



DEPARTMENT OF COMMERCE
International Trade Administration

[C-552-813]

Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigation

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

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FOR FURTHER INFORMATION CONTACT: Robert Copyak or John Conniff, 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) 482-2209 or (202) 482-1009, respectively.

SUPPLEMENTARY INFORMATION

The Petition

On December 29, 2011, the Department of Commerce (Department) received a countervailing duty (CVD) petition concerning imports of steel wire garment hangers from the Socialist Republic of Vietnam (Vietnam) filed in proper form by M&B Metal Products Company, Inc., Innovative Fabrication LLC/ Innovative Fabrication LLC/Indy Hanger, and U.S. Hanger Company, LLC (collectively, Petitioners). See Petition for the Imposition of Antidumping Duties on Steel Wire Garment Hangers from Taiwan and the Social Republic of Vietnam and the Imposition of Countervailing Duties Against Steel Wire Garment Hangers from the Socialist Republic of Vietnam, dated December 29, 2011 (Petition).

On January 5, 2012, the Department issued a questionnaire requesting information and clarification of certain areas of the general issues and CVD sections of the Petition. Based on the

Department's requests, Petitioners filed a supplement to the Petition regarding the CVD section on January 9, 2012, and the general issues on January 10, 2012.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that producers/exporters of steel wire garment hangers from Vietnam 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 Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties, as defined in section 771(9)(C) of the Act, and have 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 the Investigation

The products covered by this investigation are steel wire garment hangers from Vietnam. For a full description of the scope of the 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, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Petitioners submitted revised scope language on January 11, 2011.

As discussed in the preamble to the regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages interested parties to submit such

comments by February 7, 2012, which is twenty calendar days from the signature date of this notice. All comments must be filed on the records of both the antidumping duty (AD) and CVD investigations. Comments must be filed electronically through Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), <http://iaaccess.trade.gov>, in accordance with 19 CFR 351.303. See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011). 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 Vietnam (GOV) for consultations with respect to the CVD Petition. On January 10, 2012, the Department held consultations with representatives of the GOV. See Memorandum to the File, regarding "Consultations with Officials from the Government of Vietnam on the Countervailing Duty Petition Regarding Steel Wire Garment Hangers," dated January 11, 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 (*see* 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 (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).

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, Petitioners do 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 steel wire garment hangers constitute 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: Steel Wire Garment Hangers from Vietnam (Vietnam CVD Checklist) at Attachment II, on file electronically in the Central Records Unit via IA ACCESS.

In determining whether Petitioners have 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 Investigation,” in Appendix I of this notice. To establish industry support, Petitioners provided their production of the domestic like product in 2010, and compared their shipments to the estimated total production of the domestic like product for the entire domestic industry. To estimate total 2010 production of the domestic like product, Petitioners used their own data and industry specific knowledge. We have relied upon data Petitioners provided for purposes of measuring industry support. For further discussion, see Vietnam CVD Checklist at Attachment II.

Our review of the information provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. 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). See section 702(c)(4)(D) of the Act; see also Vietnam CVD 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 Petition account for at least 25 percent of the total production of the domestic like product. *See* Vietnam CVD 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 Petition account for more than 50 percent of the shipments of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. *See* Vietnam CVD Checklist at Attachment II. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* Vietnam CVD Checklist at Attachment II.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the countervailing duty investigation they are requesting the Department initiate. See Vietnam CVD Checklist at Attachment II.

Injury Test

Because Vietnam 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 Vietnam materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege 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. In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industry’s injured condition is illustrated by reduced market share, reduced shipments, reduced capacity, underselling and price depression or suppression, a decline in financial performance, lost sales and revenue, an increase in import penetration, and threat of future injury. *See* Vietnam CVD Initiation Checklist at Attachment III, Analysis of

Allegations and Evidence of Material Injury and Causation for the Petition Covering Steel Wire Garment Hangers from Taiwan and Vietnam. 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* Vietnam 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 garment hangers from Vietnam 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 garment hangers in Vietnam 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 Vietnam:

Loan Program

- Preferential Lending to Exporters

Provision of Goods or Services for Less than Adequate Remuneration (LTAR)

- Land Rent Reduction/Exemption for Foreign Invested Enterprises (FIEs)
- Land Rent Reduction/Exemption for Exporters
- Land Preferences for Enterprises in Encouraged Industries or Industrial Zones
- Provision of Water for LTAR in Industrial Zones
- Provision of Wire Rod for LTAR

Grant Program

- Grants under the Export Promotion Program

Tax Programs

- Income Tax Preferences for FIEs
- Income Tax Preferences for Enterprises in Industrial Zones
- Income Tax Refund for Reinvestment By FIEs
- Import Duty Exemptions on Imports of Goods for Encouraged Projects
- Import Duty Exemptions for Raw Materials for Exported Goods
- Import Duty Preferences for FIEs, Including Goods to Create Fixed Assets & Raw Materials¹

For a description of each of these programs, see the Petition. For discussion of the Department's decision to initiate an investigation of these programs, 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 make our decision regarding respondent selection within 20 days of publication of this Federal Register notice. The Department will release CBP data under Administrative Protective Order shortly after the signature date of this notice. The Department invites comments regarding the CBP data and respondent selection to be submitted to the Department within seven calendar days of publication of this Federal Register notice.

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 has been provided to representatives of the GOV. Because of the

¹ Initially, Petitioners separately alleged the following three programs, Import Duty Preferences for FIEs, Import Duty Exemptions for FIEs Using Imported Goods to Create Fixed Assets, and Import Duty Exemption on Raw Materials for FIEs Operating in Designated Areas. In their January 9, 2012, filing Petitioners subsumed the two latter programs into the Import Duty Preferences for FIEs program.

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 GOV, 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 garment hangers from Vietnam 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 antidumping duty or countervailing duty 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. See also 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.

Paul Piquado
Assistant Secretary
for Import Administration

January 18, 2012
Date

Appendix I

Scope of the Investigation

The merchandise subject to the investigation is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers.

Specifically excluded from the scope of the investigation are (a) wooden, plastic, and other garment hangers that are not made of steel wire; (b) steel wire garment hangers with swivel hooks; (c) steel wire garment hangers with clips permanently affixed; and (d) chrome-plated steel wire garment hangers with a diameter of 3.4mm or greater.

The products subject to the investigation are currently classified under *U.S. Harmonized Tariff Schedule* ("HTSUS") subheadings 7326.20.0020 and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.