

Circumvention Inquiry Guide

The following document is intended to guide requestors through the process of filing a circumvention inquiry request. Section 351.226(c) of Commerce's regulations lists the required information that must be submitted with a circumvention inquiry request, to the extent that such information is reasonably available to the requestor. *See* 19 CFR 351.226 for further guidance regarding Commerce's circumvention inquiry process.

Circumvention undermines the effectiveness of trade remedies provided and established by antidumping and countervailing duty proceedings. Section 781 of the Tariff Act of 1930, as amended (the Act), addresses the circumvention of antidumping and countervailing duty orders. Section 781 of the Act allows Commerce to apply antidumping and countervailing duty orders in such a way to prevent circumvention by including within the scope of the order four distinct categories of merchandise.

The U.S. Department of Commerce (Commerce) may initiate and conduct a circumvention inquiry under one of four provisions in the Act: section 781(a), merchandise completed or assembled in the United States; section 781(b), merchandise completed or assembled in other foreign countries; section 781(c), minor alteration; or section 781(d), later-developed merchandise. The details regarding these different types of inquiries are provided later in this guide. The regulations which apply to circumvention inquiries can be found at 19 CFR 351.226. They were significantly revised on September 20, 2021, with an effective date of November 4, 2021.¹ Parties may view some previous circumvention determinations at the following site: <https://legacy.trade.gov/enforcement/operations/scope/index.asp>. This site also has public documents which are available for determinations issued between 1990 and August 2011. Please note, some determinations issued prior to August 2011 may not be available on this site. Circumvention determinations made after August 5, 2011, are available in Commerce's electronic records system, Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Parties can use the barcode assigned to a final scope ruling to locate and access the public version of the document via ACCESS.

A circumvention inquiry evaluates the applicable criteria under section 781 of the Act and determines if the merchandise in question will be included under the scope of the order. An interested party may submit a request for a circumvention inquiry that addresses the criteria under section 781 and is accompanied by supporting information that is reasonably available to the interested party making the inquiry request.

Commerce will review each circumvention inquiry request for completeness. Except as provided under 19 CFR 351.226(d)(2), Commerce will determine whether to accept or reject the circumvention inquiry request within 30 days after the inquiry request's filing. If Commerce determines that an inquiry request is incomplete or otherwise unacceptable, Commerce may reject the inquiry request and will provide a written explanation of the reasons for the rejection. The inquiry request may be resubmitted to Commerce at any time after all identified deficiencies are corrected.

¹ *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021).

If a circumvention inquiry request satisfies the statutory and regulatory requirements, Commerce may determine to initiate a circumvention inquiry or Commerce may determine upon review of the request that a scope ruling is warranted before it can conduct a circumvention analysis. If the latter, Commerce may either initiate the circumvention inquiry and address the scope issue as part of the circumvention inquiry or may defer initiation of the circumvention inquiry pending the completion of any ongoing or new segment that is addressing the scope issue. If initiation of the circumvention inquiry is deferred pending completion of another segment and the result of that other segment is that the product is not covered by the scope of the order(s) at issue, Commerce may immediately initiate the circumvention inquiry upon issuance of the final decision in the other segment.

Following initiation of a circumvention inquiry, Commerce may select respondents, issue questionnaires, and may conduct a verification of any submissions received, where appropriate. Questionnaire responses are due on the date specified by Commerce.

This guide is divided into the following four sections:

- Section I: Timeline – provides timeline of proceeding;
- Section II: Description of Circumvention Types – provides information related to the four types of circumvention described under section 781 of the Act;
- Section III: Supporting Documentation and Data – provides information related to the documentation and data submitted to support the circumvention inquiry request; and
- Section IV: Interested Party Status.

Appendix A contains filing instructions.

Appendix B contains the certifications of factual accuracy and certificate of service:

(1)The Company Certification, that an officer of the interested party (company) filing the request must make to Commerce, indicating that the information provided in the inquiry request is complete and correct.

(2)The Representative Certification, that a representative of the interested party (company) filing the request must make to Commerce, indicating that the information provided in the request is complete and correct. This is only required if the interested party has legal counsel, or another representative, acting on its behalf.

(3)The Certificate of Service, that an officer of the interested party(company) must make to Commerce, indicating that all parties on the annual inquiry service list for the order have been served the circumvention inquiry request. The service list must include those parties on the annual inquiry service list for the companion AD or CVD order that covers the same merchandise from the same country.

Appendix C contains a glossary of terms.

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Section I: Timeline

Circumvention inquiries have an established timeline and deadlines set by 19 CFR 351.226. Where a deadline falls on a weekend or holiday, the appropriate date is the next business day.²

1) Initiation (*See* 19 CFR 351.226(d))

After the circumvention inquiry request is filed, within 30 days, Commerce will determine whether to accept or reject the request. If it is not practicable to determine whether to accept or reject the allegation in 30 days, this deadline may be extended an additional 15 days.

If it is determined that the request is incomplete or unacceptable, Commerce may reject the request and provide a written explanation of the reasons for rejection. The requestor may resubmit the request at any time, with the identified deficiencies corrected.

If it is determined that the request meets the necessary requirements, Commerce will accept the request and, generally, initiate a circumvention inquiry. A notice of initiation will be published in the *Federal Register*. Commerce may also determine that it must first address a relevant scope issue and defer initiation of a circumvention inquiry pending completion of a segment of the proceeding addressing the scope issue or address the circumvention issue in the context of an on-going segment such as a covered merchandise referral.

2) Circumvention Inquiry Procedures (*See* 19 CFR 351.226(e), (f), (g) and (l))

After the initiation notice is published, within 30 days, an interested party other than the requestor is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information contained in the request. Within 14 days of such a filing, the requestor is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information contained in the interested party's rebuttal, clarification, or correction.

Furthermore, after the initiation is published, Commerce may issue questionnaires and verify submissions received. Commerce may also limit issuance of questionnaires to a reasonable number of respondents.

Commerce may issue a preliminary determination concurrently with the notice of initiation, based upon the available information at the time, as to whether there is a reasonable basis to believe the elements necessary for circumvention under 781 of the Act exist.

Otherwise, Commerce will issue a preliminary determination no later than 150 days from the date of publication of the notice of initiation, unless extended. If Commerce issues an affirmative preliminary determination, Commerce will issue instructions to U.S. Customs and

² Commerce's practice dictates that, when a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

Border Protection (CBP) to either continue suspension of liquidation or to begin suspension of liquidation at the applicable cash deposit rate as appropriate. Interested parties will be provided an opportunity to present case and rebuttal briefs regarding the preliminary determination, usually on a schedule outlined by Commerce.

Commerce will evaluate case and rebuttal briefs and, to the maximum extent possible, will issue a final determination no later than 300 days from the date of publication of the notice of initiation. If Commerce concludes the inquiry is extraordinarily complicated and additional time is needed, the deadline may be extended no more than 65 days. Following the final determination, if affirmative, Commerce will issue instructions accordingly to CBP regarding the suspension of liquidation and the collection of cash deposits.

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Section II: Description of Circumvention Types

Circumvention inquiry request may allege circumvention under four different types according to section 781 of the Act:

- 1) Merchandise Completed or Assembled in the United States (*see* section 781(a) of the Act and 19 CFR 351.226(h)).

Commerce may include within the scope of an order imported parts or components from a foreign country to which the order or finding applies that are used in the completion or assembly of merchandise in the United States. The requestor must allege and provide reasonably available supporting information showing that: the merchandise sold in the United States is of the same class or kind as any other merchandise subject to the order; such merchandise is assembled in the United States using parts/components produced in the subject country; the process of assembly or completion in the United States is minor or insignificant; and, the value of the parts or components is a significant portion of the total value.

In determining whether the process is minor or insignificant, Commerce evaluates a number of factors: (a) the level of investment in the United States; (b) the level of research and development in the United States; (c) the nature of the production process in the United States; (d) the extent of production facilities in the United States; and (e) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States.

Additionally, Commerce will also consider factors such as: (a) the pattern of trade, including sourcing patterns, (b) whether the manufacturer or exporter of the parts or components from the subject country is affiliated with the person who assembles or completes the merchandise sold in the United States, and (c) whether imports into the United States of the parts or components from the subject country have increased after the initiation of the investigation which resulted in the issuance of an order.

An example of such circumvention cases includes:

Certain Uncoated Paper from Brazil, the People's Republic of China, and Indonesia: Affirmative Final Determinations of Circumvention of the Antidumping Duty Orders and Countervailing Duty Order for Certain Uncoated Paper Rolls, 86 FR 71025 (December 14, 2021).

2) Merchandise Completed or Assembled in Other Foreign Countries (*see* section 781(b) of the Act and 19 CFR 351.226(i))

Commerce may include within the scope of an order merchandise imported into the United States which was completed or assembled in a foreign country other than the country to which the order or finding applies (*i.e.*, a third country). The requestor must allege and provide reasonably available supporting information showing that: the merchandise sold in the United States is of the same class or kind as any other merchandise subject to the order; such merchandise is assembled in the United States using parts/components produced in the subject country; the process of assembly or completion in the foreign country is minor or insignificant, the value of the parts or components is a significant portion of the total value, and, to extent possible with reasonably available information, should address whether inclusion of such merchandise within the scope of the order is appropriate to prevent evasion of the order.

In determining whether the process is minor or insignificant, Commerce evaluates a number of factors: (a) the level of investment in the third country; (b) the level of research and development in the third country; (c) the nature of the production process in the third country; (d) the extent of production facilities in the third country; and (e) whether the value of the processing performed in the third country represents a small proportion of the value of the merchandise sold in the United States.

Additionally, Commerce will also consider factors such as: (a) the pattern of trade, including sourcing patterns; (b) whether the manufacturer or exporter of the parts or components from the subject country is affiliated with the person who assembles or completes the merchandise in the third country that is subsequently imported into the United States; and (c) whether imports into the third country of the parts or components have increased after the initiation of the investigation which resulted in the issuance of an order or finding.

Examples of such circumvention cases include:

Country-wide

Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Determinations of Circumvention, 86 FR 67443 (November 26, 2021).

Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders, 83 FR 23895 (May 23, 2018).

Company-Specific

Certain Tissue Paper Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 73 FR 57591 (October 3, 2008).

Small Diameter Graphite Electrodes from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 77 FR 47596 (August 9, 2012).

3) Minor Alteration (*see* section 781(c) of the Act and 19 CFR 351.226(j))

Commerce may include within the scope of an order merchandise altered in form or appearance in minor respects, whether or not included in the same tariff classification. This can also include raw agricultural products that have undergone minor processing.

In determining whether the alteration is minor, Commerce may consider multiple criteria, including but not limited to: (a) the overall physical characteristics of the merchandise (including chemical, dimensional, and technical characteristics); (b) the expectations of the ultimate users; (c) the use of the merchandise; (d) the channels of marketing; and (e) the cost of modification relative to the total value of the imported product. Additionally, Commerce may also consider the circumstances under which the products enter the United States – including, but not limited to, the timing of the entries and the quantity of merchandise entered during the circumvention inquiry period. The requestor must allege and provide reasonably available supporting information addressing these criteria, as applicable, in the circumvention inquiry request.

Examples of such circumvention cases include:

Steel Concrete Reinforcing Bar from Mexico: Final Affirmative Determination of Circumvention of the Antidumping Duty Order, 85 FR 35065 (June 8, 2020).

Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Affirmative Determination of Circumvention of the Antidumping Duty Order, 84 FR 9089 (March 12, 2019).

4) Later-Developed Merchandise (*see* section 781(d) of the Act and 19 CFR 351.226(k))

Commerce may determine that later-developed merchandise is within the scope of an order. To do so, Commerce will examine whether the merchandise at issue was commercially available at the time of the underlying investigation (*i.e.*, whether the product was present in the commercial market or the product was tested and ready for commercial production).

Commerce may consider a number of factors, including: (a) whether the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (earlier product); (b) the expectations of the ultimate purchasers of the later-developed merchandise compared to that of the ultimate purchasers for the earlier product; (c) whether the ultimate use of the earlier product and the later-developed merchandise are the same; (d) whether the later-developed merchandise is sold through the same channels of trade as the earlier product; and (e) whether the later-developed merchandise is advertised and displayed in a manner similar to the earlier product. The requestor must allege and provide reasonably available supporting information addressing these criteria, as applicable, in the circumvention inquiry request.

Examples of such circumvention cases include:

Petroleum Wax Candles from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 72 FR 31053 (June 5, 2007).

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Section III: Supporting Documentation and Data

Reasonably available supporting documentation and data should be provided for each of the factors of analysis corresponding to the type of circumvention being alleged. Commerce is aware that many of these cases involve business proprietary information; it is expected that information, documentation, and data which is reasonably available to the requestor be included as support. Furthermore, circumvention cases may be unique and differ greatly from one another, even within the four types. As a result, the extent of the documentation and data required to adequately support the inquiry request may vary. However, the documentation and data should be consistent with the alleged circumvention, and/or where necessary, provide an explanation where information and data seem to detract from the allegation. Each circumvention inquiry request is reviewed individually based on the specific facts presented.

Additionally, import and volume and value data provided should correspond with the proposed period of inquiry (the period that will be reviewed with regards to circumvention occurring) and with the proposed comparison period (the period before the alleged circumvention to which the inquiry period will be compared).³

For certain circumvention inquiry requests (section 781(a) and 781(b) of the Act), one of the criteria considers changes in the pattern of trade, including sourcing patterns. This criterion can be addressed in a variety of ways; in the past, Commerce has received data showing increases in exports of inputs from the subject country to a third country or to the United States; or increases in exports of finished merchandise from a third country to the United States. However, parties are not limited to submitting only this type of data. As explained above, circumvention inquiry requests can vary greatly with unique circumstances. Accordingly, a circumvention inquiry request may be supported by pattern of trade data that is distinct and particular to that request or industry.

Additionally, Commerce is not limited in its consideration and evaluation of patterns of trade and sourcing to the data and allegation provided by the requestor. Commerce will analyze the data provided in the circumvention inquiry request, but may use an alternative analysis to the one provided by the requestor. This may include, for example, evaluating the amount of merchandise exported from the subject country to a third country relative to the amount of merchandise exported to the world and other countries; and evaluating the percentage of finished merchandise exports from the subject country to the United States relative to finished merchandise exports from third countries to the United States.

³ To best facilitate Commerce's analysis of the allegation, we encourage interested parties to submit full underlying data sets when possible and not merely a selection or summary of import data.

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Section IV: Interested Party Status

The following information must also be provided in the circumvention inquiry request to demonstrate the requestor's interested party status.

1. The requestor's full and exact name and contact information (including address, telephone, fax, and e-mail address).
2. An explanation, with supporting information, as to which category of interested party under section 771(9) of the Act the requestor is. The requestor must fall under one of the following categories:
 - A manufacturer, producer, or wholesaler in the United States of a domestic like product;
 - A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of domestic like product;
 - A trade or business association, a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States; or
 - An association, a majority of whose members is composed of interested parties as previously described with respect to a domestic like product.
 - Any other interested party within the meaning of section 771(9) of the Act.

Circumvention Inquiry Guidance
APPENDIX A
Filing Instructions

The following instructions apply to all documents that you submit to Commerce during the course of a circumvention proceeding, such as the circumvention inquiry request, responses to additional questionnaires, extension requests, and case briefs.

A. Filing

1. All submissions must be filed electronically using Commerce’s ACCESS website at <https://access.trade.gov>. If an exception to the electronic filing requirement applies, as discussed in the “Manual Filings” section below, and you are unable to file a submission electronically, alternative arrangements must be made. *See* the section on “Covid-19 Manual Filing Requirements” below. All laws, regulations, and other descriptive materials that supplement your responses should be submitted on the same date as the initial response.

For your convenience, Commerce has the following resources available online to assist you in complying with these electronic filing procedures:

ACCESS: Help Link

<https://access.trade.gov/help.aspx>

ACCESS: External User Guide

https://access.trade.gov/help/ACCESS_User_Guide.pdf

ACCESS: Handbook on Electronic Filing Procedures

https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf

Federal Register notice: Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011) <https://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf> and Enforcement and Compliance: Change of Electronic Filing System Name, 79 FR 69046 (November 20, 2014) <https://www.gpo.gov/fdsys/pkg/FR-2014-11-20/pdf/2014-27530.pdf>

2. Service Requirements during Covid-19: Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information and manual filing of submissions due to Covid-19. Therefore, until further notice, parties should follow the guidelines as specified in the applicable *Federal Register* notices.⁴
3. An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time (ET) on the due date, unless an earlier time is specified. Questionnaire responses normally entail the filing of many exhibits and databases on ACCESS. Accordingly, to the extent you submit your filing on the day it is

⁴ *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19, 85 FR 17006 (March 26, 2020); see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID19; Extension of Effective Period, 85 FR 41363 (July 10, 2020).*

due, rather than earlier, we strongly recommend that you begin uploading your response no later than 12:00 p.m. ET on the specified due date. Pursuant to 19 CFR 351.303(b)(1), a questionnaire response must be filed in its entirety by the deadline to be considered timely.

4. Extensions: Any extension request must be filed in writing. Extension requests filed after 5:00 p.m. ET on the due date will not be granted, except in extraordinary circumstances. Parties should be aware that the likelihood of Commerce granting an extension will decrease the closer the extension request is filed to the applicable time limit because Commerce must have time to consider the extension request and decide on its disposition. Parties should not assume that they will receive an extension of a time limit if they have not received a response from Commerce. For submissions that are due at 5:00 p.m., if Commerce is not able to notify the party requesting the extension of the disposition of the request by 5:00 p.m., then the submission would be due by the opening of business (8:30 a.m.) on the next business day. *See Extension of Time Limits*, 78 FR 57790 (September 20, 2013).

B. Format

1. The circumvention inquiry request must be filed with a cover letter that includes the following information in the following format in the upper right-hand corner:
 - a. on the first line, indicate the AD and/or CVD Order/case number(s)⁵ under which you are filing this circumvention inquiry request;
 - b. on the second line, indicate the total number of pages in the document including cover pages and appendices;
 - c. on the third line, indicate the specific segment of the proceeding (*e.g.*, circumvention inquiry);
 - d. on the fourth line, indicate the Commerce Office(s)⁶ conducting the proceeding, in accordance with 19 CFR 351.303(d)(2)(iv). This information can be found in the ACCESS Case list covering the AD/CVD Orders at issue at <https://access.trade.gov/caseinfo.aspx>;⁷
 - e. on the fifth and subsequent lines, indicate whether any portion of the document contains business proprietary information and, if so, list the page numbers containing business proprietary information; and indicate the business proprietary/public status of the document and whether you agree or object to release of the submitted information under administrative protective order (APO) by stating one of the following:
 - “Business Proprietary Document -- May Be Released Under APO,”
 - “Business Proprietary Document -- May Not Be Released Under APO,”
 - “Business Proprietary/APO Version-- May Be Released Under APO,” as applicable,

⁵ A circumvention inquiry request may be filed for both the AD and CVD Orders on the same product from the same country (*i.e.*, Companion Orders). The inquiry request for a Companion Order must be filed under the AD case number, with the companion CVD case number included in the “CASE” information on the cover page of the inquiry request.

⁶ If both AD and CVD Orders exist for a product, the requestor should list both Commerce Offices, as necessary, that are conducting the proceedings.

⁷ The ACCESS Case List is also available on the ACCESS E-File page after login.

- “Public Version,” or “Public Document.”

2. Prepare your response in typed form and in English (*see* 19 CFR 351.303(d) and (e) for these and other formatting requirements). Include an original and translated version of all pertinent portions of non-English language documents that accompany your response.
3. Label all documents with sequential page numbers, including any attachments or exhibits, so that Commerce may refer to each document by its respective page number.
4. It is the requestor’s responsibility to contact the official in charge if subsequent to the filing there are events that affect the response.
5. The circumvention inquiry request should be filed under the document type “Circumvention Inquiry Request”.

C. Manual Filing

1. Covid-19 Manual Filing Requirements

At this time, due to Covid-19, alternative arrangements for manual filing must be made. If your submission qualifies for manual filing under an exception listed below, please contact the ACCESS Help Desk at 202-482-3150 or access@trade.gov at least 72 hours before the due date or date of intended filing to make alternative arrangements for your filing.

2. All submissions must be filed electronically. Only under the following four circumstances will Commerce accept a hardcopy response that is manually filed:
 - Documents exceeding 500 pages in length may be filed manually (in paper form) in the APO/Dockets Unit. This is referred to as a “bulky document.”
 - Data files greater than 50 MB must be filed manually on CD-ROM or DVD.
 - If the ACCESS system is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour between 12:00 p.m. and 4:30 p.m. ET or for any duration of time between 4:31 p.m. and 5:00 p.m. ET, then a person may manually file the document in the APO/Dockets Unit. Commerce will provide notice of such technical failures on the ACCESS Help Desk line at 202-482-3150 and on the Enforcement and Compliance website, which is <https://www.trade.gov/us-antidumping-and-countervailing-duties>.⁸
 - Apart from the above, if you are unable to comply with the electronic filing requirement, as provided in 19 CFR 351.103(c) of Commerce’s regulations, and in accordance with section 782(c) of the Act, you must promptly notify the official in charge and submit a full written explanation of the reasons you are

⁸ This guidance pertains to our normal operating procedures, which are not currently applicable due to Covid-19. Requestors should follow the directive in section C.1., above until further notice.

unable to file the document electronically. You must also suggest alternative forms in which to submit the information. Commerce will consider the ability of a submitter and may modify the electronic filing requirement on a case-by-case basis.

3. All manually filed documents must be accompanied by a cover sheet generated in ACCESS. For manually filed bulky documents, separator sheets must also be generated and used.
4. If your response qualifies as a bulky document and you opt to file it manually, you must file two identical paper copies of the document. For all other authorized manual submissions, only one paper copy is required.
5. **See above at Filing Instructions, C.1. - At this time, due to Covid-19, alternative arrangements for manual filing must be made.**

Manual submissions must be addressed and submitted to:

Secretary of Commerce

APO/Dockets Unit, Room 18022

U.S. Department of Commerce

1401 Constitution Ave, N.W.

Washington, D.C. 20230

Attention: Enforcement and Compliance, AD/CVD Operations, Office (specify Office Number(s))

D. Certifications

1. Submit the required certification of accuracy (included at Appendix B). Providers of information and the person(s) submitting it, if different (*e.g.*, a legal representative), must certify that they have read the submission and that the information submitted is accurate and complete. Commerce cannot accept filings that do not contain the certification statements.
2. Provide the required certificate of service (included at Appendix B) indicating that all parties on the annual inquiry service list for the order (as well as those parties on the annual inquiry service list for the companion CVD order on the same product from the same country, if applicable) have been served the submission. Note that if you will be submitting a business proprietary circumvention inquiry request, that only the public version should be served on the parties on the annual inquiry service list.
3. Signed certifications noted above should be scanned and appended to the appropriate electronic documents filed in ACCESS.

E. Business Proprietary Information and Summarization of Business Proprietary Information

1. Request business proprietary treatment for information submitted that you do not wish to be made publicly available. As a general rule, Commerce places all correspondence and submissions received in the course of a circumvention inquiry proceeding in a publicly

available record. However, information deemed to be proprietary information will not be made available to the public. If you wish to make a request for proprietary treatment for particular information, refer to 19 CFR 351.304, 19 CFR 351.305, and 19 CFR 351.306. You must submit the request for proprietary treatment at the same time as the claimed business proprietary information is submitted to Commerce.

2. Use the “one-day lag rule” under 19 CFR 351.303(c)(2) if you wish an additional day to review the final bracketing of business proprietary information in a document and to prepare the required public version. The filing requirements under the one-day lag rule provide for a party to file only the business proprietary document within the applicable time limit (19 CFR 351.303(c)(2)(i)). By the close of business one business day after the date the business proprietary document is filed, the person must file the complete final business proprietary document (19 CFR 351.303(c)(2)(ii)). The final business proprietary document must be identical to the original document except for any bracketing corrections.
3. By the close of business one business day after the date the business proprietary document is filed (refer to the “one-day lag rule” in the preceding paragraph), submit the public version of your response (19 CFR 351.303(c)(2)(iii)). A public version must contain:
 - a. a non-proprietary (public) version of your response that is in sufficient detail to permit a reasonable understanding of the information submitted in confidence, and/or
 - b. an itemization of particular information that you believe you are unable to summarize. State the reasons why you cannot summarize each piece of information.

Note: The summarization requirement does not apply solely to the narrative portion of your filing. It applies equally to worksheets and other appendices to your filing. Filings or portions thereof, that are not adequately summarized may be rejected from the record of the proceeding.

4. Submit the statements required regarding limited release of business proprietary information under the provisions of an APO. U.S. law permits limited disclosure to representatives of parties (*e.g.*, legal counsel) of certain business proprietary information, including electronic business proprietary information, under an APO. Information received under an APO cannot be shared with others who are not covered by the APO. Under the provisions governing APO disclosure, you must submit either:
 - a. a statement agreeing to permit the release under APO of information submitted by you in confidence during the course of the proceeding, or
 - b. a statement itemizing those portions of the information which you believe should not be released under APO, together with arguments supporting your objections to that release.

We are required by our regulations to reject, at the time of filing, submissions of business proprietary information that do not contain one of these statements. As discussed above, you must state in the upper right-hand corner of the cover letter accompanying your filing whether you agree or object to release of the submitted information under APO (*e.g.*, May Be Released Under APO or May Not Be Released Under APO). *See* 19 CFR 351.304 for specific instructions.

5. Place brackets (“[]”) around information for which you request business proprietary treatment. Place double brackets (“[[]]”) around information for which you request proprietary treatment and which you do not agree to release under APO.
6. Provide to all parties whose representatives have been granted APO access and who are listed on the Commerce’s most recent APO Service List, a complete copy of the submission--proprietary document and public version, except for that information which you do not agree to release under APO. APO service lists, as well as public service lists, are maintained as record documents in ACCESS. You may search for them by inputting the case number and selecting “APO Service List” or “Public Service List” in the Document Type dropdown menu.
7. If you exclude information because you do not agree to release it under APO, you must submit the complete business proprietary version, wherein information in double brackets has been excluded. This version of the response must be marked “Business Proprietary/APO Version - May Be Released Under APO” on the cover page. For parties that do not have access to information under APO, please provide a public version only.

Note: A chart summarizing AD/CVD document filing requirements can be found at <https://access.trade.gov/Resources/filing/index.html>. Detailed and supplemental information concerning APOs, including the APO Handbook, a complete set of APO regulations, and APO application forms, can be found at https://access.trade.gov/Resources/Administrative_Protective_Order.aspx

F. Verification

All information submitted may be subject to verification. Failure to allow full and complete verification of any information may affect the consideration accorded to that or any other verified or non-verified item in the responses.

**Circumvention Inquiry Guide
APPENDIX B**

CERTIFICATIONS OF FACTUAL ACCURACY AND CERTIFICATE OF SERVICE

CERTIFICATIONS OF FACTUAL ACCURACY

For circumvention inquiry requests, in accordance with 19 CFR 351.303(g):

(g) *Certifications.* Each submission containing factual information must include the following certification from the person identified in paragraph (g)(1) of this section and, in addition, if the person has legal counsel or another representative, the certification in paragraph (g)(2) of this section. The certifying party must maintain the original signed certification for a period of five years from the date of filing the submission to which the certification pertains. The original signed certification must be available for inspection by U.S. Department of Commerce officials. Copies of the certifications must be included in the submission filed at the Department.

(1) For the **person(s)** officially responsible for presentation of the factual information, a company must provide the following certification for circumvention inquiry requests:

COMPANY CERTIFICATION:*

I, **(PRINTED NAME AND TITLE)**, currently employed by **(COMPANY NAME)**, certify that I prepared or otherwise supervised the preparation of the attached submission of **(IDENTIFY THE SPECIFIC SUBMISSION BY TITLE) due on (DATE) OR filed on (DATE)** pursuant to the **(CIRCUMVENTION INQUIRY) OF THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}**). I certify that the public information and any business proprietary information of **(CERTIFIER'S COMPANY NAME)** contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____
Date: _____

* For multiple person certifications, all persons should be listed in the first sentence of the

certification and all persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, *e.g.*, “I” should be changed to “we” and “my knowledge” should be changed to “our knowledge.”

(2) For the **legal counsel or other representative**:

REPRESENTATIVE CERTIFICATION:***

I, **(PRINTED NAME)**, with **(LAW FIRM or OTHER FIRM)**, **(INSERT ONE OF THE FOLLOWING OPTIONS IN {} : {COUNSEL TO} or {REPRESENTATIVE OF})** **(COMPANY NAME, OR GOVERNMENT OF COUNTRY, OR NAME OF ANOTHER PARTY)**, certify that I have read the attached submission of **(IDENTIFY THE SPECIFIC SUBMISSION BY TITLE)** due on **(DATE)** OR filed on **(DATE)** pursuant to the **(CIRCUMVENTIN INQUIRY) OF THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER))**. In my capacity as **(INSERT ONE OF THE FOLLOWING OPTIONS IN {} : {COUNSEL} or {ADVISER, PREPARER, OR REVIEWER})** of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: _____

*** For multiple representative certifications, all representatives and their firms should be listed in the first sentence of the certification and all representatives should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, *e.g.*, “I” should be changed to “we” and “my knowledge” should be changed to “our knowledge.”

CERTIFICATE OF SERVICE

I, _____, hereby certify that a copy of the foregoing submission
(name of certifying official)

on behalf of _____, dated _____,
(company name)

was served by first class mail or by hand delivery (indicate the method used) on the following parties:

On Behalf of
Name and address

(Signature of Certifying Official)

Circumvention Inquiry Guide
APPENDIX C

GLOSSARY OF TERMS

This glossary is intended to provide parties with a basic understanding of some technical terms that may appear during the course of the proceeding. These explanations are not regulations or rules with the force of law. As difficult or detailed questions arise, parties should seek clarification from the statute, regulations, and Commerce, rather than attempting to derive precise guidance from these general explanations.

Administrative Protective Order

An administrative protective order (APO) is the mechanism that controls the limited disclosure of business proprietary information to representatives of interested parties. Commerce authorizes the release of proprietary information under administrative protective order only when the representatives file a request in which they agree to the following four conditions: (a) to use the information only in the proceeding, (b) to secure the information and protect it from disclosure to any person not subject to an administrative protective order, (c) to report any violation of the terms of the protective order, and (d) to acknowledge that they may be subject to sanctions if they violate the terms of the order. (Section 777(c) of the Tariff Act of 1930, as amended (the Act)).

Antidumping and Countervailing Duty Laws and Regulations

The United States antidumping and countervailing duty laws are set forth in Title VII of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673 *et seq.*). Commerce’s regulations governing antidumping and countervailing duty proceedings are set forth at 19 CFR Part 351. For procedures governing Administrative Protective Orders and the treatment of proprietary information, *see* 19 CFR Parts 351 and 354, published in the *Federal Register* on May 4, 1998 (63 FR 24391). For information pertaining to Commerce’s 2021 modifications to the regulations concerning circumvention matters in AD and CVD proceedings, as well as modifications to the regulations regarding service lists, entries of appearance, and importer filing requirements for access to business proprietary information in AD and CVD proceedings, *see* 19 CFR 351.103, 19 CFR 351.226, and 19 CFR 351.305, published in the *Federal Register* on September 20, 2021 (86 FR 52300).

Business Proprietary Information

Business proprietary information (BPI) is sensitive business data that would cause substantial harm to the submitting party if disclosed publicly. Examples of information that Commerce normally treats as business proprietary, if requested and not already in the public domain, include trade secrets concerning the production process, production and distribution costs, terms of sale, individual prices, and the names of customers and suppliers.

Companion Order

If antidumping and countervailing duty orders cover the same merchandise from the same country of origin, the antidumping and countervailing duty orders are companions of each other (*i.e.*, they are companion orders).

Exporter

As a general matter, an exporter arranges for the sending or carrying abroad of merchandise. Most commonly, the exporter of merchandise takes possession of the merchandise and actively participates in the transport of merchandise to an importer. Should an intermediate party, who is not a reseller, be involved in export transactions, Commerce will focus primarily on the actual involvement of the intermediate party in the sale and transportation of the merchandise to determine which party is the “exporter” for AD/CVD purposes.

Foreign Like Product

The term foreign like product refers to merchandise that is sold in the foreign market and that is identical or similar to the subject merchandise. *See* Section 771(16) of the Act.

Interested Party

The term “interested party” is defined in section 771(9) of the Act, and pertains, for example, to “foreign manufacturers,” “producers,” “exporters,” or “United States importers” “of subject merchandise.” However, the nature of a scope ruling is to determine whether the merchandise produced, imported by, or exported by a party is subject to an AD or CVD order. Thus, in many cases, the question of whether a party is an “interested party” depends in part on whether the merchandise at issue is subject merchandise. Accordingly, for purposes of the scope regulations, the term “interested party” includes a party that would meet the definition of “interested party” under section 771(9) of the Act, if the merchandise at issue in the scope inquiry is in fact in-scope.

Proprietary Treatment

If a party requests business proprietary treatment of information claimed to be business proprietary information, and if Commerce agrees that the information is proprietary, Commerce will protect the information from public disclosure. If Commerce does not agree that the information is proprietary, it will return the information and not rely on it in the proceeding, unless the submitting party agrees that it may be made public. When requested, Commerce will disclose business proprietary information only to United States International Trade Commission

and United States Customs and Border Protection officials and, under limited administrative protective orders, to the representatives of interested parties. *See* Section 777(b) of the Act. *See also* **Administrative Protective Order**.

Subject Merchandise

The term “subject merchandise” means the class or kind of merchandise that is within the scope of an investigation, a review, a suspension agreement, or an order. *See* Section 771(25) of the Act.

Verification

To establish the adequacy and accuracy of information submitted in proceedings, Commerce examines the records of the party that provided the information and interviews company personnel who prepared the filings and are familiar with the sources of the information in the response. This process is called verification. Commerce may verify information relied upon in making a final determination. *See* Section 782(i) of the Act; 19 CFR 351.307.