



This document is scheduled to be published in the Federal Register on 10/24/2012 and available online at <http://federalregister.gov/a/2012-26220>, and on FDsys.gov

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-987]

Hardwood and Decorative Plywood from the People's Republic of China: Initiation of Countervailing Duty Investigation

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

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: David Lindgren and Toni Page, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3870 and (202) 482-1398, respectively.

SUPPLEMENTARY INFORMATION

The Petition

On September 27, 2012, the Department of Commerce (Department) received a countervailing duty (CVD) petition concerning imports of hardwood and decorative plywood from the People's Republic of China (PRC)¹ filed in proper form by the Coalition for Fair Trade of Hardwood Plywood and its individual members (Petitioners).² On October 3, 2012, the Department issued requests to Petitioners for additional information and for clarification of certain areas of the CVD Petition. Petitioners informed the Department on October 10, 2012,

¹ See Petition for the Imposition of Antidumping and Countervailing Duties: Hardwood Plywood from the People's Republic of China, dated September 27, 2012 (Petition).

² The members of the Coalition for Fair Trade of Hardwood Plywood are: Columbia Forest Products, Commonwealth Plywood Inc., Murphy Plywood, Roseburg Forest Products Co., States Industries Inc., and Timber Products Company.

that they would not provide any additional information regarding the matter raised by the Department.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (Act), Petitioners allege that producers/exporters of hardwood and decorative plywood from the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties, as defined in section 771(9)(C) of the Act, and have demonstrated sufficient industry support with respect to the investigation that it requests the Department to initiate.³

Period of Investigation

The period of investigation is January 1, 2011, through December 31, 2011.

Scope of Investigation

The products covered by this investigation are hardwood and decorative plywood from the PRC. For a full description of the scope of the investigation, please see the “Scope of the Investigation” Appendix I to 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. As a result, the “Scope of Investigation” language has been modified from the language in the Petition to reflect these clarifications.⁴

³ See “Determination of Industry Support for the Petition” below.

⁴ See October 15, 2012, letter from Petitioner regarding Hardwood Plywood from the People’s Republic of China: Petitioner’s Revision to the Proposed Scope of Investigations.

Moreover, as discussed in the preamble to the regulations,⁵ we are setting aside a period of time for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by 5:00 p.m. EST on Tuesday, November 6, 2012, which is twenty calendar days from the signature date of this notice. All comments must be filed on the records of both the PRC antidumping duty (AD) investigation as well as the PRC CVD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date set by the Department. Documents excepted from the electronic submission requirements must be filed manually (i.e., in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.⁶

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on September 28, 2012, the Department invited representatives of the Government of the PRC (GOC) for consultations with respect to the CVD petition.⁷ Those consultations were held on October 15, 2012.⁸

⁵ See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997).

⁶ See <http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf> for details of the Department's Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

⁷ See Letter to Wang Xin, Embassy of the PRC regarding "Countervailing Duty Petition on Hardwood Plywood from the People's Republic of China," dated September 28, 2012.

⁸ See Ex-Parte Memorandum on Consultations with Officials from the Government of the People's Republic of China on the Countervailing Duty Petition regarding Hardwood Plywood, dated October 16, 2012.

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 U.S. 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 (see 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 (CIT 1988), aff'd 865 F.2d 240 (Fed. Cir. 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 investigations. Based on our analysis of the information submitted on the record, we have determined that hardwood and decorative plywood 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: Hardwood and Decorative Plywood from the People’s Republic of China” (“Initiation Checklist”), at Attachment II, Analysis of Industry Support for the Petitions Covering Hardwood and Decorative Plywood from the People’s Republic of China, on file in the Central Records Unit (CRU), Room 7046 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 as defined in the “Scope of Investigation” section above. To establish industry support, Petitioners provided their production of the domestic like product in 2011 and compared this to the estimated total production of the domestic like product for the entire domestic industry. See Volume I of the Petitions, at 3-5, and Exhibits I-3A, I-3B, and I-3C; see also Supplement to the CVD Petition dated October 5, 2012, at 3 and Exhibit I-9; see also Second Supplement to the CVD Petition dated October 9, 2012, at 2-8. Petitioners estimated 2011

production of the domestic like product by non-petitioning companies based on their knowledge of the industry. We have relied upon data Petitioners provided for purposes of measuring industry support. For further discussion, see Initiation Checklist at Attachment II.

On October 9, 2012, we received a submission on behalf of an importer of hardwood and decorative plywood, an interested party to this proceeding as defined in section 771(9)(A) of the Act, questioning the industry support calculation. On October 11, 2012, we received a second submission on behalf of that importer of hardwood and decorative plywood, supplementing the importer's October 9, 2012, challenge to Petitioners' industry support calculation. On October 15, 2012, Petitioners filed their response to the importer's industry support challenge.⁹ On October 16, 2012, we received a third submission on behalf of the importer of hardwood and decorative plywood. On October 17, 2012, Petitioners submitted an additional response to the importer's industry support challenge.

Based on information provided in the Petition, supplemental submissions, and other information readily available to the Department, we determine that Petitioners 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. See Initiation Checklist at Attachment II. Based on information provided in the Petition and supplemental 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

⁹ For further discussion of these submissions, see Initiation Checklist at Attachment II.

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 interested parties as defined in sections 771(9)(C), (E), and (F) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate. Id.

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 the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, Petitioners allege that subject 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; underselling and price depression or suppression; lost sales and revenue; reduced capacity and capacity utilization; increased inventories; decline in financial performance; and employment data. See Volume I of the Petition, at 14-57 and Exhibits I-9 through I-27, and Supplement to the AD Petition, at 1, 3-4, and Exhibits Supp I-2 through Supp I-4. 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.

Initiation of Countervailing Duty Investigation

Section 702(b)(1) 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 Petition on hardwood and decorative plywood 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 hardwood and decorative plywood in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see the 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:

- A. Income Tax Programs
 - 1. Tax Exemptions and Reductions for “Productive” Foreign Invested Enterprises (FIEs) (i.e., the “Two Free, Three Half” Program)
 - 2. Provincial Tax Exemptions and Reductions for “Productive” FIEs
 - 3. Tax Reductions for FIEs in Designated Geographic Locations
- B. Other Tax Programs
 - 1. VAT and Tariff Exemptions on Imported Equipment
- C. Government Provision of Goods or Services For Less Than Adequate Remuneration (LTAR)

1. Electricity

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

1. Provision of Timber at LTAR

For further information explaining why the Department is not investigating this program, see CVD 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 period of investigation. We intend to make our decision regarding respondent selection within 20 days of publication of this Federal Register notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this Federal Register notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the GOC. Because of the particularly large number of producers/exporters identified at Exhibit I-7 of 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 GOC, 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 45 days after the date on which the Petition is filed, whether there is a reasonable indication that imports of subsidized hardwood and

decorative plywood from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry.¹⁰ A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures, 73 FR 3634. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.¹¹ Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD or CVD proceedings initiated on or after March 14, 2011.¹² The formats for the revised certifications are provided at the end of the Interim Final Rule. Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the Interim Final Rule, or in the format provided in the Interim Final Rule.¹³ The Department intends to reject factual information

¹⁰ See section 703(a)(2) of the Act.

¹¹ See section 782(b) of the Act.

¹² See Certification of Factual Information for Import Administration during Antidumping and Countervailing Duty Proceedings: Interim Final Rule, 76 FR 7491 (February 10, 2011) (Interim Final Rule), amending 19 CFR 351.303(g)(1) and (2).

¹³ See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule, 76 FR 54697 (September 2, 2011).

submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

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

Paul Piquado
Assistant Secretary
for Import Administration

October 17, 2012_
Date

Appendix I

Scope of the Investigation

Hardwood and decorative plywood is a panel composed of an assembly of two or more layers or plies of wood veneer(s) in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a finished product. A hardwood and decorative plywood panel can be composed of one or more species of hardwoods, softwoods, or bamboo, (in addition to other materials that are used for the core, as detailed below).

Hardwood and decorative plywood is generally manufactured to American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2009; it is differentiated from “structural plywood” (also known as “industrial plywood” or “industrial panels”), which must meet the “bond performance” requirements set forth at paragraph 5.8.6.4 of U.S. Products Standard PS 1-09 for Structural Plywood.

Hardwood and decorative plywood is primarily manufactured as a panel. The most common panel sizes are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches). However, these panels may be cut-to-size by the manufacturer in accordance with a customer’s requirements, or made to other sizes.

A “veneer” is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. The face veneer is the exposed veneer of a hardwood and decorative plywood product which is of a superior grade than that of the other exposed veneer of the product (i.e., as opposed to the inner veneers). The face veneer is also either side of the product when the two exposed veneers are of the same grade. The face veneer is also the side of the product that is intended to be exposed for view after installation.

The core of hardwood and decorative plywood consists of the layer or layers of material(s) that are situated between the front and back veneers. The core may be composed of a range of materials, including but not limited to veneers, particleboard, and medium-density fiberboard (MDF).

All hardwood and decorative plywood is included within the definition of subject merchandise regardless whether or not the face and/or back veneers are surface coated. Additionally, the face veneer of hardwood and decorative plywood may be sanded, smoothed or given a “distressed” appearance through such methods as hand-scraping or wire brushing. The face veneer may also be stained (i.e., to achieve a particular color).

Unless subject to a specifically enumerated exclusion detailed below, all hardwood and decorative plywood is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face veneer thickness of back veneer, thickness of core, and thickness of inner veneers; width; and length); wood species used for the face, back and inner veneers (including hardwoods, softwoods or bamboo); core composition; the grade of the face and back veneers; and whether or not surface coated (i.e., “unfinished” or “prefinished”). The face and/or back veneers of the product may be sanded, smoothed, scraped or stained.

Hardwood and decorative plywood is generally manufactured to American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2009. Regardless of whether the product meets the ANSI/HPVA standard, all hardwood and decorative plywood is included within this definition if it meets the physical description set forth therein.

The scope of the investigation excludes the following items: (1) structural plywood that is manufactured and stamped to meet U.S. Products Standard PS 1-09 for Structural Plywood (including any revisions to that standard or any substantially equivalent international standard intended for structural plywood), including but not limited to the “bond performance” requirements set forth at paragraph 5.8.6.4 of that Standard and the performance criteria detailed at Table 4 through 10 of that Standard; (2) plywood platforms with a face and back ply of cork; (3) multilayered wood flooring, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People’s Republic of China, Import Administration, International Trade Administration, U.S. Department of Commerce Investigation Nos. A-570-970 and C-570-971 (published December 8, 2011); (4) plywood further manufactured or further worked aside from sanding, surface coating (*i.e.*, “prefinishing”), scraping or staining (*e.g.*, bent or molded plywood; bent or molded plywood is defined as a flat panel that is purposely further manufactured through whatever means to achieve a shape or design other than a flat plane).

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 4412.10.0500; 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; and 4412.99.9000.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise as set forth herein is dispositive.

**[FR Doc. 2012-26220 Filed 10/23/2012 at 8:45 am;
Publication Date: 10/24/2012]**