



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-523-812, A-535-903, A-565-803, A-520-807, A-552-820]

Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

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

DATES: EFFECTIVE DATE: November 17, 2015.

FOR FURTHER INFORMATION CONTACT: Kate Johnson at (202) 482-4929 (the Sultanate of Oman (Oman) and the United Arab Emirates (UAE)); David Lindgren at (202) 482-3870 (Pakistan and the Socialist Republic of Vietnam (Vietnam)); or Dennis McClure at (202) 482-5973 (the Philippines), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On October 28, 2015, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of circular welded carbon-quality steel pipe (circular welded pipe) from Oman, Pakistan, the Philippines, the UAE, and Vietnam, filed in proper form on behalf of Bull Moose Tube Company; EXLTUBE; Wheatland Tube, a division of JMC Steel Group; and Western Tube and Conduit (Petitioners).<sup>1</sup> The AD petitions were

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<sup>1</sup> See Petitions for the Imposition of Antidumping and Countervailing Duties: Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam, dated October 28, 2015 (the Petitions).

accompanied by a countervailing duty (CVD) petition on imports from Pakistan. Petitioners are domestic producers of circular welded pipe.<sup>2</sup>

On November 2 and 6, 2015, the Department requested additional information and clarification of certain areas of the Petitions.<sup>3</sup> Petitioners filed responses to these requests on November 4, 5, 9 and 10, 2015.<sup>4</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that imports of circular welded pipe from Oman, Pakistan, the Philippines, the UAE, and Vietnam are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioners supporting their allegations.

The Department finds that Petitioners filed these Petitions on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act. The

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

<sup>3</sup> See Letter from the Department to Petitioners entitled “Re: Petitions for the Imposition of Antidumping Duties on Imports of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the Republic of the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam and Countervailing Duties on Imports of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Supplemental Questions,” dated November 2, 2015 (General Issues Supplemental Questionnaire); Letter from the Department to Petitioners entitled “Re: Petition for the Imposition of Antidumping Duties on Imports of Circular Welded Carbon-Quality Steel Pipe from {country}: Supplemental Questions” on each of the country-specific records, dated November 2, 2015; Letter from the Department to Petitioners entitled “Re: Petition for the Imposition of Antidumping Duties on Imports of Circular Welded Carbon-Quality Steel Pipe from the Philippines: Supplemental Questions,” dated November 6, 2015; and Memorandum from Whitney Schablik to the File, dated November 6, 2015.

<sup>4</sup> See “Response to the Department’s November 2, 2015 Questionnaire Regarding Volume I of the Petition for the Imposition of Antidumping and Countervailing Duties,” dated November 4, 2015 (General Issues Supplement); see also the responses to the Department’s November 2, 2015 questionnaires regarding the remaining antidumping volumes of the Petition for the Antidumping and Countervailing Duties, dated November 4-5, 2015; response to the Department’s November 6, 2015, second supplemental questionnaire regarding the Philippines, dated November 9, 2015; Second General Issues Supplement to the Petition, dated November 9, 2015 (Second General Issues Supplement); and Third General Issues Supplement to the Petition, dated November 10, 2015 (Third General Issues Supplement).

Department also finds that Petitioners demonstrated sufficient industry support with respect to the initiation of the AD investigations that Petitioners are requesting.<sup>5</sup>

#### Periods of Investigation

Because the Petitions were filed on October 28, 2015, the period of investigation (POI) is, pursuant to 19 CFR 351.204(b)(1), as follows: October 1, 2014, through September 30, 2015, for Oman, Pakistan, the Philippines, and the UAE, and April 1, 2015, through September 30, 2015, for Vietnam.

#### Scope of the Investigations

The product covered by these investigations is circular welded pipe from Oman, Pakistan, the Philippines, the UAE, and Vietnam. For a full description of the scope of these investigations, see the “Scope of the Investigations,” in Appendix I of this notice.

#### Comments on Scope of the Investigations

During our review of the Petitions, the Department discussed with Petitioners the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>6</sup>

As discussed in the preamble to the Department’s regulations, 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 Monday,

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

<sup>6</sup> See Memorandum from Whitney Schablik to The File, dated November 6, 2015; see also Second General Issues Supplement, at Exhibit I-16.

December 7, 2015, which is 20 calendar days from the signature date of this notice.<sup>7</sup> Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, December 17, 2015, which is 10 calendar days after the deadline for initial comments.

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 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 each of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>8</sup> An electronically-filed document must be received successfully in its entirety by the time and date when 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.

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<sup>7</sup> See 19 CFR 351.303(b).

<sup>8</sup> See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011); see also Enforcement and Compliance; Change of Electronic Filing System Name, 79 FR 69046 (November 20, 2014) 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>.

## Comments on Product Characteristics for AD Questionnaires

The Department will be giving interested parties an opportunity to provide comments on the appropriate physical characteristics of circular welded pipe to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Subsequent to the publication of this notice, the Department will be releasing a proposed list of physical characteristics and product-comparison criteria, and interested parties will have the opportunity to provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics used by manufacturers to describe circular welded pipe, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Oman, Pakistan, the Philippines, the UAE, and Vietnam less-than-fair-value investigations.

### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(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 732(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>9</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>9</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>10</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 Petitions).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we determined that circular welded pipe constitutes a single domestic like product and we analyzed industry support in terms of that domestic like product.<sup>11</sup>

In determining whether Petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in Appendix I of this notice. To establish industry support, Petitioners provided their shipments of the domestic like product in 2014, and compared their shipments to the estimated total shipments of the domestic like product

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<sup>10</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>11</sup> For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman (Oman AD Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the Republic of the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam (Attachment II); Antidumping Duty Investigation Initiation Checklist: Circular Welded Carbon-Quality Steel Pipe from Pakistan (Pakistan AD Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Circular Welded Carbon-Quality Steel Pipe from the Republic of the Philippines (Philippines AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates (UAE AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam (Vietnam AD Initiation Checklist), at Attachment II. These checklists are 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.

for the entire domestic industry.<sup>12</sup> Because total industry production data for the domestic like product for 2014 is not reasonably available and Petitioners established that shipments are a reasonable proxy for production data,<sup>13</sup> we relied upon the shipment data provided by Petitioners for purposes of measuring industry support.<sup>14</sup>

Our review of the data provided in the Petitions, General Issues Supplement, Second General Issues Supplement, Third General Issues Supplement, and other information readily available to the Department indicates that Petitioners established industry support.<sup>15</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total shipments<sup>16</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>17</sup> Second, the domestic producers (or workers) 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 Petitions account for at least 25 percent of the total shipments of the domestic like product.<sup>18</sup> Finally, the domestic producers (or workers) 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 Petitions account for more than 50 percent of the shipments of the domestic like product

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<sup>12</sup> See General Issues Supplement, at 3-6 and Exhibits I-13 and I-14; see also Second General Issues Supplement, at 1 and Exhibits I-17 through I-19; and Third General Issues Supplement, at Exhibit I-21.

<sup>13</sup> See Volume I of the Petitions, at 3 and Exhibit I-2; see also General Issues Supplement, at 3-4 and Exhibits I-13 and I-14.

<sup>14</sup> For further discussion, see Oman AD Initiation Checklist, Pakistan AD Initiation Checklist, Philippines AD Initiation Checklist, UAE AD Initiation Checklist, and Vietnam AD Initiation Checklist, at Attachment II.

<sup>15</sup> Id.

<sup>16</sup> As mentioned above, Petitioners 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>17</sup> See section 732(c)(4)(D) of the Act; see also Oman AD Initiation Checklist, Pakistan AD Initiation Checklist, Philippines AD Initiation Checklist, UAE AD Initiation Checklist, and Vietnam AD Initiation Checklist, at Attachment II.

<sup>18</sup> See Oman AD Initiation Checklist, Pakistan AD Initiation Checklist, Philippines AD Initiation Checklist, UAE AD Initiation Checklist, and Vietnam AD Initiation Checklist, at Attachment II.

produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>19</sup> Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they demonstrated sufficient industry support with respect to the AD investigations that they are requesting the Department to initiate.<sup>20</sup>

#### 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 sold at less than fair value. In addition, Petitioners allege that subject imports from Oman, Pakistan, the UAE, and Vietnam exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>21</sup>

With regard to the Philippines, while the allegedly dumped imports from the Philippines do not exceed the statutory requirements for negligibility, Petitioners allege and provide supporting evidence that these imports will imminently exceed the negligibility threshold.<sup>22</sup> Petitioners' arguments are consistent with the statutory criteria for "negligibility in threat analysis" under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.

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<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> See Volume I of the Petitions, at 17-18 and Exhibits I-7 and I-8; see also General Issues Supplement, at 8-9.

<sup>22</sup> See Volume I of the Petitions, at 17-18 and Exhibits I-7 and I-8; see also General Issues Supplement, at 9-10.

Petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; reduced shipments and a plant closure leading to job losses; increased inventories and inventory overhang in the U.S. market; and decline in profitability.<sup>23</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>24</sup>

#### Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate AD investigations of imports of circular welded pipe from Oman, Pakistan, the Philippines, the UAE, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the country-specific initiation checklists.

#### Export Price

For Oman, Pakistan, the Philippines, the UAE, and Vietnam, Petitioners based export price (EP) U.S. prices on average unit values (AUVs) of U.S. imports from those countries.<sup>25</sup> Where applicable, Petitioners made deductions from U.S. price for movement expenses consistent with the delivery terms.<sup>26</sup>

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<sup>23</sup> See Volume I of the Petitions, at 12-23 and Exhibit I-6 through I-9; see also General Issues Supplement, at 6-10 and Exhibits I-11, I-13 and I-15.

<sup>24</sup> See Oman AD Initiation Checklist, Pakistan AD Initiation Checklist, Philippines AD Initiation Checklist, UAE AD Initiation Checklist, and Vietnam AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the Republic of the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam.

<sup>25</sup> See Oman AD Initiation Checklist, Pakistan AD Initiation Checklist, Philippines AD Initiation Checklist, UAE AD Initiation Checklist, and Vietnam AD Initiation Checklist.

<sup>26</sup> See Pakistan AD Initiation Checklist and Philippines AD Initiation Checklist.

## Normal Value

For Oman, Pakistan, the Philippines, and the UAE, Petitioners provided home market price information obtained through market research for circular welded pipe produced, and offered for sale, in each of these countries.<sup>27</sup> For all four of these countries, Petitioners provided an affidavit or declaration from a market researcher for the price information.<sup>28</sup> Petitioners made no adjustments to the offer prices to calculate NV for Oman, Pakistan, or UAE, as no adjustments were warranted by the terms associated with the offers.<sup>29</sup> With regard to the Philippines, Petitioners made deductions for value added taxes and other expenses, consistent with the terms of sale.<sup>30</sup>

For Oman, the Philippines, and the UAE, Petitioners provided information that sales of circular welded pipe in the respective home markets were made at prices below the cost of production (COP). For these countries, Petitioners calculated NV based on constructed value (CV).<sup>31</sup> For further discussion of COP and NV based on CV, see below.

With respect to Vietnam, Petitioners stated that the Department has found Vietnam to be a non-market economy (NME) country in every previous less-than-fair-value investigation.<sup>32</sup> In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for Vietnam has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of

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<sup>27</sup> See Oman AD Initiation Checklist, Pakistan AD Initiation Checklist, Philippines AD Initiation Checklist, and UAE AD Initiation Checklist.

<sup>28</sup> Id.; see also Memorandum to the File, "Telephone Call to Foreign Market Researcher," on each of the country-specific records, dated November 6, 2015 (Oman), November 5, 2015 (Pakistan), November 6, 2015 (the Philippines), and November 6, 2015 (the UAE).

<sup>29</sup> See Oman AD Initiation Checklist, Pakistan AD Initiation Checklist, and UAE AD Initiation Checklist.

<sup>30</sup> See Philippines AD Initiation Checklist.

<sup>31</sup> See Oman AD Initiation Checklist, Philippines AD Initiation Checklist, and UAE AD Initiation Checklist.

<sup>32</sup> See Volume III of the Petitions, at 1-2.

production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the issues of Vietnam's NME status and the granting of separate rates to individual exporters.

Petitioners claim that India is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of Vietnam, it is a significant producer of the merchandise under consideration, and the data for valuing FOPs, factory overhead, selling, general and administrative (SG&A) expenses and profit are both available and reliable.<sup>33</sup>

Based on the information provided by Petitioners, we believe it is appropriate to use India as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

#### Factors of Production

Petitioners based the FOPs for materials, labor, and energy on a petitioning U.S. producer's consumption rates for producing circular welded pipe, as they did not have access to the consumption rates of Vietnamese producers of the subject merchandise.<sup>34</sup> Petitioners valued the estimated factors of production using surrogate values from India.<sup>35</sup>

#### Valuation of Raw Materials

Petitioners valued the FOPs for raw materials (i.e., steel, steel scrap offset) using reasonably available, public import data for India from the Global Trade Atlas (GTA) for the

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<sup>33</sup> Id., at 2-3.

<sup>34</sup> Id., at 3.

<sup>35</sup> Id., at 4-10 and Exhibit III-C; see also, generally, Vietnam AD Supplemental Questionnaire Response.

most recent six-month period for which data is available.<sup>36</sup> Petitioners excluded all import values from countries previously determined by the Department to maintain broadly-available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries. In addition, in accordance with the Department's practice, the average import values exclude imports that were labeled as originating from an unidentified country. The Department made adjustments to Petitioners' calculation of these surrogate values.<sup>37</sup>

### Valuation of Labor

Petitioners valued labor using India labor data published by the International Labor Organization (ILO).<sup>38</sup> Specifically, Petitioners relied on industry-specific wage rate data from Chapter 6A of the ILO's "Yearbook of Labor Statistics" publication.<sup>39</sup> As the Indian wage data are daily wages from 2005 and reported in Indian Rupees, Petitioners converted the wage rates to hourly rates, adjusted them for inflation, and converted them to U.S. Dollars using the average exchange rate during the POI.<sup>40</sup> Petitioners then applied that resulting labor rate to the labor hours expended by the U.S. producer of circular welded pipe.<sup>41</sup> The Department made adjustments to Petitioners' calculation of the inflator and labor rate.<sup>42</sup>

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<sup>36</sup> See Volume III of the Petitions, at 4-6 and Exhibit III-C-2; see also, Vietnam AD Supplemental Questionnaire Response at Exhibit III-S-5.

<sup>37</sup> See Vietnam AD Initiation Checklist.

<sup>38</sup> See Volume III of the Petitions, at 8-9 and Exhibit III-C-6; see also, Vietnam AD Supplemental Questionnaire Response at Exhibit III-S-6.

<sup>39</sup> Id.

<sup>40</sup> Id.

<sup>41</sup> Id.

<sup>42</sup> See Vietnam AD Initiation Checklist.

## Valuation of Energy

Petitioners used public information, as reported by the Central Electric Authority (CEA) of India (the Government of India's electricity authority), to value electricity.<sup>43</sup> This 2008 CEA price information was converted from Indian Rupees to U.S. Dollars in order to be compared to the U.S producer factor usage rates.<sup>44</sup> The cost of natural gas in India was derived from an International Energy Agency working paper entitled "Natural Gas in India," and the value was reported in U.S. Dollars and million British thermal units (mmBTU).<sup>45</sup> Using universal conversion factors, Petitioners converted that cost into a per metric ton price to ensure the proper comparison.<sup>46</sup>

## Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit

Petitioners calculated surrogate financial ratios (*i.e.*, manufacturing overhead, SG&A expenses, and profit) using the 2014-2015 audited financial statement of Ratnamani Metals and Tubes, Ltd., an Indian producer of circular welded pipe.<sup>47</sup>

## Normal Value Based on Constructed Value

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), SG&A expenses, financial expenses, and packing expenses. For Oman, the Philippines and the UAE, Petitioners calculated COM based on Petitioners' experience adjusted for known differences between their industry in the United States and the industry of the respective country during the proposed POI.<sup>48</sup> Using publicly-available data to account for price differences, Petitioners multiplied their usage quantities by the submitted value of the inputs used to

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<sup>43</sup> Id. at 7, 11 and Exhibit III-C-4.

<sup>44</sup> Id.

<sup>45</sup> Id. at 8, 11 and Exhibit III-C-5.

<sup>46</sup> Id.

<sup>47</sup> Id. at 9-10, 11 and Exhibit III-C-7.

<sup>48</sup> See Oman AD Initiation Checklist, Philippines AD Initiation Checklist, and UAE AD Initiation Checklist.

manufacture circular welded pipe steel in each country.<sup>49</sup> Labor rates were derived from publicly-available sources, and multiplied by the product-specific usage rates.<sup>50</sup> To determine factory overhead, SG&A, and financial expense rates, Petitioners relied on financial statements of producers of comparable merchandise operating in the respective foreign country or their own experience.<sup>51</sup> For Oman and the UAE, we made an adjustment to these rates.<sup>52</sup>

Because certain home market prices fell below COP, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, Petitioners calculated NVs for Oman, the Philippines and the UAE based on CV.<sup>53</sup> Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, financial expenses, packing expenses, and profit. Petitioners calculated CV using the same average COM, SG&A, and financial expenses, to calculate COP.<sup>54</sup> Petitioners relied on the financial statements of the same producer that they used for calculating manufacturing overhead, SG&A, and financial expenses to calculate the profit rate for Oman.<sup>55</sup> For the Philippines and the UAE, Petitioners conservatively did not include profit in their CV calculations. We continued to apply the same adjustments to Petitioners' calculations of factory overhead, SG&A, and financial expense rates as we made for the calculation of COP for Oman and the UAE.<sup>56</sup>

#### Fair Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of circular welded pipe from Oman, Pakistan, the Philippines, the UAE, and Vietnam are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to

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<sup>49</sup> Id.

<sup>50</sup> Id.

<sup>51</sup> Id.

<sup>52</sup> Id.

<sup>53</sup> Id.

<sup>54</sup> Id.

<sup>55</sup> Id.

<sup>56</sup> Id.

NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for circular welded pipe are as follows: 1) Oman ranges from 98.87 to 105.58 percent;<sup>57</sup> 2) Pakistan is 11.80 percent;<sup>58</sup> 3) the Philippines is 21.86 percent;<sup>59</sup> and 4) the UAE ranges from 47.06 to 54.27 percent.<sup>60</sup>

Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margin for circular welded pipe from Vietnam is 113.18 percent.<sup>61</sup>

#### Initiation of Less-than-Fair-Value Investigations

Based upon the examination of the AD Petitions on circular welded pipe from Oman, Pakistan, the Philippines, the UAE, and Vietnam, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of circular welded pipe from Oman, Pakistan, the Philippines, the UAE, and Vietnam are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law.<sup>62</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the

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<sup>57</sup> See Oman AD Initiation Checklist.

<sup>58</sup> See Pakistan AD Initiation Checklist.

<sup>59</sup> See Philippines AD Initiation Checklist.

<sup>60</sup> See UAE AD Initiation Checklist.

<sup>61</sup> See Vietnam AD Initiation Checklist.

<sup>62</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

Act, which relate to determinations of material injury by the ITC.<sup>63</sup> The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.<sup>64</sup>

### Respondent Selection

Petitioners named six companies in Pakistan,<sup>65</sup> two companies in the Philippines,<sup>66</sup> and eight companies in the UAE,<sup>67</sup> as producers/exporters of circular welded pipe. Following standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of companies is large and cannot individually examine each company based upon the Department's resources, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed with the scope in Appendix I, below. We also intend to place the CBP data on the record within five business days of publication of this Federal Register notice. Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of these investigations. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments.

Although the Department normally relies on the number of producers/exporters identified in the petition and/or import data from CBP to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, Petitioners identified only one company as a producer/exporter of circular welded pipe in Oman: Al Jazeera Tube Steel

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<sup>63</sup> See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) (Applicability Notice).

<sup>64</sup> Id. at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>65</sup> See Volume I of the Petitions, at Exhibit I-3.

<sup>66</sup> Id.

<sup>67</sup> Id.

Company.<sup>68</sup> We currently know of no additional producers/exporters of subject merchandise from Oman. Accordingly, the Department intends to examine all known producers/exporters in this investigation (i.e., the company cited above).

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 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.

With respect to Vietnam, Petitioners named three companies as producers/exporters of circular welded pipe.<sup>69</sup> In accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity-and-value (Q&V) questionnaires to each potential respondent and base respondent selection on the responses received. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at <http://www.trade.gov/enforcement/news.asp>.

Exporters/producers of circular welded pipe from Vietnam that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement and Compliance website. The Q&V response must be submitted by all Vietnam exporters/producers no later than December 1, 2015, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS.

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<sup>68</sup> Id.

<sup>69</sup> Id.

## Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>70</sup> The specific requirements for submitting a separate-rate application in the Vietnam investigation are outlined in detail in the application itself, which is available on the Department's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>71</sup> Exporters and producers who submit a separate-rate application and are selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that respondents from Vietnam submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

## Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice

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<sup>70</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>71</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>72</sup>

#### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Oman, Pakistan, the Philippines, the UAE, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of circular welded pipe from Oman, Pakistan, the Philippines, the UAE, and/or Vietnam are materially injuring or threatening material injury to a U.S. industry.<sup>73</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country;<sup>74</sup> otherwise, these investigations 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

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<sup>72</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

<sup>73</sup> See section 733(a) of the Act.

<sup>74</sup> Id.

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). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>75</sup> 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.<sup>76</sup> 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. Please review the regulations prior to submitting factual information in these investigations.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET 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

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<sup>75</sup> See 19 CFR 351.301(b).

<sup>76</sup> See 19 CFR 351.301(b)(2).

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 these investigations.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>77</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>78</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO 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 these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

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<sup>77</sup> See section 782(b) of the Act.

<sup>78</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).

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

Dated: November 17, 2015.

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Paul Piquado,  
Assistant Secretary  
for Enforcement and Compliance.

## Appendix I

### Scope of the Investigations

These investigations cover welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (O.D.) not more than nominal 16 inches (406.4 mm), regardless of wall thickness, surface finish (e.g., black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (e.g., American Society for Testing and Materials International (ASTM), proprietary, or other), generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term “carbon quality” includes products in which:

- (a) iron predominates, by weight, over each of the other contained elements;
- (b) the carbon content is 2 percent or less, by weight; and
- (c) none of the elements listed below exceeds the quantity, by weight, as indicated:
  - (i) 1.80 percent of manganese;
  - (ii) 2.25 percent of silicon;
  - (iii) 1.00 percent of copper;
  - (iv) 0.50 percent of aluminum;
  - (v) 1.25 percent of chromium;
  - (vi) 0.30 percent of cobalt;
  - (vii) 0.40 percent of lead;
  - (viii) 1.25 percent of nickel;
  - (ix) 0.30 percent of tungsten;
  - (x) 0.15 percent of molybdenum;
  - (xi) 0.10 percent of niobium;
  - (xii) 0.41 percent of titanium;
  - (xiii) 0.15 percent of vanadium; or
  - (xiv) 0.15 percent of zirconium.

Covered products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (API) API-5L, is also covered by the scope of these investigations when it meets the physical description set forth above. Covered products may also possess one

or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in nominal O.D.; has a galvanized and/or painted (e.g., polyester coated) surface finish; or has a threaded and/or coupled end finish.

Standard pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications.

Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications.

Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Products that meet the physical description set forth above but are made to the following nominal outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, are included despite being certified to ASTM mechanical tubing specifications:

O.D. in inches (nominal)	Wall thickness in inches (nominal)	Gage
1.315	0.035	20
1.315	0.047	18
1.315	0.055	17
1.315	0.065	16
1.315	0.072	15
1.315	0.083	14
1.315	0.095	13
1.660	0.055	17
1.660	0.065	16
1.660	0.083	14
1.660	0.095	13
1.660	0.109	12
1.900	0.047	18
1.900	0.055	17
1.900	0.065	16
1.900	0.072	15
1.900	0.095	13
1.900	0.109	12
2.375	0.047	18
2.375	0.055	17
2.375	0.065	16
2.375	0.072	15
2.375	0.095	13
2.375	0.109	12
2.375	0.120	11

2.875	0.109	12
2.875	0.165	8
3.500	0.109	12
3.500	0.165	8
4.000	0.148	9
4.000	0.165	8
4.500	0.203	7

The scope of these investigations does not include:

- (a) pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn, which are defined by standards such as ASTM A178 or ASTM A192;
- (b) finished electrical conduit, *i.e.*, Electrical Rigid Steel Conduit (aka Electrical Rigid Metal Conduit and Electrical Rigid Metal Steel Conduit), Finished Electrical Metallic Tubing, and Electrical Intermediate Metal Conduit, which are defined by specifications such as American National Standard (ANSI) C80.1-2005, ANSI C80.3-2005, or ANSI C80.6-2005, and Underwriters Laboratories Inc. (UL) UL-6, UL-797, or UL-1242;
- (c) finished scaffolding, *i.e.*, component parts of final, finished scaffolding that enter the United States unassembled as a “kit.” A kit is understood to mean a packaged combination of component parts that contains, at the time of importation, all of the necessary component parts to fully assemble final, finished scaffolding;
- (d) tube and pipe hollows for redrawing;
- (e) oil country tubular goods produced to API specifications;
- (f) line pipe produced to only API specifications, such as API 5L, and not multi-stenciled; and
- (g) mechanical tubing, whether or not cold-drawn, other than what is included in the above paragraphs.

The products subject to these investigations are currently classifiable in Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5032, 7306.50.5030, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope.

[FR Doc. 2015-29988 Filed: 11/24/2015 8:45 am; Publication Date: 11/25/2015]