

of initiation, the Department will issue a final determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because no domestic interested party in the sunset reviews of collated roofing nails from the PRC and Taiwan responded to the notice of initiation by the applicable deadline, we are revoking these antidumping duty orders.

Effective Date of Revocation

Pursuant to sections 751(c)(3)(A) and 751(d)(2) of the Act, and 19 CFR 351.222(i)(2)(i), the Department will instruct the Customs Service to terminate the suspension of liquidation of the merchandise subject to these orders entered, or withdrawn from warehouse, on or after November 19, 2002. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: November 19, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-881

Notice of Initiation of Antidumping Duty Investigation: Certain Malleable Iron Pipe Fittings From the People's Republic of China

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

EFFECTIVE DATE: November 25, 2002.

FOR FURTHER INFORMATION CONTACT: Anya Naschak or Helen Kramer at (202) 482-6375 or (202) 482-0405, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Initiation of Investigation

The Applicable Statute and Regulations: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR Part 351 (2002).

The Petition

On October 30, 2002, the Department received a petition filed in proper form by Anvil International, Inc., and Ward Manufacturing Inc. (collectively, the petitioners). The Department received information supplementing the petition on November 7, 2002, November 12, 2002, and November 15, 2002.

In accordance with section 732(b) of the Act, the petitioners allege that imports of malleable iron pipe fittings (malleable pipe fittings) from the People's Republic of China (PRC) 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 are threatening to materially injure, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) of the Act and have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. *See* the Determination of Industry Support for the Petition section below.

Scope of Investigation

For purposes of this investigation, the products covered are shipments of certain malleable iron pipe fittings, cast, other than grooved fittings, from the People's Republic of China. The merchandise is classified under item numbers 7307.19.90.30, 7307.19.90.60 and 7307.19.90.80 of the Harmonized Tariff Schedule. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to

determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The United States 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 domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to their 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 the law. *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

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.

In this petition, the petitioners do not offer a definition of domestic like product distinct from the scope of these investigations. Thus, based on our analysis of the information presented to the Department by the petitioners, and the information obtained and received independently by the Department, we have determined that there is a single domestic like product, which is defined in the Scope of Investigation section above, and have analyzed industry support in terms of this domestic like product.

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 states that the administering authority shall determine that a petition has been filed by or on behalf of the industry if: (1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like

product; and (2) 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.

Information contained in the petition demonstrates that the domestic producers or workers who support the petition account for over 50 percent of total production of the domestic like product. *See* Petition for Imposition of Antidumping Duties: Malleable Iron Pipe Fittings from the People's Republic of China (Pipe Fittings Petition), dated October 30, 2002, at pages 2–3 and Exhibits 1 and 2. *See also* Amendment to the Petition dated November 15, 2002, at Exhibit 1. Therefore, the domestic producers or workers who support the petitions account for at least 25 percent of the total production of the domestic like product, as required by section 732(c)(4)(A)(i). *See* Import Administration AD Investigation Checklist, dated November 19, 2002 (Initiation Checklist) (public version on file in the Central Records Unit of the Department of Commerce, 1401 Constitution Ave., NW, Room B-099).

Furthermore, because the Department received no opposition to the petition, 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. *See* Initiation Checklist. Thus, the requirements of section 732(c)(4)(A)(ii) are met.

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.

Export Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which the Department has based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to U.S. price and factors of production (FOP) are detailed in the Initiation Checklist.

The anticipated period of investigation (POI) for the PRC, a non-market economy (NME) country, is April 1, 2002, through September 30, 2002. Regarding an investigation involving a NME country, the Department presumes, based on the extent of central government control in a NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. *See, e.g., Final Determination of Sales at*

Less Than Fair Value: Silicon Carbide from the PRC, 59 FR 22585 (May 2, 1994). In the course of the investigation of malleable pipe fittings from the PRC, all parties will have the opportunity to provide relevant information related to the issue of the PRC's status and the granting of separate rates to individual exporters.

Export Price

The petitioners identified the following seven companies as producers and/or exporters of malleable pipe fittings from the PRC: Jinan Meide Casting Co., Ltd., National Steel Products Co., Ltd., Shandong Flying Casting & Forging Co., Ltd., Dalian Zhong Sheng Metal Products Co., Ltd., Hebei Great Wall Import & Export Corporation, Tianjin Foreign Trade Group, and Xiamen Jia Da Quan Valves & Fittings Co., Ltd. To calculate export price (EP), petitioners used publicly available price quotes for Chinese products from a U.S. distributor. From these price quotes, petitioners deducted a 10 percent rebate from the listed warehouse price, 5 percent of the net price for commission to the importer/wholesale distributor's sales representative, and 20 percent of the net price as the importer/distributor's mark-up to arrive at the importer price. Petitioners reasonably based these deductions on affidavits by a senior Anvil International official attesting that this price structure is representative of prices charged throughout the United States. *See* Initiation Checklist. We will further examine the nature of these deductions during the investigation.

Petitioners further deducted U.S. customs duty of 6.2 percent to arrive at a price net of customs duty. Petitioners calculated net U.S. price by deducting ocean freight and foreign inland freight from the price net of customs duty. *See* Exhibits 22 and 24 of the Petition. Petitioners estimated ocean freight by subtracting the average unit free alongside ship (FAS) value of subject imports from the average unit cost, insurance and freight (CIF) value using the Bureau of the Census IM145 import statistics. *See* Initiation Checklist.

Normal Value

The petitioners assert that the PRC is a NME country and that no determination to the contrary has yet been made by the Department. In all of its previous investigations, the Department has treated the PRC as a NME. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 58115 (November 20, 2001), and *Notice*

of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China, 67 FR 20090 (April 29, 2002). 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 the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Because the PRC's status as a NME remains in effect, pursuant to section 771(18)(C)(i) of the Act, the petitioners determined the dumping margin using a FOP analysis.

For normal value (NV), the petitioners based the FOP, with the exception of labor, as defined by section 773(c)(3) of the Act, on the quantities of inputs of one U.S. malleable pipe fittings producer, Ward Manufacturing, Inc. The petitioners based the FOP for labor, as defined by section 773(c)(3) of the Act, on the quantities of inputs from the public ranged data of labor hours in the production of non-malleable pipe fittings,¹ reduced by 10 percent. The petitioners assert that information regarding the Chinese producers' consumption rates is not reasonably available, and have therefore assumed, for purposes of the petition, that producers in the PRC use the same inputs in the same quantities as the petitioners use. Based on the information provided by the petitioners, we believe that the petitioners' FOP methodology represents information reasonably available to the petitioners and is appropriate for purposes of initiating this investigation.

Pursuant to section 773(c) of the Act, the petitioners assert that India is the most appropriate surrogate country for the PRC, claiming that India is: (1) a market economy; (2) a significant producer of comparable merchandise; and (3) at a level of economic development comparable to the PRC in terms of per capita gross national income (GNI). The Department's regulations state that it will place primary emphasis on per capita GNI in determining whether a given market economy is at a level of economic development comparable to the NME country (*see* 19 CFR 351.408(b)). In recent antidumping cases involving the PRC, the Department identified a group of countries at a level of economic development comparable to the PRC based primarily on per capita GNI. This

¹ Submitted as a Section D Questionnaire Response by Jinan Meide Casting Company in the investigation of Non-Malleable Cast Iron Pipe Fittings from China, A-570-875 (June 17, 2002)

group includes India, Indonesia, Sri Lanka, the Philippines, and Pakistan. With the exception of India, none of these countries is a significant producer of malleable pipe fittings. The petitioners assert that India is the most appropriate surrogate. Based on the information provided by the petitioners, we believe that the petitioners' use of India as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, petitioners valued FOP, where possible, on reasonably available, public surrogate data from India. Materials were valued based on Indian import values, as published by *Monthly Statistics of the Foreign Trade of India (Indian Import Statistics)*. Petitioners applied an inflation adjustment factor using the Indian Wholesale Price Index for September 2002. Petitioners divided the index for the period available by the index derived from the period in which the input price was located, and multiplied the input price by the resulting ratio. Petitioners calculated the surrogate value of steel scrap using the mill heavy average prices reported by the Indian newspaper, *The Economic Times*, which yields more contemporaneous publicly available prices. See Initiation Checklist.

Labor was valued using the Department's regression-based wage rate for the PRC, in accordance with 19 CFR 351.408(c)(3). See Initiation Checklist.

Electricity was valued using Indian electricity prices for industrial consumers taken from the second quarter 2002 issue of *Energy Prices and Taxes* published by the OECD's International Energy Agency. The electricity prices for industry for India are reported in U.S. dollars and for the year of 2000. In order to arrive at September 2002 prices, petitioners multiplied the computed amount by a U.S. inflation factor because it was denominated in U.S. dollars. See Initiation Checklist.

Petitioners derived the surrogate value for natural gas from a price in India found in the 1999 financial report of EOG Resources Inc., expressed in U.S. dollars per MCF. To inflate the price to September 2002 levels, petitioners multiplied the amount by a U.S. inflation factor because it was denominated in U.S. dollars. See Initiation Checklist.

For overhead, selling, depreciation, and general and administrative (SG&A) expenses, petitioners calculated the financial ratios based on the Indian financial data used in the Preliminary Determination of Non-Malleable Cast Iron Pipe Fittings from the People's

Republic of China. See Memo to Holly A. Kuga dated September 19, 2002. Based on the information provided by the petitioners, we believe that the surrogate values represent information reasonably available to the petitioners and are acceptable for purposes of initiating this investigation. See Initiation Checklist.

Based upon the comparison of EP to NV, the estimated dumping margins are between 34.69 and 148.08 percent. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we will re-examine the information and may revise the margin calculation, if appropriate.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of malleable pipe fittings from the PRC are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The 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 imports of the subject merchandise sold at less than NV. The volume of imports from the PRC, using the latest available data, exceeded the statutory threshold of seven percent for a negligibility exclusion. See section 771(24)(A)(ii) of the Act. The petitioners contend that the industry's injured condition is evidenced in the declining trends in profitability, shipments, production, capacity utilization, employment, decreased U.S. market share, and increasing Chinese imports. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, domestic consumption, and domestic production information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation. See Initiation Checklist.

Initiation of the Antidumping Investigation

Based on our examination of the petition on malleable pipe fittings, and the petitioners' response to our supplemental questionnaires clarifying the petition, and additional independent data, we find that the petition meets the requirements of section 732 of the Act. See Initiation

Checklist. Therefore, we are initiating the antidumping duty investigation to determine whether imports of malleable pipe fittings from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of the PRC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

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

Preliminary Determination by the ITC

The ITC will determine, no later than December 16, 2002 whether there is a reasonable indication that imports of malleable pipe fittings from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

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

Dated: November 19, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration, North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of panel.

SUMMARY: On November 19, 2002, the binational panel issued its decision in the review of the final scope ruling made by the International Trade Administration, respecting Circular Welded Non-Alloy Steel Pipe from Mexico, NAFTA Secretariat File Number USA-MEX-98-1904-05. The