

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-974]

Certain Steel Wheels From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* April 26, 2011.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Eric B. Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-4793 and (202) 482-6071, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On March 30, 2011, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of certain steel wheels (steel wheels) from the People's Republic of China (the PRC) filed in proper form by Accuride Corporation (Accuride) and Hayes Lemmerz International, Inc. (collectively, Petitioners).¹

On April 6, 2011, the Department issued supplemental questions to Petitioners regarding certain issues in the Petition.² Petitioners responded to the questions with supplemental

¹ See Petition for the Imposition of Countervailing Duties (Petition), filed on March 30, 2011. A public version of the Petition and all other public documents and public versions are available on the public file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

² See April 6, 2011, Petition for the Imposition of Countervailing Duties on Steel Wheels from the People's Republic of China: Supplemental Questions, and April 6, 2011, Petition for the Imposition of Antidumping Duties on Steel Wheels from the People's Republic of China: Supplemental Questions.

responses on April 11, 2011.³ On April 12, 2011, the Department requested additional information on certain issues.⁴ On April 14, 2011, Petitioners provided a response to the Department's requests.⁵ On April 14, 2011, the Department requested further clarification with respect to the Petition, which Petitioners submitted on April 15, 2011.⁶ On April 18, 2011, the Department further clarified the scope of the Petition with Petitioners.⁷

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that producers/exporters of steel wheels from the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, and threaten further material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties, as defined in section 771(9)(C) of the Act, and they have demonstrated sufficient industry support with respect to the investigation that they are requesting the Department to initiate (*see* "Determination of Industry Support for the Petition" below). The Department also notes that, pursuant to section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioners supporting their allegations.

Period of Investigation

The proposed period of investigation is January 1, 2010, through December 31, 2010.

Scope of Investigation

The products covered by this investigation are steel wheels from the PRC. For a full description of the scope of the investigation, *see* "Scope of the Investigation," in Appendix I of this notice.

³ See Supplement to the AD/CVD Petitions dated April 11, 2011 (First Supplement to the AD/CVD Petitions).

⁴ See April 12, 2011, Memorandum to the File, regarding "Phone Conference with and Request for Further Information from Petitioners."

⁵ See Supplement to the AD/CVD Petitions dated April 14, 2011 (Second Supplement to the AD/CVD Petitions).

⁶ See Supplement to the AD/CVD Petitions dated April 15, 2011 (Third Supplement to the AD/CVD Petitions).

⁷ See April 18, 2011, Memorandum to the File, regarding "Petitions for the Imposition of Antidumping and Countervailing Duties on Steel Wheels from the People's Republic of China—Clarification of Scope Language."

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by Monday, May 9, 2011, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on March 30, 2011, the Department invited representatives of the Government of the PRC (the GOC) for consultations with respect to the CVD petition. On April 14, 2011, the Department held consultations with representatives of the GOC via a conference call. *See* Memorandum on Consultations with Officials from the Government of the People's Republic of China on the Countervailing Duty Petitions regarding Steel Wheels and Galvanized Steel Wire (April 15, 2011).

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in

order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The 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 (*see* section 771(10) of the Act), 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.⁸ Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that steel wheels constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.⁹

⁸ *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), *cert. denied* 492 U.S. 919 (1989).

⁹ For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Certain Steel Wheels from the People’s Republic of China (Initiation Checklist), at Attachment II, Analysis of Industry Support for the Petitions Covering Steel Wheels from the People’s Republic of China, on file in the CRU.

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of Investigation” section in Appendix I of this notice. To establish industry support, Petitioners provided their production of the domestic like product in 2010.¹⁰ Petitioners compared their production to the estimated total production of the domestic like product for the entire domestic industry.¹¹ To support their estimation of industry support, Petitioners provided an affidavit from an employee of Accuride, who has 40 years professional experience in the steel industry.¹² We have relied upon data Petitioners provided for purposes of measuring industry support.¹³

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. 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, we find that the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁴ Second, we find that 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.¹⁵ Finally, we find that 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 produced by that portion of the industry expressing support for, or opposition to, the Petition. 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 Petitioners filed the Petition on behalf of the

¹⁰ *See* Volume I of the Petition at I-3.

¹¹ *See id.*

¹² *See* Second Supplement to the AD/CVD Petitions, at 1, and Exhibit 1.

¹³ For further discussion, *see* Initiation Checklist at Attachment II.

¹⁴ *See* section 702(c)(4)(D) of the Act, and Initiation Checklist at Attachment II.

¹⁵ *See* Initiation Checklist at Attachment II.

domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate.¹⁶

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 subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of steel wheels from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industry producing steel wheels. In addition, Petitioners provide data that demonstrates that the alleged imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industry’s injured condition is illustrated by reduced market share, lost sales and revenues, reduced production, reduced capacity utilization rate, decreased shipments, underselling, reduced employment, reduced hours worked, and reduced wages paid, decline in financial performance, and an increase in import penetration.¹⁷ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.¹⁸

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a 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(s) supporting the allegations. The Department has examined the Petition on steel wheels from the PRC and finds

¹⁶ *See id.*

¹⁷ *See* Volume I of the Petition, at I-6 to 12, and Exhibits 1-4 to 1-9.

¹⁸ *See* Initiation Checklist at Attachment III.

that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of steel wheels in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

A. Preferential Loans and Interest Rates

1. Policy Loans to the Steel Wheels Industry.
2. Treasury Bond Loans.
3. Preferential Loans for State-Owned Enterprises (SOEs).

B. Income Tax and Other Direct Tax Benefit Program

1. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment.

C. Subsidies for Foreign Invested Enterprises (FIEs)

1. Two Free, Three Half Program.
2. Local Income Tax Exemption and Reduction Programs for Productive FIEs.
3. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises.
4. Income Tax Reductions for Export-Oriented FIEs.

D. Indirect Tax and Tariff Exemption Programs

1. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises. Using Imported Equipment In Encouraged Industries.
2. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring.
3. Export Subsidies Characterized as "VAT Rebates."

E. Government Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)

1. Provision of Land to SOEs for LTAR.
2. Provision of Land Use Rights Within Donghai Economic Development Zone.¹⁹
3. Provision of Hot-Rolled Steel for LTAR.
4. Provision of Electricity for LTAR.

¹⁹This program was alleged as "Provision of Land Use Rights Within Designated Geographical Areas for Less Than Adequate Remuneration" in the Petition (see page III-22).

F. Grant Programs

1. State Key Technology Renovation Fund.
2. Export Assistance Grants in Zhejiang Province.²⁰
3. GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands.

For further information explaining why the Department is investigating these programs, see Initiation Checklist.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

A. Subsidies to Steel Wheel Producers Located in Economic Development Zones

B. Privatization Related Subsidies to Zhengxing Wheel Group Co., Ltd.

1. Debt Forgiveness.
2. Non-Arm's Length Privatization.

C. Export Loans From Policy Banks and State-Owned Commercial Banks

D. Currency Manipulation

For further information explaining why the Department is not investigating these programs, see Initiation Checklist.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of investigation. We intend to release the CBP data under the Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of the announcement of the initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://ia.ita.doc.gov/apo>.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the GOC. Because of

²⁰This program was alleged as "Export Assistance Grants" in the Petition (see page III-25).

the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified 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 is filed, whether there is a reasonable indication that imports of subsidized steel wheels from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. See section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective orders 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. 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)).

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011. See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule*. The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting

party does not comply with the revised certification requirements.

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

Dated: April 19, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Attachment I

Scope of the Investigation

The products covered by this investigation are steel wheels with a wheel diameter of 18 to 24.5 inches. Rims and discs for such wheels are included, whether imported as an assembly or separately. These products are used with both tubed and tubeless tires. Steel wheels, whether or not attached to tires or axles, are included. However, if the steel wheels are imported as an assembly attached to tires or axles, the tire or axle is not covered by the scope. The scope includes steel wheels, discs, and rims of carbon and/or alloy composition and clad wheels, discs, and rims when carbon or alloy steel represents more than fifty percent of the product by weight. The scope includes wheels, rims, and discs, whether coated or uncoated, regardless of the type of coating.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 8708.70.05.00, 8708.70.25.00, 8708.70.45.30, and 8708.70.60.30. These HTSUS numbers are provided for convenience and customs purposes only; the written description of the scope is dispositive.

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