cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.,* flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

Merchandise covered by these investigations are currently classified in the Harmonized Tariff System of the United States (''HTSUS'') under subheadings 7308.20.0020[6] or 8502.31.0000.[7] Prior to 2011, merchandise covered by these investigations were classified in the HTSUS under subheading 7308.20.0000 and may continue to be to some degree. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[FR Doc. 2012–1377 Filed 1–23–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–982]

Utility Scale Wind Towers From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* January 24, 2012.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Patricia Tran, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–1503, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On December 29, 2011, the Department of Commerce (Department) received a countervailing duty (CVD) petition concerning imports of utility scale wind towers from the People's Republic of China (PRC) filed in proper form by the Wind Tower Trade Coalition (the Petitioner).[1] *See* Petition for the Imposition of Antidumping and Countervailing Duties Against Utility Scale Wind Towers from the People's Republic of China and the Socialist Republic of Vietnam, dated December 29, 2011 (Petition).

On January 5, 2012, the Department issued supplemental questionnaires requesting information and clarification of certain areas of the general issues and CVD sections of the Petition.[2] On January 6, 2012, the Department issued a supplemental questionnaire regarding the scope. Petitioner filed a supplement to the Petition regarding the CVD section on January 9, 2012. Petitioner filed a response to the general issues and scope requests on January 11, 2012 (hereinafter, First Supplemental to the AD/CVD Petitions). Further, the Department issued a request for additional clarification to the scope on January 13, 2012. Petitioner filed a response to this request on January 17, 2012, (hereinafter, Second Supplemental to the AD/CVD Petitions).

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

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the investigation that it requests the Department to initiate. *See* ''Determination of Industry Support for the Petition,'' below.

Period of Investigation

The period of investigation (POI) is January 1, 2011, through December 31, 2011.

Scope of Investigation

The products covered by this investigation are utility scale wind towers from the PRC. For a full description of the scope of the investigation, please *see* the ''Scope of the Investigation,'' in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Petitioner submitted revised scope language on January 12, 2012, and January 17, 2012. Among the revisions was the following substantive provision:

> Future utility scale wind tower configurations that meet the minimum height requirement, which may include lattice masts, and are designed to support wind turbine electrical generators greater than 100 kW are also included within this scope.

The Department has not adopted this specific revision recommended by Petitioner for the purposes of initiation.[3] Given the scarcity of information on this product, the Department has had neither the time nor the administrative resources to evaluate this proposed language prior to the initiation date. However, as discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments by February 7, 2012, 5 p.m. Eastern Standard Time (EST), 20 calendar days from the signature date of this notice. All comments must be filed on the record of the PRC CVD investigation, as well as the records of the PRC and Vietnam antidumping duty investigations. All comments and submissions to the Department must be filed electronically using Import Administration's Antidumping Countervailing Duty Centralized Electronic Service System (IA ACCESS).[4] An electronically filed

[6] Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

[7] Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (*i.e.,* accompanying nacelles and/or rotor blades).

[1] The following companies compose the Coalition: Broadwind Towers, Inc., DMI Industries, Katana Summit LLC, and Trinity Structural Towers, Inc. *See* Petition at Volume I, Exhibit I–1.

[2] These public documents and all other public documents and public versions generated in the course of this proceeding by the Department and interested parties are available to the public through Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), located in Room 7046 of the main Department building.

[3] The Department has independent authority to determine the scope of its investigations. *See Diversified Products Corp.* v. *United States,* 572 F. Supp. 883, 887 (CIT 1983).

[4] *See http://www.gpo.gov/fdsys/pkg/FR–2011–07–06/pdf/2011–16352.pdf* for details of the

Continued

document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the Import Administration'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 noted above.

The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on January 3, 2012, the Department invited representatives of the Government of the PRC (GOC) for consultations with respect to the CVD petition. On January 11, 2012, the Department held consultations with representatives of the GOC via conference call. *See* Memorandum to the File, regarding ''Consultations with Officials of the Government of the People's Republic of China on the Petition for the Imposition of Countervailing Duties on Imports of Utility Scale Wind Towers,'' dated January 18, 2012 (Consultations Memorandum).

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 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 (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), *citing Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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 utilty scale wind towers constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* ''Countervailing Duty Investigation Initiation Checklist: Utility Scale Wind Towers from the People's Republic of China'' (CVD Initiation Checklist) at Attachment II, dated concurrently with this notice and on file electronically via IA ACCESS. Access to IA ACCESS is available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in Appendix I of this notice. To establish industry support, Petitioner provided its own 2010 production of the domestic like product, and compared this to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions, at 2–3, and Exhibits I–3 and I–29, and First Supplement to the AD/CVD Petitions, at 5–6, and Supp. Exhibits I–2 and I–3; *see also* CVD Initiation Checklist at Attachment II.

Our review of the data provided in the CVD Petition, supplemental submission, and other information readily available to the Department indicates that Petitioner has established industry support. *See* CVD Initiation Checklist at Attachment II. First, the CVD 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). *See* section 702(c)(4)(D) of the Act; *see also* CVD Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the CVD Petition account for at least 25 percent of the total production of the domestic like product. *See* CVD Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the CVD 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 CVD Petition. Accordingly, the Department determines that the CVD Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See id.*

The Department finds that Petitioner filed the CVD Petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(C) and (E) of the Act and it has

Department's Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IAACCESS 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%20Filling%20Procedures.pdf.*

demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. *See id.*

Injury Test

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

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of utility scale wind towers from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threatening to cause, material injury to the domestic industry producing utility scale wind towers. In addition, Petitioner alleges that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, lost sales and revenue, reduced production, reduced shipments, reduced capacity utilization rate, underselling and price depression and suppression, reduced workforce, decline in financial performance, and an increase in import penetration. 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. *See* CVD Initiation Checklist at Attachment III.

Initiation of Countervailing Duty Investigation

Section 702(b)(i) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner(s) supporting the allegations.

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

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

A. Grant Programs

1. Export Product Research and Development Fund
2. Subsidies for Development of ''Famous Brands'' and ''China World Top Brands''
3. Sub-Central Government Subsidies for Development of ''Famous Brands'' and ''China World Top Brands''
4. Special Energy Fund of Shandong Province
5. National Defense Science and Technology Industry Grants for the Wind Power Equipment Industry
6. Funds for Outward Expansion of Industries in Guangdong Province
7. Renewable Energy Development Fund
8. Special Fund for Wind Power Manufacturing Grants

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

1. Government Provision of Hot-Rolled Steel for LTAR
2. Government Provision of Aluminum for LTAR
3. Government Provision of Electricity for LTAR

C. Government Provision of Land for LTAR

1. Government Provision of Land-Use Rights to State-Owned Enterpries for LTAR
2. Government Provision of Land-Use Rights by the Hunan Province Government for LTAR

D. Policy Lending to the Renewable Energy Industry

E. Income and Other Direct Tax Exemption and Reduction Programs

1. ''Two Free, Three Half'' Program for Foreign Invested Enterprises (FIEs)
2. Income Tax Reductions for Export-Oriented FIEs
3. Income Tax Benefits for FIEs Based on Geographic Location
4. Local Income Tax Exemption and Reduction Programs for ''Productive'' FIEs
5. Tax Reductions for FIEs Purchasing Chinese-Made Equipment
6. Tax Offsets for Research and Development by FIEs
7. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
8. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
9. City Tax and Surcharge Exemptions for FIEs
10. Tax Reductions for High and New-Technology Enterprises Involved in Designated Projects
11. Preferential Income Tax Policy for Enterprises in the Northeast Region
12. Foregiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China
13. Hunan Province Special Fund for Renewable Energy Development

F. Indirect Tax and Tariff Exemption Programs

1. Value Added Tax (VAT) Exemptions for Use of Imported Equipment
2. VAT Rebates on FIE Purchases of Chinese-Made Equipment
3. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program
4. Tax Benefits for Imported Large Power Wind Turbine System Key Components and Raw Materials

G. Export Credit Subsidy Programs

H. Export Guarantees and Insurance for Green Technology

For a description of each of these above-listed programs and a full discussion of the Department's decision to initiate an investigation of these programs, *see* Initiation Checklist.

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

A. Provincial Fund for Fiscal and Technological Innovation
B. Plans for the Development of the Industrial Cluster of Equipment Manufacturing in the Ningxia Region
C. Ride the Wind Program
D. National Debt Wind Power Program
E. Currency Undervaluation

For further information explaining why the Department is not initiating an investigation of the above-listed program, *see* Initiation Checklist.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO shortly after the signature date of this notice. Interested parties may submit comments regarding the CBP data and respondent selection by 5 p.m. EST of the seventh

calendar day of publication of this notice. Comments should be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submissions requirements must be filed manually (*i.e.,* paper form) with the Import Administration'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 noted above.

We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at: *http://ia.ita.doc.gov/apo.*

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition and amendments thereto have been provided to 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 utility scale wind towers from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

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

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD or CVD proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*Interim Final Rule*) amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule,* or in the format provided in the *Interim Final Rule. See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

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

Dated: January 18, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation are certain wind towers, whether or not tapered, and sections thereof. Certain wind towers are designed to support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.,* where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.,* flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

Merchandise covered by the investigation are currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 7308.20.0020 [5] or 8502.31.0000.[6] Prior to 2011, merchandise covered by this investigation was classified in the HTSUS under subheading 7308.20.0000 and may continue to be to some degree. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[FR Doc. 2012–1342 Filed 1–23–12; 8:45 am]

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[5] Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

[6] Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (*i.e.,* accompanying nacelles and/or rotor blades).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA937

Guidelines for Assessing Marine Mammal Stocks

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS solicits public comments on draft revisions to the guidelines for preparing marine mammal stock assessment reports (SARs).