

Department) received a petition concerning imports of drill pipe from the People's Republic of China (PRC) filed in proper form by VAM Drilling USA, Inc., Texas Steel Conversions, Inc., Rotary Drilling Tools, TMK IPSCO, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (collectively, the petitioners). See Petitions for the Imposition of Antidumping and Countervailing Duties: Drill Pipe from the People's Republic of China, dated December 31, 2009 (Petition). On January 6, 2010, the Department issued additional requests for information and clarification of certain areas of the Petition. Petitioners filed timely additional information pertaining to general issues on January 11, 2010. See Petition for the Imposition of Antidumping Duties on Drill Pipe from the PRC: Response to Department's Letter of January 6, 2010 (Supplement to the AD/CVD Petitions). On January 8, 2010, the Department issued a request for additional information pertaining to countervailing duty (CVD) issues. Petitioners filed timely information regarding countervailing issues on January 13, 2010. See Petitions for the Imposition of Antidumping and Countervailing Duties: Drill Pipe from the PRC: Response to Pre-initiation CVD questions (Supplement to the CVD Petition). On January 14, 2010, the Department issued an additional request for information and clarification regarding general issues and dumping. Petitioners filed a response containing additional information related to both general issues and dumping on January 15, 2010. See Petitions for the Imposition of Antidumping and Countervailing Duties: Drill Pipe from the PRC: Response to the Department's Letter of January 14, 2010 (Second Supplement to the AD/CVD Petitions). Petitioners also filed additional information pertaining to general issues on January 15, 2010. See Petitions for the Imposition of Antidumping and Countervailing Duties: Drill Pipe from the PRC: Response to Department's Letter of January 14, 2010: Additional Affidavit (Third Supplement to the AD/CVD Petitions). On January 19, 2010, petitioners filed further clarifications related to general issues. See Petitions for the Imposition of Antidumping and Countervailing Duties: Drill Pipe from the PRC: Response to Department's Letter of January 14, 2010: Additional Affidavit: (Fourth Supplement to the

AD/CVD Petitions). In addition, on both January 15, and January 19, 2010, we received comments filed by Lehnardt & Lehnardt, LLC, on behalf of Downhole Pipe & Equipment, LP (Downhole Pipe) and Command Energy Services International (Command Energy), U.S. importers of drill pipe from China. Downhole Pipe and Command Energy are interested parties per section 771(9)(A) of the Act.

In accordance with section 702(b)(1) of the Act, petitioners allege that manufacturers, producers, or exporters of drill pipe in 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 section 771(9)(C) and (D) of the Act, and petitioners have demonstrated sufficient industry support with respect to the CVD investigation (see "Determination of Industry Support for the Petition" section below).

#### Period of Investigation

The proposed period of investigation (POI) is January 1, 2009, through December 31, 2009.

#### Scope of Investigation

The products covered by this investigation are drill pipe from the PRC. For a full description of the scope of the investigation, see the "Scope of the Investigation" in Appendix I of this notice.

#### Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with 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 Department's 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 by Wednesday, February 10, 2010, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period for scope consultations is intended to provide the Department with ample

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-966]

#### Drill Pipe from the People's Republic of China: Initiation of Countervailing Duty Investigation

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

**DATES:** *Effective Date:* January 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** John Conniff and Eric B. Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 4014, Washington, DC 20230; telephone: (202) 482-1009, (202) 482-6071, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Petition

On December 31, 2009,<sup>1</sup> the Department of Commerce (the

<sup>1</sup> Petitioners filed the Petition at the International Trade Commission (ITC) after 12:00 noon on December 30, 2009, therefore, pursuant to 19 CFR 207.10(a), the ITC deemed the Petition to have been filed on the next business day, December 31, 2009. Section 702(b)(2) of the Tariff Act of 1930, as amended (the Act) requires simultaneous filings of countervailing duty petitions with the Department of Commerce and the ITC, therefore, we deem the Petition to have been filed with Commerce on December 31, 2009. This file date will change the initiation date from January 19, 2009, to January 20, 2009. See Memorandum to Ronald K. Lorentzen,

entitled "Decision Memorandum Concerning Petitions Filing Date," dated concurrently with this checklist.

opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on January 8, 2010, the Department invited representatives of the Government of the PRC (GOC) for consultations with respect to the CVD petition. On January 15, 2010, the Department held consultations with representatives of the GOC in Beijing.

### 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 to poll the industry.

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 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 (Ct. Int’l Trade 2001), *citing Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (Ct. Int’l Trade 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 drill pipe 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: Drill Pipe from the People’s Republic of China” (Initiation Checklist), at Attachment II, Analysis of Industry Support for the Petitions Covering Drill Pipe from the People’s Republic of China, on file in the Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

In determining whether petitioners have standing under section 702(C)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product. To establish industry support, petitioners provided their production of the domestic like product in 2008, and compared this to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petition, at 2–3; *see also* Supplement to the AD/CVD Petitions at 6–13 and Exhibit 3; Second Supplement to the AD/CVD Petitions at 1–4 and Exhibits 1–3; Third Supplement to the AD/CVD Petitions at Exhibit 1, and Fourth Supplement to the AD/CVD Petitions at Exhibit I. To estimate 2008 production of the domestic like product, petitioners used their own data and industry specific knowledge. *See* Second Supplement to the AD/CVD Petitions at 1–4 and Exhibits 1–3; *see also* Initiation Checklist at Attachment II. We have relied upon data petitioners provided for purposes of measuring industry

support. For further discussion, *see* Initiation Checklist at Attachment II.

Based on information provided in the Petition, supplemental submissions, and other information readily available to the Department, we determine that the domestic producers and workers 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. Because the Petition and supplemental submissions did not establish support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, the Department was required to take further action in order to evaluate industry support. *See* section 702(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 702(c)(4)(D)(i) of the Act, to determine industry support. *See* Initiation Checklist at Attachment II. Based on information provided in the Petition and other submissions, the domestic producers and workers 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. 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 II.

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 771(9)(D) of the Act and has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. *See* Initiation Checklist at Attachment II.

### 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 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 drill pipe from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industry producing drill pipe. 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, reduced production, reduced shipments, reduced capacity and capacity utilization, underselling and price depression or suppression, reduced employment, hours worked, and wages paid, decline in financial performance, lost sales and revenue, and increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury, threat of 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 III (Analysis of Injury Allegations and Evidence of Material Injury and Causation).

### Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a CVD 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 petitioner(s) supporting the allegations.

The Department has examined the CVD Petition on drill pipe from the PRC and finds 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 CVD investigation to determine whether manufacturers, producers, or exporters of drill pipe in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see 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:

#### A. Preferential Loans and Interest Rates

1. Policy Loans To The Drill Pipe (DP)

- Industry
2. Export Loans from Policy Banks and State-Owned Commercial Banks (SOCBs)
3. Treasury Bond Loans
4. Preferential Loans for State-Owned Enterprises (SOEs)
5. Preferential Loans for Key Projects and Technologies
6. Preferential Lending to DP Producers and Exporters Classified as "Honorable Enterprises"

#### B. Debt-To-Equity Swaps and Loan Forgiveness

1. Debt-to-Equity Swaps
2. Loan and Interest Forgiveness for SOEs

#### C. Income Tax and Other Direct Tax Benefit Programs

1. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
2. Reduction In Or Exemption From Fixed Assets Investment Orientation Regulatory Tax

#### D. Subsidies for Foreign Invested Enterprises (FIES)

1. "Two Free, Three Half" Program
2. Local Income Tax Exemption and Reduction Programs for "Productive" FIEs
3. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
4. Income Tax Reductions For Export-Oriented FIEs

#### B. Indirect Tax and Tariff Exemption Programs

1. Indirect Tax And Tariff And Vat Exemptions For FIEs And Certain Domestic Enterprises Using Imported Equipment In Encourage Industries
2. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
3. Export Subsidies Characterized as "VAT Rebates"

#### F. Government Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)

1. Provision of Land to SOEs for LTAR
2. Provision of Land Use Rights Within Designated Geographical Areas for LTAR
3. Provision of Steel Rounds for LTAR
4. Provision of Hot-Rolled Steel (HRS) for LTAR
5. Provision of Green Tube for LTAR
6. Provision of Electricity for LTAR
7. Provision of Electricity and Water at LTAR to DP Producers Located in

- Jiangsu Province
8. Provision of Coking Coal for LTAR

#### G. Grant Programs

1. State Key Technology Project Fund
2. Export Assistance Grants
3. Programs to Rebate Antidumping Legal Fees
4. GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands
5. Grants and Tax Benefits to Loss-Making SOEs at National and Local Level

#### H. Subsidies To DP Producers Located in Economic Development Zones

1. Economic and Technological Development Zones (ETDZ) Located in Tianjin Binhai New Area (TBNA)
2. ETDZs Located in Tianjin Economic and Technological Development Area (TEDA)
3. ETDZs Located in Yangtze Riverside Economic Development Zone (YREDZ)
4. High-Tech Industrial Development Zones (HTDZ)

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

#### Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of the announcement of the initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's website at <http://ia.ita.doc.gov/apo>.

#### Distribution of Copies of the Petition

In accordance with section 702(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the representatives of the GOC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the

foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

written description of the scope of these investigations is dispositive. i  
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### 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 drill pipe 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: January 20, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

### Appendix I

#### Scope of the Investigation

The products covered by this investigation are steel drill pipe, and steel drill collars, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes suitable for drill pipe), without regard to the specific chemistry of the steel (i.e., carbon, stainless steel, or other alloy steel), and without regard to length or outer diameter. The scope does not include tool joints not attached to the drill pipe, nor does it include unfinished tubes for casing or tubing covered by any other antidumping or countervailing duty order.

The subject products are currently classified in the following Harmonized Tariff Schedule of the United States (HTSUS) categories: 7304.22.0030, 7304.22.0045, 7304.22.0060, 7304.23.3000, 7304.23.6030, 7304.23.6045, 7304.23.6060, 8431.43.8040 and may also enter under 8431.43.8060, 8431.43.4000, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.49.0015, 7304.49.0060, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, and 7304.59.8055.<sup>2</sup>

While HTSUS subheadings are provided for convenience and Customs purposes, the

<sup>2</sup> Prior to February 2, 2007, these imports entered under different tariff classifications, including 7304.21.3000, 7304.21.6030, 7304.21.6045, and 7304.21.6060.