

Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 6, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 20, 2016.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230-0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz). For further information, contact Camille Evans at [Camille.Evans@trade.gov](mailto:Camille.Evans@trade.gov) or (202) 482-2350.

Dated: March 31, 2016.

**Andrew McGilvray,**  
Executive Secretary.

[FR Doc. 2016-07778 Filed 4-4-16; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-979]

#### **Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Rescission of Antidumping Duty New Shipper Review; 2014-2015**

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

**SUMMARY:** In response to a request from Anji DaSol Solar Energy Science & Technology Co., Ltd. ("Anji DaSol"), the Department ("the Department") initiated a new shipper review of the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules, ("solar cells") from the People's Republic of China ("PRC") covering the period December 1, 2014 through November 30, 2015.<sup>1</sup> On March 21, 2016, Anji DaSol timely withdrew its

<sup>1</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 81 FR 5711 (February 3, 2016).

request for a new shipper review.<sup>2</sup> Accordingly, the Department is rescinding the new shipper review with respect to Anji DaSol.

**DATES:** *Effective Date:* April 5, 2016.

**FOR FURTHER INFORMATION CONTACT:** Cara Lofaro, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-5720.

#### **SUPPLEMENTARY INFORMATION:**

##### **Rescission of New Shipper Review**

On February 3, 2016, the Department initiated a new shipper review for Anji DaSol, and on March 21, 2016, Anji DaSol withdrew its new shipper review request. Section 351.214(f)(1) of the Department's regulations provides that the Department may rescind a new shipper review if the party that requested the review withdraws its request for review no later than 60 days after the date of publication of the notice of initiation of the requested review. Given that Anji DaSol timely withdrew its request for a new shipper review, the Department is rescinding the new shipper review of the antidumping duty order on solar cells from the PRC with respect to Anji DaSol. Consequently, Anji DaSol will remain part of the PRC-wide entity.

##### **Assessment**

Because we are rescinding the new shipper review of Anji DaSol, we are not making a determination as to whether Anji DaSol qualifies for a separate rate. Therefore, Anji DaSol remains part of the PRC-wide entity and any entries covered by this new shipper review will be assessed at the PRC-wide rate. The PRC-wide entity is not under review in the ongoing administrative review covering the 2014-2015 period of review, and therefore, Anji DaSol is not under review in the concurrent administrative review.<sup>3</sup> Accordingly, the Department intends to issue liquidation instructions for any entries by Anji DaSol 15 days after publication of this rescission notice.

##### **Cash Deposit**

Effective upon publication of the rescission of the new shipper review of Anji DaSol, the Department will instruct

<sup>2</sup> See Letter from Anji DaSol to the Secretary of Commerce, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China; Withdrawal of New Shipper Review Request," dated March 21, 2016.

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 6832 (February 9, 2016).

U.S. Customs and Border Protection to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise from Anji DaSol.<sup>4</sup> Because we did not calculate a dumping margin for Anji DaSol or grant Anji DaSol a separate rate in this new shipper review, Anji DaSol continues to be part of the PRC-wide entity. The cash deposit rate for the PRC-wide entity is 238.95 percent. These cash deposit requirements shall remain in effect until further notice.

##### **Notifications to Interested Parties**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This rescission and notice are published in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(f)(3).

Dated: March 29, 2016.

**Christian Marsh,**  
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016-07776 Filed 4-4-16; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-885]

#### **Phosphor Copper From the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation**

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

<sup>4</sup> See section 751(a)(2)(B)(iii) of the Tariff Act of 1930, as amended ("the Act"); see also 19 CFR 351.214(e).

**DATES:** *Effective Date:* March 29, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Cindy Robinson or Eric Greynolds, at (202) 482-3797 or (202) 482-6071, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**The Petition**

On March 9, 2016, the Department of Commerce (the Department) received an antidumping duty (AD) petition concerning imports of phosphor copper from the Republic of Korea (Korea), filed in proper form on behalf of Metallurgical Products Company (Metallurgical) (Petitioner).<sup>1</sup> Petitioner is a domestic producer of phosphor copper.<sup>2</sup>

On March 14 and 18, 2016, the Department requested additional information and clarification of certain areas of the Petition.<sup>3</sup> Petitioner filed responses on March 16, 21, and 22, 2016.<sup>4</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that imports of phosphor copper from Korea 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 Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed this Petition on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner demonstrated sufficient industry support with respect

to the initiation of the AD investigation that Petitioner is requesting.<sup>5</sup>

**Period of Investigation**

Because the Petition was filed on March 9, 2016, the period of investigation (POI) is, pursuant to 19 CFR 351.204(b)(1), January 1, 2015, through December 31, 2015.

**Scope of the Investigation**

The product covered by this investigation is phosphor copper from Korea. For a full description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix I of this notice.

**Comments on Scope of the Investigation**

During our review of the Petition, the Department issued questions to, and received responses from, the Petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>6</sup>

As discussed in the preamble to the Department's regulations,<sup>7</sup> we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Monday, April 18, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Thursday, April 28, 2016, which is 10 calendar days after the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information.

<sup>5</sup> *See* the "Determination of Industry Support for the Petition" section below.

<sup>6</sup> *See* Petition Supplement 1 and 2 and Scope Supplement.

<sup>7</sup> *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

**Filing Requirements**

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>8</sup> An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, 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 deadlines.

**Comments on Product Characteristics for AD Questionnaires**

The Department requests comments from interested parties regarding the appropriate physical characteristics of phosphor copper 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 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 commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe phosphor copper, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition,

<sup>8</sup> *See* 19 CFR 351.303 (for general filing requirements); *see also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>1</sup> *See* the Petition for the Imposition of Antidumping Duties on Imports of Phosphor Copper from the Republic of Korea, dated March 9, 2016 (the Petition).

<sup>2</sup> *See* Volume I of the Petition, at 1.

<sup>3</sup> *See* Letter from the Department to Petitioner entitled "Re: Petition for the Imposition of Antidumping Duties on Imports of Phosphor Copper from the Republic of Korea: Supplemental Questions" dated March 14, 2016 and Memorandum to the File, "Phone Call with Counsel to Petitioner," dated March 18, 2016.

<sup>4</sup> *See* letter from Petitioner entitled "Phosphor Copper from the Republic of Korea: Response to the Department's Supplemental Questions," dated March 16, 2016 (Petition Supplement 1); *see also* "Phosphor Copper from the Republic of Korea: Response to the Department's Supplemental Questions," dated March 21, 2016 (Petition Supplement 2); and "Phosphor Copper from the Republic of Korea: Supplemental Submission Regarding Scope and Domestic Like Product," dated March 22, 2016 (Scope Supplement).

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, all comments must be filed by 5:00 p.m. EDT on April 18, 2016, which is twenty calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. EDT on April 25, 2016. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the record of this Korea less-than-fair-value investigation.

#### Determination of Industry Support for the Petition

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 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 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 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 the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that phosphor copper, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>11</sup>

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, Petitioner provided its production of the domestic like product in 2015, as well as estimated total production of the domestic like product for the entire domestic industry.<sup>12</sup> We relied on data in the Petition for purposes of measuring industry support.<sup>13</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: Phosphor Copper from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping Duty Petition Covering Phosphor Copper from the Republic of Korea (Attachment II). This checklist is dated concurrently with this notice and is on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>12</sup> See Volume I of the Petition, at 2–3, and at Exhibit I–3.

<sup>13</sup> *Id.* For a further discussion, see Korea AD Initiation Checklist, at Attachment II.

Our review of the data provided in the Petition and other information readily available to the Department indicates that Petitioner has established industry support.<sup>14</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<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 for the Petition because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<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 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.<sup>17</sup> 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.

The Department finds that Petitioner filed the 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 AD investigation that it is requesting the Department initiate.<sup>18</sup>

#### Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>19</sup>

<sup>14</sup> See Korea AD Initiation Checklist, at Attachment II.

<sup>15</sup> See section 732(c)(4)(D) of the Act; see also Korea AD Initiation Checklist, at Attachment II.

<sup>16</sup> See Korea AD Initiation Checklist, at Attachment II.

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

<sup>18</sup> See Korea AD Initiation Checklist, at Attachment II.

<sup>19</sup> See Volume I of the Petition, at 7–8 and at Exhibit I–9.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, underselling and price suppression or depression, lost sales and revenues, and impacts on production, capacity utilization, commercial shipments, and 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>

#### Allegation of Sales at Less-Than-Fair Value

The following is a description of the allegation of sales at less-than-fair value upon which the Department based its decision to initiate the investigation of imports of phosphor copper from Korea. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the initiation checklist.

#### Export Price

Petitioner based U.S. prices on a 2015 Korean producer's price offerings to its customers in the United States for phosphor copper produced in, and exported from, Korea during the POI.<sup>22</sup> Where applicable, Petitioner made deductions from U.S. price for movement expenses consistent with the delivery terms, including foreign and U.S. inland freight, foreign and U.S. brokerage and handling fees, ocean freight, marine insurance, and U.S. harbor maintenance fees and merchandise processing fees.<sup>23</sup>

#### Normal Value

Petitioner provided home market price information based on sales, or offers for sale, in Korea of merchandise identical or similar to the product being imported into the United States during the POI.<sup>24</sup> Petitioner made certain adjustments to the price quotes, including deductions for inland freight charges (where applicable).<sup>25</sup>

Petitioner provided information indicating that sales of phosphor copper in Korea were made at prices below the

cost of production (COP) and, as a result, also calculated NV based on constructed value (CV).<sup>26</sup> For further discussion of COP and NV based on CV, see below.<sup>27</sup>

#### Normal Value Based on Constructed Value

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. Petitioner calculated COM based on a U.S. producer's experience during the proposed POI.<sup>28</sup> Using publicly-available data to value copper and U.S. price data for phosphorus, Petitioner multiplied the usage quantities by the submitted value of the inputs used to manufacture phosphor copper in Korea.<sup>29</sup> Petitioner derived labor and electricity rates from publicly available sources multiplied by the product-specific usage rates.<sup>30</sup> Petitioner relied on a U.S. producer's experience to determine factory overhead.<sup>31</sup> Petitioner relied on the financial statements of Bongsan Co., Ltd. (Bongsan), a Korean producer of identical merchandise, to determine the SG&A rate.<sup>32</sup> We revised the SG&A rate to exclude income and expenses related to investments.<sup>33</sup> Because Bongsan's financial statements show that financial income exceeded financial expenses,

<sup>26</sup> On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law. See Trade Preferences Extension Act of 2015, Pub. L. 114–27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this AD investigation. See *id.* at 46794–95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>27</sup> In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for this investigation, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

<sup>28</sup> See Korea AD Initiation Checklist.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at Attachment V.

Petitioner, conservatively, set financial expenses to zero.<sup>34</sup>

Because certain home market prices fell below COP, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, Petitioner also calculated NVs based on CV.<sup>35</sup> Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, financial expenses, packing expenses, and profit. Petitioner calculated CV using the same average COM and SG&A expenses used to calculate COP.<sup>36</sup> Petitioner relied on the financial statements of the same producer that Petitioner used for calculating the SG&A rate to calculate the profit rate.<sup>37</sup> We adjusted Petitioner's calculated profit rate to exclude the investment and expenses items we excluded from SG&A.<sup>38</sup>

#### Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of phosphor copper from Korea are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of export price (EP) to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margin(s) for phosphor copper for Korea ranges from 12.55 to 66.54 percent.<sup>39</sup>

#### Initiation of Less-Than-Fair-Value Investigation

Based upon the examination of the AD Petition on phosphor copper from Korea, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating a less-than-fair-value investigation to determine whether imports of phosphor copper from Korea are being, or are likely to be, sold in the United States at less-than-fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

#### Respondent Selection

The Department normally relies on import data from Customs and Border Protection (CBP) to select a limited number of producers/exporters for individual examination in market economy AD investigations where the number of exporters/producers is determined to be large. In this case the

<sup>34</sup> See Korea AD Initiation Checklist.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> See Korea AD Initiation Checklist.

<sup>38</sup> *Id.*

<sup>39</sup> See Petition Supplement 1 at Exhibit SQ–II–5. See also Korea AD Initiation Checklist at attachment 5.

<sup>20</sup> See Volume I of the Petition, at 7–8, 12–25 and at Exhibits I–9 and I–11 through I–17.

<sup>21</sup> See Korea AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petition Covering Phosphor Copper from the Republic of Korea.

<sup>22</sup> See Korea AD Initiation Checklist; see also Volume II of the Petition, at 3 and Exhibit II–3.

<sup>23</sup> See Korea AD Initiation Checklist.

<sup>24</sup> See Volume II of the Petition, at 9–10 and Exhibit II–3; see also Korea AD Initiation Checklist.

<sup>25</sup> See Korea AD Initiation Checklist.

Petitioner identified only one company as a producer/exporter of phosphor copper in Korea, Bongsan Co., Ltd. (Bongsan).<sup>40</sup> Petitioner supports its claim with information from Bongsan's corporate Web site, where Bongsan describes itself as the "exclusive firm in Korea" that has challenged copper master alloy production.<sup>41</sup> Furthermore, we know of no additional producers/exporters of merchandise under consideration from Korea. Therefore, consistent with our past practice, the Department intends to examine all known producers/exporters in this investigation, *i.e.*, Bongsan.<sup>42</sup>

We invite interested parties to comment on this issue. Parties wishing to comment must do so within five days of the publication of this notice in the **Federal Register**. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. EST by the date noted above.

#### Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the government of Korea via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to the exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 732(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 phosphor copper from Korea are materially injuring or threatening material injury to a U.S. industry.<sup>43</sup> A negative ITC determination will result in the investigation being terminated;<sup>44</sup> otherwise, the investigation will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>45</sup> 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.<sup>46</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to

submitting factual information in this investigation.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>47</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>48</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

#### Notification to Interested Parties

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

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

Dated: March 29, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

#### Appendix I

##### Scope of the Investigation

The merchandise covered by this investigation is master alloys<sup>49</sup> of copper containing between five percent and 17 percent phosphorus by nominal weight, regardless of form (including but not limited to shot, pellet, waffle, ingot, or nugget), and regardless of size or weight. Subject merchandise consists predominantly of copper (by weight), and may contain other elements, including but not limited to iron

<sup>47</sup> See section 782(b) of the Act.

<sup>48</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/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>49</sup> A "master alloy" is a base metal, such as copper, to which a relatively high percentage of one or two other elements is added.

<sup>40</sup> See Volume I of the Petition at 6–7 and Exhibit I–8.

<sup>41</sup> See Volume II of the Petition at 2 and Exhibit II–2.

<sup>42</sup> See, *e.g.*, *Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 8614 (February 18, 2015).

<sup>43</sup> See section 733(a) of the Act.

<sup>44</sup> *Id.*

<sup>45</sup> See 19 CFR 351.301(b).

<sup>46</sup> See 19 CFR 351.301(b)(2).

(Fe), lead (Pb), or tin (Sn), in small amounts (up to one percent by nominal weight). Phosphor copper is frequently produced to JIS H2501 and ASTM B-644, Alloy 3A standards or higher; however, merchandise covered by this investigation includes all phosphor copper, regardless of whether the merchandise meets, fails to meet, or exceeds these standards.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7405.00.1000. This HTSUS subheading is provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XE435

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys Off the Coast of Massachusetts

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received an application from DONG Energy Massachusetts (U.S.) LLC (DONG Energy) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to high-resolution geophysical (HRG) and geotechnical survey investigations associated with marine site characterization activities off the coast of Massachusetts in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS-A 0500) (the Lease Area). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to DONG Energy to incidentally take, by Level B harassment only, small numbers of marine mammals during the specified activities.

**DATES:** Comments and information must be received no later than May 5, 2016.

**ADDRESSES:** Comments on DONG Energy's IHA application (the application) should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine

Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is [itp.fiorentino@noaa.gov](mailto:itp.fiorentino@noaa.gov). Comments sent via email, including all attachments, must not exceed a 25-megabyte file size. NMFS is not responsible for comments sent to addresses other than those provided here.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental/> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** John Fiorentino, Office of Protected Resources, NMFS, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

##### Availability

An electronic copy of the application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: [www.nmfs.noaa.gov/pr/permits/incidental/](http://www.nmfs.noaa.gov/pr/permits/incidental/). In case of problems accessing these documents, please call the contact listed above.

#### National Environmental Policy Act (NEPA)

The Bureau of Ocean Energy Management (BOEM) prepared an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA), to evaluate the issuance of wind energy leases covering the entirety of the Massachusetts Wind Energy Area (including the OCS-A 0500 Lease Area), and the approval of site assessment activities within those leases (BOEM, 2014). NMFS intends to adopt BOEM's EA, if adequate and appropriate. Currently, we believe that the adoption of BOEM's EA will allow NMFS to meet its responsibilities under NEPA for the issuance of an IHA to DONG Energy for HRG and geotechnical survey investigations in the Lease Area. If necessary, however, NMFS will supplement the existing analysis to ensure that we comply with NEPA prior to the issuance of the final IHA. Comments on this proposed IHA will be considered in the development of any additional NEPA analysis or documents (*i.e.*, NMFS' own EA) should they be deemed necessary. BOEM's EA is available on the internet at: [http://www.nmfs.noaa.gov/pr/permits/incidental/energy\\_other.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/energy_other.htm).

[www.nmfs.noaa.gov/pr/permits/incidental/energy\\_other.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/energy_other.htm).

#### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

#### Summary of Request

On December 4, 2015, NMFS received an application from DONG Energy for the taking of marine mammals incidental to Spring 2016 geophysical survey investigations off the coast of Massachusetts in the OCS-A 0500 Lease Area, designated and offered by the U.S. Bureau of Ocean Energy Management (BOEM), to support the development of an offshore wind project. NMFS determined that the application was adequate and complete on January 27, 2016. On January 20, 2016, DONG Energy submitted a separate request for the taking of marine mammals incidental to proposed geotechnical