




C-583-855  
Investigation  
POI: 1/1/2013 – 12/31/2013  
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October 27, 2014

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Negative Preliminary  
Determination in the Countervailing Duty Investigation of Certain  
Steel Nails from Taiwan

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## I. SUMMARY

The Department of Commerce (Department) preliminarily determines that *de minimis* countervailable subsidies are being provided to producers and exporters of certain steel nails (nails) in Taiwan, as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

## II. BACKGROUND

### A. Initiation and Case History

On May 29, 2014, Petitioner<sup>1</sup> filed a petition with the Department seeking the imposition of countervailing duties (CVDs) on nails from, *inter alia*, Taiwan.<sup>2</sup> Supplements to the petition and our consultations with the Taiwan authorities (the TA) are described in the Initiation Checklist.<sup>3</sup> On June 18, 2014, we initiated a CVD investigation on nails from Taiwan.<sup>4</sup>

We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection (CBP) entry data for the Harmonized Tariff

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<sup>1</sup> Mid-Continent Steel & Wire, Inc. is Petitioner.

<sup>2</sup> See Letter from Petitioner, "Petitions for the Imposition of Countervailing Duties on 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" (May 29, 2014).

<sup>3</sup> See "Countervailing Duty Initiation Checklist: Certain Steel Nails from Taiwan" (June 18, 2014) (Initiation Checklist).

<sup>4</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 Countervailing Duty Investigations*, 79 FR 36014 (June 25, 2014) (*Initiation Notice*).



Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. On June 19, 2014, we released the CBP entry data under administrative protective order (APO).<sup>5</sup>

We received respondent selection comments from Petitioner and Progressive Steel & Wire, LLC (PSW), a U.S. producer of steel nails.<sup>6</sup> On July 10, 2014, we selected PT Enterprise Inc. (PT Enterprise) and Quick Advance Inc. (Quick Advance) as mandatory company-respondents.<sup>7</sup> We issued our initial CVD questionnaire seeking information regarding the alleged subsidies to PT Enterprise, Quick Advance, and the TA on July 11, 2014.

We received responses to certain sections of our initial CVD questionnaire on July 24, 2014,<sup>8</sup> July 31, 2014,<sup>9</sup> and September 2, 2014.<sup>10</sup> We issued first supplemental questionnaires to the TA, PT Enterprise, and Quick Advance on September 3, 2014. Responses to our first supplemental questionnaires were received from the TA on September 17, 2014,<sup>11</sup> and from both PT Enterprise and Quick Advance on September 22, 2014.<sup>12</sup> At our request, an additional affiliate of Quick Advance submitted an initial CVD questionnaire response on September 22, 2014.<sup>13</sup>

We issued second supplemental questionnaires to the TA and PT Enterprise on September 23, 2014. Responses to our second supplemental questionnaires were received from both the TA

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<sup>5</sup> See Letter to Interested Parties, (June 19, 2014).

<sup>6</sup> See Letter from Petitioner, "Certain Steel Nails from Taiwan: Comments on Respondent Selection" (June 30, 2014); *see also* Letter from PSW, "Respondent Selection comments in Countervailing Duty Investigation on Steel Nails from Taiwan" (June 30, 2014).

<sup>7</sup> See Memorandum to the File, "Countervailing Duty Investigation of Certain Steel Nails from Taiwan: Respondent Selection Memo" (July 10, 2014). As explained in that memorandum, when faced with a large number of producers/exporters, we may determine that it is not practicable to examine individually all companies. In these circumstances, section 777A(e)(2)(A)(ii) of the Act and 19 CFR 351.204(c) give the Department discretion to limit its examination to a reasonable number of the producers/exporters accounting for the largest volume of the subject merchandise.

<sup>8</sup> See Letter from PT Enterprise, "PT Enterprise Notification Regarding Unaffiliated Producers/Exporters: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (July 24, 2014) (PT Enterprise July 24 Letter); Letter from Quick Advance, "Quick Advance Notification Regarding Unaffiliated Producers/Exporters: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (July 24, 2014) (Quick Advance July 24 Letter).

<sup>9</sup> See Letter from PT Enterprise, "PT Enterprise Affiliation Response: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (July 31, 2014) (PT Enterprise Affiliation Response); Letter from Quick Advance, "Quick Advance Affiliation Response: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (July 31, 2014) (Quick Advance Affiliation Response).

<sup>10</sup> See Letter from the TA, "RE: Steel Nails from Taiwan, Countervailing Duty Investigation" (September 2, 2014) (TA IQR); Letter from PT Enterprise, "PT Enterprise Initial Questionnaire Response: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (September 2, 2014) (PT Enterprise IQR); Letter from Quick Advance, "Quick Advance Initial Questionnaire Response: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (September 2, 2014) (Quick Advance IQR-I).

<sup>11</sup> See Letter from the TA, "Steel Nails from Taiwan, Countervailing Duty Investigation" (September 17, 2014) (TA ISQR).

<sup>12</sup> See Letter from PT Enterprise, "PT Enterprise First Supplemental Questionnaire Response: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (September 22, 2014); Letter from Quick Advance, "Quick Advance First Supplemental Questionnaire Response: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (September 22, 2014) (Quick Advance SQR).

<sup>13</sup> See Letter from Quick Advance, "Initial Questionnaire Response for Additional Quick Advance Affiliate: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (September 22, 2014) (Quick Advance IQR-II).

and PT Enterprise on September 29, 2014.<sup>14</sup> We issued a third supplemental questionnaire to PT Enterprise on September 30, 2014, to which we received a response on October 7, 2014.<sup>15</sup> Subsequently, we issued a third supplemental questionnaire to the TA on October 8, 2014, to which we received a response on October 14, 2014.<sup>16</sup> Finally, we issued a fourth supplemental questionnaire to the TA on October 16, 2014, and received a response on October 20, 2014.<sup>17</sup>

*Postponement of Preliminary Deadline:* On July 28, 2014, Petitioner requested that the deadline for the preliminary determination be extended until no later than 130 days after the initiation of the investigation. We granted Petitioner's request and on August 7, 2014, postponed the preliminary determination until October 27, 2014, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).<sup>18</sup>

## **B. Period of Investigation**

The period of investigation (POI) is January 1, 2013, through December 31, 2013.

## **III. ALIGNMENT OF FINAL COUNTERVAILING DUTY DETERMINATION WITH FINAL ANTIDUMPING DUTY DETERMINATION**

On the same day that we initiated this CVD investigation, we also initiated an antidumping duty (AD) investigation of nails from Taiwan.<sup>19</sup> The AD and CVD investigations cover the same class or kind of merchandise from Taiwan. On October 21, 2014, consistent with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Petitioner requested alignment of the final CVD determination with the final AD determination of nails from Taiwan.<sup>20</sup> Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of nails from Taiwan. Consequently, we intend to issue the final CVD determination on the same date as the final AD determination, which is currently scheduled to be issued no later than March 2, 2015, unless postponed.

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<sup>14</sup> See Letter from the TA, "Steel Nails from Taiwan, Countervailing Duty Investigation" (September 29, 2014) (TA 2SQR); and Letter from PT Enterprise, "PT Enterprise Second Supplemental Questionnaire Response: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (September 29, 2014) (PT Enterprise 2SQR).

<sup>15</sup> See Letter from PT Enterprise, "PT Enterprise Third Supplemental Questionnaire Response: Countervailing Duty Investigation of Certain Steel Nails from Taiwan" (October 7, 2014) (PT Enterprise 3SQR).

<sup>16</sup> See Letter from the TA, "Steel Nails from Taiwan, Countervailing Duty Investigation" (October 14, 2014) (TA 3SQR).

<sup>17</sup> See Letter from the TA, "Steel Nails from Taiwan, Countervailing Duty Investigation" (October 20, 2014) (TA 4SQR).

<sup>18</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 Determinations in the Countervailing Duty Investigations*, 79 FR 46251 (August 7, 2014).

<sup>19</sup> See *Certain Steel Nails From the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 79 FR 36019 (June 25, 2014).

<sup>20</sup> See Letter from Petitioner, "*Certain Steel Nails from Taiwan: Request to Align Countervailing Duty Final Determination with Antidumping Duty Final Determination*" (October 21, 2014).

#### IV. SCOPE COMMENTS

In accordance with the preamble to our regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice.<sup>21</sup> On July 8, 2014, we received comments on the scope from The Home Depot and Target, asking us to modify the scope language to include the mixed-media factors for evaluating whether subject nails packaged in combination with one or more non-subject articles remain included in the scope of the investigations.<sup>22</sup> IKEA asked us to exclude from the class or kind of merchandise subject to the investigations nails packaged in combination with unassembled finished articles such as furniture or storage items.<sup>23</sup> On July 18, 2014, Petitioner filed rebuttal comments to the scope comments raised by The Home Depot, Target, and IKEA.<sup>24</sup>

Petitioner argues that the scope language provides a bright line threshold to address mixed media issues and allows importers and CBP to easily ascertain whether mixed media products are covered by the scope: if the merchandise contains 25 nails or more, those imports must be entered as subject to the AD/CVD order with the value of those nails identified as dutiable on the entry documentation. Therefore, Petitioner contends that no revision of the scope is needed to address mixed media issues and asks us to reject the proposals submitted by The Home Depot, Target, and IKEA.

On October 17, 2014, Target and The Home Depot filed amended scope comments in which they propose the following change to the scope of this investigation:<sup>25</sup>

... 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 investigation are certain steel nails packaged in combination with one or more non-subject articles, if

(1) the total number of nails of all types that are under 2 inches in length, in the aggregate, is 0 to 199, and

(2) the total number of nails of all types that are 2 inches or more in length, in the aggregate, is 0 to 24.

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<sup>21</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); see also *Initiation Notice*, 79 FR at 36015.

<sup>22</sup> See Letters from The Home Depot and Target, “Certain Steel Nails from India, Korea, Malaysia, Oman, Turkey, and Vietnam: Comments on the Scope of the Investigation” (July 8, 2014).

<sup>23</sup> See Letter from IKEA, “Comments on Scope of the Investigation: 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” (July 8, 2014).

<sup>24</sup> See Letter from Petitioner, “Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Petitioner’s Rebuttal Comments Concerning Scope Language” (July 18, 2014).

<sup>25</sup> See Letters from The Home Depot and Target, “Certain Steel Nails from Korea, Malaysia, Oman, Taiwan and Vietnam: Amendment to Comments on the Scope of the Investigation” (October 17, 2014).

On October 24, 2014, Petitioner submitted additional comments in response to The Home Depot and Target's October 17, 2014, amended scope comments.<sup>26</sup> In these comments, Petitioner requests the Department reject and remove the October 17, 2014, filings from the records of the AD/CVD investigations covering certain steel nails from Korea, Malaysia, Oman, Taiwan and Vietnam. Petitioner argues that the comments provided by The Home Depot and Target are untimely presented, unsupported by and indeed contrary to evidence, and seek an outcome that would undermine the clarity of the existing scope language.

Due to the limited time available for considering the proposals presented by The Home Depot and Target and the additional comments received by Petitioner responding to The Home Depot and Target's amended scope comments, the Department will consider additional comments and address the specific scope comments and exclusion request in the preliminary determination of the companion AD investigation. Any modifications to the scope or scope exclusions that may be made in the AD preliminary determination will be placed on the record of this CVD investigation and parties will be afforded an opportunity to comment.

## **V. SCOPE OF THE INVESTIGATION**

The merchandise covered by this investigation is certain steel nails having a nominal shaft length not exceeding 12 inches.<sup>27</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.

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<sup>26</sup> See Letter from Petitioner, "Certain Steel Nails from the Republic of Korea, Malaysia, Oman, Taiwan, and Vietnam: Response to Additional Scope Comments" (October 24, 2014).

<sup>27</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.

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 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.

## **VI. INJURY TEST**

Because Taiwan is a “Subsidies Agreement country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Taiwan materially injure, or threaten material injury to, a U.S. industry. On July 18, 2014, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of steel nails from, *inter alia*, Taiwan.<sup>28</sup>

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<sup>28</sup> See Certain Steel Nails From India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam: Inv. Nos. 701-TA-515-521 and 731-TA-1251-1257 (Preliminary) (July 2014); *Certain Steel Nails From India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam*, 79 FR 42049 (July 18, 2014).

## VII. SUBSIDIES VALUATION

### A. Allocation Period

We normally allocate the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.<sup>29</sup> We find the AUL in this proceeding to be 15 years, pursuant to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.<sup>30</sup> We notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period.

Furthermore, for non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

### B. Attribution of Subsidies

*Cross Ownership:* In accordance with 19 CFR 351.525(b)(6)(i), we normally attribute a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-ownership. Subsidies to the following types of cross-owned companies are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of our regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to our regulations further clarifies our cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) ... Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common

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<sup>29</sup> See 19 CFR 351.524(d)(2).

<sup>30</sup> See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.<sup>31</sup>

Thus, our regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists.

The U.S. Court of International Trade upheld our authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>32</sup>

### *PT Enterprise*

PT Enterprise was formed in 2002, to serve as an exporter for Pro-Team Coil Nail Enterprise, Inc. (Pro-Team), a Taiwanese producer of both subject and non-subject merchandise.<sup>33</sup> Pro-Team was formed in 2001 by a group of Taiwanese individuals as a domestically-owned corporation.<sup>34</sup> PT Enterprise is registered in the British Virgin Islands, and operates in Taiwan out of Pro-Team’s headquarters as a foreign corporation owned by a Taiwanese individual.<sup>35</sup> During the POI, Pro-Team produced both subject and non-subject merchandise, sold this merchandise to PT Enterprise and unaffiliated exporters, and exported some of its own merchandise.<sup>36</sup> During the POI, PT Enterprise exported subject merchandise produced by Pro-Team and four other unaffiliated Taiwanese producers.<sup>37</sup>

PT Enterprise states that it was owned during the POI by one individual, who was also the largest individual shareholder (though not a majority shareholder) of Pro-Team.<sup>38</sup> Thus, PT Enterprise requested that it be required to only provide complete initial CVD questionnaire responses for PT Enterprise and Pro-Team.<sup>39</sup> On August 14, 2014, we issued a letter to PT Enterprise stating that based on the information submitted in the PT Enterprise July 24 Letter and PT Enterprise Affiliation Response, we found it to be appropriate for PT Enterprise to provide complete initial CVD questionnaire responses for only PT Enterprise and Pro-Team. As such, PT Enterprise responded to our initial questionnaire on behalf of itself and Pro-Team, a producer of subject merchandise which PT Enterprise exported to the United States during the POI.<sup>40</sup> In our third supplemental questionnaire to PT Enterprise, we requested that it describe the business relationship between certain additional affiliates and both PT Enterprise and Pro-Team, including providing a detailed description of how each respective company was involved in the production of subject merchandise during the POI.

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<sup>31</sup> *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998).

<sup>32</sup> *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>33</sup> *See* PT Enterprise IQR at 5-6.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*; *see also* PT Enterprise Affiliation Response at 4.

<sup>36</sup> *See* PT Enterprise July 24 Letter at 2-3.

<sup>37</sup> *Id.*, at 2.

<sup>38</sup> *See* PT Enterprise Affiliation Response at 4.

<sup>39</sup> *Id.*

<sup>40</sup> *See generally* PT Enterprise IQR.

We preliminarily determine that PT Enterprise did not itself receive any subsidies during the AUL period that would be attributable to the POI.<sup>41</sup> We also preliminarily determine that PT Enterprise and Pro-Team are not cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) because based on the degree of common ownership reported,<sup>42</sup> the ownership standard is not met. However, pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm which is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. Thus, we are preliminarily attributing the benefit from subsidies Pro-Team received, as the producer of subject merchandise, to PT Enterprise, as the trading company, pursuant to 19 CFR 351.525(c).

In order to do so, we first calculated a benefit to Pro-Team by preliminarily attributing subsidies received by Pro-Team to its own sales in accordance with 19 CFR 351.525(b)(6)(i). Next, we multiplied Pro-Team's calculated benefit by the percentage of exports of subject merchandise to the United States PT Enterprise made during the POI that were produced by Pro-Team.<sup>43</sup> Through this two-step process, we cumulated benefits from subsidies provided to the firm which produced subject merchandise (*i.e.*, Pro-Team) that was sold through the trading company (*i.e.*, PT Enterprise), pursuant to 19 CFR 351.525(c).

Regarding the additional affiliates for which we requested information in our third supplemental questionnaire, we preliminarily do not reach the issue of whether cross-ownership exists or, whether subsidies to these additional affiliates would be attributable to the subject merchandise produced by Pro-Team or exported by PT Enterprise under 19 CFR 351.525(b)(6), because we preliminarily determine that these additional affiliates did not receive subsidies during the AUL period that would be attributable to the POI.<sup>44</sup>

### *Quick Advance*

Formed in 2012, Quick Advance is registered in the Republic of Seychelles, and operates as a reseller and exporter of nails, screws, racks, packaging materials, and other products.<sup>45</sup> It submitted responses to our questionnaires on behalf of itself, as an exporter of subject merchandise, and its affiliated exporter/producer of subject merchandise, Ko's Nail Inc. (Ko).<sup>46</sup> Ko was formed in 2001 by a group of Taiwanese individuals as a domestically-owned enterprise.<sup>47</sup> During the POI, Ko produced both subject and non-subject merchandise, sold this merchandise to Quick Advance and unaffiliated exporters, and exported some of its own

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<sup>41</sup> See generally PT Enterprise IQR, PT Enterprise 1SQR, PT Enterprise 2SQR, PT Enterprise 3SQR, TA IQR, TA 1SQR, TA 2SQR, and TA 2SQR.

<sup>42</sup> See PT Enterprise Affiliation Response at Exhibit 1.

<sup>43</sup> See Memorandum to the File, "Preliminary Determination Calculation Memorandum for PT Enterprise, Inc. (PT Enterprise)" dated concurrently with this memorandum (PT Enterprise Preliminary Calculation Memorandum).

<sup>44</sup> See PT Enterprise 3SQR at 6-7 and TA 3SQR at 1-2.

<sup>45</sup> See Quick Advance IQR-I at 5 and 7.

<sup>46</sup> See, e.g., Quick Advance July 24 Letter.

<sup>47</sup> See Quick Advance IQR-I at 5-7.

merchandise.<sup>48</sup> During the POI, Quick Advance exported subject merchandise produced by Ko and two other unaffiliated Taiwanese producers.<sup>49</sup>

Quick Advance requested that it be required to only provide complete initial CVD questionnaire responses for itself and Ko.<sup>50</sup> On August 13, 2014, we issued a letter to Quick Advance stating that based on the information submitted in the Quick Advance July 24 Letter and Quick Advance Affiliation Response, we found it to be appropriate for Quick Advance to provide complete initial CVD questionnaire responses for only Quick Advance and Ko. As such, Quick Advance responded to our questionnaires on behalf of itself and Ko, a producer of subject merchandise which Quick Advance exported to the United States during the POI.<sup>51</sup>

In our letter of August 13, 2014, we also asked Quick Advance to describe the business relationship both Quick Advance and Ko maintained during the POI with another affiliated company listed in the Quick Advance Affiliation Response, seeking information on how this company was involved in the production of subject merchandise. In its IQR-I, Quick Advance stated that the affiliate we requested additional information on operated as a toller for Ko's production of a certain type of nails during the POI, providing a phosphate surface coating on PC drywall nails.<sup>52</sup> Based on this information, we requested that Quick Advance submit a complete initial CVD questionnaire response on behalf of this affiliate, to which it did so in the Quick Advance IQR-II. However, we preliminarily do not reach the issue of whether cross-ownership exists or whether subsidies to the additional affiliate would be attributable to the subject merchandise produced or exported by Quick Advance or Ko under 19 CFR 351.525(b)(6) because we preliminarily determine that all three companies did not receive subsidies during the AUL period that we would be attributable to the POI.<sup>53</sup>

### **C. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), we consider the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents' export or total sales. The denominators we used to calculate the countervailable subsidy rates for the subsidy program described below are explained in the "Preliminary Calculation Memorandum" prepared for this investigation.<sup>54</sup>

### **D. Discount Rates**

Consistent with 19 CFR 351.524(d)(3)(i)(B), in order to allocate non-recurring benefits over time, we used the average cost for long-term, fixed rate loans in Taiwan as the benchmark discount rate because neither PT Enterprise, Quick Advance, nor any of their respective affiliates

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<sup>48</sup> See Quick Advance July 24 Letter at 2-3.

<sup>49</sup> See Quick Advance Affiliation Response at 8.

<sup>50</sup> *Id.*

<sup>51</sup> See generally PT Enterprise IQR.

<sup>52</sup> See Quick Advance IQR-I at 3.

<sup>53</sup> See generally Quick Advance IQR-I, Quick Advance IQR-II, TA IQR, TA 1SQR, and Quick Advance SQR.

<sup>54</sup> See PT Enterprise Preliminary Calculation Memorandum. As noted above Quick Advance did not receive any subsidies, so no calculation memorandum was prepared for Quick Advance.

maintained long-term, fixed-rate loans as prescribed under 19 CFR 351.524(d)(3)(i)(A). This information was supplied in the TA's 2SQR from the Central Bank of Taiwan.<sup>55</sup>

## VIII. ANALYSIS OF PROGRAMS

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following.

### A. Programs Preliminarily Determined To Be Countervailable

#### 1. Grants Under the Energy Technology Program (ETP)

Established in 2013, the ETP is a grant program designed to encourage enterprises to research and develop energy technology-related innovations and applications that enhance energy technology within Taiwan.<sup>56</sup> Administered by the Bureau of Energy (BOE) within the Ministry of Economic Affairs (MOEA), the ETP program was created through the "Regulations on the Funding and Assistance for Industry Innovation Activities," promulgated under the authorization of Paragraph 2 of Article 9 of the "Act for Industrial Innovation."<sup>57</sup>

To apply for a grant under the ETP program, applicants must first prepare a technology and financial proposal demonstrating how they qualify for the funds by satisfying the standards and goals of the program.<sup>58</sup> A committee, composed of independent scholars and experts, reviews the applications along with BOE personnel, and decides whether to approve the grant, and if so, the amount that should be awarded.<sup>59</sup> Pro-Team reported entering into a contract with the MOEA under the ETP to develop new biomass fuels to replace coal as a fuel source during the POI.<sup>60</sup>

A review of the "Regulations on the Funding and Assistance for Industry Innovation Activities," promulgated under the authorization of Paragraph 2 of Article 9 of the "Act for Industrial Innovation," indicates that program is not limited to certain enterprises, industries or groups thereof, and thus not specific pursuant to section 771(5A)(D)(i) of the Act.<sup>61</sup> However, the TA submits that during the POI, 25 companies were approved for assistance under this program.<sup>62</sup> Additionally, the TA submits that "around 70,000" companies operated in Taiwan during the POI.<sup>63</sup> As such, we preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited in number.<sup>64</sup> Furthermore, a financial contribution from the TA exists in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

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<sup>55</sup> See TA 2SQR at Exhibit S2-1, page 57 and Exhibit S2-2 at "Lending Rate (Prime Rate) – 2013."

<sup>56</sup> See TA IQR at Exhibit B-1, page 50.

<sup>57</sup> *Id.*, at Exhibit B-1, pages 50-52.

<sup>58</sup> *Id.*, at Exhibit B-1, pages 50 and 53.

<sup>59</sup> *Id.*

<sup>60</sup> See PT Enterprise IQR at 17 and Exhibit IQR-8; *see also* PT Enterprise 2SQR at 2.

<sup>61</sup> See, e.g., TA IQR at Exhibit B-1-3 at Articles 4 through 21.

<sup>62</sup> *Id.*, at Exhibit B-1-1, page 58. We note that proprietary treatment of this number was lifted in the TA 4SQR.

<sup>63</sup> See TA 4SQR at 1.

<sup>64</sup> See generally TA IQR at Exhibit B-1, pages 52 and 58.

To calculate the benefit to PT Enterprise from the grant Pro-Team received under this program, we followed the methodology described in 19 CFR 351.524. This methodology directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization pursuant to 19 CFR 351.524(b). Since the total authorized amount of the grant exceeds 0.5 percent of Pro-Team's sales in the year of authorization (*i.e.*, 2013), the subsidy was not excepted under 19 CFR 351.524(b)(2). Thus, we allocated the subsidy over the AUL, pursuant to 19 CFR 351.524(b)(1). Following the formula as prescribed by 19 CFR 351.524(d)(1), we divided the allocated value of the grant Pro-Team received under this program during the POI by its sales during the POI, resulting in a net subsidy rate. As discussed above, we then multiplied Pro-Team's calculated benefit by the percentage of exports of subject merchandise to the United States PT Enterprise made during the POI that were produced by Pro-Team. Through this, we preliminarily find that PT Enterprise received a net subsidy rate of 0.03 percent *ad valorem* during the POI from this program.<sup>65</sup>

## **B. Programs Preliminarily Determined To Be Not Used**

1. Income Tax Credit for Upgraded Equipment
2. Income Tax Credits for Investment in Designated Regions
3. Shareholder's Investment Tax Credit for Investment in Newly Emerging, Important and Strategic Industries
4. Subsidies for Companies that Invest in Industrial Parks Under the 006688 Program
5. Grants for General Research and Development Activities
6. Grants for Research and Development Activities that Meet Future Market Needs
7. Grants to Enhance Research and Development in Non-Technology Related Industries
8. Grants for Developing an International Image and Brand
9. Subsidies for Companies that Invest in Industrial Parks

## **IX. ITC NOTIFICATION**

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

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<sup>65</sup> See PT Enterprise Preliminary Calculation Memorandum.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 75 days after we make our final determination.

## **X. DISCLOSURE AND PUBLIC COMMENT**

We intend to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>66</sup> Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance's APO/Dockets Unit no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>67</sup> Case briefs or other written comments on scope issues may be submitted no later than 30 days after the publication of this preliminary determination in the *Federal Register*, and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for the case briefs. For any briefs filed on scope issues, parties must file separate and identical public versions of the documents on each of the records for the ten concurrent CVD and AD investigations.

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.<sup>68</sup> This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.<sup>69</sup> Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, we intend to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using our electronic records system, IA ACCESS.<sup>70</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>71</sup> on the due dates established above.

## **XI. VERIFICATION**

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to our questionnaires.

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<sup>66</sup> See 19 CFR 351.224(b).

<sup>67</sup> See 19 CFR 351.309.

<sup>68</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>69</sup> See 19 CFR 351.310(c).

<sup>70</sup> See 19 CFR 351.303(b)(2)(i).

<sup>71</sup> See 19 CFR 351.303(b)(1).

## XII. CONCLUSION

We recommend that you approve the preliminary findings described above.

✓                                            
Agree                      Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

27 OCTOBER 2014  
(Date)