
Notices

Federal Register

Vol. 74, No. 233

Monday, December 7, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-944]

**Certain Oil Country Tubular Goods
From the People's Republic of China:
Final Affirmative Countervailing Duty
Determination, Final Negative Critical
Circumstances Determination**

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

SUMMARY: The Department of Commerce (the "Department") has determined that countervailable subsidies are being provided to producers and exporters of certain oil country tubular goods from the People's Republic of China ("PRC"). For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

DATES: *Effective Date:* December 7, 2009.

FOR FURTHER INFORMATION CONTACT: David Neubacher, Shane Subler, Magd Zalok, Maryanne Burke, and Henry Almond, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5823, (202) 482-0189, (202) 482-4162, (202) 482-5604, and (202) 482-0049, respectively.

Petitioner

Petitioners in this investigation are Maverick Tube Corporation, United States Steel Corporation, TMK IPSCO, V&M Star LP, Wheatland Tube Corporation, Evraz Rocky Mountain Steel, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC ("United Steelworkers") (collectively, "Petitioners").

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2008, through December 31, 2008.

Case History

The following events have occurred since the announcement of the preliminary determination published in the **Federal Register** on September 15, 2009. See *Certain Oil Country Tubular Goods From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination*, 74 FR 47210 (September 15, 2009) ("*Preliminary Determination*").

On September 16, 2009, the Department issued a letter to Jiangsu Changbao Steel Tube Co., Ltd. ("Changbao Steel"), Tianjin Pipe (Group) Co. ("TPCO"), Wuxi Seamless Oil Pipe Co., Ltd. ("WSP"), Zhejiang Jianli Enterprise Co., Ltd. ("Jianli"), and the Government of China ("GOC") setting September 21, 2009 as the deadline for responses to questions in the June 4, 2009 original questionnaire and subsequent supplemental questionnaires. We received submissions from the above-mentioned mandatory respondents and the GOC on September 21, 2009. The Department also issued supplemental questionnaires to TPCO on September 23, 2009. We received a response from TPCO on September 29, 2009.

On September 28, 2009, Changbao Steel submitted ministerial error allegations in regard to the *Preliminary Determination*. On October 21, 2009, we issued our finding that none of the ministerial errors alleged by the parties constituted a significant ministerial error, as defined by 19 CFR 351.224(f) and 19 CFR 351.224(g) to 19 CFR 351, and did not amend the *Preliminary Determination*.

On September 18, 2009, the Department determined that petitioners had provided sufficient support to investigate certain new subsidy allegations, dated July 30, 2009. See

Memorandum to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled "New Subsidy Allegations" (September 18, 2009). On October 21, 2009, the Department postponed its investigation of those newly alleged subsidies until the first administrative review (should this investigation result in a countervailing duty order). See Memorandum to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled "Status of New Subsidies" (October 21, 2009).

From October 12, 2009 to October 16, 2009, we conducted verification of the questionnaire responses submitted by GOC, Changbao Steel, TPCO, WSP, and Jianli. See Memorandum from Shane Subler and David Neubacher, International Trade Compliance Analysts, to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled "Verification Report of the Jiangsu Province State Administration of Industry and Commerce and Tianjin Municipality State Administration of Industry and Commerce" (October 29, 2009); Memorandum from David Neubacher, Magd Zalok, and Maryanne Burke, International Trade Compliance Analysts, to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled "Jiangsu Changbao Steel Tube Co., Ltd. and Jiangsu Changbao Precision Steel Tube Co., Ltd. Verification Report" (October 29, 2009); Memorandum from Shane Subler and David Layton, International Trade Compliance Analysts, to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled "Verification Report: Tianjin Pipe (Group) Corporation ("TPCO Group"), Tianjin Pipe Iron Manufacturing Co., Ltd. ("TPCO Iron"), Tianguan Yuantong Pipe Product Co., Ltd. ("Yuantong"), Tianjin Pipe International Economic and Trading Co., Ltd. ("TPCO International"), and TPCO Charging Development Co., Ltd. ("Charging") (collectively, "TPCO")" (October 29, 2009) ("TPCO Verification Report"); Memorandum from Maryanne Burke, Magd Zalok, and David Neubacher, International Trade Compliance Analysts, to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled "Wuxi Seamless Oil Pipe Co., Ltd., Jiangsu Fanli Steel Pipe Co., Ltd., and Mengfeng Special Steel Co., Ltd. Verification Report" (October 29, 2009) ("WSP Verification Report"); and Memorandum from Scott Holland and Henry Almond, International Trade Compliance Analysts, to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled

"Verification Report: Jianli Group" (October 28, 2009).

We received case briefs from the GOC, Changbao, TPCO, WSP, Jianli and Petitioners (separately filed by Maverick Tube Corporation, United States Steel Corporation, and TMK IPSCO, V&M Star LP, Wheatland Tube Corporation, Evraz Rocky Mountain Steel, and United Steelworkers) on November 9, 2009. The same parties submitted rebuttal briefs on November 16, 2009.

The Department placed information on the record of this investigation on November 12, 2009 regarding electricity rates. The GOC filed comments on this information on November 16, 2009 and the United States Steel Corporation filed rebuttal comments on November 17, 2009.

TPCO, Maverick Tube Corporation, and United States Steel Corporation requested a hearing. The same parties later withdrew their requests. Therefore, no hearing was held.

Scope of the Investigation

The scope of this investigation consists of OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. Excluded from the scope of the investigation are: Casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80,

7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the investigation may also enter under the following HTSUS item numbers:

7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80.

The HTSUS subheadings are provided for convenience and customs purposes only, the written description of the scope of this investigation is dispositive.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (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. On June 10, 2009, the U.S. International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of certain oil country tubular goods from the PRC. See *Certain Oil Country Tubular Goods from China; Determinations*, 74 FR 27559 (June 10, 2009) and *Certain Oil Country Tubular Goods from China: Investigation Nos. 701-TA-463 and 731-TA-1159 (Preliminary)* (June 2009).

Critical Circumstances

In the *Preliminary Determination*, the Department concluded that critical circumstances did not exist with respect to imports of OCTG from the PRC, in accordance with 703(e)(1) of the Act, because, there have not been massive imports of the subject merchandise over a relatively short period.

We have not received any information since the *Preliminary Determination* that would lead us to change our preliminary finding. Therefore, in accordance with 705(a)(2) of the Act, we continue to find that critical circumstances do not exist with respect to imports of subject merchandise from the PRC.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Memorandum from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, entitled "*Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Oil Country Tubular Goods from the People's Republic of China*" (November 23, 2009) (hereafter "Decision Memorandum"), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 1117 in the main building of the Commerce Department. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Use of Adverse Facts Available

For purposes of this final determination, we have continued to rely on facts available and to draw an adverse inference, in accordance with sections 776(a) and (b) of the Act, to determine that the GOC's dominance of the market in the PRC for steel round billets results in significant distortion in that market. Consequently, we are not relying on domestic prices in the PRC in determining whether a benefit was conferred through the GOC's provision of steel round billets to the mandatory respondents. Similarly, we have continued to apply AFA to determine that all of the steel round billets were provided by government authorities.

In a departure from the *Preliminary Determination*, the Department now finds that the use of "facts otherwise available" is warranted with regard to the GOC's provision of electricity to the

mandatory respondents. The Department requested information regarding electricity in its August 11, 2009 supplemental questionnaire. This information was not provided in the GOC's August 26, 2009, supplemental questionnaire response or its September 21, 2009, response. By not responding to our questionnaire, the GOC has failed to act to the best of its ability. Accordingly, we find that an adverse inference is warranted, pursuant to section 776(b) of the Act. Specifically, we find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A)(D)(iv) of the Act. We have also relied on an adverse inference in selecting a benchmark for determining the existence and amount of the benefit.

The Department also now finds that the use of "facts otherwise available" is warranted with regard to certain loans provided to TPCO and WSP under the "Policy Loans" program. In the Department's June 4, 2009, original questionnaire at page III-6, we requested respondents to "report all loans to your company from State-owned commercial banks or Government of the People's Republic of China (GOC) policy banks that were outstanding during the POL." The same request was again made of WSP, in our August 7, 2009, supplemental questionnaire. At verification, both companies notified the Department that certain loans were not reported. See WSP Verification report at 2 and TPCO Verification Report at 17. By failing to report these loans, these companies failed to act to the best of their ability. Accordingly, we find that an adverse inference is warranted, pursuant to section 776(b) of the Act in regard to these unreported loans. As adverse facts available, we are assigning the highest rate calculated for a loan subsidy program in a PRC countervailing duty proceeding to the unreported loans. This rate will be weight-averaged with the calculated rate of reported loans found countervailing under the "Policy Loans" program.

For a full discussion of these issues, please see the Decision Memorandum, at "Use of Facts Otherwise Available and Adverse Facts Available."

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated individual rates for each producer/exporter of the subject merchandise individually investigated. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we

will determine an “all others” rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

Exporter/manufacturer	Net subsidy rate
Jiangsu Changbao Steel Tube Co. and Jiangsu Changbao Precision Steel Tube Co., Ltd.	11.98
Tianjin Pipe (Group) Co., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., and TPCO Charging Development Co., Ltd.	10.36
Wuxi Seamless Pipe Co., Ltd., Jiangsu Fanli Steel Pipe Co., Ltd., Tuoketuo County Mengfeng Special Steel Co., Ltd.	14.61
Zhejiang Jianli Enterprise Co., Ltd., Zhejiang Jianli Steel Tube Co., Ltd., Zhuji Jiansheng Machinery Co., Ltd., and Zhejiang Jianli Industry Group Co., Ltd.	15.78
All Others	13.20

As a result of our *Preliminary Determination*, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of OCTG from the PRC which were entered or withdrawn from warehouse, for consumption on or after September 15, 2009, the date of the publication of the *Preliminary Determination* in the **Federal Register** and to collect countervailing duty deposits or bonds in the amount of the preliminary countervailing duty rates.

In accordance with section 705(c)(1)(C) of the Act, we are directing CBP to continue to suspend liquidation of all imports of the subject merchandise from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The suspension of liquidation instructions will remain in effect until further notice. We are also directing CBP to collect countervailing duty deposits or bonds at the rates described above.

We will issue a countervailing duty order if the ITC issues a final affirmative injury determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all deposits or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (“APO”) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: November 23, 2009.

Carole A. Showers,
Acting Deputy Assistant Secretary for Policy and Negotiations.

APPENDIX

List of Comments and Issues in the Decision Memorandum

General Issues

- Comment 1 Application of CVD Law to the PRC
- Comment 2 Double Counting/Overlapping Remedies
- Comment 3 Cutoff Date for Identifying Subsidies

Steel Rounds for LTAR

- Comment 4 Application of AFA in Preliminary Determination
- Comment 5 Application of AFA Regarding PRC Market for Steel Rounds
- Comment 6 Application of AFA Regarding Respondents’ Steel Rounds Suppliers
- Comment 7 Double-Bracketing of Certain Information
- Comment 8 Whether Government “Authorities” Provided Steel Rounds to Respondents
- Comment 9 Treatment of Companies in Which the State Has a Majority Interest
- Comment 10 Steel Rounds Provided by Trading Companies

- Comment 11 Indirect Financial Contribution
- Comment 12 Whether the Provision of Steel Rounds is Specific
- Comment 13 Benchmark Issues
- Comment 14 Adequately Remunerated Transactions

Provision of Land for LTAR

- Comment 15 Whether there is a Financial Contribution
- Comment 16 Whether to Use an In-country Benchmark
- Comment 17 Thai Benchmark Flaws
- Comment 18 Whether Land is Specific
- Comment 19 Provision of Land in the Tianjin Binhai New Area (“TBNA”)

Government Policy Lending

- Comment 20 Whether Chinese Banks are Authorities
- Comment 21 Whether the Policy Loan Program is Specific

Government Policy Lending Benchmarks

- Comment 22 Whether the Department Should Use an In-country Benchmark
- Comment 23 Whether the Regression is Statistically Valid
- Comment 24 Terms of Loan Rates in the IMF Data
- Comment 25 Whether Negative Real Interest Rates Should be Excluded from the Regression
- Comment 26 Whether Certain Countries’ Data Should be Removed From the IMF Data
- Comment 27 Whether the Long-Term and Discount Rate are Flawed

Other Issues

- Comment 28 New Subsidy Allegations
- Comment 29 Export Restraints on Steel Rounds
- Comment 30 Provision of Electricity for Less Than Adequate Remuneration
- Comment 31 Critical Circumstances
- Comment 32 Export Restraints on Coke
- Comment 33 VAT Rebates

Company-specific Issues

- Comment 34 Changbao Sales Denominator
- Comment 35 Whether the Department Should Investigate Non-Initiated Programs for Changbao
- Comment 36 Jianli Group Sales
- Comment 37 Jianli Group Clerical Errors
- Comment 38 Jianli Group Steel Rounds Data
- Comment 39 TPCO Group Sales Denominator
- Comment 40 TEDA Holding
- Comment 41 TPCO Group Clerical Error
- Comment 42 TPCO Group Accelerated Depreciation
- Comment 43 WSP Steel Rounds Data
- Comment 44 WSP Loans

[FR Doc. E9–28779 Filed 12–4–09; 8:45 am]

BILLING CODE 3510-DS-P