend Final Results,” dated November 20, 2023.

## Appendix I

### Scope of the Investigation

The scope of this investigation covers boltless steel shelving units prepackaged for sale, with or without decks (boltless steel shelving). The term “prepackaged for sale” means that, at a minimum, the steel vertical supports (*i.e.*, uprights and posts) and steel horizontal supports (*i.e.*, beams, braces) necessary to assemble a completed shelving unit (with or without decks) are packaged together for ultimate purchase by the end-user. The scope also includes add-on kits. Add-on kits include, but are not limited to, kits that allow the end-user to add an extension shelving unit onto an existing boltless steel shelving unit such that the extension and the original unit will share common frame elements (*e.g.*, two posts). The term “boltless” refers to steel shelving in which the vertical and horizontal supports forming the frame are assembled primarily without the use of nuts and bolts, or screws. The vertical and horizontal support members for boltless steel shelving are assembled by methods such as, but not limited to, fitting a rivet, punched or cut tab, or other similar connector on one support into a hole, slot or similar receptacle on another support. The supports lock together to form the frame for the shelving unit and provide the structural integrity of the shelving unit separate from the inclusion of any decking. The incidental use of nuts and bolts, or screws to add accessories, wall anchors, tie-bars or shelf supports does not remove the product from scope. Boltless steel shelving units may also come packaged as partially assembled, such as when two upright supports are welded together with front-to-back supports, or are otherwise connected, to form an end unit for the frame. The boltless steel shelving covered by this investigation may be commonly described as rivet shelving, welded frame shelving, slot and tab shelving, and punched rivet (quasi-rivet) shelving as well as by other trade names. The term “deck” refers to the shelf that sits on or fits into the horizontal supports (beams or braces) to provide the horizontal storage surface of the shelving unit.

The scope includes all boltless steel shelving meeting the description above, regardless of: (1) vertical support or post type (including but not limited to open post, closed post and tubing); (2) horizontal support or beam/brace profile (including but not limited to Z-beam, C-beam, L-beam, step beam and cargo rack); (3) number of supports; (4) surface coating (including but not limited to paint, epoxy, powder coating, zinc and other metallic coating); (5) number of levels; (6) weight capacity; (7) shape (including but not limited to rectangular, square, and corner units); (8) decking material (including but not limited to wire decking, particle board, laminated board or no deck at all); or (9) the boltless method by which vertical and horizontal supports connect (including but not limited to keyhole and rivet, slot and tab, welded frame, punched rivet and clip).

Specifically excluded from the scope are:

- Wall-mounted shelving, defined as shelving that is hung on the wall and does not stand on, or transfer load to, the floor. The addition of a wall bracket or other device to attach otherwise freestanding subject merchandise to a wall does not meet the terms of this exclusion;
- Wire shelving units, which consist of shelves made from wire that incorporates both a wire deck and wire horizontal supports (taking the place of the horizontal beams and braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create the finished shelving unit;
- Bulk-packed parts or components of boltless steel shelving units; and
- Made-to-order shelving systems.

Subject boltless steel shelving enters the United States through Harmonized Tariff Schedule of the United States (HTSUS) statistical subheading 9403.20.0075. While the HTSUS subheading is provided for convenience and customs purposes, the description of the scope of this investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Selection of Respondents
- VII. Discussion of the Methodology
- VIII. Currency Conversion
- IX. Recommendation

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