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DEPARTMENT OF COMMERCE

International Trade Administration

(C-489-825)

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey:  
Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective Date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor at (202) 482-4007 or Reza Karamloo at (202) 482-4470, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

The Petitions

On July 21, 2015, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of heavy walled rectangular welded carbon steel pipes and tubes (HRW pipes and tubes) from the Republic of Turkey (Turkey), filed in proper form, on behalf of Atlas Tube, a division of JMC Steel Group, Bull Moose Tube Company, EXLTUBE, Hannibal Industries, Inc., Independence Tube Corporation, Maruichi American Corporation, Searing Industries, Southland Tube, and Vest, Inc. (collectively, the

petitioners).<sup>1</sup> The CVD Petition was accompanied by antidumping duty (AD) petitions with respect to Turkey, the Republic of Korea (Korea), and Mexico. The petitioners are domestic producers of HWR pipes and tubes.<sup>2</sup>

On July 23, 2015, the Department requested information and clarification for certain areas of the Petition.<sup>3</sup> The petitioners filed responses to these requests on July 27, 2015.<sup>4</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that the Government of Turkey (GOT) is providing countervailable subsidies (within the meaning of sections 701 and 771(5) of the Act) to imports of HWR pipes and tubes from Turkey, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioners supporting their allegations.

The Department finds that the petitioners filed the Petition on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the CVD investigation that the petitioners are requesting.<sup>5</sup>

### Period of Investigation

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<sup>1</sup> See Petitions for the Imposition of Antidumping and Countervailing Duties: Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes, dated July 21, 2015, at Volume V (CVD Petition or Petition).

<sup>2</sup> See Volume I of the Petitions, at 1.

<sup>3</sup> See Letter from the Department to the petitioners, “Petitions for the Imposition of Antidumping Duties on Imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey and Countervailing Duties on Imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Supplemental Questions,” (July 23, 2015) (General Issues Supplemental Questionnaire), and Letter from the Department to the petitioners “Petition for the Imposition of Countervailing Duties on Imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Supplemental Question,” (July 23, 2015) (CVD Supplemental Questionnaire).

<sup>4</sup> See “Responses To Supplemental Questions Regarding The Petitions for the Imposition of Antidumping and Countervailing Duties: Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes,” (July 27, 2015), (General Issues Supplement), and “Response To Supplemental Question Regarding The Petition Against Turkey for the Imposition of Countervailing Duties: Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes,” (July 27, 2015) (CVD Supplement).

<sup>5</sup> See the “Determination of Industry Support for the Petitions” section below.

The period of the investigation is January 1, 2014, through December 31, 2014.<sup>6</sup>

### Scope of the Investigation

The product covered by this investigation is HWR pipes and tubes from Turkey. For a full description of the scope of this investigation, see the “Scope of the Investigations” in Appendix I of this notice.

### Comments on Scope of the Investigations

During our review of the Petition, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup>

As discussed in the preamble to the Department's regulations,<sup>8</sup> we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (see 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on August 31, 2015, which is the first business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on September 10, 2015, which is 10 calendar days after the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party

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<sup>6</sup> 19 CFR 351.204(b)(2).

<sup>7</sup> See General Issues Supplemental Questionnaire; see also General Issues Supplement.

<sup>8</sup> See Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27323 (May 19, 1997).

subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of the Turkey AD and CVD investigations, as well as the concurrent Korea and Mexico AD investigations.

### Filing Requirements

Submissions to the Department normally must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>9</sup> An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, 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 applicable deadlines.

### Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the GOT of the receipt of the Petition. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, the Department provided representatives of the GOT the opportunity for consultations with respect to the Petition.<sup>10</sup> Consultations were held with the GOT on August 6, 2015.<sup>11</sup> The

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<sup>9</sup> See 19 CFR 351.303 (for general filing requirements); 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 ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>10</sup> See Letter of invitation from the Department to the GOT, dated July 27, 2015.

<sup>11</sup> See Memorandum to the File, "Consultations with Officials from the Government of the Republic of Turkey Regarding the Countervailing Duty Petition Concerning Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes," dated August 6, 2015.

memorandum regarding these consultations is on file electronically via ACCESS.<sup>12</sup>

#### 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 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,<sup>13</sup> 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

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<sup>12</sup> See supra note 9 for information pertaining to ACCESS.

<sup>13</sup> See section 771(10) of the Act.

result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>14</sup>

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, the petitioners do not offer a definition of the 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 HWR pipes and tubes, as defined in the scope of the investigation, constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>15</sup>

In determining whether the 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 the Investigation,” in Appendix I of this notice. To establish industry support, the petitioners provided their own shipments of the domestic like product in 2014 and compared their shipments to estimated total shipments of the domestic like product for the entire domestic industry.<sup>16</sup> Because data regarding total production of the

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<sup>14</sup> 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)).

<sup>15</sup> For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey (Turkey CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>16</sup> See Volume I of the Petition, at 3-4 and Exhibits I-1 and I-2; see also General Issues Supplement, at 4-5 and Exhibit I-10.

domestic like product are not reasonably available to the petitioners and the petitioners have established that shipments are a reasonable proxy for production,<sup>17</sup> we have relied on the shipment data provided by the petitioners for purposes of measuring industry support.<sup>18</sup>

Our review of the data provided in the Petition, General Issues Supplement, and other information readily available to the Department indicates that the petitioners have established industry support for the Petition.<sup>19</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total shipments<sup>20</sup> of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (e.g., polling).<sup>21</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act for the Petition because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total shipments of the domestic like product.<sup>22</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act for the Petition because the domestic producers (or workers) who support the Petition account for more than 50 percent of the shipments of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>23</sup> 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.

The Department finds that the petitioners filed the Petition on behalf of the domestic

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<sup>17</sup> See Volume I of the Petition, at 3-4; see also General Issues Supplement, at 4.

<sup>18</sup> For further discussion, see Turkey CVD Initiation Checklist, at Attachment II.

<sup>19</sup> See Turkey CVD Initiation Checklist, at Attachment II.

<sup>20</sup> As mentioned above, the petitioners have established that shipments are a reasonable proxy for production data. Section 351.203(e)(1) of the Department's regulations states "production levels may be established by reference to alternative data that the Secretary determines to be indicative of production levels."

<sup>21</sup> See section 702(c)(4)(D) of the Act; see also Turkey CVD Initiation Checklist, at Attachment II.

<sup>22</sup> Id.

<sup>23</sup> Id.

industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate.<sup>24</sup>

### 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

The 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. The petitioners allege that subject imports exceed the negligibility threshold of three percent provided for under section 771(24)(A) of the Act.<sup>25</sup>

The petitioners contend that the industry’s injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; increased inventories and inventory overhang in the U.S. market; and decline in profitability.<sup>26</sup> 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.<sup>27</sup>

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<sup>24</sup> Id.

<sup>25</sup> See General Issues Supplement, at 5 and Exhibit I-13.

<sup>26</sup> See Volume I of the Petition, at 9-10, 12-27 and Exhibits I-1, I-5, I-7 and I-8; see also General Issues Supplement, at 1, 5 and Exhibits I-12 and I-13.

<sup>27</sup> See Turkey CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey.

## Initiation of Countervailing Duty Investigations

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.

The petitioners allege that producers/exporters of HWR pipes and tubes in Turkey benefited from countervailable subsidies bestowed by the government. 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 HWR pipes and tubes from Turkey receive countervailable subsidies from the government.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on each of the alleged programs. For a full discussion of the basis for our decision to initiate on each program, see CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of this initiation.

## Respondent Selection

The petitioners named 14 companies as producers/exporters of heavy walled rectangular welded carbon steel pipes and tubes from Turkey.<sup>28</sup> Following standard practice in CVD investigations, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of HWR pipes and tubes during the

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<sup>28</sup> See Volume I of the Petitions, at Exhibit I-4.

period of investigation under Harmonized Tariff Schedule of the United States (HTSUS) number 7306.61.1000.<sup>29</sup> We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice. The Department invites comments regarding respondent selection within seven days of publication of this **Federal Register** notice.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS, by 5 p.m. ET by the date noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this 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 Web site at <http://enforcement.trade.gov/apo>.

#### 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 GOT via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each known exporter (as named in the Petition), consistent with 19 CFR 351.203(c)(2).

#### ITC Notification

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

#### Preliminary Determination by the ITC

Within 45 days after the date on which the Petition was filed, the ITC will preliminarily determine whether there is a reasonable indication that imports of HWR pipes and tubes from

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<sup>29</sup> While the scope also references HTSUS number 7306.61.3000, we note that this HTSUS number includes non-subject merchandise. Therefore, we do not intend to use data for this HTSUS number for purposes of respondent selection.

Turkey are materially injuring, or threatening material injury to, a U.S. industry.<sup>30</sup> A negative ITC determination will result in the investigation being terminated;<sup>31</sup> otherwise, this investigation will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (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 regulation requires any party, when submitting factual information, to specify under which subsection of 19 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. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in this investigation.

#### Extension of Time Limits Regulation

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under 19 CFR 351.301 expires. For submissions that are due from multiple parties simultaneously, an

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<sup>30</sup> See section 703(a) of the Act.

<sup>31</sup> Id.

extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review Extension of Time Limits; Final Rule, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>32</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the Final Rule.<sup>33</sup> The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with

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<sup>32</sup> See section 782(b) of the Act.

<sup>33</sup> See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings, 78 FR 42678 (July 17, 2013) (Final Rule); see also frequently asked questions regarding the Final Rule, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

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)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: August 10, 2015.

Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

## **Appendix I**

### **Scope of the Investigation**

The products covered by this investigation are certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-500, grade B specifications, or comparable domestic or foreign specifications.

Included products are those in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

The subject merchandise is currently provided for in item 7306.61.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under HTSUS 7306.61.3000. While the HTSUS subheadings and ASTM specification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

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