



DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-824]

Boltless Steel Shelving Units Prepackaged for Sale from Malaysia: 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 Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 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: Samuel Frost, 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) 482-8180.

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, 2023.¹ On September 14, 2023, Commerce postponed the preliminary

¹ 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, 2023.²

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ 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 Malaysia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ 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.⁶ 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

² *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).

³ *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 Malaysia," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties: Final Rule* 62 FR 27296 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*, 88 FR at 32189.

⁶ *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 for Eonmetall Industries Sdn. Bhd. (EMI) in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied on facts otherwise available, with adverse inferences for Nanjing Chervon Industry Co., Ltd. (Nanjing Chervon) and Wuxi Bote Electrical Apparatus Co., Ltd. (Wuxi Bote).⁷ For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Where the rates for individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 735(c)(5)(B) of the Act instructs Commerce to establish “any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated.” Commerce has preliminarily determined the estimated weighted-average dumping

⁷ We also selected Fuyuan Wood Industry Co., Ltd. (Fuyuan Wood) as a mandatory respondent in this investigation. However, because it did not export any subject merchandise to the United States during the POI, we are preliminarily not assigning Fuyuan Wood a dumping margin.

margin for Nanjing Chervon and Wuxi Bote under section 776 of the Act and calculated an estimated weighted-average dumping margin for EMI of zero. Consequently, pursuant to section 735(c)(5)(B) of the Act, we calculated the all-others rate based on a simple average of the zero percent dumping margin and the two dumping margins based totally on adverse facts available.

Preliminary Determination

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

| Producer/Exporter | Estimated Weighted-Average Dumping Margin (percent) |
|--|--|
| Eonmetall Industries Sdn. Bhd. | 0.00 |
| Nanjing Chervon Industry Co., Ltd. | 81.12* |
| Wuxi Bote Electrical Apparatus Co., Ltd. | 81.12* |
| All Others | 54.08 |

* Rate based on facts available with adverse inferences.

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*, as discussed below. 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 estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Because the estimated weighted-average dumping margin for EMI is zero, entries of shipments of subject merchandise from EMI will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation.

Accordingly, Commerce is directing CBP not to suspend liquidation of entries of subject merchandise produced and exported by EMI. Entries of shipments of subject merchandise from this company in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, are subject to the provisional measures at the all-others rate.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for the producer/exporter combination identified above, entries of shipments of subject merchandise from this producer/exporter combination will be excluded from the potential antidumping duty order. Such exclusions are not applicable to merchandise exported to the United States by this respondent in any other producer/exporter combinations or by third parties that sourced subject merchandise from the excluded producer/exporter combination. These suspension of liquidation measures will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed in connection with this preliminary determination to interested parties within five days of any 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 the 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 last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted not later than five days after the date for filing case briefs.⁸ Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁹

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.¹⁰ 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 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).¹¹

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

⁸ 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*).

⁹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁰ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹¹ See *APO and Service Final Rule*.

a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date 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 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 measures be extended to a period not to exceed 135 days.¹²

On November 7, 2023, EMI also requested that Commerce postpone the final determination in the event the preliminary determination is affirmative and that provisional measures be extended to a period not to exceed six months.¹³ 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

¹² See Petitioner's Letter, "Petitioner's Request for Postponement of Final Determination," dated November 3, 2023.

¹³ See EMI's Letter, "Request for Extension of Final Determination and Provisional Measures," dated November 7, 2023.

determination.

U.S. 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.*

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 written 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. Application of Facts Available and Use of Adverse Inference
- VII. Discussion of the Methodology
- VIII. Currency Conversion
- IX. Recommendation

[FR Doc. 2023-26232 Filed: 11/28/2023 8:45 am; Publication Date: 11/29/2023]