

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

Dated: October 23, 2013.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I—Scope of the Investigations

The scope of these investigations covers monosodium glutamate (“MSG”), whether or not blended or in solution with other products. Specifically, MSG that has been blended or is in solution with other product(s) is included in this scope when the resulting mix contains 15% or more of MSG by dry weight. Products with which MSG may be blended include, but are not limited to, salts, sugars, starches, maltodextrins, and various seasonings. Further, MSG is included in these investigations regardless of physical form (including, but not limited to, substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging.

MSG has a molecular formula of  $C_5H_8NO_4Na$ , a Chemical Abstract Service (“CAS”) registry number of 6106–04–3, and a Unique Ingredient Identifier (“UNII”) number of W81N5U6R6U.

Merchandise covered by the scope of these investigations is currently classified in the Harmonized Tariff Schedule (“HTS”) of the United States at subheading 2922.42.10.00. Merchandise subject to the investigations may also enter under HTS subheadings 2922.42.50.00, 2103.90.72.00, 2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91. The tariff classifications, CAS registry number, and UNII number are provided for convenience and customs purposes; however, the written description of the scope is dispositive.

[FR Doc. 2013–25804 Filed 10–30–13; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–994, A–851–803, A–428–842, A–588–871, A–580–871, A–455–804, A–821–821]

### Grain-Oriented Electrical Steel From the People’s Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Initiation of Antidumping Duty Investigations

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

**DATES:** *Effective Date:* October 31, 2013.

#### FOR FURTHER INFORMATION CONTACT:

Patrick Edwards at (202) 482–8029 (the People’s Republic of China (PRC)); Elizabeth Eastwood at (202) 482–3874 (the Czech Republic, Germany, Poland, and the Russian Federation (Russia)); or

Steve Bezirgianian at (202) 482–1131 (Japan and the Republic of Korea (Korea)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### The Petitions

On September 18, 2013, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of grain-oriented electrical steel (GOES) from the PRC, the Czech Republic, Germany, Japan, Korea, Poland, and Russia (the Petitions) filed in proper form on behalf of AK Steel Corporation, Allegheny Ludlum, LLC, and the United Steelworkers (collectively, the petitioners).<sup>1</sup> The Petitions were accompanied by one countervailing duty (CVD) petition.<sup>2</sup> The petitioner companies are domestic producers of GOES and the United Steelworkers is the union that represents employees of Allegheny Ludlum, LLC that engage in the production of GOES. On September 23 and 30, 2013, the Department requested additional information and clarification of certain areas of the Petitions.<sup>3</sup> The petitioners filed responses to these requests on September 26, 2013, and October 17, 2013.<sup>4</sup>

<sup>1</sup> See “Petition for the Imposition of Antidumping Duties on Imports of Grain-Oriented Electrical Steel from the People’s Republic of China, the Czech Republic, the Federal Republic of Germany, Japan, the Republic of Korea, Poland and the Russian Federation,” dated September 18, 2013 (Petitions).

<sup>2</sup> See “Petition for the Imposition of Countervailing Duties on Imports of Grain-Oriented Electrical Steel from the People’s Republic of China,” dated September 18, 2013.

<sup>3</sup> See letter from the Department to the petitioners entitled, “Petition for the Imposition of Antidumping Duties on Imports of Grain-Oriented Electrical Steel from the People’s Republic of China, the Czech Republic, the Federal Republic of Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Supplemental Questions,” on each of the country-specific records, dated September 23, 2013; see also letter from the Department to the petitioners entitled, “Petition for the Imposition of Antidumping Duties on Imports of Grain-Oriented Electrical Steel from the Russian Federation: Supplemental Questions,” dated September 30, 2013.

<sup>4</sup> See Supplement to all the Petitions, dated September 26, 2013 (Petition Supplement), Supplement to the PRC Petition, dated September 26, 2013, Supplement to the Czech Republic Petition, dated September 26, 2013, Supplement to the Germany Petition, dated September 26, 2013, Supplement to the Japan Petition, dated September 26, 2013, Supplement to the Korea Petition, dated September 26, 2013, Supplement to the Poland Petition, dated September 26, 2013, and Supplement to the Russia Petition, dated September 26, 2013; see also Second Supplement to the Czech Petition, dated October 17, 2013, Second Supplement to the Germany Petition, dated October

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of GOES from the PRC, the Czech Republic, Germany, Japan, Korea, Poland, and Russia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

The Department finds that the petitioners filed these Petitions on behalf of the domestic industry because the petitioners are interested parties as defined in sections 771(9)(C) and (D) of the Act. The Department also finds that the petitioners have demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioners are requesting.<sup>5</sup>

##### Periods of Investigations

Pursuant to 19 CFR 351.204(b)(1), because the Petitions were filed on September 18, 2013, the period of investigation (POI) for the PRC investigation is January 1, 2013, through June 30, 2013. The POI for the Czech Republic, Germany, Japan, Korea, Poland, and Russia investigations is July 1, 2012, through June 30, 2013.

##### Scope of the Investigations

The product covered by these investigations is GOES from the PRC, the Czech Republic, Germany, Japan, Korea, Poland and Russia. For a full description of the scope of the investigations, see the “Scope of the Investigations,” in Appendix I of this notice.

##### Comments on the Scope of Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief. As discussed in the preamble to the regulations,<sup>6</sup> we are setting aside a

17, 2013, Second Supplement to the Japan Petition, dated October 17, 2013, Second Supplement to the Korea Petition, dated October 17, 2013, and Second Supplement to the Russia Petition, dated October 17, 2013 (Second Supplement).

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

<sup>6</sup> See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997).

period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by 5:00 p.m. Eastern Time on November 13, 2013. All comments must be filed on the records of the PRC, Czech Republic, Germany, Japan, Korea, Poland, and Russia AD investigations, as well as the concurrent PRC CVD investigation.

### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping Countervailing Duty Centralized Electronic Service System (IA ACCESS).<sup>7</sup> An electronically filed document must be received successfully in its entirety by 5:00 p.m. on the date of the applicable deadline. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/Dockets Unit of Enforcement and Compliance, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadline.

### Comments on Product Characteristics for Antidumping Duty Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of GOES to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production (COPs) accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful

<sup>7</sup> 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 IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe GOES, it may be that only a select few product characteristics take into account commercially-meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, we must receive comments on product characteristics by November 13, 2013. Rebuttal comments must be received by November 20, 2013. All comments and submissions to the Department must be filed electronically using IA ACCESS, as referenced above.

### Tolling of Deadlines

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.<sup>8</sup> Therefore, all deadlines in these investigations have been tolled by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the initiation of these investigations is October 24, 2013.

### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the

<sup>8</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" dated October 18, 2013.

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 term "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>9</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>10</sup>

Section 771(10) of the Act defines the term "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 petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that GOES, as defined in the scope of the investigations, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>11</sup>

<sup>9</sup> See section 771(10) of the Act.

<sup>10</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>11</sup> For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from the People's Republic of China (PRC AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Petitions Covering Grain-Oriented Electrical Steel from the People's Republic of China, Czech Republic,

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations" in Appendix I of this notice. To establish industry support, the petitioners provided their own production of the domestic like product in 2012.<sup>12</sup> The petitioners state that there are no other known producers of GOES in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.<sup>13</sup>

Our review of the data provided in the Petitions and other information readily available to the Department indicates that the petitioners have met the statutory criteria for industry support pursuant to section 732(c)(4) of the Act.<sup>14</sup> First, the Petitions establish 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).<sup>15</sup> 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 Petitions account for at least 25 percent of the total production of the domestic like product.<sup>16</sup> 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 Petitions 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 Petitions.<sup>17</sup> Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) and (D) of the Act and have demonstrated sufficient industry support with respect to the AD investigations that they are requesting the Department initiate.<sup>18</sup>

#### **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 threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>19</sup>

The petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; decline in production, capacity utilization, and shipments; reduced employment variables; and decline in financial performance.<sup>20</sup> 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.<sup>21</sup>

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

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate AD investigations of imports of GOES from the Czech Republic, Germany, Japan, Korea, Poland, the PRC, and Russia. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

#### **Export Price**

For the Czech Republic, Japan, Korea, Poland, and Russia, the petitioners based U.S. price on offers for sales of GOES from producers of subject merchandise produced in, and exported from, the subject country. The petitioners made deductions from U.S. price for movement expenses consistent with the delivery terms. For Japan and Korea, the petitioners also made deductions from U.S. price for trader markups when traders made the offers for sale; these deductions were estimated based on the financial statements of independent steel traders.<sup>22</sup> The petitioners made no other adjustments to U.S. price.<sup>23</sup>

#### **Constructed Export Price**

For Germany, Japan, and the PRC, the petitioners calculated constructed export price (CEP) based on offers for sales of GOES from producers of subject merchandise produced in, and exported from, the subject country. The petitioners classified these offers as CEP transactions based on research showing the majority of imports from these producers were facilitated by their U.S. affiliates. The petitioners made deductions from U.S. price for movement expenses, consistent with the delivery terms. The petitioners also deducted U.S. indirect selling expenses estimated using the financial statements of an independent steel trader (for Germany, Japan, and the PRC) and imputed credit expenses (for Germany).

Germany, Japan, the Republic of Korea, Poland, and the Russian Federation (Attachment II); Antidumping Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from Czech Republic (Czech Republic Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from Germany (Germany Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from Japan (Japan Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from the Republic of Korea (Korea Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from Poland (Poland Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from the Russian Federation (Russia Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and are on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

<sup>12</sup> See Volume I of the Petitions, at 4.

<sup>13</sup> *Id.*, at 1–3.

<sup>14</sup> See PRC AD Initiation Checklist, Czech Republic Initiation Checklist, Germany Initiation Checklist, Japan Initiation Checklist, Korea Initiation Checklist, Poland Initiation Checklist, and Russia Initiation Checklist, at Attachment II.

<sup>15</sup> See section 732(c)(4)(D) of the Act; see also PRC AD Initiation Checklist, Czech Republic Initiation Checklist, Germany Initiation Checklist, Japan Initiation Checklist, Korea Initiation Checklist, Poland Initiation Checklist, and Russia Initiation Checklist, at Attachment II.

<sup>16</sup> See PRC AD Initiation Checklist, Czech Republic Initiation Checklist, Germany Initiation Checklist, Japan Initiation Checklist, Korea Initiation Checklist, Poland Initiation Checklist, and Russia Initiation Checklist, at Attachment II.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> See Volume I of the Petitions, at 15–16 and Exhibit GENERAL-6.

<sup>20</sup> See Volume I of the Petitions, at 13–29 and Exhibits GENERAL-4 and GENERAL-6 through GENERAL-12.

<sup>21</sup> See PRC AD Initiation Checklist, Czech Republic Initiation Checklist, Germany Initiation Checklist, Japan Initiation Checklist, Korea

Initiation Checklist, Poland Initiation Checklist, and Russia Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Grain-Oriented Electrical Steel From the People's Republic of China, Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation.

<sup>22</sup> See Japan Initiation Checklist; and Korea Initiation Checklist.

<sup>23</sup> See Czech Republic Checklist; Japan Initiation Checklist; Korea Initiation Checklist; Poland Initiation Checklist; and Russia Initiation Checklist.

The petitioners made no other adjustments to U.S. price.<sup>24</sup>

### Normal Value

For the Czech Republic, Germany, Japan, Korea, Poland, and Russia, the petitioners based NV on price information from a producer of GOES in each of these countries that was sold in the subject country obtained through market research for the foreign like product. The petitioners made adjustments to NV for imputed credit expenses consistent with the sales terms. The petitioners also made a difference-in-merchandise adjustment to NV, where applicable, to account for differences between the home market and U.S. products (for Germany, Japan, Korea, and Russia). The petitioners made no other adjustments to NV.<sup>25</sup>

With respect to the PRC, the petitioners state that the Department has long treated the PRC as a non-market economy (NME) country.<sup>26</sup> In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation.

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

The petitioners claim that Thailand is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of the PRC, it is a significant producer of the merchandise under consideration, and the data for valuing FOPs are both available and reliable.<sup>27</sup> However, to calculate factory overhead, selling, general and administrative (SG&A) expenses, and profit, the petitioners used the financial statements of an Indian steel producer because, to the best of their knowledge, there are no publicly available, contemporaneous financial statements for any company in the Philippines,

Indonesia, Ukraine, Thailand, Colombia, or South Africa that is a vertically-integrated producer (like the PRC GOES producers) of merchandise comparable to the subject merchandise and that shows a profit. The petitioners also examined countries not traditionally used as surrogates for the PRC (such as Malaysia) but are close to the PRC in terms of per-capita GNI and found no appropriate companies that did not have financial losses.<sup>28</sup>

Based on the information provided by the petitioners, we believe it is appropriate to use Thailand as a surrogate country for initiation purposes. We also believe that, for initiation purposes, it is appropriate to use the Indian financial statements as the surrogate source for financial ratios. Interested parties will have the opportunity to submit comments regarding surrogate country selection and will be provided an opportunity to submit publicly available information to value FOPs within 40 days before the scheduled date of the preliminary determination.<sup>29</sup>

### Factors of Production

The petitioners based the FOPs for materials, labor, and energy on the consumption rates of the U.S. producers of GOES products. The petitioners assert that the experience of the U.S. producers is appropriate for comparison to producers in the PRC because the U.S. producers are comparable producers of the subject merchandise.<sup>30</sup>

### Valuation of Raw Materials

The petitioners valued the FOPs for pig-iron (*i.e.*, the primary raw material used to produce subject merchandise) and iron and steel scrap using the average cost, insurance, and freight import value at the Thai port of entry using HTSUS subheadings 7201.10 and 7204.10, as published by Global Trade Atlas (GTA) for the period from January 2013 through June 2013.<sup>31</sup> The petitioners added to these values the average Thai brokerage and inland freight charges for importing the goods into Thailand, as published by the World Bank in *Doing Business 2013: Thailand*.<sup>32</sup>

The petitioners excluded all import values from countries previously

determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries. In addition, in accordance with the Department's practice, the average import value excludes imports that were labeled as originating from an unidentified country.

### Valuation of Labor

The petitioners valued labor using information published in a 2007 industrial survey by the Thailand National Statistics Office.<sup>33</sup> The survey provides a Thai wage rate for the manufacture of basic iron and steel in 2006, which the petitioners adjusted for inflation and then converted using the average exchange rate during the POI.<sup>34</sup> The petitioners then applied that resulting labor rate to the labor hours expended by U.S. GOES producers.<sup>35</sup>

### Valuation of Energy

The petitioners valued electricity using a 2012 electricity rate in Thai baht per kilowatt hour, as reported by the Electricity Generating Authority of Thailand.<sup>36</sup> In accordance with the Department's policy not to adjust energy tariffs for inflation if those tariffs are likely still in force, the petitioners did not adjust this value for inflation.<sup>37</sup> After converting the Thai electricity rate into U.S. dollars, the petitioners multiplied that rate by the electricity consumption of U.S. producers of

<sup>33</sup> *Id.*, at 7 and Exhibit C-17.

<sup>34</sup> *Id.*; see also Volume II of the Petitions, at Exhibit C-3A.

<sup>35</sup> *Id.*, at Exhibit C-19.

<sup>36</sup> *Id.*, at 7 and Exhibit C-15.

<sup>37</sup> *Id.*; see also *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Antidumping Duty Administrative Review, 2010-2011*, 77 FR 61385 (October 9, 2012), and accompanying Preliminary Decision Memorandum at 16, unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 78 FR 5414 (January 25, 2013); *Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 75 FR 70208 (November 17, 2010), and accompanying Issues and Decision Memorandum at Comment 4; and *Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117 (November 17, 2009), unchanged in *Certain Oil Country Tubular Goods From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

<sup>24</sup> See PRC AD Initiation Checklist; Germany Initiation Checklist; and Japan Initiation Checklist.

<sup>25</sup> See Czech Republic Initiation Checklist; Germany Initiation Checklist; Japan Initiation Checklist; Korea Initiation Checklist; Poland Initiation Checklist; and Russia Initiation Checklist.

<sup>26</sup> See Volume II of the Petitions, at 1.

<sup>27</sup> *Id.*, at 2.

<sup>28</sup> See Volume II of the Petitions, at 6 and 8-10; see also Supplement to the PRC Petition, at 5-7.

<sup>29</sup> See 19 CFR 351.301(c)(3)(i). Note that this is the revised regulation published on April 1, 2013. See <http://www.gpo.gov/fdsys/pkg/CFR-2013-title19-vol3/html/CFR-2013-title19-vol3.htm>.

<sup>30</sup> See Volume II of the Petitions, at 6 and Exhibit C-13.

<sup>31</sup> *Id.*, at Exhibit C-14.

<sup>32</sup> *Id.*, at Exhibits C-9 and C-10.

GOES, in order to obtain an electricity cost per metric ton of output.<sup>38</sup>

The petitioners valued natural gas using publicly available Thai import data obtained from GTA in U.S. dollars for the POI.<sup>39</sup> To convert the unit of measurement from kilograms to cubic feet, the petitioners used universal conversion factors published by Chemlink Pty Ltd.<sup>40</sup> Finally, the petitioners applied the gas rate obtained to the volume of natural gas consumed by U.S. producers to obtain the natural gas surrogate cost per metric ton of output.<sup>41</sup>

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

The petitioners calculated surrogate financial ratios (*i.e.*, factory overhead, selling, general and administrative (SG&A) expenses, and profit) using the 2012–2013 unconsolidated financial statements of Tata Steel, a vertically-integrated Indian producer of a wide variety of steel products.<sup>42</sup> The petitioners assert that use of these financial statements is appropriate because there was limited access to other publicly-available financial statements of a vertically-integrated steel company which manufactured comparable merchandise and which was also profitable.<sup>43</sup>

#### **Sales Below Cost Allegations**

For the Czech Republic, Germany, Japan, Korea, Poland, and Russia, the petitioners provided information demonstrating reasonable grounds to believe or suspect that sales of GOES in the respective home markets were made at prices below the fully-absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct country-wide sales-below-cost investigations. The Statement of Administrative Action (SAA), submitted to the Congress in connection with the interpretation and application of the Uruguay Round Agreements Act, states that an allegation of sales below COP need not be specific to individual exporters or producers.<sup>44</sup> The SAA states that “Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers

allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation.”<sup>45</sup>

Further, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that the Department have “reasonable grounds to believe or suspect” that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.<sup>46</sup>

#### **Cost of Production**

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); SG&A expenses; financial expenses; and packing expenses. The petitioners calculated COM based on the petitioners’ experience adjusted for known differences between their industry in the United States and the industries of the respective country (*i.e.*, the Czech Republic, Germany, Japan, Korea, Poland, and Russia), during the proposed POI.<sup>47</sup> Using publicly-available data to account for price differences, the petitioners multiplied their usage quantities by the submitted value of the inputs used to manufacture GOES in each country.

To determine factory overhead, SG&A, and financial expense rates, the petitioners relied on financial statements of producers of comparable merchandise operating in the respective foreign country.<sup>48</sup>

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the most comparable product, we find reasonable grounds to believe or suspect that sales of the foreign like products were made at prices that are below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating country-wide cost investigations on sales of GOES from the Czech Republic, Germany, Japan, Korea, Poland, and Russia.

#### **Normal Value Based on Constructed Value**

For the Czech Republic, Germany, Japan, Korea, Poland, and Russia,

because they alleged sales below cost, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, the petitioners calculated NV based on constructed value (CV). The petitioners calculated CV using the same average COM, SG&A, financial expense, and packing figures used to compute the COPs. The petitioners relied on the same financial statements used as the basis for the factory overhead, SG&A, and financial expense rates to calculate the profit rates.<sup>49</sup>

#### **Fair Value Comparisons**

Based on the data provided by the petitioners, there is reason to believe that imports of GOES from the PRC, the Czech Republic, Germany, Japan, Korea, Poland, and Russia are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of export price or CEP to NV, in accordance with section 773(a)(1) of the Act, the estimated dumping margins for GOES from: (1) The Czech Republic range from 68.46 percent to 235.50 percent;<sup>50</sup> (2) Germany range from 38.54 percent to 241.91 percent;<sup>51</sup> (3) Japan range from 44.95 percent to 172.30 percent;<sup>52</sup> (4) Korea range from 49.51 percent to 257.61 percent;<sup>53</sup> (5) Poland range from 56.69 percent to 99.51 percent;<sup>54</sup> and (6) Russia range from 43.52 percent to 119.88 percent.<sup>55</sup> Based on a comparison of CEP to NV, in accordance with section 773(c) of the Act, the estimated dumping margin for GOES from the PRC is 159.21 percent.<sup>56</sup>

#### **Initiation of Antidumping Duty Investigations**

Based upon the examination of the Petitions on GOES from the PRC, the Czech Republic, Germany, Japan, Korea, Poland, and Russia, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of GOES from the PRC, the Czech Republic, Germany, Japan, Korea, Poland, and Russia are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 773(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will

<sup>38</sup> See Volume II of the Petitions, at 7 and Exhibit AD–C–19.

<sup>39</sup> *Id.*, at 7.

<sup>40</sup> *Id.*, at 7 and Exhibit C–16.

<sup>41</sup> *Id.*, at 7 and Exhibit C–19.

<sup>42</sup> *Id.*, at 8–9 and Exhibit C–18.

<sup>43</sup> *Id.*; see also Supplement to the PRC Petition, at 6–7.

<sup>44</sup> See SAA, H.R. Doc. No. 103–316, Vol. 1 (1994), at 833, reprinted in 1994 U.S.C.C.A.N. 3773.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> See Czech Republic Initiation Checklist; Germany Initiation Checklist; Japan Initiation Checklist; Korea Initiation Checklist; Poland Initiation Checklist; and Russia Initiation Checklist.

<sup>48</sup> *Id.*

<sup>49</sup> See Czech Republic Initiation Checklist; Germany Initiation Checklist; Japan Initiation Checklist; Korea Initiation Checklist; Poland Initiation Checklist; and Russia Initiation Checklist.

<sup>50</sup> See Czech Republic Initiation Checklist.

<sup>51</sup> See Germany Initiation Checklist.

<sup>52</sup> See Japan Initiation Checklist.

<sup>53</sup> See Korea Initiation Checklist.

<sup>54</sup> See Poland Initiation Checklist.

<sup>55</sup> See Russia Initiation Checklist.

<sup>56</sup> See PRC AD Initiation Checklist.

make our preliminary determinations no later than 140 days after the date of this initiation.

### Respondent Selection

Although the Department normally relies on import data from U.S. Customs and Border Protection to select a limited number of producers/exporters for individual examination in AD investigations, if appropriate, these Petitions name only one company as a producer/exporter of GOES in the Czech Republic: ArcelorMittal Frydek-Mistek A.S.; one company as a producer/exporter of GOES in Germany: ThyssenKrupp Electrical Steel GmbH; one company as a producer/exporter of GOES in Korea: POSCO; one company as a producer/exporter of GOES in Poland: Stalprodukt S.A.; one company as a producer/exporter of GOES in Russia: Novolipetsk Steel; and two companies as producers/exporters of GOES in Japan: JFE Steel Corporation and Nippon Steel & Sumitomo Metal Corporation.<sup>57</sup> Furthermore, we currently know of no additional producers/exporters of subject merchandise from these countries. Accordingly, the Department intends to examine all known producers/exporters in these investigations (*i.e.*, the companies cited above). We invite interested parties to comment on this issue. Parties wishing to comment must do so within seven days of the publication of this notice in the **Federal Register** for the Czech Republic, Germany, Korea, Poland, Russia, and Japan.

With respect to the PRC, in accordance with our standard practice for respondent selection for NME countries, we intend to issue quantity and value questionnaires to each

<sup>57</sup> See Volume I of the Petitions, at Exhibit GENERAL-3. The petitioners also name additional companies in Japan, Korea, and Russia which appear to be non-producing exporters or trading companies (*i.e.*, Metal One Corporation in Japan, Hyundai Corporation in Korea, and PJSC Ashinskiy Metallurgical Works in Russia). *Id.* In a letter dated October 23, 2013, the petitioners clarified their understanding of the commercial nature of exports by these companies. Specifically, the petitioners indicated that GOES is a highly use-dependent product, the demand for which is dependent on the unique design and engineering specifications of each transformer in which it is incorporated. Thus, the petitioners stated that, to the best of their knowledge, the foreign producers listed in the Petitions have knowledge of the ultimate destination of their sales of GOES. Based on this information, at this time we intend to review only the identified producers as respondents. If we receive information during the specified comment period below which indicates that the producers do not, in fact, know that certain of the merchandise sold to the trading companies/exporters was destined for the United States, the Department may consider examining these trading companies/exporters as additional respondents at a later date.

potential respondent and base respondent selection on the responses received. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Enforcement and Compliance Web site (<http://enforcement.trade.gov/ia-highlights-and-news.html>). Exporters and producers of GOES from the PRC that do not receive quantity and value questionnaires via mail may still submit a quantity and value response and can obtain a copy from the Enforcement and Compliance Web site. The quantity and value questionnaire must be submitted by all PRC producers/exporters no later than November 13, 2013. All quantity and value questionnaires must be filed electronically using IA ACCESS.

### Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate status application.<sup>58</sup> The specific requirements for submitting the separate rate application in the PRC investigation are outlined in detail in the application itself, which will be available on the Department's Web site at <http://enforcement.trade.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate rate status application and have been selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. The Department requires that PRC respondents submit a response to both the quantity and value questionnaire and the separate rate application by their respective deadlines in order to receive consideration for separate rate status.

### Use of Combination Rates

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

{w}hile continuing the practice of assigning separate rates only to exporters, all separate

<sup>58</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving Non-Market Economy Countries (April 5, 2005) (Separate Rates and Combination Rates Bulletin), available on the Department's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>59</sup>

### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the Governments of the Czech Republic, Germany, Japan, Korea, Poland, the PRC, and Russia via IA ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each known exporter (as named in the Petitions), as provided under 19 CFR 351.203(c)(2).

### Meeting With the Government of Korea

Pursuant to a request by the Government of Korea, on October 22, 2013, Department officials met with Korean Government officials to discuss the status of the Department's consideration of the petition and industry support, as provided under section 732(b)(3)(B) of the Act.

### ITC Notification

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

### Preliminary Determinations by the ITC

The ITC will preliminarily determine no later than November 20, 2013, whether there is a reasonable indication that imports of GOES from the Czech Republic, Germany, Japan, Korea, Poland, the PRC, and Russia are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

<sup>59</sup> See Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

### Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (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 final rule 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. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to these investigations. Please review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in these investigations.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>60</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at

the end of the *Final Rule*.<sup>61</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

### Extension of Time Limits

On September 20, 2013, the Department published *Extension of Time Limits, Final Rule*, 78 FR 57790 (September 20, 2013), which modified one regulation related to AD and CVD proceedings regarding the extension of time limits for submissions in such proceedings (19 CFR 351.302(c)). These modifications are effective for all segments initiated on or after October 21, 2013, and thus are applicable to these investigations. Please review the final rule, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm> prior to requesting an extension.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

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

Dated: October 24, 2013.

### Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

### Appendix I

#### Scope of the Investigations

The scope of these investigations covers grain-oriented silicon electrical steel (GOES). GOES is a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths. The GOES that is subject to these investigations is currently classifiable under subheadings 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060 of the Harmonized Tariff Schedule of the United States (HTSUS).

<sup>61</sup> See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/lei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/lei/notices/factual_info_final_rule_FAQ_07172013.pdf).

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

[FR Doc. 2013–25805 Filed 10–30–13; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–900]

#### Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value and Notice of Amended Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision

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

**SUMMARY:** On October 11, 2013, the United States Court of International Trade (“Court” or “CIT”) issued its final judgment in *Advanced Technology & Materials v. United States*,<sup>1</sup> sustaining the Department of Commerce’s (Department) *Second Remand Results*.<sup>2</sup> Consistent with the decision of the United States Court of Appeals for the Federal Circuit (“Federal Circuit”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department’s *Final Determination*<sup>3</sup> and is amending the *Final Determination* with respect to the AT&M Entity’s<sup>4</sup> eligibility for a separate

<sup>1</sup> *Advanced Technology & Materials v. United States*, Court No. 09–511, Slip Op. 13–129 (CIT October 11, 2013) (“*AT&M v. United States*”).

<sup>2</sup> See *Final Results of Redetermination Pursuant to Advanced Technology & Materials Co., Ltd., Beijing Gang Yan Diamond Products Company, and Gang Yan Diamond Products, Inc. with Bosun Tools Group Co. Ltd. v. United States and Diamond Sawblades Manufacturers Coalition, Weihai Xiangguang Mechanical Industrial Co., Ltd., and Qingdao Shinhan Diamond Industrial Co., Ltd.*, Consol. Court No. 09–00511, Slip op. 12–147 (CIT2012), dated May 6, 2013 (“*Second Remand Results*”).

<sup>3</sup> See *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006) (“*Final Determination*”).

<sup>4</sup> The AT&M entity includes: Advanced Technology & Materials Co., Ltd. (“AT&M”), Beijing Gang Yan Diamond Products Company (“BGY”).

Continued

<sup>60</sup> See section 782(b) of the Act.