

## Postponement of the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, if the petitioner makes a timely request for an extension in accordance with 19 CFR 351.205(b)(2), section 703(c)(1)(A) of the Act allows the Department to postpone the preliminary determination until no later than 130 days after the date on which the administering authority initiated the investigation.

On November 21, 2013, the Rebar Trade Action Coalition and its individual members, the petitioners in this investigation, requested that the deadline for the preliminary determination in this case be extended in accordance with 19 CFR 351.205(b)(2). Therefore, pursuant to section 703(c)(1)(A) of the Act, we are fully extending the due date for the preliminary determination. Because, as noted above, the Department tolled the original preliminary signature date to account for the Federal Government closure, the extension is effectively 65 days from the revised preliminary date of December 16, 2013. As a result, the deadline for completion of the preliminary determination is now February 19, 2014.

This notice is issued and published pursuant to section 703(c)(2) of the Act.

Dated: November 25, 2013.

### Paul Piquado,

*Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-999]

### 1,1,1,2 Tetrafluoroethane From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

**DATES:** *Effective Date:* December 9, 2013.

**FOR FURTHER INFORMATION CONTACT:** Katie Marksberry, Office V, AD/CVD Operations, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW.,

Washington, DC 20230; telephone: 202.482.7906.

### SUPPLEMENTARY INFORMATION:

#### The Petition

On October 22, 2013, the Department of Commerce (the "Department") received a countervailing duty ("CVD") petition concerning imports of 1,1,1,2 Tetrafluoroethane ("tetrafluoroethane") from the People's Republic of China ("PRC"), filed in proper form by Mexichem Fluor, Inc. ("Petitioner"), domestic producers of tetrafluoroethane. The CVD petition was accompanied by an antidumping duty ("AD") petition concerning imports of tetrafluoroethane from the PRC.<sup>1</sup> On October 25 and November 6, 2013, the Department requested additional information and clarification of certain areas of the Petition, and on October 29 and November 8, 2013, respectively, Petitioner filed a response to each request.<sup>2</sup> Additionally, on November 7, 2013, Petitioner filed a response to the Department's November 6, 2013, request for additional information and clarification of the scope of the Petition.<sup>3</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the "Act"), Petitioners allege that producers/exporters of tetrafluoroethane in 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, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed this Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and Petitioners have demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate (*see*

<sup>1</sup> See "Petition for the Imposition of Antidumping and Countervailing Duties on 1,1,1,2 Tetrafluoroethane from the People's Republic of China, dated October 22, 2013 (hereafter referred to as the "Petition").

<sup>2</sup> See Petitioner's October 29, 2013, filing titled, "1,1,1,2-Tetrafluoroethane from the People's Republic of China: Response to CVD Issues Deficiency Questionnaire,"; *see also* Petitioner's October 29, 2013, filing titled, "1,1,1,2-Tetrafluoroethane from the People's Republic of China: Response to General Issues Supplemental Questionnaire" ("General Issues Supplement"), and Petitioner's November 8, 2013, filing, titled "1,1,1,2-Tetrafluoroethane from the People's Republic of China: Response to Second Antidumping Supplemental Questionnaire".

<sup>3</sup> See Petitioner's November 7, 2013, filing titled, "1,1,1,2-Tetrafluoroethane from the People's Republic of China: Response to Scope Questionnaire,".

"Determination of Industry Support for the Petition" below).

#### Period of Investigation

The period of investigation ("POI") is January 1, 2012 through December 31, 2012, in accordance with 19 CFR 351.204(b)(2).

#### Scope of the Investigation

The product covered by this investigation is tetrafluoroethane from the PRC. For a full description of the scope of the investigation, please see the "Scope of Investigation" in the appendix to this notice.

#### Comments on the Scope of the Investigation

During our review of the Petition, we solicited information from Petitioners to ensure that the proposed scope language is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations<sup>4</sup>, we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by December 22, 2013, which is 20 calendar days from the signature date of this notice. All comments must be filed on the record of the CVD investigation, as well as the concurrent AD investigation.

#### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement & Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Enforcement & Compliance's APO/Dockets Unit, 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 deadline established by the Department.<sup>5</sup>

<sup>4</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> 19 CFR 351.303(b)(1). 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>.

## Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on October 22, 2013, we invited the Government of the PRC (“GOC”) for consultations regarding the CVD petition. On November 28, 2013, the GOC filed written comments with the Department with regard to the CVD petition.<sup>6</sup>

## 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,<sup>7</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>8</sup>

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, Petitioner does 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 tetrafluoroethane, as defined in the scope of the investigation, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>9</sup>

On November 1, 2013, the Department extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 702(c)(4)(D) of the Act, because it was “not clear from the Petitions whether the industry support criteria have been met. . . .”<sup>10</sup>

On November 7, 2013, we issued polling questionnaires to all known producers of tetrafluoroethane identified in the Petition and by the ITC. We requested that each company complete the polling questionnaire and certify its response by the due date specified in the cover letter to the questionnaire.<sup>11</sup>

Our analysis of the data we received in the polling questionnaire responses

<sup>8</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>9</sup> See Countervailing Duty Investigation Initiation Checklist: 1,1,1,2-Tetrafluoroethane from the People’s Republic of China (“Initiation Checklist”), at Attachment II, Analysis of Industry Support for the Petitions Covering 1,1,1,2-Tetrafluoroethane from the People’s Republic of China (“Attachment II”). This checklist is dated concurrently with this notice and 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>10</sup> See *Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty and Countervailing Duty Petitions: 1,1,1,2-Tetrafluoroethane From the People’s Republic of China*, 78 FR 66894, 66895 (November 7, 2013).

<sup>11</sup> For a detailed discussion of the responses received, see Initiation Checklist, at Attachment II. The polling questionnaire and questionnaire responses are on file electronically via IA ACCESS and can also be accessed through the CRU.

indicates that the domestic producers of tetrafluoroethane who support the Petition account for at least 25 percent of the total production of the domestic like product and 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.<sup>12</sup>

Accordingly, the Department determines that the industry support requirements of section 702(c)(4)(A) of the Act have been met. Therefore, the Department determines that Petitioner filed this Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the countervailing duty investigation that it is requesting the Department initiate.<sup>13</sup>

## Injury Test

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

## Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>14</sup>

Petitioner contends that the industry’s injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; decline in U.S. sales; and decline in financial performance.<sup>15</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>16</sup>

<sup>12</sup> See Initiation Checklist, at Attachment II.

<sup>13</sup> *Id.*

<sup>14</sup> See General Issues Supplement, at 5–6 and Exhibit 5.

<sup>15</sup> See Volume I of the Petition, at 4–13 and Exhibits I–5 and I–8 through I–10; see also General Issues Supplement, at 5–6 and Exhibits 4 and 5.

<sup>16</sup> See Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material

<sup>6</sup> See Memorandum to The File, from Katie Marksberry, Case Analyst, Re: Countervailing Duty Petition on 1,1,1,2 Tetrafluoroethane from the People’s Republic of China: Comments from the Government of the People’s Republic of China Regarding the Petition, dated December 2, 2013.

<sup>7</sup> See section 771(10) of the Act.

### 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 CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioners supporting the allegations.

The Department has examined the Petition on tetrafluoroethane from the PRC and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether producers/exporters of tetrafluoroethane in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* the CVD Initiation Checklist which accompanies this notice.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of six alleged programs. For the other three programs alleged by Petitioners, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the CVD Initiation Checklist.

### Respondent Selection

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the POI (*i.e.*, calendar year 2012) under the following Harmonized Tariff Schedule of the United States numbers: 2903.39.2020. We intend to release the CBP data under 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 release of this data. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice.

### Notification to Interested Parties

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://enforcement.trade.gov/apo/index.html>.

### Distribution of Copies of the CVD 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 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 was filed, whether there is a reasonable indication that imports of subsidized tetrafluoroethane from the PRC materially injure, or threaten material injury to, a U.S. industry.<sup>17</sup> A negative ITC determination will result in the investigation being terminated.<sup>18</sup> Otherwise, the investigation will proceed according to statutory and regulatory time limits.

### 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 this investigation. 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.

### Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in AD and CVD proceedings.<sup>19</sup> The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under section 19 CFR 351.408(c), or to measure the adequacy of remuneration under section 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the

Injury and Causation for the Petitions Covering 1,1,1,2-Tetrafluoroethane from the People's Republic of China.

<sup>17</sup> See section 703(a)(2) of the Act.

<sup>18</sup> See section 703(a)(1) of the Act.

<sup>19</sup> See Extension of Time Limits; Final Rule, 78 FR 57790 (September 20, 2013).

letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Review Extension of Time Limits; Final Rule, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this segment.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>20</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD or CVD investigations or proceedings initiated on or after August 16, 2013, including this investigation.<sup>21</sup> The formats for the revised certifications are provided at the end of the *Final Rule*. The Department intends to reject factual submissions 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: December 2, 2013.

**Paul Piquado,**

*Assistant Secretary for Enforcement & Compliance.*

### Appendix

#### Appendix I

##### *Scope of the Investigation*

The product subject to this investigation is 1,1,1,2-Tetrafluoroethane, R-134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-tetrafluoroethane is  $\text{CF}_3\text{-CH}_2\text{F}$ , and the Chemical Abstracts Service ("CAS") registry number is CAS 811-97-2.

1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); Suva 134a, Dymel 134a, and Dymel P134a (DuPont); Solkema 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-tetrafluoroethane has been sold as Fluorocarbon 134a, R-134a, HFC-134a, HF A-134a, Refrigerant 134a, and UN3159.

<sup>20</sup> See section 782(b) of the Act.

<sup>21</sup> See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) ("*Final Rule*").

Merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 2903.39.2020. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XC959**

#### Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Groundfish and Halibut Observer Program Standard Ex-Vessel Prices

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notification of standard ex-vessel prices.

**SUMMARY:** NMFS publishes standard ex-vessel prices for groundfish and halibut for the calculation of the observer fee under the North Pacific Groundfish and Halibut Observer Program (Observer Program). This notice is intended to provide information to vessel owners, processors, registered buyers, and other participants about the standard ex-vessel prices that will be used to calculate the observer fee liability for landings of groundfish and halibut made in 2014. NMFS will send invoices to processors and registered buyers subject to the fee by January 15, 2015. Fees are due to NMFS on or before February 15, 2015.

**DATES:** Effective January 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** For general questions about the observer fee and standard ex-vessel prices, contact Michael Camacho at 907-586-7471. For questions about the fee billing process, contact Troie Zuniga, Fee Coordinator, 907-586-7105.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Observer Program deploys NMFS-certified observers (observers) who obtain information necessary for the conservation and management of the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) groundfish and halibut fisheries. Fishery managers use information collected by observers to monitor quotas, manage groundfish and prohibited species catch, and document and reduce fishery

interactions with protected resources. Scientists use observer-collected information for stock assessments and marine ecosystem research.

In 2012, the North Pacific Fishery Management Council restructured the Observer Program under Amendment 86 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 76 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (Amendments 86/76). The final rule implementing Amendments 86/76 added a new funding and deployment system for observer coverage in the groundfish and halibut fisheries off Alaska that allows NMFS to determine when and where to deploy observers according to management and conservation needs. The final rule was published in the **Federal Register** on November 21, 2012 (77 FR 70062). Regulations implementing the Observer Program are set forth at 50 CFR part 679, subpart E.

Restructuring divided the Observer Program into two observer coverage categories—partial and full. All groundfish and halibut vessels and processors are included in one of these two categories. The partial observer coverage category includes vessels and processors that are not required to have an observer at all times; the full observer coverage category includes vessels and processors required to have all of their fishing and processing operations off Alaska observed. Vessels and processors in the full coverage category arrange and pay for observer services from a permitted observer provider. Observer coverage for the partial coverage category is funded through a system of fees based on the ex-vessel value of groundfish and halibut. The proposed rule for Amendments 86/76 (77 FR 23326; April 18, 2012) provides a detailed explanation of the vessels and processors in the partial coverage category, the landings subject to the observer fee, and the process for calculating standard ex-vessel prices. This notice summarizes that information.

##### Landings Subject to Observer Coverage Fee

The objective of the observer fee assessment is to levy a fee on all landings accruing against a Federal total allowable catch (TAC) for groundfish or a commercial halibut quota made by vessels that are subject to Federal regulations and not included in the full coverage category. Therefore, a fee is only assessed on landings of groundfish from vessels designated on a Federal Fisheries Permit (FFP) or from vessels