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Re: Remand Redetermination for Enforce and Protect Act (“EAPA”) Consolidated Case Number 7357; *Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Antidumping Duty Order*, 78 FR 8105 (February 5, 2013) and *Certain Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Countervailing Duty Order*, 78 FR 8107 (February 5, 2013); Leco Supply Inc.; 19 U.S.C. § 1517

Dear Ms. Jacobson, Ms. Young, and Mr. Waite:

This is the remand redetermination made pursuant to the remand order dated August 3, 2021 in *Leco Supply, Inc. v. United States, et al.*¹

The U.S. Customs and Border Protection (“CBP”), Office of Trade (“OT”), Regulations and Rulings (“R&R”) has received and reviewed from the Trade Remedy & Law Enforcement Directorate (“TRLED”) of OT the documents collected during the EAPA investigation and omitted from the record prior to R&R’s original *de novo* review (H315522), dated February 24, 2021 (“R&R February 24 FAD”).² Further, as the Order provided the parties “an

¹ See Order, *Leco Supply, Inc. v. United States*, No. 21-00136, (Ct. Int’l Trade Aug. 3, 2021), ECF No. 42 (Order).

² See Confidential Document Nos. 360-380 and Public Document Nos. 775-811, which were filed as part of the supplemental administrative record. Those documents previously omitted from the record transferred to R&R during the original *de novo* review consisted primarily of: (1) Business Analysis Report and supporting documents related to PNJ Import, Inc.; (2) CBP Form 28, Requests for Information to the Importers; (3) Extension Requests by the Importers and responses from TRLED; (4) the public version of some financial

opportunity to submit information and arguments responsive to any information previously omitted from the public record,”³ R&R has reviewed and considered the submissions from Leco Supply Inc. (“Leco Supply”) and M&B Metal Products Company, Inc. (“M&B”) made during the remand period, including Leco Supply’s Rebuttal Information to the revised public versions of documents placed on the record by M&B and CBP, dated September 15, 2021,⁴ and M&B’s Written Arguments in Support of Affirmative Determination of Evasion by U.S. Importer Leco Supply, dated September 27, 2021.⁵ The parties were also afforded an opportunity to provide written comments on a draft remand redetermination. R&R has reviewed and considered both parties’ comments. As the arguments regarding the level of redaction of the revised public documents, sufficiency of the public summaries, and what constitutes business confidential information lie outside of R&R’s *de novo* review, Leco Supply’s submissions on those matters were not considered.

The R&R February 24 FAD is incorporated by reference as if fully set forth herein.⁶

Upon review of the previously omitted documents, the new submissions of the parties, and the parties’ written comments to the draft remand redetermination, R&R continues to find that the evidence on the administrative record in this matter still supports the initial determination made by CBP that Leco Supply engaged in evasion by entering into the customs territory of the United States Vietnamese-origin wire hangers and misrepresenting the country of origin as Laos. Such designation of Laos as the country of origin at the time of entry was materially false, in that it failed to indicate that the wire hangers were merchandise covered by the relevant AD and CV Duty Orders applicable to Vietnam; the false designation also led to the non-collection of AD and CV duty deposits.

Furthermore, R&R reviewed rebuttal information submitted by Leco Supply during the remand proceedings, and concluded that the reversal of the February 24 FAD is not warranted. The administrative record is still devoid of evidence to support Leco Supply’s argument that the claimed manufacturer, Truong Hong Development Multidisciplinary Group Ltd. (“Truong Hong”), had the capacity and *did* manufacture the quantity of steel wire hangers it exported to the United States during the period of investigation. As part of

documentation related to some of the Importers; and, (5) videos provided by Leco Supply and N&M Hangers, LLC. One of the documents previously omitted and transmitted to R&R on remand included photographs; those photographs were present in the original documents transmitted to R&R and reviewed during the original *de novo* review.

³ See Order.

⁴ This submission by Leco Supply is entitled “Leco Supply, Inc. Objection to Revised Documents Placed on the Record by U.S. Customs & Border Protection and M&B Metal Products Company, Inc.,” which appears to be a typo as another document submitted by Leco Supply on the same day has the same title and contains arguments which directly relate to those types of objections, while the other submission pertains strictly to rebutting the new information revealed in the revised public versions placed on the record by CBP and M&B.

⁵ The original deadline for submission of written arguments by the parties was September 22, 2021. On September 15, 2021, Leco Supply requested an extension until close of business on September 27, 2021 due to work restrictions in the religious observance of the Jewish holidays Yom Kippur (beginning at sundown on September 15 and continuing until sundown on September 16) and Sukkot (the first two days have work restrictions beginning at sundown on September 20 and continuing until sundown on September 22). This extension was granted in part for both parties and written arguments were due by 10:00am EST on September 27, 2021. Leco Supply did not submit written arguments by the extended deadline.

⁶ The February 24 FAD referenced potential deficiencies in the administrative record relevant to 19 C.F.R. §§ 165.4(a)(1) and (e). These issues have been resolved on remand.

its rebuttal information, Leco Supply has provided YouTube videos demonstrating one person's ability to monitor and run multiple wire hanger forming machines simultaneously in order to counter the finding that Truong Hong did not employ enough people to adequately produce the number of wire hangers that the manufacturer exported to the United States.⁷ These are not videos of Truong Hong and cannot constitute evidence of what occurred at Truong Hong's facilities. The videos are not relevant to this EAPA investigation. Leco Supply has countered in its written Comments on Draft Remand Redetermination⁸ that the YouTube videos are not meant to demonstrate what occurred at Truong Hong, but rather, to show industry norms and that one person could operate multiple wire hanger forming machines at once. This argument is unpersuasive. The videos do not appear to have been taken in a large manufacturing setting representative of what Leco Supply purports to be occurring at Truong Hong. Instead, the videos only show the machines at work for a couple of minutes at most and, based upon the videos' comments, largely appear to be advertising those machines for sale. In addition to not constituting evidence of what occurred at Truong Hong, these videos do not even constitute credible evidence of standard manufacturing of wire hangers in large facilities generally.

While one video of Truong Hong was submitted to R&R as part of the documents previously omitted during the original *de novo* review, that video came from a different importer, N&M Hanger, LLC, and does not show the operation of a wire hanger forming machine.⁹ The videos provided by Leco Supply (and previously omitted during the original *de novo* review) during the course of the investigation were not taken at Truong Hong.¹⁰ There is little to no evidence in the administrative record of actual manufacturing of wire hangers occurring at Truong Hong. Leco Supply improperly conflates what it alleges as potential production capacity with actual production to support its claims. Even assuming that the facility had adequate machinery to produce the amount of wire hangers that Truong Hong exported, the totality of the evidence on the administrative record still does not support a finding that Truong Hong actually produced that quantity of wire hangers.

Further, the authenticity of the production documents continues to remain in question. For example, although Leco Supply has provided an explanation in the rebuttal information regarding the issuer of the certificates of origin (*i.e.*, the Chamber of Commerce and Industry of Bolikhamxay Province), Leco Supply has also noted that this issuer does not physically inspect the production facilities, but rather, issues the certificates upon the inspection of documentation provided by the exporter.¹¹ As such, there has been no new information submitted sufficient to warrant a reversal of CBP's previous determination that those certificates of origin were based upon fraudulent production documentation. Moreover, the other rebuttal information pertaining to the documentation does not refute the prior findings of unreliability of the production documents as discussed previously in the R&R February 24 FAD.¹²

⁷ See Leco Supply's Rebuttal Information, pages 11-12.

⁸ See Leco Supply Inc. Comments on Draft Remand Redetermination (Nov. 2, 2021).

⁹ See N&M Hanger, LLC Exhibit 43 to Supplemental Response to Request for Information ("RFI").

¹⁰ See Leco Supply's Supplemental Response to RFI Narrative, answer to question 11.

¹¹ See Leco Supply's Rebuttal Information, page 4.

¹² See R&R February 24 FAD, page 9.

The alleged production capacity, the lack of sufficient evidence concerning actual production quantities, and the authenticity and reliability of the relevant supporting documents is largely called into question as a result of the failure of Truong Hong to directly participate in the EAPA investigation. While Truong Hong may have provided some documents to the Importers, which were then provided to CBP during the course of the EAPA investigation, these submissions do not adequately substitute for Truong Hong's lack of response to the RFI, which would have provided critical additional information to aid CBP in attempting to verify the production capacity and actual production at the manufacturing site. In the written Comments on Draft Remand Redetermination, Leco Supply makes many claims about what are considered typical sales practices and industry norms to explain discrepancies in the documentation and to show Truong Hong's alleged production capacity. However, Leco Supply has not submitted any documents to the administrative record to support these claims. Thus, the administrative record does not contain the necessary evidence to demonstrate typical sales practices and industry norms in Laos, or the wire hanger manufacturing industry in general to corroborate Leco Supply's claims. As it stands, Leco Supply has made many assertions which the administrative record does not support. The issues surrounding the inability to authenticate Truong Hong's production documents remain. Finally, the evidence of Truong Hong's connections to Vietnam, including a Vietnamese company engaged in wire hanger production, remains un rebutted.

Thus, substantial evidence still supports a final determination of evasion as to Leco Supply and, based upon our *de novo* review on remand of the entire administrative record in this case, including the documents previously omitted from the record and the submissions by Leco Supply and M&B, the October 26 Determination of Evasion under 19 U.S.C. § 1517(c) remains AFFIRMED.

Sincerely,

Paul Pizzeck
Chief, Penalties Branch, Regulations & Rulings
Office of Trade
U.S. Customs & Border Protection

Approved by:

Joanne R. Stump
Deputy Executive Director, Regulations & Rulings
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