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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–552–818]

#### Certain Steel Nails From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures

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

**DATES:** *Effective Date:* December 29, 2014.

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that certain steel nails from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation is October 1, 2013, through March 31, 2014. The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination. The Department intends to issue the final determination 135 days after publication of this preliminary determination in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Edythe Artman or Dena Crossland, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3931 and (202) 482–3362, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Department published the notice of initiation of this investigation on June

25, 2014.<sup>1</sup> Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary LTFV determination 42 days until December 17, 2014.<sup>2</sup>

#### Scope of the Investigation

The products covered by this investigation are certain steel nails from Vietnam. For a complete description of the scope of the investigation, see Appendix I to this notice.

#### Scope Comments

Several interested parties (*i.e.*, IKEA Supply AG and IKEA Distributions Services Inc. (collectively IKEA), Target Corporation, and The Home Depot) submitted comments to the Department on the scope of the investigation as it appeared in the *Initiation Notice*, and Mid Continent Steel & Wire, Inc. (Petitioner) submitted rebuttal comments. For discussion of those comments and rebuttal comments, see the Preliminary Decision Memorandum.<sup>3</sup>

#### Methodology

The Department conducted this investigation in accordance with section 731 of the Act. We calculated export prices in accordance with section 772 of the Act. Because Vietnam is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.<sup>4</sup> The

<sup>1</sup> See *Certain Steel Nails From India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 79 FR 36019 (June 25, 2014) (*Initiation Notice*). On the same day, the Department initiated a countervailing duty investigation of certain steel nails from Vietnam. See *Certain Steel Nails From India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations*, 79 FR 36014 (June 25, 2014).

<sup>2</sup> See *Certain Steel Nails From the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 79 FR 63082 (October 22, 2014).

<sup>3</sup> See Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Decision Memorandum for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Certain Steel Nails from the Socialist Republic of Vietnam,” dated concurrently with this determination and hereby adopted by this notice. A list of the topics discussed in the Preliminary Decision Memorandum appears in Appendix II, below.

<sup>4</sup> *Id.*

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).<sup>5</sup> ACCESS is available to guest and registered users at <http://access.trade.gov> and to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, parties can obtain a complete version of the Preliminary Decision Memorandum at <http://trade.gov/enforcement/frn/index.html>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

#### Use of Facts Available

For the Vietnam-wide entity, we applied facts otherwise available with an adverse inference, pursuant to section 776(a)(1) and (b) of the Act. For a detailed discussion of this finding, see the Preliminary Decision Memorandum at section “The Vietnam-wide Entity.”

For Region Industries Co., Ltd., we applied facts otherwise available, pursuant to section 776(a)(1) of the Act, for factor input information for a tollier who performed electroplating on subject merchandise but did not respond to Region Industries’ request for input information. For a detailed discussion of this finding, see the Preliminary Decision Memorandum at section “Facts Available for Region Industries.”

#### Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.<sup>6</sup>

#### Preliminary Determination

In accordance with section 733(d)(1)(A)(i) of the Act, the Department calculated estimated weighted-average dumping margins for the individually investigated exporters

<sup>5</sup> On November 24, 2014, Enforcement and Compliance changed the name of the Import Administration Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS) Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). The Web site location was changed from <http://iaaccess.trade.gov> to <http://access.trade.gov>. The Final Rule changing the references to the Regulations can be found at: 79 FR 69046 (November 20, 2014).

<sup>6</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 the Department’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

and producers of subject merchandise, listed below. The Department preliminarily determines that the

following estimated weighted-average dumping margins exist for these individually investigated exporters and

producers exist for the period October 1, 2013, through March 31, 2014:

Exporter	Producer	Weighted-average dumping margin (percentage)
Region International Co., Ltd .....	Region Industries Co., Ltd .....	103.88
United Nail Products Co., Ltd .....	United Nail Products Co., Ltd .....	93.42
Kosteel Vina Limited Company .....	Kosteel Vina Limited Company .....	98.65
Vietnam-Wide Entity * .....	.....	323.99

\* As detailed in the Preliminary Decision Memorandum, the Vietnam-wide entity includes the following exporters/producers: Cong Ty TNHH Cong Nghe Nhua A Chau, Kim Tin Group, Megastar Co., Ltd. and Simone Accessories Collection.

### Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information submitted by Region International Co., Ltd., and its affiliated producer, Region Industries Co., Ltd. and United Nail Products Co., Ltd. prior to making a final determination in this investigation.

### Disclosure and Public Comment

The Department intends to disclose the calculations performed for this preliminary determination to parties within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance *via* ACCESS no later than no later than seven days after the date on which the final verification report is issued in this proceeding<sup>7</sup> and rebuttal briefs, limited to issues raised in the case briefs, must be submitted *via* ACCESS no later than five days after the deadline for filing case briefs.<sup>8</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), 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.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance. An electronically filed request must be submitted *via* ACCESS within 30 days after the date of publication of this notice. Electronically filed case briefs/ written comments and hearing requests must be received successfully in their entirety by the Department's electronic records system, ACCESS, by 5:00 p.m.

Eastern Standard Time. Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants in the hearing; and (3) a list of the issues to be discussed at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, 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.

All documents submitted to ACCESS must be received successfully in their entirety by no later than 5:00 p.m. Eastern Time on the day in which the document is due.

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

Pursuant to section 735(a)(2) of the Act, Region Industries Co., Ltd. and United Nail Products Co., Ltd. requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination and extend provisional measures from four months to six months.<sup>9</sup> Additionally, Region Industries Co., Ltd. and United Nail Products Co., Ltd. agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. Pursuant to requests from Region Industries Co., Ltd. and United Nail Products Co., Ltd. and in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), we will make our final determination no later than 135 days after the publication of this preliminary determination. The suspension of

liquidation described below will be extended accordingly.

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of certain steel nails from Vietnam, as described in the scope of the investigation in Attachment 1 of this notice, which are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit<sup>10</sup> equal to the estimated weighted-average amount by which normal value exceeds U.S. price, adjusted where appropriate for export subsidies<sup>11</sup> and estimated domestic subsidy pass-through,<sup>12</sup> as follows: (1) The cash deposit rates for the exporter/producer combinations listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of Vietnamese exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the Vietnam-wide entity, 323.99 percent; and (3) for all non-Vietnamese exporters

<sup>10</sup> See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

<sup>11</sup> See section 772(c)(1)(C) of the Act. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>12</sup> See section 777A(f) of the Act. For further discussion, see the Preliminary Decision Memorandum at the section, "Section 777A(f) of the Act."

<sup>9</sup> See Letter from Region Industries Co., Ltd. and United Nail Products Co., Ltd., "Certain Steel Nails from Vietnam; Extension Request for Final Results," dated December 9, 2014.

<sup>7</sup> See 19 CFR 351.309(c).

<sup>8</sup> See 19 CFR 351.309(d).

of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Vietnamese exporter/producer combination that supplied that non-Vietnamese exporter. These suspension of liquidation and cash deposit instructions will remain in effect until further notice.

Furthermore, as stated above and consistent with our practice, we will instruct CBP to require a cash deposit equal to the amount by which normal value exceeds the export price or constructed export price, less the amount of the countervailing duty rate determined to be attributable to an export subsidy. With regard to Region Industries Co., Ltd., export subsidies constitute 8.34 percent<sup>13</sup> of Region Industries Co., Ltd.'s preliminarily calculated countervailing duty rate in the companion countervailing duty investigation. Therefore, we will offset Region Industries Co., Ltd.'s antidumping duty cash deposit rate by the countervailing duty rate attributable to export subsidies (*i.e.*, 8.34 percent) to calculate its preliminary cash deposit rate for this LTFV investigation. We have not adjusted the preliminary cash deposit rate for United Nail Products Co., Ltd. for export subsidies because the amount of its preliminarily calculated countervailing duty rate in the companion countervailing duty investigation attributable to export subsidies is *de minimis*.<sup>14</sup> With respect to the separate rate company which was not individually investigated, we have adjusted its antidumping duty cash deposit rate to account for export subsidies because this company is currently subject to the countervailing duty rate calculated for "All Others" in the preliminary determination of the companion countervailing duty investigation, and we did include export subsidies (*i.e.*, 8.34 percent) in the calculation of that countervailing duty rate.<sup>15</sup> Accordingly, we have adjusted the antidumping duty cash deposit rate for the separate rate company. With respect to the Vietnam-wide entity, we find that an export-subsidy adjustment is warranted because an export subsidy amount (*i.e.*, 8.34 percent) was included in a countervailing duty rate to which Vietnam-wide entries are currently

subject. Accordingly, we have also adjusted the antidumping duty cash deposit rate for the Vietnam-wide entity.

We are not adjusting the preliminary determination rates for estimated domestic subsidy pass-through because we have no basis upon which to make such an adjustment.<sup>16</sup>

### International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission (ITC) of our preliminary affirmative determination of sales at less than fair value. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain steel nails from Vietnam before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this determination, as described immediately above, the ITC will make its final determination no later than 45 days after our final determination.

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: December 17, 2014.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

### Appendix I

#### Scope of the Investigation

The merchandise covered by this investigation is certain steel nails having a nominal shaft length not exceeding 12 inches.<sup>17</sup> 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. 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.

Excluded from the scope of this investigation 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.

Also excluded from the scope of this investigation 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 investigation are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.20.00 and 7317.00.30.00.

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

Certain steel nails subject to this investigation 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 investigation also may be classified under HTSUS subheading 8206.00.00.00.

While the HTSUS subheadings are 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

##### 1. Background

<sup>13</sup> See *Certain Steel Nails From the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 79 FR 65184 (November 3, 2014), and accompanying Preliminary Decision Memorandum at 20.

<sup>14</sup> See *id.*

<sup>15</sup> See *id.* at 65185.

<sup>16</sup> See Preliminary Decision Memorandum at the section, "Section 777A(f) of the Act."

<sup>17</sup> 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.

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3. Scope of Investigation
4. Scope Comments
5. Respondent Selection
6. Discussion of the Methodology
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648–XD643

#### Notice of Availability of a Draft Programmatic Environmental Assessment for Fisheries Research Conducted and Funded by the National Marine Fisheries Service, Northeast Fisheries Science Center

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of a Draft Programmatic Environmental Assessment; Request for comments.

**SUMMARY:** NMFS announces the availability of the “Draft Programmatic Environmental Assessment (DPEA) for Fisheries Research Conducted and Funded by the Northeast Fisheries Science Center (NEFSC).” Publication of this notice begins the official public comment period for this DPEA. The purpose of the DPEA is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of conducting and funding fisheries and ecosystem research along the U.S. East Coast, including of the Northeast Continental Shelf Large Marine Ecosystem (LME) and the Southeast Continental Shelf Large Marine Ecosystem (LME).

**DATES:** Comments and information must be received no later than January 28, 2015.

**ADDRESSES:** Comments on the DPEA should be addressed to Nathan Keith, NMFS NEFSC Woods Hole Laboratory, 166 Water Street, Woods Hole, MA 02543. The mailbox address for providing email comments is [NEFSC.DPEA@noaa.gov](mailto:NEFSC.DPEA@noaa.gov). NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

A copy of the DPEA may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: <http://nefsc.noaa.gov/dpea.aspx>. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Nathan Keith, NEFSC, NMFS, (508) 495–2224.

**SUPPLEMENTARY INFORMATION:** The NEFSC is the research arm of NMFS in the Northeast Region. The NEFSC conducts research and provides scientific advice to manage fisheries and conserve protected species in the Atlantic Ocean from the U.S.-Canada border to Florida. Most NEFSC-conducted and funded fisheries research occurs in the Northeast U.S. Continental Shelf LME but also occurs in the Southeast U.S. Continental Shelf LME and adjacent offshore areas. Research is aimed at monitoring fish stock recruitment, survival and biological rates, abundance and geographic distribution of species and stocks, and providing other scientific information needed to improve our understanding of complex marine ecological processes. Primary research activities include: Bottom trawl surveys to support assessments of multiple groundfish and shrimp species as well as the status of benthic habitats, pelagic trawl surveys to assess Atlantic herring and Atlantic salmon stocks, dredge and video camera surveys to assess scallop stocks and habitat recovery, longline and gillnet surveys to research life history parameters and abundance of numerous shark species, and extensive cooperative research projects designed to address current or emerging information needs of the commercial fishing industry such as bycatch reduction efforts and development of new fisheries. Many research activities also include active acoustic systems, plankton nets, and other oceanographic equipment that provide important data on the status and trends of marine ecosystems

important for various fisheries and natural resource management processes.

NMFS has prepared the DPEA under NEPA to evaluate several alternatives for conducting and funding fisheries and ecosystem research activities as the primary federal action. Additionally in the DPEA, NMFS evaluates a secondary federal action—also called a “connected action” under 40 CFR 1508.25 of the Council on Environmental Quality’s regulations for implementing the procedural provisions of NEPA (42 U.S.C. 4321 *et seq.*)—which is the proposed promulgation of regulations and authorization of the take of marine mammals incidental to the fisheries research under the Marine Mammal Protection Act (MMPA). Additionally, because the proposed research activities occur in areas inhabited by species of marine mammals, birds, sea turtles, and fish listed under the Endangered Species Act (ESA) as threatened or endangered, this DPEA evaluates activities that could result in unintentional takes of ESA-listed marine species.

The following four alternatives are evaluated in the DPEA:

- No-Action/Status Quo Alternative—Conduct Federal Fisheries and Ecosystem Research with Scope and Protocols Similar to Past Effort.
- Preferred Alternative—Conduct Federal Fisheries and Ecosystem Research (New Suite of Research) with Mitigation for MMPA and ESA Compliance.
- Modified Research Alternative—Conduct Federal Fisheries and Ecosystem Research (New Suite of Research) with Additional Mitigation.
- No Research Alternative—No Fieldwork for Federal Fisheries and Ecosystem Research Conducted or Funded by NEFSC.

The first three alternatives include a program of fisheries and ecosystem research projects conducted or funded by the NEFSC as the primary federal action. Because this primary action is connected to a secondary federal action to consider authorizing incidental take of marine mammals under the MMPA, NMFS must identify as part of this evaluation “(t)he means of effecting the least practicable adverse impact on the species or stock and its habitat.” (Section 101(a)(5)(A) of the MMPA [16 U.S.C. 1361 *et seq.*]). NMFS must therefore identify and evaluate a reasonable range of mitigation measures to minimize impacts to marine mammals that occur in NEFSC research areas. These mitigation measures are considered as part of the identified alternatives in order to evaluate their effectiveness to minimize potential