



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A-122-859)

100- To 150-Seat Large Civil Aircraft from Canada: Initiation of Less-Than-Fair-Value Investigation

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

DATES: Effective May 17, 2017.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan at (202) 482-4081 or Lilit Astvatsatrian at (202) 482-6412, AD/CVD Operations, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

The Petition

On April 27, 2017, the Department of Commerce (the Department) received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of 100- to 150- seat large civil aircraft (aircraft) from Canada, filed in proper form, on behalf of The Boeing Company (Boeing) (the petitioner).¹ The petitioner is a domestic producer of aircraft.²

¹ See Letter to the Secretary of Commerce from the petitioner “In the Matter of 100-To 150-Seat Large Civil Aircraft from Canada -- Petitions for the Imposition of Antidumping and Countervailing Duties” (April 27, 2017) (the Petition).

² See Petition, at 26.

On May 2, 2017, the Department requested additional information and clarification of certain areas of the Petition.³ The petitioner filed responses to these requests on May 4, 2017.⁴ On May 9, 2017, the petitioner filed an additional amendment to the Petition.⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of aircraft from Canada 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 threatening material injury to an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information that is reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed this Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that the petitioner is requesting.⁶

Period of Investigation

Because the Petition was filed on April 27, 2017, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is April 1, 2016, through March 31, 2017.

³ See Department Letter re: Petition for the Imposition of Antidumping Duties on Imports of 100- to 150-Seat Large Civil Aircraft from Canada: Supplemental Questions, dated May 2, 2017 (General Issues Supplemental Questionnaire); see also Department Letter re: Petition for the Imposition of Antidumping Duties on Imports of 100- to 150-Seat Large Civil Aircraft from Canada: Supplemental Questions, dated May 2, 2017 (Antidumping Supplemental Questionnaire).

⁴ See Letter from the petitioner re: 100- to-150-Seat Large Civil Aircraft from Canada – Petitioner’s Response to AD Supplemental Questionnaire, dated May 4, 2017 (Petition Supplement); see also Letter from the petitioner re: 100- to-150-Seat Large Civil Aircraft from Canada – Petitioner’s Response to Supplemental Questions, dated May 2, 2017 (General Issues Supplement).

⁵ See Letter from the petitioner re: 100- to 150- Seat Large Civil Aircraft from Canada – Proposed Scope Clarification, dated May 9, 2017 (Scope Clarification).

⁶ See “Determination of Industry Support for the Petition” section below.

Scope of the Investigation

The product covered by this investigation is aircraft from Canada. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

Comments on Scope of the Investigation

We received additional information from the petitioner 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.⁷

As discussed in the preamble to the Department’s regulations,⁸ we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope). The Department will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination in this investigation and the companion CVD investigation concurrently being initiated. If scope comments include factual information,⁹ all such factual information should be limited to public information. The Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, June 6, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information (and also should be limited to public information), must be filed by 5:00 p.m. ET on Friday, June 16, 2017, which is 10 calendar days from the deadline for initial comments.¹⁰ All such comments must be filed on the record of the concurrent CVD investigation.

⁷ *See* Scope Clarification.

⁸ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 2007).

⁹ *See* 19 CFR 351.102(b)(21).

¹⁰ *See* 19 CFR 351.303(b)(1).

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. As stated above, all such comments and information must be filed on the record of the concurrent CVD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement & Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).¹¹ 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, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaire

The Department is giving interested parties an opportunity to provide comments on the appropriate physical characteristics of aircraft to be reported in response to the Department's AD questionnaire. This information will be used to identify the key physical characteristics of the

¹¹ 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 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>.

merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they determine 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. However, interested parties should note that it is not always appropriate to use all product characteristics as product-comparison criteria. The Department bases product-comparison criteria on meaningful commercial differences between products. In other words, although there may be numerous physical product characteristics utilized by manufacturers to describe aircraft, it may be that only a select few product characteristics are 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.

In order to consider the suggestions of interested parties in developing product characteristics, all product characteristics comments must be filed by 5:00 P.M. ET on May 31, 2017. Any rebuttal comments, which may include factual information (and should be limited to public information), must be filed by 5:00 p.m. EST on June 12, 2017, which is the first business day 10 calendar days from the deadline for initial comments.¹² All comments and submissions to the Department must be filed electronically using ACCESS, as explained above.

¹² See 19 CFR 351.303(b)(1) (“For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.”)

Determination of Industry Support for the Petition

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,¹³ 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

¹³ 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.¹⁴

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 petitioner does 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 aircraft, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹⁵

In determining whether the petitioner has standing under section 732(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 petitioner provided its own information regarding production of the domestic like product in 2016.¹⁶ The petitioner states that there are no other producers of

¹⁴See *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)).

¹⁵ For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: 100- to 150-Seat Large Civil Aircraft from Canada (Canada AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering 100- to 150-Seat Large Civil Aircraft from Canada, (Attachment II). This checklist is dated concurrently with, and hereby adopted by, 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.

¹⁶ See General Issues Supplement, at 3-4 and Exhibit Supp.-8.

aircraft in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.¹⁷

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to the Department indicates that the petitioner has established industry support for the Petition.¹⁸ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production 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).¹⁹ Second, the domestic producers (or workers) 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.²⁰ Finally, 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.²¹ 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.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has

¹⁷ See Petition, at 26, 44-45 and Exhibits 44 and 67.

¹⁸ See Canada AD Initiation Checklist, at Attachment II.

¹⁹ See section 732(c)(4)(D) of the Act; *see also* Canada AD Initiation Checklist, at Attachment II.

²⁰ See Canada AD Initiation Checklist, at Attachment II.

²¹ *Id.*

demonstrated sufficient industry support with respect to the AD investigation that it is requesting that the Department initiate.²²

Allegations and Evidence of Threat of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is threatened with material injury, by reason of imports (or sales for importation) of subject merchandise at less than normal value (NV). In addition, the petitioner alleges and provides supporting evidence that there is the potential that subject imports will imminently exceed the negligibility threshold provided under 771(24)(A) of the Act. The petitioner's arguments regarding the potential for imports from Canada to imminently exceed the negligibility threshold 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.²³

The petitioner contends that the threat of material injury is illustrated by the domestic industry's vulnerability, existing unused production capacity available to imminently and substantially increase exports of subject merchandise to the United States, significant increase in the market penetration of subject imports and likelihood of further increase in the volume and market penetration of subject imports, adverse price effects on domestic prices, and negative effects on product development and production.²⁴ We have assessed the allegations and supporting evidence regarding threat of material injury and causation, and we have determined

²² *Id.*

²³ *See* Petition, at 28-29 and Exhibit 44.

²⁴ *Id.*, at 1-24, 28-29, 46-78 and Exhibits 1-12, 17, 21-22, 24, 36-39, 40-41, 43-54, 66, 97-106, 108-109; *see also* General Issues Supplement, at 2-3 and Exhibits Supp.-6 and Supp.-7.

that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁵

Allegation of Sales at Less-Than-Fair Value

The following is a description of the allegation of sales at less-than-fair value upon which the Department based its decision to initiate this AD investigation of imports of aircraft from Canada. The sources of data for the U.S. price and NV, as well as, where applicable, related price adjustments, are discussed in greater detail in the initiation checklist, issued concurrently with this notice.²⁶

Export Price

The petitioner based the U.S. price on future aircraft purchase commitments identified in the U.S. customer's financial statements that relate to a 2016 contract between the customer and the Canadian producer, Bombardier, Inc. (Bombardier), for the purchase of Bombardier's CS100 series aircraft.²⁷ The petitioner made deductions from the U.S. price for ancillary contract charges consistent with industry practice.²⁸

Normal Value

Home Market Price

The petitioner provided home market price information based on an article in *The Globe and Mail* citing industry sources as to the price to be paid by Air Canada, after discounts, for aircraft purchased from Bombardier.²⁹ The petitioner stated that the finalized order related to the home market sale for an aircraft model comparable to the aircraft model sold in the United

²⁵ See Canada AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Threat of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering 100- to 150-Seat Large Civil Aircraft from Canada.

²⁶ See generally Canada AD Initiation Checklist.

²⁷ *Id.*; see also Petition, at Exhibit 42.

²⁸ *Id.*; see also Petition, at 118-110 and Exhibits 1 and 42.

²⁹ *Id.*, at 6-7 see also Petition at 120 and Exhibits 41, 42, 148 and 154.

States.³⁰

The petitioner provided information indicating that sales of aircraft in the home market were made at prices below the cost of production (COP) and, as a result, calculated NV based on constructed value (CV).³¹ For further discussion of COP and NV based on CV, *see* below.³²

Cost of Production and Constructed Value

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); selling, general, and administrative (SG&A) expenses; financial expenses; and packing expenses. The petitioner calculated COM based on published information and estimating tools that it uses in the normal course of business.³³ The petitioner calculated the total recurring manufacturing costs included in COM by dividing the total estimated recurring costs over the life cycle of Bombardier's C-Series program by the projected number of units produced over the same period based on Bombardier's published delivery schedule and announced production rates.³⁴ To calculate non-recurring research and development, the petitioner divided Bombardier's publicly disclosed non-recurring expenses by the projected number of units to be produced.³⁵ To determine factory overhead, SG&A, and financial expense rates, the petitioner relied on the data in Bombardier's 2016 audited financial statements.³⁶

³⁰ *Id.*; *see also* Petition, at 120-121.

³¹ *Id.*

³² In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for these investigations, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

³³ *See* Canada AD Initiation Checklist.

³⁴ *Id.*; *see also* Petition, at 123-124.

³⁵ *Id.*; *see also* Petition, at 124-125

³⁶ *Id.*; *see also* Petition, at 125.

Because the home market price fell below COP, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, the petitioner calculated NV based on CV.³⁷ Pursuant to section 773(e) of the Act, CV consists of COM, SG&A, financial expenses, packing expenses, and profit. The petitioner calculated CV using the same average COM, SG&A expenses, and financial expenses used to calculate COP.³⁸ Since Bombardier's financial statements reflect a loss, and there are no other financial statements available for a large aircraft manufacturer in Canada, the petitioner relied on Boeing's 2016 audited financial statements to calculate the CV profit rate.³⁹

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of aircraft from Canada, are being, or are likely to be, sold in the United States at less-than-fair value. Based on a comparison of EP to NV (based on CV), in accordance with sections 772, and 773(a) and (e) of the Act, the estimated dumping margin for aircraft is 79.82 percent.⁴⁰

Initiation of Less-than-Fair-Value Investigation

Based upon our examination of the AD Petition on aircraft from Canada, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of aircraft from Canada 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 determination in this investigation no later than 140 days after the date of this initiation.

³⁷ *Id.*; see also Petition, at 126.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See Canada AD Initiation Checklist.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the Act.⁴¹ The TPEA 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 Act, which relate to determinations of material injury by the ITC.⁴² 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 this investigation.⁴³

Respondent Selection

Although the Department normally relies on the number of producers/exporters identified in the petition and/or on import data from U.S. Customs and Border Protection (CBP) to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, the petitioner identified only one company as a producer/exporter of aircraft from Canada: Bombardier, Inc. We currently know of no additional producers/exporters of the merchandise under consideration from Canada and the petitioner provided information from an independent source as support. Accordingly, the Department intends to examine the sole producer/exporter identified in the petition. Parties wishing to comment on respondent selection must do so within five days of the publication of this notice in the *Federal Register*. Any such comments must be submitted no later than 5:00 p.m. ET on the due date, and must be filed electronically via ACCESS.

⁴¹ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁴² 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*).

⁴³ *Id.*, at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of Canada *via* ACCESS. To the extent practicable, we will provide a copy of the public version of the Petition to the one known exporter 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 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of aircraft from Canada are materially injuring, or threatening material injury to, a U.S. industry.⁴⁴ A negative ITC determination will result in the investigation being terminated;⁴⁵ 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

⁴⁴ See section 733(a) of the Act.

⁴⁵ *Id.*

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 expiration of the time limit established under CFR 19 351.301. 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 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.⁴⁶ 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*.⁴⁷ 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 Administrative Protective Order (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 this investigation 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)).

⁴⁶ See section 782(b) of the Act.

⁴⁷ 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.

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR
351.203(c).

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Dated: May 17, 2017

Appendix

Scope of the Investigation

The merchandise covered by this investigation is aircraft, regardless of seating configuration, that have a standard 100- to 150-seat two-class seating capacity and a minimum 2,900 nautical mile range, as these terms are defined below.

“Standard 100- to 150-seat two-class seating capacity” refers to the capacity to accommodate 100 to 150 passengers, when eight passenger seats are configured for a 36-inch pitch, and the remaining passenger seats are configured for a 32-inch pitch. “Pitch” is the distance between a point on one seat and the same point on the seat in front of it.

“Standard 100- to 150-seat two-class seating capacity” does not delineate the number of seats actually in a subject aircraft or the actual seating configuration of a subject aircraft. Thus, the number of seats actually in a subject aircraft may be below 100 or exceed 150.

A “minimum 2,900 nautical mile range” means:

- (i) able to transport between 100 and 150 passengers and their luggage on routes equal to or longer than 2,900 nautical miles; or
- (ii) covered by a U.S. Federal Aviation Administration (FAA) type certificate or supplemental type certificate that also covers other aircraft with a minimum 2,900 nautical mile range.

The scope includes all aircraft covered by the description above, regardless of whether they enter the United States fully or partially assembled, and regardless of whether, at the time of entry into the United States, they are approved for use by the FAA.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8802.40.0040. The merchandise may alternatively be classifiable under HTSUS subheading 8802.40.0090. Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

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