

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

C-570-113

Certain Collated Steel Staples from the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: Effective June 26, 2019.

FOR FURTHER INFORMATION CONTACT: Robert Palmer or Joshua Simonidis, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-9068 or (202) 482-0608, respectively,

SUPPLEMENTARY INFORMATION:

The Petition

On June 6, 2019, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain collated steel staples (collated staples) from the People's Republic of China (China).¹ The Petition was filed in proper form by Kyocera Senco Industrial Tools, Inc. (the petitioner). The CVD Petition was accompanied by antidumping duty (AD) petitions concerning imports of collated staples from China, the Republic of Korea, and Taiwan.²

¹ See the Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan," dated June 6, 2019 (Petition).

² *Id.*

On June 11, 2019 and June 17, 2019, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ The petitioner filed responses to these requests between June 13 and June 19, 2019.⁴

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of collated staples in China, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing collated staples in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed this Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act.

Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.⁵

³ See Commerce's Letters, "Petitions for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan and Countervailing Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Supplemental Questions," dated June 11, 2019 (General Issues Supplemental Questionnaire); "Petition for the Imposition of Countervailing Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Supplemental Questions," all dated June 11, 2019 (CVD Supplemental Questionnaire); and Memorandum, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Phone Call with Counsel to the Petitioner," dated June 17, 2019.

⁴ See the Petitioner's Letters, "Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Petition Supplement – General and Injury," dated June 13, 2019 (General Issues Supplement); "Certain Collated Steel Staples from the People's Republic of China: Petition Supplement," dated June 14, 2019 (CVD Supplement); "Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Petition Supplement – General Issues," June 19, 2019 (Second General Issues Supplement).

⁵ See "Countervailing Duty Investigation Initiation Checklist: Certain Collated Steel Staples from the People's Republic of China" (CVD Initiation Checklist). This checklist is dated concurrently with, and hereby adopted by, 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.

Period of Investigation

Because the Petition was filed on June 6, 2019, the period of investigation (POI) is January 1, 2018 through December 31, 2018.⁶

Scope of the Investigation

The merchandise covered by this investigation consists of collated staples from China. For a full description of the scope of this investigation, *see* the Appendix to this notice.

Comments on Scope of the Investigation

During our review of the Petition, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁷ As a result of these exchanges, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).⁸ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,⁹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on July 16, 2019, which is 20 calendar

⁶ See 19 CFR 351.204(b)(1).

⁷ See General Issues Supplement; *see also* Second General Issues Supplement.

⁸ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁹ See 19 CFR 351.102(b)(21) (defining "factual information").

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 July 26, 2019, which is 10 calendar days from the initial comment deadline.¹⁰

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this 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 Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).¹¹ An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted 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 deadlines.

¹⁰ See 19 CFR 351.303(b).

¹¹ See *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 Commerce's electronic filing requirements, effective 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>.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the Government of China (GOC) of the receipt of the Petition and provided it the opportunity for consultations with respect to the Petition.¹² The GOC did not request consultations.

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, Commerce 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 Commerce 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

¹² See Commerce Letter, “Countervailing Duty Petition on Collated Steel Staples from the People’s Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition,” dated June 6, 2019.

domestic like product in order to define the industry. While both Commerce and the ITC 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, Commerce'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, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁵ Based on our analysis of the information submitted on the record, we have determined that collated staples, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁶

In determining whether the 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

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 (Federal Circuit 1989)).

¹⁵ See Volume I of the Petition at 9-13 and Exhibit IN-4; see also General Issues Supplement at 4 and Exhibit 1.

¹⁶ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see CVD Initiation Checklist, at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petition Covering Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan (Attachment II). This 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.

like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. To establish industry support, the petitioner provided its own 2018 production of the domestic like product and compared this to the estimated total production of the domestic like product for the entire domestic industry.¹⁷ We relied on data provided by the petitioner for purposes of measuring industry support.¹⁸

Our review of the data provided in the Petition, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.¹⁹ 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, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁰ 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.²¹ 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 production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²²

¹⁷ See Volume I of the Petition, at 3 and Exhibit GEN-1; *see also* General Issues Supplement, at 7 and Exhibit 5; and Second General Issues Supplement, at Exhibit 1.

¹⁸ See Volume I of the Petition, at 3 and Exhibit GEN-1; *see also* General Issues Supplement, at 7 and Exhibit 5; and Second General Issues Supplement, at Exhibit 1. For further discussion, *see* CVD Initiation Checklist, at Attachment II.

¹⁹ See CVD Initiation Checklist, at Attachment II.

²⁰ *Id.*; *see also* section 702(c)(4)(D) of the Act.

²¹ See CVD Initiation Checklist, at Attachment II.

²² *Id.*

Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Injury Test

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

Allegations and Evidence of Material Injury and Causation

The petitioner alleges 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, the petitioner alleges that subject imports from China exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²³

The petitioner contends that the industry’s injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; lost sales and lost revenue; underselling and price depression or suppression; and low capacity utilization rates and declining shipments, production, and profitability.²⁴ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, cumulation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁵

²³ See Volume I of the Petition, at 23 and Exhibits GEN-4 and IN-15.

²⁴ See Volume I of the Petition, at 9, 16-35 and Exhibits GEN-4, IN-1 through IN-7, IN-9 through IN-18 and IN-19; see also General Issues Supplement, at 4, 8-11 and Exhibit 1.

²⁵ 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 Certain Collated Steel Staples from the People’s Republic of China, the Republic of Korea, and Taiwan (Attachment III).

Initiation of CVD Investigation

Based on the examination of the Petition, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of collated staples from China benefit from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation, in whole or part, on 26 of the 27 alleged programs. For a full discussion of the basis for our decision to 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 no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner named 99 companies as producers/exporters of collated staples in China.²⁶ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of collated staples from China during the POI under the appropriate Harmonized Tariff Schedule of the United States number listed in the Appendix.

On June 21, 2019, Commerce released CBP data on imports of collated staples from China under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP

²⁶ *See* Volume I of the Petition at 8 and Exhibit GEN-2.

data and respondent selection must do so within three business days of the publication date of the notice of initiation of this investigation.²⁷ We further stated that we will not accept rebuttal comments.

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 Commerce's web site at <http://enforcement.trade.gov/apo>.

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. We intend to finalize our decisions regarding respondent selection within 20 days of publication of this 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 the GOC via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each 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 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 collated staples from China are materially injuring, or threatening material injury to, a U.S. industry.²⁸ A negative ITC

²⁷ See Memorandum, "Certain Collated Steel Staples from the People's Republic of China – Release of Customs Data," dated June 20, 2019.

²⁸ See section 703(a)(2) of the Act.

determination will result in the investigation being terminated.²⁹ 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 Commerce; 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 submitted³⁰ 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.³¹ 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. Interested parties should 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 351.301, 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 351.301. 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

²⁹ See section 703(a)(1) of the Act.

³⁰ See 19 CFR 351.301(b).

³¹ See 19 CFR 351.301(b)(2).

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 a letter or memorandum of 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. Parties should 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.³² Parties must use the certification formats provided in 19 CFR 351.303(g).³³ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable 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, Commerce 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 at 19 CFR 351.103(d)).

³² See section 782(b) of the Act.

³³ 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.

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

/S/ Jeffrey I. Kessler

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

June 26, 2019

Date

Appendix

Scope of the Investigation

The merchandise covered by the scope of this investigation is certain collated steel staples. Certain collated steel staples subject to this investigation are made from steel wire having a nominal diameter from 0.0355 inch to 0.0830 inch, inclusive, and have a nominal leg length from 0.25 inch to 3.0 inches, inclusive, and a nominal crown width from 0.187 inch to 1.125 inch, inclusive.

Certain collated steel staples may be manufactured from any type of steel, and are included in the scope of the investigation regardless of whether they are uncoated or coated, and regardless of the type or number of coatings, including but not limited to coatings to inhibit corrosion.

Certain collated steel staples may be collated using any material or combination of materials, including but not limited to adhesive, glue, and adhesive film or adhesive or paper tape.

Certain collated steel staples are generally made to American Society for Testing and Materials (ASTM) specification ASTM F1667-18a, but can also be made to other specifications.

Excluded from the scope of this investigation are any carton-closing staples covered by the scope of the existing antidumping duty order on *Carton-Closing Staples from the People's Republic of China*. See *Carton-Closing Staples From the People's Republic of China: Antidumping Duty Order*, 83 FR 20792 (May 8, 2018).

Certain collated steel staples subject to this investigation are currently classifiable under subheading 8305.20.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).

While the HTSUS subheading and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.