

and Petitioners filed their responses on June 15, 2007, June 22, 2007, and June 25, 2007, respectively. In addition, Petitioners filed an amendment to the petition on June 15, 2007.

Scope of Investigation

The scope of this investigation covers certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (e.g., black, galvanized, or painted), end finish (e.g., plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (e.g., ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term "carbon quality" includes products in which: (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium
- (xiii) 0.15 percent of vanadium; or
- (xiv) 0.15 percent of zirconium.

All pipe meeting the physical description set forth above that is used in, or intended for use in, standard and structural pipe applications is covered by the scope of this investigation. Standard pipe applications include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and as an intermediate product for protection of electrical wiring, such as conduit shells. Structural pipe is used in construction applications.

Standard pipe is made primarily to American Society for Testing and Materials (ASTM) specifications, but can be made to other specifications.

Standard pipe is made primarily to ASTM specifications A-53, A-135, and A-795. Structural pipe is made primarily to ASTM specifications A-252 and A-500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple-stenciled to an ASTM specification and to any other specification, such as the American Petroleum Institute (API) API-5L or 5L X-42 specifications, is covered by the scope of this investigation when used in, or intended for use in, one of the standard applications listed above, regardless of the Harmonized Tariff Schedule of the United States (HTSUS) category under which it is entered. Pipe used for the production of scaffolding (but not finished scaffolding) and conduit shells (but not finished electrical conduit) are included within the scope of this investigation.

The scope does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold-drawn; (c) finished electrical conduit; (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; and (f) line pipe produced to API specifications for oil and gas applications.

The pipe products that are the subject of this investigation are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. However, the product description, and not the HTSUS classification, is dispositive of whether merchandise imported into the United States falls within the scope of the investigation.

Comments on Scope of Investigation

During our review of the petition, we discussed the scope with Petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. During this review, we noted that, while the Department typically prefers to rely upon physical characteristics to determine the scope of product coverage, the scope description proposed by Petitioners relied upon, in part, end-use applications as a method for determining scope coverage. On June 20, 2007, we met with Petitioners to discuss the scope and its reliance upon end-use applications as a method for determining scope coverage. See Memorandum to The File, through Abdelali Elouaradia, Office Director,

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-910]

Initiation of Antidumping Duty Investigation: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China

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

EFFECTIVE DATE: July 5, 2007.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor or Mark Manning, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5831 or (202) 482-5253, respectively.

INITIATION OF INVESTIGATION

The Petition

On June 7, 2007, the Department of Commerce (Department) received a petition on imports of circular welded carbon quality steel pipe (CWP) from the People's Republic of China (PRC) filed in proper form by Allied Tube & Conduit, Sharon Tube Company, IPSCO Tubulars, Inc., Western Tube & Conduit Corporation, Northwest Pipe Company, Wheatland Tube Co., *i.e.*, the Ad Hoc Coalition For Fair Pipe Imports From China, and the United Steelworkers (collectively Petitioners). The period of investigation (POI) is October 1, 2006 - March 31, 2007.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioners alleged that imports of CWP from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring and threaten to injure an industry in the United States. The Department issued supplemental questions to Petitioners on June 11, 2007, and June 19, 2007,

Office 4, from Maisha Cryor, Import Compliance Specialist, titled "Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Scope of the Petition," dated June 22, 2007. As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments, including comments regarding the scope's definition of covered merchandise based upon end-use application, and whether additional HTSUS numbers should be included in the scope description, 14 calendar days after publication of this initiation notice. Rebuttal comments are due 7 calendar days thereafter. Comments should be addressed to Import Administration's Central Records Unit in Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230 - Attention: Maisha Cryor, Room 3057. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with interested parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed by an interested party described in subparagraph (C), (D), (E), (F) or (G) of section 771(9) of the Act, or on behalf of the domestic industry. In order to determine whether a petition has been filed by or on behalf of the industry, the Department, pursuant to section 732(c)(4)(A) of the Act, determines whether a minimum percentage of the relevant industry supports the petition. 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 732(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 title." 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 CWP 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 *Antidumping Investigation Initiation Checklist: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, (Initiation Checklist) at Attachment I, (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 IV, (Scope of the Petition), to the Initiation Checklist. To establish industry support, Petitioners provided their shipments for the domestic like product for the year 2006, as well as shipments from supporters of the petition, and compared them to shipments for the domestic like product for the industry. In their second petition supplemental submission, Petitioners demonstrated the correlation between shipments and production. See "Circular Welded Carbon Quality Steel Pipe from the People's Republic of China/ Petitioner's Response To The Department's June 19, 2007 Request For Clarification Of Certain Items Contained In The Petition," dated June 22, 2007, (Second Petition Supplemental) at 7. Based on the fact that total industry production data for the domestic like product for 2006 is not reasonably available, and that Petitioners have established that shipments are a reasonable proxy for production data, we have relied upon shipment data for purposes of measuring industry support. For further discussion see Initiation Checklist at Attachment I (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 petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). See Sec. 732(c)(4)(D) of the Act. Second, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(i) 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. Finally, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(ii) 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. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See *Initiation Checklist* at Attachment I (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 antidumping investigation that they are requesting the Department initiate. See *Initiation Checklist* at Attachment I (Analysis of Industry Support).

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation on imports of CWP from the PRC. The source of data for the deductions and adjustments relating to the U.S. price as well as normal value (NV) for the PRC are also discussed in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

Export Price

Petitioners relied on five U.S. prices for CWP manufactured in the PRC and offered by U.S. distributors for sale in the United States. The prices quoted were for specific grades and quality of CWP falling within the scope of this petition, for delivery to the U.S. customer within the POI. Petitioners deducted from the prices the costs associated with exporting and delivering the product, including ocean freight and insurance charges, and foreign brokerage and handling. Petitioners did not deduct foreign inland freight charges from the export price (EP) because they were unable to establish the distances between the Chinese mills and the ports nearest to those mills. See Volume I of the petition at 35. Petitioners did deduct an amount for a U.S. distributor/importer mark-up. See Volume I of the petition at 34; see also *Initiation Checklist*.

Normal Value

Petitioners stated that the PRC is a non-market economy (NME) and no determination to the contrary has yet been made by the Department. In previous investigations, the Department has determined that the PRC is a NME. See *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007); *Final Determination of Sales at Less Than Fair Value: Magnesium Metal From the People's Republic of China*, 70 FR 9037 (February 24, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and remains in effect for the purpose of initiating this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners selected India as the surrogate country. See Volume I of the petition at 28. Petitioners argued that India is an appropriate surrogate country because it is a market-economy country that is at a comparable level of economic development to the PRC and is a significant producer and exporter of CWP. *Id.* Based on the information provided by Petitioners, we believe that its use of India as a surrogate country is appropriate for purposes of initiating this investigation. After the initiation of the investigation, we will solicit comments regarding surrogate country selection. Also, pursuant to 19 CFR 351.301(c)(3)(i), interested parties will be provided an opportunity to submit publicly available information to value factors of production within 40 calendar days after the date of publication of the preliminary determination.

Petitioners provided dumping margin calculations using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioners calculated NV based on consumption rates for inputs used to produce CWP experienced by

U.S. producers. In accordance with section 773(c)(4) of the Act, Petitioners valued factors of production, where possible, on reasonably available, public surrogate country data. To value certain factors of production, Petitioners used official Indian government import statistics, excluding shipments from countries previously determined by the Department to be NME countries and excluding shipments into India from Indonesia, the Republic of Korea, and Thailand because the Department has previously excluded prices from these countries because they maintain broadly-available, non-industry specific export subsidies. See, e.g., *Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review*, 72 FR 27287 and Issues and Decision Memorandum at Comment 23 (May 15, 2007).

For inputs valued in Indian rupees and not contemporaneous with the POI, Petitioners used information from the wholesale price indices (WPI) in India as published in the *International Financial Statistics* of the International Monetary Fund (IMF) for input prices during the period preceding the POI. See Second Petition Supplemental at 1 and Exhibit 1. In addition, Petitioners made currency conversions, where necessary, based on the POI-average rupee/U.S. dollar exchange rate for the POI, as reported on the Department's website. *Id.*

The Department calculates and publishes the surrogate values for labor to be used in NME cases on its website. Therefore, to value labor, Petitioners used a labor rate of \$0.83 per hour, published on the Department website, in accordance with the Department's regulations. See 19 CFR 351.408(c)(3) and *Initiation Checklist*.

Petitioners valued electricity in the production of CWP based on the Indian electricity rate as reported in the *Key World Energy Statistics 2003*, published by the International Energy Agency for the year 2000. See "Circular Welded Carbon Quality Steel Pipe from the People's Republic of China/ Petitioner's Response To The Department's June 11, 2007 Request For Clarification Of Certain Items Contained In The Petition," dated June 15, 2007 (Petition Supplemental) at 23 and Exhibit M. Petitioners originally inflated electricity to a POI value using the WPI published by the Reserve Bank of India. See Volume I of the petition at 31. However, Petitioners revised the inflator to the WPI published by the IMF at the direction of the Department. See Petition Supplemental at 23 and Exhibit

M; *see also* Initiation Checklist for further details. Petitioners valued natural gas in the production of CWP based on Indian natural gas prices charged to industrial users during a period overlapping the POI, as reported by CRISIL Research India. *See* Volume I of the petition at 32 and Volume II of the petition at Exhibit. However, the Department determined that the Gas Authority of India, Ltd. (GAIL) was more appropriate as the source for the valuation of natural gas. *See* Initiation Checklist for further details. Therefore, the Department requested that Petitioners recalculate the surrogate value for natural gas based upon values published by GAIL. *See* "Letter to Gilbert Kaplan, Counsel for Petitioners, from Mark Manning, Program Manager, Office 4, Regarding 'Petition for the Imposition of Antidumping Duties: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,'" dated June 19, 2007. As a result, Petitioners valued natural gas in the production of CWP based on Indian natural gas rates, published by GAIL for February 2005. *See* Second Petition Supplemental at Exhibit 4. Petitioners inflated natural gas to a POI value using the WPI published by the IMF. *Id.*

For the NV calculations, Petitioners derived the figures for factory overhead, selling, general and administrative expenses, and profit from the financial ratios of two Indian producers of CWP: Zenith Birla (India) Limited and Surya Roshni Limited.

Fair Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of CWP from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based upon comparisons of EP to the NV, calculated in accordance with section 773(c) of the Act, the estimated calculated dumping margins for CWP from the PRC range from 51.34 percent to 85.55 percent.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. Petitioners contend that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, 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* Initiation Checklist at Attachment II (Injury).

Separate-Rates Application

The Department modified the process by which exporters and foreign producers may obtain separate-rate status in NME investigations. *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) (Separate-Rates and Combination Rates Bulletin), available on the Department's website at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. The process requires the submission of a separate-rate status application. Based on our experience in processing the separate-rates applications, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See Initiation of Antidumping Duty Investigations: Certain Lined Paper Products From India, Indonesia, and the People's Republic of China*, 70 FR 58374, 58379 (October 6, 2005); *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005); and *Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea*, 70 FR 35625, 35629 (June 21, 2005). The specific requirements for submitting the separate-rates application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. Submission of the separate-rates application is due no later August 26, 2007.

NME Respondent Selection and Quantity and Value Questionnaire

For NME investigations, it is the Department's practice to request quantity and value information from all known exporters identified in the petition. Although many NME exporters respond to the quantity and value information request, at times some exporters may not have received the

quantity and value questionnaire or may not have received it in time to respond by the specified deadline. Therefore, the Department typically requests the assistance of the NME government in transmitting the Department's quantity and value questionnaire to all companies who manufacture and export subject merchandise to the United States, as well as to manufacturers who produce the subject merchandise for companies who were engaged in exporting subject merchandise to the United States during the POI. The quantity and value data received from NME exporters is used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rates application by the respective deadlines in order to receive consideration for separate-rate status. Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters no later than July 18, 2007. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Department's website at <http://ia.ita.doc.gov/ia-highlights-and-news.html>. The Department will send the quantity and value questionnaire to those exporters identified in Volume II of the petition at Exhibit 5, and to the NME government.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate-Rates and Combination Rates Bulletin states the following:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific

combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See Separate-Rates and Combination Rates Bulletin, at 6.

Initiation of Antidumping Investigation

Based upon our examination of the petition on CWP from the PRC, we find that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of CWP from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination no later than 140 calendar days after the date of publication of this initiation notice.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the government of the PRC.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(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 this initiation, whether there is a reasonable indication that imports of CWP from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. See section 733(a)(2)(A)(i) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, this 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: June 27, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

Appendix I

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see scope section of this notice), produced in the PRC, and exported/shipped to the United States during the period October 1, 2006, through March 31, 2007.

Market	Total Quantity	Terms of Sale	Total Value
United States
1. Export Price Sales
2.
a. Exporter name
b. Address
c. Contact
d. Phone No.
e. Fax No.
3. Constructed Export Price Sales
4. Further Manufactured Sales
TOTAL SALES

Total Quantity:

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sales:

- Please report all sales on the same terms, such as “free on board” at port of export.

Total Value:

- All sales values should be reported in U.S. dollars. Please provide any exchange rates used and their respective dates and sources.

Export Price Sales:

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated customer occurs before importation into the United States.
- Please include any sales exported by your company directly to the United States.

- Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please *do not* include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated customer occurs after importation. However, if the first sale to the unaffiliated customer is made by a person in the United States affiliated with the foreign exporter, constructed export price applies

even if the sale occurs prior to importation.

- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please *do not* include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured Sales:

- Further manufacture or assembly (including re-packing) sales (“further manufactured sales”) refers to merchandise that

undergoes further manufacture or assembly in the United States before being sold to the first unaffiliated customer.

- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E7-13017 Filed 7-3-07; 8:45 am]

BILLING CODE 3510-DS-S

Initiation Of Investigations:

The Petition

On June 7, 2007, the Department of Commerce (“the Department”) received a petition filed in proper form by the Ad Hoc Coalition for Fair Pipe Imports from China and its individual members (Allied Tube & Conduit; IPSCO Tubulars, Inc.; Northwest Pipe Company; Sharon Tube Company; Western Tube & Conduit Corporation; Wheatland Tube Company; and the United Steelworkers) (collectively, “petitioners”). The Department received timely information from petitioners supplementing the petition on June 15, June 20 and June 25, 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 circular welded carbon quality steel pipe (“CWP”) 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 scope of this investigation covers certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (*e.g.*, plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term “carbon quality” includes products in which: (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-911]

Notice of Initiation of Countervailing Duty Investigation: Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China

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

EFFECTIVE DATE: July 5, 2007.

FOR FURTHER INFORMATION CONTACT: Damian Felton, Yasmin Nair or Nancy Decker, 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) 482-3813 and (202) 482-0196, respectively.

SUPPLEMENTARY INFORMATION:

- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium
- (xiii) 0.15 percent of vanadium; or
- (xiv) 0.15 percent of zirconium.

All pipe meeting the physical description set forth above that is used in, or intended for use in, standard and structural pipe applications is covered by the scope of this investigation. Standard pipe applications include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and as an intermediate product for protection of electrical wiring, such as conduit shells. Structural pipe is used in construction applications.

Standard pipe is made primarily to American Society for Testing and Materials (ASTM) specifications, but can be made to other specifications. Standard pipe is made primarily to ASTM specifications A-53, A-135, and A-795. Structural pipe is made primarily to ASTM specifications A-252 and A-500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple-stenciled to an ASTM specification and to any other specification, such as the American Petroleum Institute (API) API-5L or 5L X-42 specifications, is covered by the scope of this investigation when used in, or intended for use in, one of the standard applications listed above, regardless of the Harmonized Tariff Schedule of the United States (HTSUS) category under which it is entered. Pipe used for the production of scaffolding (but not finished scaffolding) and conduit shells (but not finished electrical conduit) are included within the scope of this investigation.

The scope does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold-drawn; (c) finished electrical conduit; (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API

specifications; and (f) line pipe produced to API specifications for oil and gas applications.

The pipe products that are the subject of these investigations are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. However, the product description, and not the HTSUS classification, is dispositive of whether merchandise imported into the United States falls within the scope of the investigation.

Comments on Scope of Investigation

During our review of the petition, we discussed the scope with Petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. During this review, we noted that, while the Department typically prefers to rely upon physical characteristics to determine the scope of product coverage, the scope description proposed by Petitioners relied upon, in part, end-use applications as a method for determining scope coverage. On June 20, 2007, we met with Petitioners to discuss the scope and its reliance upon end-use applications as a method for determining scope coverage. See Memorandum to The File, through Abdelali Elouaradia, Office Director, Office 4, from Maisha Cryor, Import Compliance Specialist, titled "Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Scope of the Petition," dated June 22, 2007. As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments, including comments regarding the scope's definition of covered merchandise based upon end-use application, and whether additional HTSUS numbers should be included in the scope description, 14 calendar days after publication of this initiation notice. Rebuttal comments are due 7 calendar days thereafter. Comments should be addressed to Import Administration's Central Records Unit in Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230 - Attention: Maisha Cryor, Room 3057. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with interested parties prior

to the issuance of the preliminary determination.

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 June 24, 2007. See the Memoranda to The File, entitled, "Consultations with Officials from the Government of the People's Republic of China" (June 24, 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 (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. 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 the 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") is responsible for determining whether "the domestic industry" has been injured and must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. See Section 771(10) of the Act. In addition, the Department's determination is

subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.¹

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 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 presented by petitioners, we have determined that there is a single domestic like product, CWP, which is defined in the “Scope of Investigation” section above, and we have analyzed industry support in terms of the domestic like product.

Our review of the data provided in the petition, the supplemental submission and other information readily available to the Department indicates that petitioners have established industry support. First, the petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Sec. 702(c)(4)(D) of the Act. Second, the domestic producers have met the statutory criteria for industry support under 702(c)(4)(A)(i) 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. Finally, the domestic producers have met the statutory criteria for industry support under 702(c)(4)(A)(ii) 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. 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 Initiation Checklist* at

Attachment I (Analysis of Industry Support). *See* “Office of AD/CVD Operations Initiation Checklist for the Countervailing Duty Petition on Circular Welded Carbon Quality Steel Pipe from China,” at Attachment II (“*CVD Initiation Checklist*”).

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 CWP 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 CWP. 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 prices on imports from the PRC do not reflect recent increases in raw material costs, and that large margins of underselling exist, which are causing domestic producers to suffer. Petitioners assert that the industry’s injury is evidenced by a decline in production, U.S. shipments, capacity utilization, market share, employment and profitability. The allegations of injury and causation are supported by relevant evidence including U.S. Customs and Border Protection import data, lost sales, employment and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation and have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See CVD Initiation Checklist*.

Initiation of Countervailing Duty Investigations

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 CWP

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 CWP in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see CVD 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” income tax program
4. Income tax exemption 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 Shenzhen and Zhejiang provinces
14. Funds for “outward expansion” of industries in Guangdong province
15. Export interest subsidy funds for enterprises located in Shenzhen and Zhejiang province
16. Loans pursuant to the Liaoning Province’s five-year framework

¹ *See USEC, Inc. v. United States*, 25 CIT 49, 55-56, 132 F. Supp. 2d 1, 7-8 (Jan. 24, 2001) (*citing Algoma Steel Corp. v. United States*, 12 CIT 518, 523, 688 F. Supp. 639, 642-44 (June 8, 1988)).

Indirect Tax Programs and Import Tariff Program

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

Grant Programs

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

Provision Of Goods Or Services For Less Than Adequate Remuneration

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

Government Restraints on Exports

27. Zinc
28. Hot-rolled steel

For further information explaining why the Department is investigating these programs, see *CVD 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 *CVD 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 GOC's 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 reduction for enterprises making little profit*

Petitioners allege that "enterprises making little profit" are a *de jure* specific group. Petitioners have not established with reasonably available evidence that "enterprises making little profit" are a *de jure* specific group pursuant to section 771(5A)(D)(i) of the Act. Therefore, we do not plan to

investigate tax reduction for enterprises making little profit.

3. *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.

4. *Exemption of CWP from export taxes*

Petitioners allege that CWP 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 CWP producers have been relieved from paying export taxes that would otherwise have been due. Consequently, we do not plan to investigate the exemption of CWP producers from export taxes.

5. *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.

6. *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.

7. *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.

8. *Loan to Huludao Economic Development Zone*

Petitioners identify a loan to the Huludao Economic Development Zone and suggest that some portion of the loan would likely have gone to a CWP producer in the zone. However, the supporting information indicates that the money was used to support infrastructure development within the zone. Therefore, we do not plan to investigate the loan to Huludao Economic Development Zone program.

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

Application of the Countervailing Duty Law to the PRC

Petitioners contend that there is no statutory bar to applying countervailing duties to imports from the PRC or any other non-market economy country. Citing *Georgetown Steel*, petitioners assert that the court deferred to the Department's conclusion that it did not have the authority to conduct a CVD investigation, but did not affirm the notion that the statute prohibits the Department from applying countervailing duties to NME countries. See Petition, Volume I, at 38 (citing *Georgetown Steel Corp. v. United States*, 801 F.2d 1308 (Fed. Cir. 1986) ("*Georgetown Steel*"). Petitioners further argue that *Georgetown Steel* is not applicable as the countervailing duty law (section 303 of the Tariff Act of 1930) involved in the court's decision has since been repealed and the statute has been amended to provide an explicit definition of a subsidy. See Petition, Volume I, at 39 (citing 777(5) of the Act). In addition, petitioners argue that the Chinese economy is entirely different from the economies investigated in *Georgetown Steel* and noted that the Department recently recognized in the *CFS Investigation* that the economic conditions of *Georgetown Steel* are not applicable to present-day China. See Petition, Volume I, at 41 (citing *Coated Free Sheet Paper from the People's Republic of China; Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484, 17486 (April 9, 2007) ("*CFS Investigation*"); 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) (“*Georgetown Steel Memorandum*”). Petitioners argue that the conditions of the CWP sector of the PRC economy are substantially the same as the Department found them to be in the *CFS Investigation*. Consequently, the countervailing duty law should be applied to the PRC in this investigation.

The Department has treated the PRC as an 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 of their allegations to meet the statutory criteria for initiating a countervailing duty investigation of CWP paper from the PRC, we continue to find that *Georgetown Steel* does not preclude us from initiating this investigation. For further information, see *CVD 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 CWP 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: June 27, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

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