

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-932]

Certain Steel Threaded Rod From the People's Republic of China: Initiation of Anti-Circumvention Inquiry

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

SUMMARY: In response to a request from Vulcan Threaded Products Inc. ("Petitioner"), the Department of Commerce (the "Department") is initiating an anti-circumvention inquiry to determine whether certain imports are circumventing the antidumping duty order on certain steel threaded rod from the People's Republic of China ("PRC").¹

DATES: *Effective Date:* January 5, 2012.

FOR FURTHER INFORMATION CONTACT: Toni Dach, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1655.

SUPPLEMENTARY INFORMATION:**Background**

On November 17, 2011, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the "Act"), and 19 CFR 351.225(i), Petitioner submitted a request for the Department to initiate an anti-circumvention inquiry of Gem-Year Industrial Co., Ltd. ("Gem-Year") to determine whether double-arming bolts ("DA bolts"), a type of steel threaded rod produced in the PRC containing more than 1.25 percent chromium, are circumventing the *Steel Threaded Rod Order*.² In its request, Petitioner contends that Gem-Year's higher-chromium DA bolts are of the same class or kind as the merchandise covered by the *Steel Threaded Rod Order*, and the addition of small amounts of chromium above the 1.25 percent threshold in the scope of the order is a minor alteration that constitutes circumvention.

Scope of the Order

The merchandise covered by the order 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 the order 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.

Included in the scope of the order are steel threaded rod, bar, or studs, in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheading 7318.15.5050, 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of the order are: (a) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials ("ASTM") A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, or ASTM A320 Grade L7.

Prior Scope Ruling

Among previous scope rulings concerning the *Steel Threaded Rod Order*, the Department on September 10, 2010, responded to a request for a scope ruling by Hubbell Power Systems, Inc. and determined that DA bolts meeting the description of the scope are within

the scope of the *Steel Threaded Rod Order*.³

Merchandise Subject to the Minor Alterations Antidumping Circumvention Inquiry

The merchandise subject to this antidumping circumvention inquiry consists of steel threaded rod from the PRC produced by Gem-Year containing greater than 1.25 percent chromium, by weight, and otherwise meeting the requirements of the scope of the *Steel Threaded Rod Order* as listed under the "Scope of the Order" section above.

Initiation of Minor Alterations Antidumping Circumvention Proceeding

Section 781(c)(1) of the Act provides that the Department may find circumvention of an antidumping duty order when products which are of the class or kind of merchandise subject to an antidumping duty order have been "altered in form or appearance in minor respects * * * whether or not included in the same tariff classification." The Department notes that, while the statute is silent as to what factors to consider in determining whether alterations are properly considered "minor," the legislative history of this provision indicates there are certain factors which should be considered before reaching a circumvention determination. In conducting a circumvention inquiry under section 781(c) of the Act, the Department has generally relied upon "such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported products."⁴

Overall Physical Characteristics

Petitioner maintains that steel threaded rod with the addition of chromium is produced in the same manner and to the same specifications as subject steel threaded rod.⁵ Petitioner provides a declaration supporting these claims in its Circumvention Request.⁶

Expectations of the Ultimate Users

Petitioner indicates that it is unaware of any instances where customers would

³ See *Notice of Scope Rulings*, 76 FR 10558, 10559 (February 25, 2011).

⁴ See S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987) ("In applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article.").

⁵ See Circumvention Request at 16.

⁶ *Id.* at 16-17.

¹ See *Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 17154 (April 14, 2009) ("*Steel Threaded Rod Order*").

² See the Petitioner's November 17, 2011 submission ("*Circumvention Request*") at 2.

expect or request steel threaded rod with small amounts of chromium added, other than to circumvent the order.⁷ Petitioner argues that the applicable standard for DA bolts does not address the chemistry of the steel, focusing instead on basic dimensions, zinc coating, and tensile strength, none of which are affected by the additional amounts of chromium.⁸

Use of the Merchandise

Petitioner states that the uses of DA bolts, *i.e.*, fasteners in the utility industry, are typical applications of steel threaded rod.⁹

Channels of Marketing

Petitioner states that the channels of marketing for the chromium-added DA bolts and the subject steel threaded rod are the same, noting that both products are marketed through distributors.¹⁰

Cost of Modification

Petitioner indicates that the addition of small amounts of chromium involves minimal additional cost compared to the overall costs of the merchandise in question.¹¹

Circumstances Under Which the Subject Products Entered the United States

Petitioner argues that entry summary information indicates that the additional chromium was added to deliberately avoid antidumping duties. Petitioner points to documents contained in the entry summary for Gem-Year's entries of higher-chromium DA bolts to support its claim that the chromium content of the DA bolts was manipulated in an attempt to circumvent the order.¹² Because Gem-Year's merchandise would be subject to the PRC-wide deposit rate of 206.00 percent, Petitioner asserts that Gem-Year and its customers have a strong financial incentive to avoid paying antidumping duties.¹³

Timing of the Entries

Petitioner asserts that the addition of chromium after the issuance of the *Steel Threaded Rod Order* and the Department's determination in the related scope request concerning DA bolts indicates that this addition of chromium is an attempt to circumvent the *Steel Threaded Rod Order*.¹⁴

Based on the information provided by Petitioner, the Department finds there is sufficient basis to initiate an antidumping anti-circumvention inquiry, pursuant to section 781(c) of the Act, to determine whether the merchandise subject to the inquiry (identified in the "Merchandise Subject to the Minor Alterations Antidumping Circumvention Inquiry" section above) involves a minor alteration to subject merchandise that is so insignificant as to render the resulting merchandise subject to the *Steel Threaded Rod Order*.

The Department will not order the suspension of liquidation of entries of any additional merchandise at this time. However, in accordance with 19 CFR 351.225(l)(2), if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry.

The Department will, following consultation with interested parties, establish a schedule for questionnaires and comments on the issues. The Department intends to issue its final determination within 300 days of the date of publication of this initiation notice.

This notice is published in accordance with sections 781(c) of the Act and 19 CFR 351.225(i).

Dated: December 22, 2011.

Christian Marsh,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA892

2012 Annual Determination for Sea Turtle Observer Requirement

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

ACTION: Notice.

SUMMARY: The National Marine Fisheries Service (NMFS) is providing notification that the agency will not identify additional fisheries to observe on the Annual Determination (AD) for

2012, pursuant to its authority under the Endangered Species Act (ESA). Through an AD, NMFS identifies fisheries operating in the Atlantic Ocean, Gulf of Mexico, and Pacific Ocean that will be required to take observers upon NMFS' request. The purpose of observing identified fisheries is to learn more about sea turtle interactions in a given fishery, evaluate existing measures to prevent or reduce prohibited sea turtle takes, and to determine whether additional measures to implement the prohibition against sea turtle takes may be necessary. Fisheries identified in the 2010 AD (see Table 1) remain on the AD and are therefore required to carry observers upon NMFS' request, until 2014.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for a listing of all Regional Offices.

FOR FURTHER INFORMATION CONTACT: Kristy Long, Office of Protected Resources, (301) 713-2322; Ellen Keane, Northeast Region, (978) 282-8476; Dennis Klemm, Southeast Region, (727) 824-5312; Elizabeth Petras, Southwest Region, (562) 980-3238; Kim Maison, Pacific Islands Region, (808) 944-2257. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1-(800) 877-8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Availability of Published Materials

Information regarding the Sea Turtle Observer Requirement for Fisheries (72 FR 43176, August 3, 2007) may be obtained at www.nmfs.noaa.gov/pr/species/turtles/regulations.htm or from any NMFS Regional Office at the addresses listed below:

- NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930-2298;
- NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701;
- NMFS, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; or
- NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1100, Honolulu, HI 96814-4700.

Purpose of the Sea Turtle Observer Requirement

Under the ESA, 16 U.S.C. 1531 *et seq.*, NMFS has the responsibility to implement programs to conserve marine life listed as endangered or threatened. All sea turtles found in U.S. waters are listed as either endangered or

⁷ *Id.* at 17.

⁸ *Id.*

⁹ *Id.* at 19.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 19-20.

¹³ *Id.* at 20.

¹⁴ *Id.* at 20.