



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(C-489-819)

Steel Concrete Reinforcing Bar from Turkey: Initiation of Countervailing Duty Investigation

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

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*.)

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SUPPLEMENTARY INFORMATION

The Petition

On September 4, 2013, the Department of Commerce (“the Department”) received a countervailing duty (“CVD”) petition¹ concerning imports of steel concrete reinforcing bar (“rebar”) from the Republic of Turkey (“Turkey”), filed in proper form on behalf of the Rebar Trade Action Coalition (“RTAC”) and its individual members (collectively, “Petitioners”).² The CVD petition was accompanied by two antidumping duty (“AD”) petitions.³ Petitioners are domestic producers of rebar. On September 10-11, 2013, the Department requested additional

¹ See Petition for the Imposition of Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey, dated September 4, 2013.

² Petitioners are RTAC and its individual members: Byer Steel Group, Inc., Schnitzer Steel Industries d/b/a Cascade Steel Rolling Mills, Inc., Commercial Metals Company, Gerdau Ameristeel U.S. Inc., and Nucor Steel Corporation.

³ See Petitions for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey and Mexico and Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey, dated September 4, 2013 (“the Petitions”).

information and clarification of certain areas of the Petitions.⁴ Petitioners filed responses to these requests on September 13, 2013.⁵

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 rebar from Turkey received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that such imports materially injure, or threaten material injury to, the domestic industry producing rebar in the United States pursuant to section 701 of the Act.

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),(E) and (F) of the Act. The Department also finds that the Petitioners have demonstrated sufficient industry support with respect to the initiation of the investigation Petitioners are requesting. *See* “Determination of Industry Support for the Petition” below.

Period of Investigation

The period of the investigation is January 1, 2012, through December 31, 2012.

⁴ *See* letters from the Department titled, “Petitions for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Mexico and the Republic of Turkey and Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Questions,” (A-201-844, A-489-818, and C-489-819), dated September 10, 2013; “Petition for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Mexico: Supplemental Questions, (A-201-844), dated September 10, 2013; “Petition for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Questions, (A-489-818), dated September 10, 2013; “Petition for the Imposition of Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Questions, (C-489-819), dated September 10, 2013; and “Petition for the Imposition of Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Additional Supplemental Questions, (C-489-819), dated September 11, 2013; *see also* letter from the Department titled, “Petitions for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Mexico and the Republic of Turkey and Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Request for Extension.”

⁵ *See* Steel Concrete Reinforcing Bar from Mexico: Supplement to the Petition for the Imposition of Antidumping Duties, dated September 13, 2013 (“Mexico AD Supplement”); *see also* “Steel Concrete Reinforcing Bar from Turkey: Supplement to the Petition for the Imposition of Antidumping Duties,” dated September 13, 2013 (“Turkey AD Supplement”); *see also* “Steel Concrete Reinforcing Bar from Mexico and the Republic of Turkey: Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties” dated September 13, 2013 (“General Issues Supplement”).

Scope of Investigation

The product covered by this CVD investigation is steel concrete reinforcing bar from Turkey. For a full description of the scope of these investigations, *see* the “Scope of Investigation” in Appendix of this notice.⁶ Petitioners note that, in addition to the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings included in the scope, it is possible that rebar previously entered under HTSUS numbers 7222.30.0011 and 7222.11.0056; however, these HTSUS numbers are no longer in effect.

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 regulations,⁷ we are setting aside a period for interested parties to raise issues regarding product coverage.

All comments must be filed on the records of the Mexico and the Turkey AD investigations and the Turkey CVD investigation by 5:00 p.m. EST on October 15, 2013. All comments and submissions to the Department must be filed electronically using Import Administration’s Antidumping Countervailing Duty Centralized Electronic Service System (“IA ACCESS”).⁸ 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 noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in

⁶ *See* Memorandum to the File titled, “Petitions for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Mexico and the Republic of Turkey and Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Scope Clarification,” dated September 18, 2013.

⁷ *See Preamble; Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁸ *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) 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>.

paper form) with 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.

The period of scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of and the Government of the Republic of Turkey ("GOT") for consultations with respect to the Petition.⁹ Consultations were held with the GOT on September 20, 2013.¹⁰ All memoranda pertaining to the consultations are on file electronically via IA ACCESS.¹¹

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

⁹ See letter titled "Invitation for Consultations to Discuss the Countervailing Duty Petition," dated September 5, 2013.

¹⁰ See ex-parte memorandum titled "Consultations with Turkish Government Officials," dated September 20, 2013.

¹¹ See *supra* note 8 for information pertaining to IA ACCESS.

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,¹² 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.¹³

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 rebar, as defined in the scope of

¹² See section 771(10) of the Act.

¹³ 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)).

the investigation, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹⁴

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 2012, and compared this to the estimated total production of the domestic like product for the entire domestic industry.¹⁵ Petitioners estimated total 2012 production of the domestic like product using their using their knowledge of the industry and data from the ITC.¹⁶ We have relied upon data Petitioners provided for purposes of measuring industry support.¹⁷

Based on information provided in the Petition, supplemental submission, and other information readily available to the Department, we determine that Petitioners have met the statutory criteria for industry support under section 732(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.¹⁸ Based on information provided in the Petition, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(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.

¹⁴ See Countervailing Duty Investigation Initiation Checklist: Steel Concrete Reinforcing Bar from the Republic of Turkey (“Turkey CVD Initiation Checklist”), at Attachment II. The checklist is dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit, Room 7046 of the main Department of Commerce building.

¹⁵ See Volume I of the Petitions, 3-4 and Exhibit I-3.

¹⁶ *Id.*

¹⁷ See Mexico AD Initiation Checklist and Turkey AD Initiation Checklist, at Attachment II.

¹⁸ *Id.*

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.¹⁹

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.²⁰

Injury Test

Because Turkey 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 Turkey materially injure, or threaten material injury to, a U.S. industry.

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 benefiting from countervailable subsidies. In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²¹

Petitioners contend that the industry’s injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; hindered production efforts, shipments, and capacity utilization; and decline in financial performance.²²

We have assessed the allegations and supporting evidence regarding material injury, threat of

¹⁹ *Id.*

²⁰ *Id.*

²¹ See General Issues Supplement, at 6-7 and Exhibit I-Supp-8.

²² See Volume I of the Petitions, at 16-51 and Exhibits I-6 and I-8 through I-26; see also General Issues Supplement, at 1, 6-7, Revised Exhibit I-12B, and Exhibits I-Supp-1 and I-Supp-8.

material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²³

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD 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 supporting the allegations. In the Petition, Petitioners allege that producers and exporters of rebar in Turkey benefited from countervailable subsidies bestowed by the GOT. The Department has examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of rebar from Turkey receive countervailable subsidies.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 32 alleged programs. For one of these programs, however, we find that there is sufficient evidence to initiate only on part of the allegation. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* Turkey CVD Initiation Checklist.

A public version of the initiation checklist for this investigation is available on IA ACCESS and at <http://ia.ita.doc.gov/ia-highlights-and-news.html>.

²³ See Turkey CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Steel Concrete Reinforcing Bar from Mexico and the Republic of Turkey.

Respondent Selection

The Petition identified 41 producers and/or exporters of steel concrete reinforcing bar in Turkey.²⁴ For this investigation, the Department expects to select respondents for individual examination based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports of subject merchandise during the period of investigation under all *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings identified in the Scope of the Investigation.²⁵ We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties with access to information protected by APO shortly after the announcement of this case initiation. 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 Web site at <http://ia.ita.doc.gov/apo>.

The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this *Federal Register* notice. Comments must be filed in accordance with the filing requirements stated above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the representatives of the GOT via IA ACCESS. Because of the particularly 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 of the Petition to the GOT, consistent with 19 CFR 351.203(c)(2).

²⁴ *Id.*, at Exhibit I-5B.

²⁵ See Appendix I of this notice for a listing of the HTSUS subheadings in the Scope of the Investigation.

ITC Notification

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

Preliminary Determinations by the ITC

The ITC will preliminarily determine no later than October 21, 2013, whether there is a reasonable indication that imports of allegedly subsidized rebar from Turkey are materially injuring, or threatening material injury to, a U.S. industry.²⁶ A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.²⁷

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19

²⁶ See section 703(a) of the Act.

²⁷ On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping (AD) and countervailing duty (CVD) proceedings. See *Extension of Time Limits*, 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before any time limit established under Part 351 expires. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits.

CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to this investigation. Please review the final rule, available at <http://ia.ita.doc.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in this investigation.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order 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 (January 22, 2008). 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)).

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.²⁸ 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,

²⁸ See section 782(b) of the Act.

2011.²⁹ 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*.³⁰ The Department intends to reject factual information submissions 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 and 19 CFR 351.203(c).

Paul Piquado
Assistant Secretary
for Import Administration

September 24, 2013
Date

²⁹ 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).

³⁰ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011).

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is steel concrete reinforcing bar imported in either straight length or coil form (“rebar”) regardless of metallurgy, length, diameter, or grade. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010. The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0015, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth rebar). HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

[FR Doc. 2013-23987 Filed 10/01/2013 at 8:45 am; Publication Date: 10/02/2013]