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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-856]

Steel Threaded Rod from India: Preliminary Affirmative Determination of Critical Circumstances for the Countervailing Duty Investigation

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

SUMMARY: The Department of Commerce ("Department") has preliminarily determined that critical circumstances exist with respect to imports of subject merchandise in the countervailing duty ("CVD") investigation of steel threaded rod from India, with the exception of imports from Mangal Steel Enterprises Limited ("Mangal Steel").

DATES: EFFECTIVE DATE: (Insert Date of Publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Andrew Medley, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, Room 4416, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-4987.

SUPPLEMENTARY INFORMATION:

Case History

On June 27, 2013, the Department received a CVD Petition concerning imports of steel threaded rod from India filed in proper form by All America Threaded Products Inc.; Bay Standard Manufacturing Inc.; and Vulcan Threaded Products Inc. (collectively, "Petitioners").[1]

[1] *See* submission by Petitioners titled "Petitions for the Imposition of Antidumping Duties on Steel Threaded Rod from Thailand and Antidumping and Countervailing Duties on Steel Threaded Rod from India," and dated June 27, 2013 ("Petition"). A public version of the Petition and all other public documents and public versions for this investigation are available on the public file in the Central Records Unit, Room 7046 of the main Department of Commerce building.

This investigation was initiated on July 17, 2013.[2] The affirmative *Preliminary Determination* was published on December 19, 2013.[3]

On January 10, 2014, Petitioners alleged that critical circumstances exist with respect to imports of steel threaded rod from India and submitted U.S. Census Bureau import data in support of their allegation. On January 17, 2014, the Department requested from Mangal Steel monthly shipment data of subject merchandise to the United States for the period February 2013 through November 2013. On January 22, 2014, Mangal Steel submitted the requested data.

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation ("POI"), is calendar year 2012.

Scope of Investigation

The merchandise covered by this investigation is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.[4]

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[2] *See Steel Threaded Rod From India: Initiation of Countervailing Duty Investigation*, 78 FR 44532 (July 24, 2013), and accompanying Initiation Checklist.

[3] *See Steel Threaded Rod from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination*, 78 FR 76815 (December 19, 2013) ("*Preliminary Determination*").

[4] For a complete description of the scope of the investigation, *see* Appendix 1 to the *Preliminary Determination*.

Comments of the Parties

In their critical circumstances allegation, Petitioners allege that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the World Trade Organization Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement"). Petitioners cite to the *Preliminary Determination*, in which the Department preliminarily determined that Mangal Steel and Babu Exports ("Babu") received subsidies which are contingent on export performance.

Petitioners also claim that there have been massive imports of steel threaded rod in the five months following the filing of the Petition on June 27, 2013. Petitioners provided data which they contend demonstrate that imports of subject merchandise increased by more than 15 percent, which is required to be considered "massive" under 19 CFR 351.206(h)(2).

Critical Circumstances Analysis

Section 703(e)(1) of the Tariff Act of 1930, as amended ("the Act") provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A) The alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and (B) there have been massive imports of the subject merchandise over a relatively short period.

When determining whether an alleged countervailable subsidy is inconsistent with the Subsidies Agreement, the Department limits its findings to those subsidies contingent on export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the Subsidies Agreement).[5]

[5] *See, e.g., Notice of Preliminary Negative Determination of Critical Circumstances: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 73 FR 21588, 21589-90 (April 22, 2008), unchanged in *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod From Germany*, 67 FR 55808, 55809 (August 30, 2002).

In determining whether imports of the subject merchandise have been "massive," 19 CFR 351.206(h)(1) provides that the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, the Department will not consider imports to be massive unless imports during the "relatively short period" (comparison period) have increased by at least 15 percent compared to imports during an "immediately preceding period of comparable duration" (base period).[6]

19 CFR 351.206(i) defines "relatively short period" as normally being the period beginning on the date the proceeding commences (*i.e.*, the date the petition is filed) and ending at least three months later. For consideration of this allegation, we have used a five-month base period (*i.e.*, February 2013 through June 2013) and a five-month comparison period (*i.e.*, July 2013 through November 2013).

Mangal Steel

In the *Preliminary Determination*, the Department found that, during the POI, Mangal Steel received countervailable benefits under five programs that are contingent upon export performance: Pre- and Post-Shipment Export Financing, Duty Drawback, Export Promotion of Capital Goods Scheme, Focus Product Scheme, and Status Holder Incentive Scrip. Therefore, we preliminarily determine that there is a reasonable basis to believe or suspect that these programs are inconsistent with the Subsidies Agreement.

In determining whether there were massive imports from Mangal Steel, we analyzed Mangal Steel's monthly shipment data for the period February 2013 through November 2013. These data indicate that there was not a massive increase in shipments of subject merchandise to

[6] *See* 19 CFR 351.206(h)(2).

the United States by Mangal Steel during the five-month period immediately following the filing of the Petition on June 27, 2013.[7]

Babu

Because Babu is not participating in this investigation,[8] consistent with Department practice, we have based our critical circumstances determination for Babu on adverse facts available ("AFA"), in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308(c).[9] As AFA, we preliminarily determine that Babu received countervailable benefits under programs that are contingent upon export performance. Also, as AFA, we preliminarily determine that Babu made massive imports of subject merchandise over a relatively short period of time.

All Other Exporters

With regard to whether imports of subject merchandise by the "all other" exporters of steel threaded rod from India were massive, we preliminarily determine that because there is evidence of the existence of countervailable subsidies that are inconsistent with the Subsidies Agreement, an analysis is warranted as to whether there was a massive increase in shipments by the "all other" companies, in accordance with section 703(e)(1)(B) of the Act and 19 CFR 351.206(h). Therefore, we analyzed, in accordance with 19 CFR 351.206(i), monthly shipment data for the period February 2013 through November 2013, using shipment data from the U.S.

[7] *See* the Memorandum to the File from Andrew Medley titled "Critical Circumstances Shipment Data Analysis," dated concurrently with this notice ("Critical Circumstances Memorandum").

[8] Babu did not respond to the Department's September 6, and 19, 2013, questionnaires; thus, for the *Preliminary Determination*, we based Babu's CVD rate upon facts otherwise available and made an adverse inference for Babu, pursuant to section 776(b) of the Act, because we determined that, by not responding to our questionnaires, Babu had failed to cooperate to the best of its ability.

[9] *See, e.g.*, *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052-53 (January 14, 2009), where we cite to the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) at 870, noting that the Department may employ adverse inferences in selecting from among the facts available "to ensure that the party does not obtain a more favorable result by failing to cooperate fully."

Census Bureau, adjusted to remove shipments reported by the only exporter actively participating in this investigation, Mangal Steel.[10] The resulting data indicate there was a massive increase in shipments, as defined by 19 CFR 351.206(h)(2).[11]

Conclusion

We preliminarily determine that critical circumstances do not exist with regard to shipments from one mandatory respondent, Mangal Steel and, as AFA, preliminarily determine that critical circumstances exist with regard to shipments from the other mandatory respondent, Babu. We also preliminarily determine, based on our analysis of the shipment data on the record, that critical circumstances exist for imports from "all other" exporters of steel threaded rod from India. We will make a final determination concerning critical circumstances for steel threaded rod from India when we make our final countervailable subsidy determination in this investigation. As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to the Department's questionnaires.

Suspension of Liquidation

In accordance with section 703(e)(2)(A) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation, with regards to all exporters except Mangal Steel, of any unliquidated entries of subject merchandise from the India entered, or withdrawn from warehouse for consumption, on or after September 20, 2013, which is 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*.

[10] *See, e.g., Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances*, 77 FR 73430, 73432 (December 10, 2012), unchanged in *Certain Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 75973, 75974 (December 26, 2012); *see also Certain Oil Country Tubular Goods From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination*, 74 FR 47210, 47212 (September 15, 2009), unchanged in *Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination: Final Negative Critical Circumstances Determination*, 74 FR 64045, 64047 (December 7, 2009).

[11] *See* Critical Circumstances Memorandum.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination.

This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act.

Dated: February 7, 2014.

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Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

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