



A-557-816

Administrative Review
POR: 7/01/2017-6/30/2018

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March 6, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: Scot Fullerton
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Administrative Review of the Antidumping Duty Order on Certain
Steel Nails from Malaysia; 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) analyzed the case and rebuttal briefs submitted by interested parties in the administrative review of the antidumping duty order on certain steel nails (steel nails) from Malaysia covering the period of review (POR) July 1, 2017 through June 30, 2018. This administrative review covers Inmax Sdn. Bhd. (Inmax Sdn.) and Inmax Industries Sdn. Bhd. (Inmax Industries) (collectively, Inmax), and Region System Sdn. Bhd. (Region System) and Region International Co. Ltd. (Region International) (collectively, Region).

As a result of our analysis of the comments received, we have made certain changes since the *Preliminary Results*.¹ We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is a list of the issues in this administrative review for which we received comments from interested parties:

II. LIST OF ISSUES

A. Inmax

Comment 1: Adjustments to the Costs of Production

¹ See *Certain Steel Nails from Malaysia: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 47933 (September 11, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.



B. Region

Comment 2: Difference Between Low and High Carbon Wire Rod Costs

Comment 3: Imputed Interest Expense Amount

Comment 4: Programming Errors

III. BACKGROUND

On September 11, 2019, Commerce published the *Preliminary Results* of this administrative review.² On October 1, 2019, we received a request for a hearing from Inmax,³ and on November 19, 2019, Inmax withdrew the request.⁴

We invited interested parties to comment on the *Preliminary Results*.⁵ For Inmax issues, we received a case brief from Inmax⁶ on October 18, 2019, and a rebuttal brief from Mid Continent Steel & Wire, Inc. (the petitioner)⁷ on October 23, 2019. For Region issues, we received case briefs from Region⁸ and the petitioner⁹ on October 18, 2019, and we received a rebuttal brief from Region on October 22, 2019.¹⁰

On January 2, 2020, Commerce extended the final results of this review to no later than March 6, 2020.¹¹

IV. SCOPE OF THE ORDER

The merchandise covered by the antidumping duty order is certain steel nails having a nominal shaft length not exceeding 12 inches.¹² 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.

² *Id.*

³ See Inmax's Letter, "Steel Nails from Malaysia – Hearing Request," dated October 1, 2019.

⁴ See Inmax's Letter, "Steel Nails from Malaysia – Withdrawal of Hearing Request," dated November 19, 2019.

⁵ See Preliminary Results, 84 FR at 47934.

⁶ See Inmax's Letter, "Steel Nails from Malaysia – Case Brief," dated October 18, 2019 (Inmax Case Brief).

⁷ See Petitioner's Letter, "Certain Steel Nails from Malaysia: Rebuttal Brief," dated October 23, 2019 (Petitioner Rebuttal Brief – Inmax).

⁸ See Region's Letter, "Steel Nails from Malaysia: Case Brief," dated October 18, 2019 (Region Case Brief).

⁹ See Petitioner's Letter, "Certain Steel Nails from Malaysia: Case Brief," dated October 18, 2019 (Petitioner Case Brief – Region).

¹⁰ See Region's Letter, "Steel Nails from Malaysia: Case Brief," dated October 22, 2019 (Region Rebuttal Brief).

¹¹ See Memorandum, "Certain Steel Nails from Malaysia: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2017-2018," dated January 2, 2020.

¹² 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.

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.

Excluded from the scope of this order 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. 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, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are certain steel nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: 1) builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; 2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; 3) swivel seats with variable height adjustment; 4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); 5) seats of cane, osier, bamboo or similar materials; 6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); 7) furniture (other than seats) of wood (with the exception of i) medical, surgical, dental or veterinary furniture; and ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or 8) furniture (other than seats) of materials other than wood, metal, or plastics (*e.g.*, furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of this order 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 order are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

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

Certain steel nails subject to this order 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 order also may be classified under HTSUS subheadings 7907.00.60.00, 7806.00.80.00, 7318.29.00.00, 8206.00.00.00 or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

V. CHANGES FROM THE PRELIMINARY RESULTS

Based on our analysis of the comments received from interested parties, we made certain changes to our margin calculations for Inmax and Region. Specifically, for Inmax:

- We included the product characteristics collation material (COLLMATU) and surface finish (FINISHU) in the adjustment to labor and variable overhead (VOH) costs.¹³

Additionally, for Region:

- We corrected programming language errors related to adjustments made to its electroplating, heat treatment, and annealing service costs.¹⁴
- We corrected programming language errors related to adjustments made to inventory carrying costs incurred on both Region's home-market and U.S. sales.¹⁵

VI. DISCUSSION OF THE ISSUES

A. Inmax-Specific Issues

Comment 1: Adjustments to the Costs of Production

(A) Recalculation of Reported Costs

Inmax's Comments

- Commerce adjusted the costs of Inmax Sdn. and Inmax Industries in the *Preliminary Results* solely because the two different factories' costs are not the same, using the same underlying logic behind its practice of requiring factory specific costs. The reasoning

¹³ See Comment 1(B), *infra*.

¹⁴ See Comment 4(A), *infra*.

¹⁵ See Comment 4(B), *infra*.

that cost differences of the same control number (CONNUM) between two distinct and separate factories requires manipulation of actual costs is groundless.¹⁶

- There are reasons why two different manufacturing facilities would have different production costs to produce the same product (*e.g.*, raw material costs can differ significantly depending on the date of purchase and the quantity purchased).¹⁷
- Commerce has confused its policy of revising costs where the costs reported according to a company's normal books are unreasonable (*e.g.*, if cost differences among products do not represent differences in physical characteristics), with its policy of weight averaging different production costs of multiple factories to derive a single weighted average cost file.¹⁸
- The fact that different factories incur different costs, as they do in every single anti-dumping case where costs for multiple factories are reported, is obvious and expected.¹⁹
- Neither Inmax Sdn.'s nor Inmax Industries' costs display any inconsistencies, anomalies or aberrations between similar CONNUMs. In fact, an analysis of the reported per kilo costs demonstrate that the actual costs reported are very consistent among similar CONNUMs, as they have always been in all past proceedings.²⁰
- Inmax Sdn. and Inmax Industries have used the identical cost reporting methodology in each of the previous administrative reviews and original investigation. Commerce verified Inmax's costs in the original investigation and found no discrepancies with the reported costs. Commerce verified both Inmax Sdn.'s and Inmax Industries' reported costs in the second administrative review and again found that the reported costs reflect actual costs incurred for each product.²¹
- Furthermore, Commerce's practice is to adjust only grossly disparate costs within a factory, which is not even the case between the Inmax factories. Commerce has always calculated cost of production (COP) from multiple factories that are considered affiliated and are collapsed as a single entity by requiring each factory to report its own COP.²²

Petitioner's Rebuttal Comments

- Section 773(f)(1)(A) of the Tariff Act of 1930, as amended (the Act) instructs Commerce to rely on a company's normal books and records if two conditions are met: (1) the books are kept in accordance with home country generally accepted accounting principles (GAAP); and (2) the books reasonably reflect the cost to produce and sell the merchandise.²³

¹⁶ See Inmax Case Brief at 2.

¹⁷ *Id.*

¹⁸ *Id.* at 3.

¹⁹ *Id.*

²⁰ *Id.* at 4.

²¹ *Id.* at 5.

²² *Id.* at 6.

²³ See Petitioner Rebuttal Brief – Inmax at 2.

- While Inmax’s books meet the first criterion, the question facing Commerce in this review is whether the per-unit costs based on Inmax’s normal books reasonably reflect the cost to produce and sell the merchandise under consideration.²⁴
- Inmax argues that it is “absurd” to expect two factories to have the same or very similar costs, and puts forth a variety of reasons why two different manufacturing entities would have different production costs for the same product, such as differences in the time of purchase for raw materials, product mix, and factory equipment. Inmax’s argument is without merit.²⁵
- Where differences in costs between similar CONNUMs cannot be explained by the differences in the physical characteristics, Commerce finds that the reported costs do not reasonably reflect the costs associated with the production and sale of the merchandise, and mitigates the impact of the cost fluctuations unrelated to the reported products’ physical characteristics by reallocating the reporting costs to remove the distortion.²⁶
- The difference in Inmax’s reported costs appear to be related to where the product was produced, rather than differences in the physical characteristics of the merchandise. Inmax provides nothing to refute that finding.²⁷
- Inmax is unable to specifically identify what actually does account for the cost differences observed by Commerce.²⁸
- Inmax’s claim that Commerce’s collapsing methodology somehow accounts for these observed differences is similarly misleading.²⁹
- Commerce appropriately evaluated Inmax’s reported costs in accordance with its obligations under Section 773(f)(1)(A) of the Act and its collapsing practice pursuant to 19 CFR 351.401(f)(1).³⁰

Commerce’s Position: For the final results, we continue to recalculate Inmax’s energy, labor, and overhead costs, as we did in the *Preliminary Results*, so that differences in these costs among CONNUMs reflect differences in physical characteristics rather than where the product was produced.

Based on our collapsing analysis performed for the *Preliminary Results*, we determined that Inmax Sdn. is affiliated with Inmax Industries pursuant to section 771(33)(B) and (F) of the Act.³¹ Additionally, we determined that Inmax Sdn. and Inmax Industries should be treated as a

²⁴ *Id.*

²⁵ *Id.* at 3 (citing Inmax Case Brief at 3).

²⁶ *Id.* (citing as examples *Final Results of Antidumping Duty Administrative Review and New Shipper Review: Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea 2014-2015*, 81 FR 62712 (September 12, 2016) (*Steel Plate Products*), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 82 FR 49179 (October 24, 2017) (*Pipe and Tube Products*), and accompanying IDM at Comment 2).

²⁷ *Id.* at 3-4.

²⁸ *Id.* at 4.

²⁹ *Id.* at 5.

³⁰ *Id.*

³¹ See Preliminary Decision Memorandum at 5.

single entity, *i.e.*, Inmax, for antidumping purposes, pursuant to 19 CFR 351.401(f).³² Inmax reported that Inmax Sdn. and Inmax Industries each produce subject merchandise at their own production facilities.³³ To determine its costs, Inmax weight-averaged the CONNUM-specific costs from each company by production quantity to derive the combined weighted-average cost per CONNUM.³⁴

When Commerce must evaluate a respondent's reported costs, section 773(f)(1)(A) of the Act advises that costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise. Accordingly, Commerce will customarily rely on a company's normal books and records if two conditions are met: (1) the books are kept in accordance with the home country's GAAP; and (2) the books reasonably reflect the cost to produce and sell the merchandise. In cases where the costs reported according to a company's normal books are unreasonable (*e.g.*, if cost differences among products do not represent differences in physical characteristics), Commerce may revise such costs.³⁵ Here, the record is clear that the reported costs are derived from Inmax's normal books and records and that those books are in accordance with Malaysian GAAP.³⁶ Hence, the question facing Commerce is whether the reported costs for energy, labor, and overhead from the normal books of Inmax Sdn. and Inmax Industries reasonably reflect the cost to produce the subject merchandise.

According to sections 773(f)(1)(A) and 773(a)(6)(C)(ii) and (iii) of the Act, a respondent's reported product costs should reflect meaningful cost differences attributable to the different physical characteristics. Despite Inmax's contrary assertions, we do not find that the differences in the reported energy, labor, and overhead costs among CONNUMs to be reflective of the physical characteristics established by Commerce.³⁷ As we stated in Inmax's Preliminary Analysis Memorandum, our analysis of the cost data for Inmax Sdn. and Inmax Industries revealed significant differences in the reported energy, labor, and overhead costs incurred by each company, despite the fact that there were no differences between the physical characteristics of the steel nails being produced by each company.³⁸ Additionally, Inmax reported that both companies used identical production processes to produce their merchandise.³⁹ Thus, the difference between the costs was related to where the product was produced, rather than due to differences in the physical characteristics of the merchandise.

³² *Id.*

³³ See Inmax's December 14, 2018 Section D Questionnaire Response (Inmax's Section D) at 23.

³⁴ *Id.*

³⁵ See, *e.g.*, *Steel Plate Products* and *Pipe and Tube Products*.

³⁶ See Inmax's November 21, 2018 Section A Questionnaire Response at Exhibits A-10 and A-11; *see also* Inmax's Section D at 6.

³⁷ See Initial Questionnaire dated October 29, 2018 at B-9 and C-7.

³⁸ See Memorandum, "Analysis Memorandum for Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. in the Preliminary Results of the 2017/2018 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia," dated September 5, 2019 (Inmax's Preliminary Analysis Memorandum) at 8-9.

³⁹ See Inmax's Section D at 1-2 and Exhibit D-1.

In Inmax's Preliminary Analysis Memorandum, we cited past cases in support of our decision. In *Steel Plate Products*, Commerce recalculated reported conversion costs when costs of manufacture for certain CONNUMs varied considerably as the result of differences in product-specific production volumes at different stages of production.⁴⁰ There, we recalculated costs where the costs of similar CONNUMs were significantly different because of the timing of production and not because of differences in physical characteristics. Such a situation is similar to the present case, where the costs of similar CONNUMs are significantly different based on where the CONNUMs were produced and not because of differences in physical characteristics.

Similarly, in *Thai Plastic Bag*, we recalculated reported costs when one of a respondent's two production facilities operated more efficiently than the other on a per-kilogram costs basis.⁴¹ The respondent argued in its case brief that it "based its reported costs on actual cost and production records maintained in the ordinary course of business."⁴² In the case, we stated that we adjust costs to address distortions "when such cost differences are attributable to factors beyond physical characteristics (such as situations where the merchandise is produced at separate facilities or the cost differences are high even though the physical differences appear small)."⁴³ In a case with facts closely resembling those on the record of this review, the Court of International Trade upheld our adjustment to the respondent's reported costs.⁴⁴

Therefore, because the differences in Inmax's energy, labor, and overhead costs are not based on differences in physical characteristics but on where the product was produced, we continue to recalculate these costs for both companies for the final results.⁴⁵

(B) Adjustment to Labor and Variable Overhead Costs

Inmax's Comments

- Commerce stated that for labor and VOH costs, it identified a set of product characteristics (*i.e.*, product form, diameter, shank length, shank style and heat treatment) that most impacted these costs and calculated a single weighted-average value for each unique set of these characteristics for both companies and used the weighted-average values in place of the reported company-specific and CONNUM-specific values.⁴⁶
- It is unclear why Commerce would choose to select product characteristics "that most impacted these costs" as opposed to using the CONNUM itself, especially since both Inmax Sdn. and Inmax Industries reported CONNUM-specific costs.⁴⁷

⁴⁰ See *Steel Plate Products* IDM at Comment 1.

⁴¹ See *Thai Plastic Bag Indus Co. Ltd. v. United States*, 752 F. Supp. 2d 1316, 1320 (CIT 2010) (*Thai Plastic Bag*).

⁴² *Id.*, 752 F. Supp. 2d at 1321.

⁴³ *Id.*, 752 F. Supp. 2d at 1320.

⁴⁴ *Id.*, 752 F. Supp. 2d at 1329.

⁴⁵ See Memorandum, "Analysis Memorandum for Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. in the Final Results of the 2017/2018 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia," dated concurrently with this memorandum (Inmax's Final Analysis Memorandum).

⁴⁶ See Inmax Case Brief at 7 (citing Inmax's Preliminary Analysis Memorandum at 9).

⁴⁷ *Id.*

- Regardless, Commerce failed to identify the set of product characteristics that most impacted these costs in its averaging methodology.⁴⁸
- The exclusion of COLLMATU and FINISHU in calculating average VOH and labor costs: (1) negates Inmax Sdn.'s and Inmax Industries' product-specific costs, as maintained in their normal books and audited financial statements and as relied upon in the last three proceedings of this Order and (2) applies costs to products that do not incur those costs – all contrary to Section 773(f)(1)(a) of the Act.⁴⁹
- If Commerce continues to average VOH and labor costs, the averaging basis must include the collating materials and finishing type product characteristics fields to avoid inaccurate costs by assigning product specific costs to products that did not incur those costs.⁵⁰

Petitioner's Rebuttal Comments

- Inmax's assertion that Commerce should rely on its normal books and records in relation to this particular issue is moot. Consequently, Inmax's second point – that the “exclusion of COLLMATU and FINISHU in calculating average VOH and labor costs...applies costs to products that do not incur those costs” – is moot as well because it is based on how the costs were applied in the company's normal records.⁵¹
- The costs in question are not the cost of materials associated with different products, but the labor and overhead that the company assigned or allocated to different processes.⁵²
- Accordingly, Inmax's claims are without merit. Commerce should continue to adjust Inmax's labor and VOH costs using the methodology employed in its *Preliminary Determination*.⁵³

Commerce's Position: We agree with Inmax and have revised the set of product characteristics used to recalculate Inmax's labor and VOH costs to include COLLMATU and FINISHU.⁵⁴

As we stated in Inmax's Preliminary Analysis Memorandum, for labor and VOH costs, we identified a set of product characteristics (*i.e.*, product form, diameter, shank length, shank style and heat treatment) that we believed most impacted these costs and calculated a single weighted-average value for each unique set of these characteristics for both companies and used the weighted-average values in place of the reported company- and CONNUM-specific values.⁵⁵ However, after further review, we agree with Inmax that the product characteristics of COLLMATU and FINISHU should also be included in the above set of product characteristics.

⁴⁸ *Id.* at 7-8.

⁴⁹ *Id.* at 8-9.

⁵⁰ *Id.* at 11.

⁵¹ See Petitioner Rebuttal Brief – Inmax at 7 (citing Inmax Case Brief at 8-9).

⁵² *Id.*

⁵³ *Id.* at 8.

⁵⁴ See Inmax's Final Analysis Memorandum at 2.

⁵⁵ See Inmax's Preliminary Analysis Memorandum at 9.

While the collating material (*e.g.* plastic strip) and type of surface finish (*e.g.* paint) relate to materials, as noted by the petitioner, these product characteristics also influence differences in labor and overhead costs where different processes and processing times are necessary for different types of collating materials and surface finishes.⁵⁶ As alleged by Inmax, the reallocation of labor and VOH costs, without considering the collating materials and types of surface finish, would result in conversion costs associated with these physical characteristics being allocated to products without such physical characteristics. For example, the labor and VOH costs associated with collating using plastic strips would be allocated to products without any collation and products collated with materials other than plastic strips. Labor and VOH associated with painting would be allocated to products with surface finishes other than paint and to products with no surface finish. Moreover, a review of the record shows that labor and VOH costs are tracked separately by Inmax for the collating and surface finish processes, indicating that the collating and finishing processes are different enough that the company tracks these costs separately.⁵⁷ Thus, for the final results, we have revised the allocation of labor and VOH costs to include the product characteristics of collating material and surface finish.⁵⁸

B. Region-Specific Issues

Comment 2: Difference Between Low and High Carbon Wire Rod Costs

Petitioner's Comments

- Unlike in the previous segments of this proceeding, Region reports separately products made with low carbon and high carbon non-alloy steel.⁵⁹
- This change also affected the reported costs, as Region now reports two wire rod (DIRNAIL) costs. The reported cost of high carbon wire rod, compared to the reported cost of low carbon wire rod, is contrary to what one would expect.⁶⁰
- Region explained that the reported cost of high carbon wire rod was due to the timing of the purchases. That is, the difference in the reported costs are not related to the physical characteristics.⁶¹
- Therefore, consistent with the previous segments of this proceeding, Commerce should ignore this CONNUM characteristic for sales and cost purposes for the final results.⁶²

⁵⁶ See Inmax's Section D at Exhibit D-10.

⁵⁷ *Id.*

⁵⁸ See Inmax's Final Analysis Memorandum at 2.

⁵⁹ See Petitioner Case Brief – Region at 2.

⁶⁰ *Id.*

⁶¹ *Id.* at 2-3.

⁶² *Id.* at 3.

Region's Rebuttal Comments

- The petitioner did not consider the methodology used for cost determination, as explained in Region's original and supplemental questionnaire responses.⁶³
- The petitioner claims that Region's reported methodology for this review is contrary to its claim that it reported cost the same way as in prior reviews. However, as explained in Region's Sections B-D Supplemental Questionnaire, Region had already explained how the present methodology was the same methodology adopted in prior reviews.⁶⁴
- As in prior reviews, Region assigned CONNUM product characteristics based on the majority type of steel purchased during the POR. If Region assigned CONNUM product characteristics differently, it would result in cost distortion. By assigning CONNUM product characteristics based on the majority of wire rod purchased and subsequently consumed, Region tried to capture more accuracy.⁶⁵
- Commerce should not adopt the petitioner's argument to use a single DIRNAIL cost as it would distort the cost of production and ignore important physical characteristics of the product.⁶⁶

Commerce's Position: We continue to rely on Region's reported wire rod costs, as we did in the *Preliminary Results*.⁶⁷ Under sections 773(f)(1)(A) and 773(a)(6)(C)(ii) and (iii) of the Act, a respondent's reported product costs should reflect meaningful cost differences attributable to the different physical characteristics. Here, the physical characteristics set forth by Commerce include steel type.⁶⁸ Steel type is delineated as stainless steel, alloy steel other than stainless, non-alloy steel with a carbon content less than 25 percent, and non-alloy steel with a carbon content greater than 25 percent.⁶⁹ During the POR, Region produced nails using low carbon non-alloy steel (carbon content less than 25 percent (low carbon)) and high carbon alloy steel (carbon content great than 25 percent (high carbon)).⁷⁰

The petitioner asserts that because Region did not separately report products made with low carbon steel from products made from high carbon steel in prior reviews, Region's differentiation of low and high carbon products in this review should not be relied upon for the final results. However, Commerce's concern here, in this administrative review, is that Region properly classified the merchandise produced during this POR, in accordance with the physical characteristics identified by Commerce, and that Region accounted for the cost differences between such characteristics.

⁶³ See Region Rebuttal Brief at 1-3 (citing Region's February 4, 2019 Sections B, C, and D Questionnaire Response (Region's BCDQR) at B-13, C-12-13, and D-25; Region's May 29, 2019 Sections B-D Supplemental Questionnaire Response (Region's Sections B-D Supplemental Questionnaire Response) at 2-3).

⁶⁴ *Id.* at 3 (citing Region's Sections B-D Supplemental Questionnaire Response at 6).

⁶⁵ *Id.*

⁶⁶ *Id.* at 4.

⁶⁷ See Memorandum, "Analysis Memorandum for Region International Co. Ltd. and Region System Sdn. Bhd. in the Preliminary Results of the 2017/2018 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia," dated September 5, 2019 at 7.

⁶⁸ See Initial Questionnaire dated October 29, 2018 at B-9 and C-7.

⁶⁹ *Id.*

⁷⁰ See Region's BCDQR at D-24.

Section 773(f)(1)(A) of the Act mandates that costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise. Accordingly, Commerce will customarily rely on a company's normal books and records if two conditions are met: (1) the books are kept in accordance with the home country's GAAP; and (2) the books reasonably reflect the cost to produce and sell the merchandise. Here, the record is clear that the reported costs are derived from Region's normal books and records and that those books are in accordance with Malaysian GAAP.⁷¹ Hence, the question facing Commerce is whether Region's separate reporting of low carbon and high carbon non-allow steel wire rods results in unreasonable, distorted costs.

The petitioner asserts that the timing of Region's purchases of low carbon and high carbon wire rod results in weighted-average costs that are opposite of the expected costs of such inputs and distort the reported costs. However, an analysis of Region's reported inventory movement data (beginning inventory, purchases, consumption, and ending inventory) for low carbon and high carbon wire rod shows that both types of steel were purchased throughout the POR.⁷² Low carbon wire rod was purchased during each month of the POR while high carbon wire rod was purchased during certain months of the POR.⁷³ The data shows that purchase prices of low carbon inputs trended in a certain direction during the POR while the purchases prices of high carbon inputs trended in the opposite direction during the POR.⁷⁴ Region's inventory data shows that substantial quantities of both low and high carbon wire rod were purchased throughout the POR such that the weighted-average per-unit low carbon and high carbon wire rod costs reported by Region were not skewed to the beginning of the POR or the ending of the POR as alleged by the petitioner.⁷⁵ Because the purchases and consumption costs of low carbon and high carbon wire rod reasonably reflect the costs of such inputs throughout the POR, we find Region's reported POR weighted-average wire rod costs to be reasonable and have relied on those costs for the final results.

Comment 3: Imputed Interest Expense Amount

Petitioner's Comments

- Regarding Region System's financial statements for fiscal year (FY) 2017-2018, Region claims that its Exhibit S2-27(a) provides "a schedule showing monthly balances during the fiscal year," and that the exhibit "ties with the audited financial statements for FY 2017-2018."⁷⁶

⁷¹ See Region's November 26, 2018 Section A Questionnaire Response (Region's Section A Questionnaire Response) at Exhibits A-10(a), A-10(b), A-11(a), and A-11(b); see also Region's BCDQR at D-10.

⁷² See Region's BCDQR at Exhibit D-3, parts 1 and 2.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ See Petitioner Case Brief – Region at 3 (citing Region's Section A Questionnaire Response at Exhibit A-10(a) and Region's Sections B-D Supplemental Questionnaire Response at 24).

- Contrary to its claim, Region failed to “{r}reconcile the beginning and ending balances to the amounts reported in the audited balance sheet.”⁷⁷
- Thus, for the final results, Commerce can only rely on the information in the financial statements. That is, Commerce can only rely on the beginning and ending balances on Line A in the balance sheet according to Note 14.⁷⁸
- Region claims the amounts in question are an advance received from Region International against the sales of nails for the U.S. market. Normally, these would not be subject to interest charges because the final sale price would have accounted for any interest attributable to advances.⁷⁹
- However, this is not a normal situation where the transactions occur between two unaffiliated parties. Rather, this is a situation where the transactions are between two affiliated parties, so the eventual price cannot be accepted as a true measurement of market value. Therefore, the interest should be imputed, and Commerce should do so for the final results.⁸⁰

Region’s Rebuttal Comments

- Region stated in its Sections B-D Supplemental Questionnaire that “Note 14 of the Region System’s financial statement for the FY 2017-2018 refers to advance received from Region International against sales of nails for U.S. market.”⁸¹
- Therefore, the outstanding amount in the financial statements of Region System is due to Region International as advance received from Region International against sales of nails.⁸²
- This outstanding amount is not an interest free loan. Hence, Commerce should not calculate any imputed interest on such outstanding amount.⁸³
- Even if Commerce decides to calculate an imputed interest expense amount on this outstanding amount due to Region International by Region System, then Commerce should also give an offset of the same imputed interest amount as income in the hands of Region International.⁸⁴

Commerce’s Position: We have not added an imputed interest amount to Region’s financial expenses for these final results.

Section 773(f)(2) of the Act (the transactions disregarded rule) states that a transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the

⁷⁷ *Id.* at 4 (citing Region’s Sections B-D Supplemental Questionnaire Response at 24).

⁷⁸ *Id.* (citing Region’s Section A Questionnaire Response at Exhibit A-10(a)); the identity of Line A is business proprietary information that cannot be discussed here.

⁷⁹ *Id.* (citing Region’s Sections B-D Supplemental Questionnaire Response at 24).

⁸⁰ *Id.*

⁸¹ *See* Region Rebuttal Brief at 5 (citing Region’s Sections B-D Supplemental Questionnaire Response at 24).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

amount usually reflected in sales of merchandise under consideration in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

Based on our collapsing analysis performed for the *Preliminary Results*, we determined that Region System is affiliated with Region International, pursuant to section 771(33)(B) and (F) of the Act.⁸⁵ Additionally, we determined that Region System and Region International should be treated as a single entity for antidumping purposes, pursuant to 19 CFR 351.401(f).⁸⁶

Here, the petitioner argues that Commerce should impute an interest amount to Region's reported interest expenses through application of the transactions disregarded rule. However, our established practice is not to apply the transactions disregarded rule to transactions when we treat affiliates as a single entity.⁸⁷ Rather, these transactions should be treated as the internal transactions of a single legal entity. As explained above, Region System and Region International are a collapsed entity and are treated as a single entity for antidumping purposes. Thus, the transactions disregarded rule does not apply. Therefore, for the final results, we have not added an imputed interest amount to Region's interest expenses.

Comment 4: Programming Errors

(A) Transactions Disregarded Adjustments

Region's Comments

- Commerce attempted to assign (increase) the costs for electroplating (RFINISH), heat treatment (RHEAT), and annealing service (RANNEAL).⁸⁸
- However, the additional fields included in the programming language, *i.e.*, RFINISH, RHEAT, and RANNEAL, show zero values, indicating that the programming language did not work.⁸⁹
- Therefore, the program never read FINISH as "50" or HEAT as "2," and it always went to the "ELSE" statement (lines 7455, 7460, and 7465).⁹⁰

⁸⁵ See Preliminary Decision Memorandum at 5.

⁸⁶ *Id.*

⁸⁷ See, e.g., *Certain Hot-Rolled Steel Flat Products From Japan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 53409 (August 12, 2016), and accompanying IDM at Comment 22 ("In situations where the Department treats two entities as a single entity, we have not applied the transactions disregarded rule to transactions between the entities."); *Ferrosilicon From Venezuela: Final Determination of Sales at Less Than Fair Value*, 79 FR 44397 (July 31, 2014) and accompanying IDM at Comment 1 ("The Department's practice is to disregard the major input and transactions disregarded rules when dealing with a single entity.").

⁸⁸ See Region Case Brief at 1.

⁸⁹ *Id.* at 2.

⁹⁰ *Id.*

- Commerce should correct this programming error in its final determination.⁹¹

No other party commented on this issue

Commerce's Position: We agree with Region that our programming language did not result in the adjustments we intended to electroplating, heat treatment, and annealing service costs. Therefore, we have revised the programming language to correct those errors identified in Region's case brief for the final results.⁹²

(B) Inventory Carrying Costs

Region's Comments

- Commerce recalculated inventory carrying costs (INVCARH) in the home market file and domestic inventory carrying costs (DINVCARU) in the U.S. file. However, Commerce simply multiplied the average total cost of manufacturing (AVGTCOM) and the interest rate and did not multiply it by the number of days in inventory and divide by 365.⁹³
- Also, for the U.S. file, the values were erroneously not converted to U.S. dollars.⁹⁴

No other party commented on this issue

Commerce's Position: We agree with Region that the adjustments we intended to make to inventory carrying costs were not fully reflected in our programming language. Therefore, we have revised the programming language to correct those errors identified in Region's case brief for the final results.⁹⁵

⁹¹ *Id.*

⁹² See Memorandum, "Analysis Memorandum for Region International Co. Ltd. and Region System Sdn. Bhd. in the Final Results of the 2017/2018 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia," dated concurrently with this memorandum (Region Final Analysis Memorandum).

⁹³ See Region Case Brief at 2.

⁹⁴ *Id.*

⁹⁵ See Region Final Analysis Memorandum at 2.

VII. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this administrative review in the *Federal Register*.



Agree

Disagree

3/6/2020

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance