

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-201-844]

**Steel Concrete Reinforcing Bar From Mexico: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order**

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

**SUMMARY:** In response to a request from the Rebar Trade Action Coalition (RTAC), the Department of Commerce (Commerce) is initiating an anti-circumvention inquiry to determine whether otherwise straight rebar bent at one or both ends produced and/or exported to the United States by Deacero S.A.P.I de C.V. (Deacero) is circumventing the antidumping duty (AD) order on rebar from Mexico.

**DATES:** Applicable October 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Hall-Eastman, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1468.

**SUPPLEMENTARY INFORMATION:****Background**

On September 3, 2019, RTAC, a domestic interested party in the above-mentioned proceeding recommended that Commerce issue a scope ruling or initiate an anti-circumvention inquiry with regard to certain hooked or bent rebar that is produced and/or exported to the United States by Deacero.<sup>1</sup> RTAC alleges that the hooked or bent rebar at issue constitutes merchandise altered in such minor respects that it should be included within the scope of the order on rebar from Mexico pursuant to section 781(c) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.225(i) and, thus, falls within the scope of the *Order*.<sup>2</sup>

In its September 25, 2019 submission, Deacero opposed RTAC's request for a scope ruling or initiation of an anti-circumvention proceeding.<sup>3</sup> On October

<sup>1</sup> See RTAC's Letter, "Steel Concrete Reinforcing Bar from Mexico: Request for Scope Ruling or, Alternatively, an Anti-Circumvention Ruling," dated September 3, 2019 (Circumvention Allegation). The rebar product described in the Circumvention Allegation is 31 feet and 1 inch in length, 1 foot and 1 inch of which is curved or hooked on one end.

<sup>2</sup> See *Steel Concrete Reinforcing Bar from Mexico: Antidumping Duty Order*, 79 FR 65925 (November 6, 2014) (*Order*).

<sup>3</sup> See Deacero's Letter, "Steel Concrete Reinforcing Bar from Mexico—Response to

9, 2019, RTAC submitted a surrebuttal to Deacero's Rebuttal Comments.<sup>4</sup>

**Scope of the Order**

The merchandise subject to this *Order* is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010.

The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size or grade) and without being subject to an elongation test. HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

**Merchandise Subject to the Anti-Circumvention Inquiry**

This minor alternation anti-circumvention inquiry covers otherwise straight rebar bent at one or both ends produced and/or exported to the United States by Deacero. In this circumvention proceeding, Commerce intends to consider whether any affirmative finding of circumvention through minor alterations to otherwise straight rebar should be applied to imports of similarly situated otherwise straight rebar bent at one or both ends rebar from Mexico, regardless of producer or exporter.

**Initiation of Anti-Circumvention Inquiry**

Section 781(c) of the Act provides that Commerce may find circumvention of an AD order when products which are of the class or kind of merchandise subject to an AD order have been "altered in form or appearance in minor respects . . . whether or not included in the same tariff classification." Section

*Petitioner's Scope Inquiry Request*," dated September 25, 2019 (Deacero's Rebuttal Comments).

<sup>4</sup> See RTAC's Letter, "Steel Concrete Reinforcing Bar from Mexico: Comments on Deacero's September 25, 2019 Response to Petitioner's Scope Inquiry," dated October 9, 2019 (RTAC's Surrebuttal Comments).

781(c)(2) of the Act provides an exception that "{p}aragraph 1 shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the AD order."

While the statute is silent as to what factors to consider in determining whether alterations are properly considered "minor," the legislative history of this provision indicates that there are certain factors which should be considered before reaching a circumvention determination. In conducting a circumvention inquiry under section 781(c) of the Act, Commerce has generally relied upon "such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported products."<sup>5</sup> Concerning the allegation of minor alteration under section 781(c) of the Act and 19 CFR 351.225(i), Commerce examines such factors as: (1) Overall physical characteristics; (2) expectations of ultimate users; (3) use of merchandise; (4) channels of marketing; and (5) cost of any modification relative to the value of the imported products.<sup>6</sup>

**Analysis**

After analyzing the information in the Circumvention Allegation, we determine that RTAC has satisfied the criteria listed above to warrant an initiation of a formal anti-circumvention inquiry, pursuant to section 781(c) of the Act and 19 CFR 351.225(i), to determine whether otherwise straight rebar bent at one or both ends produced and/or exported to the United States by Deacero constitutes merchandise altered in form or appearance in such minor respects that should be included within the scope of the *Order*. For a summary of the proprietary comments received from interested parties and further discussion of Commerce's basis for initiating this minor alteration inquiry,

<sup>5</sup> See S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987) ("In applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article.").

<sup>6</sup> See, *e.g.*, *Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order on Certain Cut-to-Length Steel Plate from the People's Republic of China*, 74 FR 33991, 33992 (July 14, 2009), unchanged in *Affirmative Final Determination of Circumvention of the Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 74 FR 40565 (August 12, 2009).

see the Initiation Decision Memorandum dated concurrently with this notice and hereby adopted by this notice.<sup>7</sup> The Initiation Decision Memorandum is a business proprietary document, of which a public version 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> and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. The signed Initiation Decision Memorandum and the electronic version of the Initiation Decision Memorandum are identical in content.

Commerce will not order the suspension of liquidation of entries of any additional merchandise at this time. However, in accordance with 19 CFR 351.225(l)(2), if Commerce issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry. Following consultation with interested parties, Commerce will establish a schedule for questionnaires and comments on the issues related to the *Order*. Commerce intends to issue its final determination within 300 days of the date of publication of this initiation.

This notice is published in accordance with section 781(c) of the Act and 19 CFR 351.225(i) and (j).

Dated: October 18, 2019.

**Carole Showers,**

*Executive Director, Office of Policy, Policy & Negotiations, Enforcement & Compliance.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-552-818]

**Certain Steel Nails From the Socialist Republic of Vietnam: Rescission of Antidumping Duty Administrative Review; 2018-2019**

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

**SUMMARY:** The Department of Commerce (Commerce) is rescinding its administrative review of the antidumping duty order on certain steel nails from the Socialist Republic of Vietnam (Vietnam) for the period of review (POR) July 1, 2018, through June 30, 2019.

**DATES:** Applicable October 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Mark Flessner, 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) 482-6312.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 1, 2019, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order<sup>1</sup> on certain steel nails from Vietnam for the POR.<sup>2</sup> Commerce received a timely request from Mid Continent Steel & Wire, Inc. (the petitioner), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), to conduct an administrative review of this antidumping duty order for 16 companies.<sup>3</sup> No other party requested an administrative review.

On September 9, 2019, Commerce published in the **Federal Register** a notice of initiation with respect to the 16 companies: (1) Atlantic Manufacture<sup>4</sup> Inc.; (2) Chia Pao Metal Co., Ltd.; (3) CS Song Thuy; (4) Easylink Industrial Co., Ltd.; (5) Expeditors Vietnam Company Limited; (6) Inmax Industries SDN. BHD; (7) Jinhai Hardware Co., Ltd.; (8) Le Phuong Trading Import Export; (9)

<sup>1</sup> 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).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 31295 (July 1, 2019).

<sup>3</sup> See Petitioner's Letter, "Certain Steel Nails from Vietnam: Request for Administrative Reviews," dated July 31, 2019.

<sup>4</sup> *Sic*.

Long Nguyen Trading & Service Co., Ltd.; (10) Region Industries Co., Ltd.; (11) Rich State Inc.; (12) Sam Hwan Vina Co., Ltd.; (13) Thai Bao Im-Ex Corporation Company; (14) Truong Vinh Ltd.; (15) United Nail Products Co. Ltd.; and (16) Vinalink O B Lu Yen Linh.<sup>5</sup> On September 26, 2019, the petitioner timely withdrew its request for an administrative review for all 16 companies.<sup>6</sup>

**Rescission of Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. The petitioner withdrew its request for review for all companies by the 90-day deadline, and no other party requested an administrative review of this order. Therefore, we are rescinding the administrative review of the antidumping duty order on certain steel nails from the Vietnam covering the period July 1, 2018, through June 30, 2019, in its entirety.

**Assessment**

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

**Notification to Importers**

This notice serves as the only reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), 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 may result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47242 (September 9, 2019).

<sup>6</sup> See Petitioner's Letter, "Certain Steel Nails from Vietnam: Withdrawal of Request for Administrative Reviews," dated November 5, 2018.

<sup>7</sup> See Memorandum, "Initiation of Minor Alteration Circumvention Inquiry on Hooked or Bent Steel Concrete Reinforcing Bar," dated concurrently with this notice.