

requested an administrative review of its sales for this period, and on March 30, 2007, Corus Engineering Steels (CES), a division of Corus UK Limited, requested an administrative review of its sales for this period. On April 27, 2007, the Department published a notice of initiation of an administrative review of the antidumping duty order on stainless steel bar from the United Kingdom with respect to these companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 20986 (April 27, 2007).

#### Rescission of Review

On June 4, 2005, Sandvik Bioline timely withdrew its request for an administrative review of its sales during the above-referenced period. One June 27 and July 6, 2007, Enpar and CES, respectively, also withdrew their requests for an administrative review of their sales during the above-referenced period. Section 351.213(d)(1) of the Department's regulations stipulates that the Secretary will rescind an administrative review if the party that requests a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. In this case, Sandvik, Enpar and CES have withdrawn their requests for review within the 90-day period. As these three companies were the only parties to request the initiation of the review, we are rescinding this review of the antidumping duty order on stainless steel bar from the United Kingdom pursuant to 19 CFR 351.213(d)(1). Accordingly, we will instruct U.S. Customs and Border Protection to liquidate entries of the subject merchandise made during the period March 1, 2006, through February 28, 2007, at the rate in effect for each company upon the date of entry.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: July 16, 2007.

**Stephen J. Claeyss,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration (C-570-915)

#### Notice of Initiation of Countervailing Duty Investigation: Light-Walled Rectangular Pipe and Tube from the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** July 24, 2007.

**FOR FURTHER INFORMATION CONTACT:** Damian Felton, Shane Subler or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0133, (202) 482-0189 and (202) 482-0182, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Petition

On June 27, 2007, the Department of Commerce ("the Department") received a petition filed in proper form by Allied Tube & Conduit; Atlas Tube; Bull Moose Tube Company; California Steel and Tube; EXLTUBE; Hannibal Industries; Levitt Tube Company LLC, Maruichi American Corporation; Searing Industries; Southland Tube; Vest Inc.; Welded Tube; and Western Tube and Conduit (collectively, "petitioners"). The Department received timely information from petitioners supplementing the petition on July 6, July 9 and July 12, 2007.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended ("the Act"), petitioners allege that manufacturers, producers, or exporters of light-walled rectangular ("LWR") pipe and tube in the People's Republic of China (the "PRC"), receive countervailable subsidies within the meaning of section 701 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and petitioners have demonstrated sufficient industry support with respect to the countervailing duty investigation (see "Determination of Industry Support for the Petition" section below).

##### Scope of Investigation

The merchandise that is the subject of this investigation is certain welded

carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of these investigations is dispositive.

##### Comments on Scope of Investigation

During our review of the petition, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit ("CRU"), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

##### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the

PRC for consultations with respect to the countervailing duty petition. The Department held these consultations in Beijing, China with representatives of the Government of the PRC on July 16, 2007. See the Memoranda to The File, entitled, "Consultations with Officials from the Government of the People's Republic of China" (July 16, 2007) (public documents on file in the CRU of the Department of Commerce, Room B-099).

#### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act, provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT

2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that LWR pipe and tube constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Light-Walled Rectangular Pipe and Tube from the People's Republic of China, (*China Initiation Checklist*) at Attachment II, (Analysis of Industry Support), on file in the Central Records Unit, Room B-099 of the main Department of Commerce building.

In determining whether petitioners have standing (i.e., those domestic workers and producers supporting the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition), we considered the industry support data contained in the petition with reference to the domestic like product as defined in Attachment I, (Scope of the Petition), to the *China Initiation Checklist*. To establish industry support, petitioners provided their production of the domestic like product for the year 2006, and compared that to production of the domestic like product for the industry. For further discussion see the *China Initiation Checklist* at Attachment II (Analysis of Industry Support).

Our review of the data provided in the petition, supplemental submissions, and other information readily available to the Department indicates that petitioners have established industry support. First, the domestic producers have met the statutory criteria for industry support under section

702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. Second, the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Because the petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, the Department is not required to take further action in order to evaluate industry support (e.g., polling). See section 702(c)(4)(D) of the Act. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. See the *China Initiation Checklist* at Attachment II (Analysis of Industry Support).

The Department finds that petitioners filed the petition on behalf of the domestic industry because they are an interested party as defined in sections 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department initiate. See *China Initiation Checklist* at Attachment II (Analysis of Industry Support).

#### Injury Test

Because the PRC, is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

#### Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of LWR pipe and tube from the PRC are benefitting from countervailable subsidies and that such imports are causing or threatening to cause, material injury to the domestic industry producing LWR pipe and tube. In addition, petitioners allege that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industry's injured condition is illustrated by

reduced market share, lost sales, reduced production, reduced capacity and capacity utilization rate, reduced shipments and increased inventories, underselling and price depression or suppression, lost revenue, reduced employment, decline in financial performance and increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See *China Initiation Checklist* at Attachment III (Injury).

### Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that; (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioners supporting the allegations. The Department has examined the countervailing duty petition on LWR pipe and tube from the PRC and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of LWR pipe and tube in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see *China Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

#### Preferential Lending

1. Government Policy Lending Program
2. Loans and interest subsidies provided pursuant to the Northeast Revitalization Program

#### Income Tax Programs

3. "Two Free, Three Half" program
4. Income tax exemption program for export-oriented foreign investment enterprises ("FIEs")
5. Corporate income tax refund program for reinvestment of FIE profits in export-oriented enterprises
6. Local income tax exemption and reduction program for "productive" FIEs
7. Reduced income tax rates for FIEs

based on location

8. Reduced income tax rate for knowledge or technology intensive FIEs
9. Reduced income tax rate for high or new technology FIEs
10. Preferential tax policies for research and development at FIEs
11. Income tax credits on purchases of domestically produced equipment by domestically-owned companies
12. Income tax credits on purchases of domestically produced equipment by FIEs

#### Provincial Subsidy Programs

13. Program to rebate antidumping legal fees in Zhejiang province
  14. Export interest subsidy funds for enterprises located in Zhejiang province
  15. Loans pursuant to the Liaoning Province's five-year framework
- #### Indirect Tax Programs and Import Tariff Program

16. Export payments characterized as VAT rebates
17. VAT and tariff exemptions on imported equipment
18. VAT rebates on domestically produced equipment
19. Exemption from payment of staff and worker benefits for export-oriented enterprises

#### Grant Programs

20. State Key Technology Renovation Program Fund
21. Grants to loss-making state owned enterprises

#### Provision Of Goods Or Services For Less Than Adequate Remuneration

22. Hot-rolled steel
23. Electricity and natural gas
24. Water
25. Land

#### Government Restraints on Exports

26. Zinc
27. Hot-rolled steel

For further information explaining why the Department is investigating these programs, see *China Initiation Checklist*.

We are postponing our investigation of the following program until such time as we select our respondents because the allegation is company-specific:

1. Loans to uncreditworthy companies

For further information explaining why the Department is postponing investigation of this program, see *China Initiation Checklist*.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. Currency manipulation

Petitioners allege that the Government of China's ("GOC") policy of maintaining an undervalued RMB is an

export subsidy that provides either a direct transfer of funds or the provision of a good or service at less than adequate remuneration. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate the currency manipulation program.

2. Tax incentives for companies engaging in research and development

Petitioners allege that "domestic" companies (i.e., companies that are not FIEs) are a *de jure* specific group. Petitioners have not established with reasonably available evidence that this program is *de jure* specific pursuant to section 771(5A)(D)(i) of the Act. Therefore, we do not plan to investigate tax incentives for "domestic" companies engaging in research and development.

3. Exemption of LWR pipe and tube from export taxes

Petitioners allege that LWR pipe and tube producers have been exempted from the export taxes that were imposed on 142 steel products effective June 1, 2007. Petitioners have not sufficiently alleged, on the basis of reasonably available information, that LWR pipe and tube producers have been relieved from paying export taxes that would otherwise have been due. Consequently, we do not plan to investigate the exemption of LWR pipe and tube producers from export taxes.

4. Funds for technology and research

Petitioners allege that because the GOC did not provide the criteria for awarding funds under this program when they notified it to the World Trade Organization, funds are awarded on a discretionary basis and, hence, specific. Petitioners have not adequately explained how this program is specific pursuant to section 771(5A)(D)(i) of the Act. Therefore, we do not plan to investigate funds for technology and research.

5. Provision of goods or services for less than adequate remuneration - other companies

Petitioners allege that the GOC's policy of combining steel companies results in the provision of productive assets to the combined companies at less than adequate remuneration. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Consequently, we do not plan to investigate this program.

6. Loan guarantees from government-

owned banks

As part of their Government Policy Lending allegation, petitioners include loan guarantees. To support this allegation, they point to a provincial guarantee program. However, the supporting evidence indicates that this program is for small and medium size enterprises, a non-specific group under our regulations. *See* 19 C.F.R. 351.502(e). Accordingly, we do not plan to investigate loan guarantees from government-owned banks.

7. Program to rebate antidumping legal fees in Shenzhen province

Petitioners allege that the GOC is reimbursing legal fees to local companies located in the Shenzhen province that are facing antidumping duty investigations abroad. However, petitioners did not demonstrate that producers of LWR pipe and tube are located in the Shenzhen Province or explain why such information is unavailable. Therefore, we do not recommend investigating the program to rebate antidumping legal fees in the Shenzhen province.

8. Export interest subsidy funds for enterprises located in Shenzhen province

Petitioners allege that producers of LWR pipe and tube with specific export volumes are eligible for export interest subsidies for merchandise produced in the Shenzhen province. However, petitioners did not demonstrate that producers of LWR pipe and tube are located in the Shenzhen province, or explain why such information is unavailable. Therefore, we do not recommend investigating the program for export interest subsidy funds for enterprises located in Shenzhen province.

9. Funds for "outward expansion" of industries in Guangdong province

Petitioners allege that eligible LWR pipe and tube producers in the Guangdong province may apply for special funding for the development of export activities. However, Petitioners did not demonstrate that producers of LWR pipe and tube are located in the Guangdong province or explain why such information is unavailable. Therefore, we do not recommend investigating the program of the funds for outward expansion of industries in Guangdong province.

10. Domestic VAT refunds for companies located in the Hainan economic development zone

This program was found to be preliminarily countervailable in CFS Investigation. *See Coated Free Sheet Paper from the People's Republic of China; Amended Preliminary Affirmative Countervailing Duty*

*Determination*, 72 FR 17484, 17496 (April 9, 2007) ("*CFS Investigation*"). However, petitioners did not demonstrate that producers of LWR pipe and tube are located in the Hainan economic development zone or explain why such information is unavailable. Therefore, we do not recommend investigating the program on domestic VAT refunds for companies located in the Hainan economic development zone.

For further information explaining why the Department is not initiating an investigation of these programs, see *China Initiation Checklist*.

**Application of the Countervailing Duty Law to the PRC**

Petitioners argue that the Department recently concluded that CVD law may be applied to the present-day Chinese economy and, thus, the Department should continue to find that the countervailing duty law applies to the PRC in this investigation. *See* Petition, Volume III, at page 2 (citing *CFS Investigation*, 72 FR 17484, 17486; and Memorandum for David M. Spooner, Assistant Secretary for Import Administration, entitled "Countervailing Duty Investigation of Coated Free Sheet Paper from The People's Republic of China - Whether the Analytic Elements of the Georgetown Steel Opinion are Applicable to China's Present-Day Economy," (March 29, 2007) (citing *Georgetown Steel Corp. v. United States*, 801 F.2d 1308 (Fed. Cir. 1986) ("*Georgetown Steel*") ("*Georgetown Steel Memorandum*").

The Department has treated the PRC as a non-market economy ("NME") country in all past antidumping duty investigations and administrative reviews. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, ("TRBs") From the People's Republic of China: Preliminary Results of 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500, 7500-1 (February 14, 2003), unchanged in *TRBs from the People's Republic of China: Final Results of 2001-2002 Administrative Review*, 68 FR 70488, 70488-89 (December 18, 2003). In the *CFS Investigation*, the Department preliminarily determined that the current nature of China's economy does not create obstacles to applying the necessary criteria in the CVD law. As such, the Department determined that the policy that gave rise to the

*Georgetown Steel* litigation does not prevent us from concluding that the PRC government has bestowed a countervailable subsidy upon a Chinese producer. *See Georgetown Steel Memorandum*. Therefore, because petitioners have provided sufficient allegations and support for their allegations to meet the statutory criteria for initiating a countervailing duty investigation of LWR pipe and tube from the PRC, we continue to find that *Georgetown Steel* does not preclude us from initiating this investigation. For further information, see *China Initiation Checklist*.

**Distribution of Copies of the Petition**

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the Government of the PRC. As soon as and to the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, consistent with 19 CFR 351.203(c)(2).

**ITC Notification**

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

**Preliminary Determination by the ITC**

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized LWR pipe and tube from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 17, 2007.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**National Institute of Standards and Technology**

**Visiting Committee on Advanced Technology**

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.