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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(C-570-063)

Cast Iron Soil Pipe Fittings from the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: Applicable August 2, 2017

FOR FURTHER INFORMATION CONTACT: Dennis McClure at (202) 482-5973, 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 July 13, 2017, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of cast iron soil pipe fittings (soil pipe fittings) from the People's Republic of China (PRC), filed in proper form, on behalf of the Cast Iron Soil Pipe Institute (the petitioner).¹ The petitioner is a trade association, whose members are all domestic producers of soil pipe fittings.² The CVD petition was accompanied by an antidumping duty (AD) petition for soil pipe fittings from the PRC.³

¹ See Letter to the Secretary of Commerce from the petitioner re: Cast Iron Pipe Fittings from the People's Republic of China – Petition for the Imposition of Antidumping and Countervailing Duties, dated July 13, 2017 (the Petition).

² See Volume I of the Petition, at 2. The individual members of the Cast Iron Soil Pipe Institute are AB&I Foundry, Charlotte Pipe & Foundry, and Tyler Pipe.

³ See Volume II of the Petition.

On July 17, 2017, the petitioner filed an amendment to Volume I of the Petition.⁴ On July 18, 2017, the Department requested additional information and clarification of certain areas of the Petition.⁵ The petitioner filed responses to these requests on July 20, 2017.⁶

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of the PRC (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, with respect to imports of soil pipe fittings from the PRC, 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 and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(E) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the CVD investigation that the petitioner is requesting.⁷

⁴ See Letter from the petitioner, “Amendment to Petitions for the Imposition of Antidumping and Countervailing Duties: Cast Iron Soil Pipe Fittings from the People’s Republic of China,” dated July 17, 2017 (Petition Amendment).

⁵ See Letters from the Department, “Petition for the Imposition of Antidumping Duties on Imports of Cast Iron Soil Pipe Fittings from the People’s Republic of China: Supplemental Questions,” dated July 18, 2017, and “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Cast Iron Soil Pipe Fittings from the People’s Republic of China: Supplemental Questions,” dated July 18, 2017.

⁶ See Letters from the petitioner “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Response to Supplemental Questions – General Issues,” dated July 20, 2017 (General Issues Supplement), and “Cast Iron Pipe Fittings from the People’s Republic of China – Petitioner’s Response to Supplemental Questionnaire Concerning Volume III,” dated July 20, 2017 (CVD Supplement).

⁷ See “Determination of Industry Support for the Petition” section, below.

Period of Investigation

Because the Petition was filed on July 13, 2017, pursuant to 19 CFR 351.204(b)(2), the period of investigation is January 1, 2016, through December 31, 2016.⁸

Scope of the Investigation

The product covered by this investigation is soil pipe fittings from the PRC. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in the Appendix to this notice.

Comments on Scope of the Investigation

During our review of the Petition, we discussed with the petitioner the language 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.⁹ On July 20, 2017, the petitioner filed a revision to the scope language.¹⁰

As discussed in the preamble to the Department’s regulations,¹¹ 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 the interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,¹² all such factual information should be limited to public information. In order to facilitate preparation of its questionnaire, the Department requests all interested parties to submit such comments by 5:00 PM Eastern Time (ET) on Tuesday, August 22, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal

⁸ *See* 19 CFR 351.204(b)(2).

⁹ *See* Memorandum, “Antidumping Duty Investigation of Cast Iron Soil Pipe Fittings from the People’s Republic of China: Telephone Call with Petitioner, Re: Scope of the Investigation,” dated July 18, 2017.

¹⁰ *See* Letter to the Secretary of Commerce from the petitioner re: “Cast Iron Pipe Fittings From the People’s Republic of China: Response to Supplemental Questions – Scope,” dated July 20, 2017.

¹¹ *See Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

¹² *See* 19 CFR 351.102(b)(21).

comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, September 1, 2017, which is 10 calendar days from the deadline for initial comments.¹³ All such comments must be filed on the record of each of the concurrent AD and CVD investigations.

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 must be filed on the record of each of the concurrent AD and CVD investigations.

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).¹⁴ 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 & 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.

¹³ See 19 CFR 351.303(b).

¹⁴ See 19 CFR 351.303 (for general filing requirements); *see also 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>.

Consultations

Pursuant to section 702(b)(4)(A) of the Act, the Department notified representatives of the GOC of the receipt of the Petition, and provided them the opportunity for consultations with respect to the CVD Petition.¹⁵ In response to the Department's invitation, the GOC filed comments concerning the Petition.¹⁶ The invitation letter and comments regarding the Petition are on file electronically *via* ACCESS.

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

¹⁵ See Letter to the Embassy of the PRC from the Department, "Countervailing Duty Petition on Cast Iron Soil Pipe Fittings from the People's Republic of China" (July 24, 2017).

¹⁶ See Letter to the Department from the Ministry of Commerce of the People's Republic of China, "Comments Regarding Countervailing Duty Petition on Cast Iron Soil Pipe Fittings" (August 1, 2017).

like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹⁷ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁸

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 soil pipe fittings, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁹

¹⁷ See section 771(10) of the Act.

¹⁸ 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)).

¹⁹ For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Cast Iron Soil Pipe Fittings from the People’s Republic of China (CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Cast Iron Soil Pipe Fittings (Soil Pipe Fittings) from the People’s Republic of China (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.

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition and the petitioner's subsequent submissions with reference to the domestic like product as defined in the "Scope of the Investigation," in the Appendix to this notice. The petitioner provided the 2016 production of the domestic like product by its members.²⁰ The petitioner states that its members are the only known producers of soil pipe fittings in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.²¹

Our review of the data provided in the Petition, Petition Amendment, General Issues Supplement, and other information readily available to the Department indicates that the petitioner has established industry support for the Petition.²² 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).²³ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁴ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product

²⁰ See Letter from the petitioner, "Amendment to Petitions for the Imposition of Antidumping and Countervailing Duties: Cast Iron Soil Pipe Fittings from the People's Republic of China," dated July 17, 2017 (Petition Amendment), at 2; *see also* General Issues Supplement, at 1.

²¹ See Petition, at 2; *see also* General Issues Supplement, at 1 and Exhibit 2.

²² See CVD Initiation Checklist, at Attachment II.

²³ See section 702(c)(4)(D) of the Act; *see also* CVD Initiation Checklist, at Attachment II.

²⁴ See CVD Initiation Checklist, at Attachment II.

produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁵ 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 petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(E) of the Act, and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting that the Department initiate.²⁶

Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁷

The petitioner contends that the industry’s injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; and negative impact on profit.²⁸ We have assessed the allegations and supporting evidence regarding

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Volume I of the Petition, at 11-12, General Issues Supplement, at 3 and Exhibit 3.

²⁸ See Volume I of the Petition, at 9, 11-20 and Exhibits I-5 and I-7 through I-13; see also Petition Amendment, at 1-

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.²⁹

Initiation of CVD Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

The petitioner alleges that producers/exporters of soil pipe fittings in the PRC benefited from countervailable subsidies bestowed by the GOC. The Department 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, and/or exporters of soil pipe fittings from the PRC receive countervailable subsidies from the GOC.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.³⁰ 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 Act, which relate to determinations of material injury by the

3; and General Issues Supplement, at 3 and Exhibit 3.

²⁹ See CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Cast Iron Soil Pipe Fittings from the People's Republic of China.

³⁰ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

ITC.³¹ The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.³²

Subsidy Allegations

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 32 alleged programs.³³ For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the 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 determination in this investigation no later than 65 days after the date of initiation.

Respondent Selection

The petitioner named numerous companies as producers/exporters of soil pipe fittings from the PRC. The Department intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event the Department determines that the number of companies is large and it cannot individually examine each company based upon the Department's resources, where appropriate, the Department intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of soil pipe fittings from the PRC during the period of investigation under the appropriate Harmonized Tariff Schedule of the United States number listed in the "Scope of the Investigation," in the Appendix.

³¹ *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). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

³² *Id.*, at 46794-95.

³³ The petitioner originally filed allegations on 33 programs. However, on July 20, 2017, the petitioner withdrew its request that we initiate a CVD investigation on the "Provision of Land in Industrial Zones for Less than Adequate Remuneration." *See* CVD Supplement at 10.

On July 21, 2017, the Department released CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.³⁴ The Department will not accept rebuttal comments regarding the CBP data or respondent selection.

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 website at <http://enforcement.trade.gov/apo>.

Comments for this investigation 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 finalize our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC *via* ACCESS. Because of the large number of producers/exporters identified in the Petition,³⁵ the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

³⁴ See Memorandum, “*Cast Iron Soil Pipe Fittings from the People’s Republic of China Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection*,” dated July 21, 2017.

³⁵ See Volume I of the Petition, at Exhibit I-4.

ITC Notification

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

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of soil pipe fittings from the PRC are materially injuring, or threatening material injury to, a U.S. industry.³⁶ A negative ITC determination will result in the investigation being terminated;³⁷ 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) through (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 are advised to review the regulations prior to submitting factual information in this investigation.

³⁶ See section 703(a)(2) of the Act.

³⁷ See section 703(a)(1) of the Act.

Extension of Time Limits

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 19 CFR 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 AM 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.³⁸ Parties must use the certification formats provided in 19 CFR 351.303(g).³⁹ ⁴⁰ The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

³⁸ See section 782(b) of the Act.

³⁹ See also *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁴⁰ 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.

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 at 19 CFR 351.103(d)).

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

Carole Showers
Executive Director, Office of Policy
performing the duties of the
Deputy Assistant Secretary for Enforcement and Compliance

August 2, 2017

Appendix

Scope of the Investigation

The merchandise covered by this investigation is cast iron soil pipe fittings, finished and unfinished, regardless of industry or proprietary specifications, and regardless of size. Cast iron soil pipe fittings are nonmalleable iron castings of various designs and sizes, including, but not limited to, bends, tees, wyes, traps, drains, and other common or special fittings, with or without side inlets.

Cast iron soil pipe fittings are classified into two major types – hubless and hub and spigot. Hubless cast iron soil pipe fittings are manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888. Hub and spigot pipe fittings have hubs into which the spigot (plain end) of the pipe or fitting is inserted. Cast iron soil pipe fittings are generally distinguished from other types of nonmalleable cast iron fittings by the manner in which they are connected to cast iron soil pipe and other fittings.

The subject imports are normally classified in subheading 7307.11.0045 of the Harmonized Tariff Schedule of the United States (HTSUS): Cast fittings of nonmalleable cast iron for cast iron soil pipe. The HTSUS subheading and specifications are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

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