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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(C-489-830)

Steel Concrete Reinforcing Bar from the Republic of Turkey: Initiation of Countervailing Duty Investigation

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

DATES: Effective October 11, 2016

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SUPPLEMENTARY INFORMATION

The Petition

On September 20, 2016, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey),¹ filed in proper form, on behalf of the Rebar Trade Action Coalition and its individual members (collectively, Petitioners).² The CVD petition was accompanied by antidumping duty (AD) petitions concerning imports of rebar from Japan, Taiwan, and the Turkey.³ Petitioners are domestic producers of rebar.

¹ See Letter from Petitioners, "Petition for the Imposition of Antidumping and Countervailing Duties: Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey," September 20, 2016 (Petition), at Volume V.

² The Rebar Trade Action Coalition includes Bayou Steel Group, Byer Steel Group, Inc., Commercial Metals Company, Gerdau Ameristeel U.S. Inc., Nucor Corporation, and Steel Dynamics, Inc. *Id.*, Volume I at 1.

³ See Petition, Volumes II-IV.

On September 22 and 23, 2016, the Department requested additional information and clarification of certain aspects of the Petition.⁴ Petitioners responded to these requests on between September 27 and October 5, 2016.⁵

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that the Government of Turkey (the GOT) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to manufacturers, producers, or exporters of rebar from Turkey and that imports of such rebar are materially injuring, or threatening material injury to, an industry in the United States. Additionally, consistent with section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioners supporting their allegations of programs in Turkey on which we are initiating a CVD investigation.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties, as defined by section 771(9)(C) of the Act. As discussed in the “Determination of Industry Support for the Petition” section, below, the Department also finds that Petitioners demonstrated sufficient industry support with respect to initiation of the requested CVD investigation.

⁴ See Letter from the Department, “Petition for the Imposition of Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Questions,” September 22, 2016; *see also* Letter from the Department, “Petitions for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey and Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Questions,” September 23, 2016 (General Issues Supplemental Questionnaire).

⁵ See Letter from Petitioners, “Supplement to the Petition for the Imposition of Countervailing Duties on Steel Concrete Reinforcing Bar from the Republic of Turkey: Response to the Department’s Supplemental Questions,” September 27, 2016; *see also* Letter from Petitioners, “Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties on Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey: Response to the Department’s Supplemental Questions,” September 28, 2016 (General Issues Supplement); Letter from Petitioners, “Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties on Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey: Response to the Department’s Supplemental Questions,” October 4, 2016 (Second General Issues Supplement); Letter from Petitioners, “Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey: Revised Scope, Amendment to the Petition for the Imposition of Antidumping and Countervailing Duties,” October 5, 2016.

Period of Investigation

The period of investigation is January 1, 2015, through December 31, 2015.⁶

Scope of the Investigation

The product covered by this investigation is rebar from Turkey. For a full description of the scope of this investigation, see the Appendix to this notice.

Comments on the Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, Petitioners pertaining to the proposed scope to ensure that the scope language in the Petition accurately reflected the products for which the domestic industry is seeking relief.⁷ As a result of those exchanges, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The class or kind of merchandise covered by this initiation, as described in the Appendix to this notice, reflects that clarification.

As discussed in the preamble to the Department's regulations,⁸ we are setting aside a period of time for interested parties to raise issues regarding product coverage (*i.e.*, scope). The Department will consider all comments received and, if necessary, consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information,⁹ all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests that all interested parties submit scope comments by 5:00 PM Eastern Time (ET) on October 31, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information,

⁶ See 19 CFR 351.204(b)(2).

⁷ See General Issues Supplemental Questionnaire; *see also* General Issues Supplement.

⁸ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 2007).

⁹ See 19 CFR 351.102(b)(21).

must be filed by 5:00 PM ET on November 10, 2016, which is 10 calendar days after the deadline for initial comments.

The Department requests that any factual information parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments and information must be filed on the record of this CVD investigation, as well as the record of each of the concurrent AD investigations.

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).¹⁰ An electronically-filed document must be successfully received, in its entirety, by the date and time it is due. Any document 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, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadline.

Consultations

Pursuant to section 702(b)(4)(A) of the Act, the Department notified representatives of the GOT of its receipt of the Petition and provided them with the opportunity for consultations

¹⁰ See 19 CFR 351.303 (describing general filing requirements); *see also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) (detailing the Department's electronic filing requirements, which went into effect on August 5, 2011). Helpful information on using ACCESS can be found at <https://access.trade.gov/help.aspx>, and the ACCESS handbook is available at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

regarding the CVD allegations.¹¹ On October 6, 2016, the Department held consultations with the GOT.¹² All letters and memoranda pertaining to these consultations are available via ACCESS.

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

¹¹ See Letter from the Department, “Petition for Countervailing Duties on Steel Concrete Reinforcing Bar from the Republic of Turkey,” September 21, 2016.

¹² See Department Memorandum, “Countervailing Duty Petition on Steel Concrete Reinforcing Bar from the Republic of Turkey,” October 6, 2016.

must apply the same statutory definition regarding the domestic like product,¹³ 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.¹⁴

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 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 rebar, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁵

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 the Investigation,” in the Appendix to this notice. To establish industry support, Petitioners provided their 2015 shipments of the domestic like

¹³ See section 771(10) of the Act.

¹⁴ 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)).

¹⁵ For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Steel Concrete Reinforcing Bar from the Republic of Turkey (CVD Initiation Checklist), at Attachment II, “Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey.” The CVD Initiation Checklist is dated concurrently with this notice and 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.

product, and compared their shipments to estimated total shipments of the domestic like product for the entire domestic industry.¹⁶ Because production data for the U.S. rebar industry for 2015 is not reasonably available to Petitioners, and Petitioners have established that shipments are a reasonable proxy for production data,¹⁷ we have relied upon the shipment data provided by Petitioners for purposes of measuring industry support.

Our review of the data provided in the Petition, General Issues Supplement, and other information readily available to the Department indicates that Petitioners have established industry support.¹⁸ First, the Petition established support from domestic producers and workers accounting for more than 50 percent of the total shipments of the domestic like product,¹⁹ and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁰ Second, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers and workers who support the Petition account for at least 25 percent of the total shipments of the domestic like product.²¹ Finally, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers and 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.²² Accordingly, the Department determines that the

¹⁶ See Petition, Volume I at 3, Exhibit I-4, and Exhibit I-31; *see also* General Issues Supplement at 3-6, Exhibit I-Supp-4, and Exhibit I-Supp-7.

¹⁷ See General Issues Supplement at 5, Exhibit I-Supp-4, and Exhibit I-Supp-5.

¹⁸ See CVD Initiation Checklist at Attachment II.

¹⁹ As discussed above, Petitioners established that shipments are a reasonable proxy for production data. Section 351.203(e)(1) of the Department's regulations states, "production levels may be established by reference to alternative data that the Secretary determines to be indicative of production levels."

²⁰ See section 702(c)(4)(D) of the Act; *see also* CVD Initiation Checklist at Attachment II.

²¹ See CVD Initiation Checklist at Attachment II.

²² *Id.*

Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties, as defined in sections 771(9)(C) and (F) of the Act, and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate.²³

Injury Test

Because Turkey 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 Turkey 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.²⁴

Petitioners contend that the industry’s injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; declines in production, capacity utilization, and U.S. shipments; negative impact on employment variables;

²³ *Id.*

²⁴ *See* General Issues Supplement at 6-8, Exhibit I-Supp-8, and Exhibit I-Supp-9; *see also* Second General Issues Supplement at 1-2.

and decline in financial performance.²⁵ 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.²⁶

Initiation of Countervailing Duty Investigation

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

Petitioners allege that exporters/producers of rebar in Turkey benefited from countervailable subsidies bestowed by the GOT. The Department examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, and/or exporters of rebar from Turkey not covered by an existing CVD order on rebar from Turkey receive countervailable subsidies from the GOT.

On June 29, 2015, the President of the United States signed the Trade Preferences Extension Act of 2015 (TPEA) into law, which made numerous amendments to the Act.²⁷ The TPEA 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,

²⁵ See Petition, Volume I at 14, 18-48, Exhibit I-5, Exhibit I-8, Exhibit I-20, and Exhibits I-23 through I-59; *see also* General Issues Supplement at 6-8, Exhibit I-Supp-7, Exhibit I-Supp-8, Exhibit I-Supp-9 and Exhibit I-Supp-10; Second General Issues Supplement at 1-2.

²⁶ See CVD Initiation Checklist at Attachment III, “Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey.”

²⁷ See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015).

which relate to determinations of material injury by the ITC.²⁸ The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.²⁹

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 21 of 23 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination in this investigation no later than 65 days after the date of initiation.

Respondent Selection

Petitioners named one company as an exporter/producer of rebar from Turkey that is not currently subject to an existing CVD order on imports of rebar from Turkey.³⁰ Following standard practice in CVD investigations, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of rebar from Turkey during the period of investigation. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of publication of this *Federal Register* notice.

²⁸ 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 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

²⁹ 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*), at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

³⁰ See Petition, Volume V at 1.

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 website at <http://enforcement.trade.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 has been provided to the GOT via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each known exporter/producer, as named in the Petition,³¹ consistent with 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

Within 45 days of the date on which the Petition was filed, the ITC will preliminarily determine whether there is a reasonable indication that imports of rebar from Turkey are materially injuring, or threatening material injury to, a U.S. industry.³² A negative ITC determination will result in the investigation being terminated.³³ Otherwise, this 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) through (iv). The

³¹ See Petition, Volume I at Exhibit I-19.

³² See section 703(a)(2) of the Act.

³³ See section 703(a)(1) of the Act.

regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Specific time limits for submission of factual information, based on the type of factual information being submitted, are provided at 19 CFR 351.301. Parties should review the regulations prior to submitting factual information in this investigation.

Extension of Time Limits

Parties may request the extension of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary, before the applicable time limit has expired. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 AM ET on the due date. Under certain circumstances, we may elect to specify a different deadline after which extension requests will be considered untimely for submissions that are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum establishing the applicable time limit. An extension request must be made in a separate, stand-alone submission. In limited circumstances, we will grant untimely-filed extension requests.³⁴

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify the accuracy and completeness of that information.³⁵ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their

³⁴ See *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>.

³⁵ See section 782(b) of the Act.

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 revised certification formats provided at the end of the *Final Rule*.³⁶ The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under 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.*, filing letters of appearance, as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

October 11, 2016
Date

³⁶ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (“*Final Rule*”). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Appendix

Scope of the Investigation

The merchandise subject to this investigation is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade or lack thereof. Subject merchandise includes deformed steel wire with bar markings (*e.g.*, mill mark, size, or grade) and which has been subjected to an elongation test.

The subject merchandise includes rebar that has been further processed in the subject country or a third country, including but not limited to cutting, grinding, galvanizing, painting, coating, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the rebar.

Specifically excluded are plain rounds (*i.e.*, nondeformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size, or grade) and without being subject to an elongation test.

At the time of the filing of the petition, there was an existing countervailing duty order on steel reinforcing bar from the Republic of Turkey. *Steel Concrete Reinforcing Bar From the Republic of Turkey*, 79 Fed. Reg. 65,926 (Dep't Commerce Nov. 6, 2014) (2014 Turkey CVD Order). The scope of this countervailing duty investigation with regard to rebar from Turkey covers only rebar produced and/or exported by those companies that are excluded from the 2014 Turkey CVD Order. At the time of the issuance of the 2014 Turkey CVD Order, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. was the only excluded Turkish rebar producer or exporter.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010. The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6030, 7227.90.6035, 7227.90.6040, 7228.20.1000, and 7228.60.6000.

HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

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