

{Insert Case Number (A-XXX-XXX)}  
Total Number of Pages: {Insert Total Number of Pages}  
  {Insert AD Review POR}  
  Enforcement & Compliance  
  AD/CVD Operations, Office {Insert Office Number}  
{Indicate Business Proprietary, Public Version, or Public Document}

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## Certification Eligibility Application

### AND REQUIRED SUPPORTING DOCUMENTATION

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**REQUESTER(S):**                    {insert name of applicant}

**REPRESENTATION:**                {insert name of counsel and law firm and contact info}

**CASE:**                                {insert name of subject merchandise, country and case number}

**PERIOD OF REVIEW:**            {insert the period of review}

**DEADLINE FOR SUBMISSION:**     30 days from **publication** date of the initiation notice,  
See <http://enforcement.trade.gov/frn/index.html>.

**FILING INSTRUCTIONS:**            See “Instructions for Filing the Application” at Section III.  
See also  
<http://enforcement.trade.gov/filing/index.html>.

**GLOSSARY OF TERMS:**             See Section IV

**SECTION I**

**General Certifications**

The application must be accompanied by the service and factual information certifications required under Commerce’s regulations at 19 CFR § 351.303(f)(2) and (g).

(To be signed by the company official of the applying firm who is officially responsible for presentations made to the Department of Commerce.)

1.

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_, hereby certify that a copy of the

(name of certifying official)

foregoing submission on behalf of \_\_\_\_\_,

(company name)

dated \_\_\_\_\_, was served by first class mail or by hand delivery (circle the method used) on the following parties:

(Business Proprietary Version)

On Behalf of

Name and address

(Public Version)

On Behalf of

Name and address

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(signature of certifying official)

2.\*

## 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 **(INSERT ONE OF THE FOLLOWING OPTIONS IN {}): {THE (ANTIDUMPING OR COUNTERVAILING) DUTY INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}** or **{THE (DATES OF PERIOD OF REVIEW) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}** or **{THE (SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR 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."

3.\*\*

### 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 (INSERT ONE OF THE FOLLOWING OPTIONS IN {}: {THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (DATES OF PERIOD OF REVIEW) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION 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."

## **SECTION II**

### **Administration**

1. The full and exact name and contact information (including address, telephone, fax, and e-mail address) of the exporter<sup>1</sup> applying for certification eligibility.

2a. Is the applicant identified by any other names, such as trade names or “doing-business-as” (“d.b.a.”) names, as a legal matter in the home market, in third countries, or in the United States?<sup>2</sup>

If yes, then complete the chart below in full with all trade names and/or d.b.a. names, when and under what circumstances they are used, and indicate whether the business license/registration documents submitted with this application and covering the period of review (“POR”) include each of these or other alternative names. Please also provide evidence that these names were used during the POR. Then, please answer question 2b.

If a trade name is not listed on the company’s business license/registration documents, please provide an explanation and any evidence as to how the company is permitted to use that trade name.

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	Covered by the Business License (Y/N)	Capacity in which the trade name/DBA used	Used during POI/POR (Y/N)	Cite to Evidentiary Support in this SRA (i.e., Exhibit #)
Trade Name/DBA 1				
Trade Name/DBA n				

2b. Is the applicant requesting certification eligibility for any of the trade names listed in the table above? If so, please list the trade names or d.b.a. names, noted above, for which you are

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<sup>1</sup> Ensure that each applicant seeking certification eligibility is submitting a separate and complete individual application regardless of any common ownership or affiliation between firms and regardless of foreign ownership. Your response to this question should have only one company name.

<sup>2</sup> Trade names are other names under which the company does business. It does not include product brand names or the names of any other entities in the applicant’s “group,” affiliated or otherwise. If your firm is found eligible to participate in the certification program, only your firm will be able to certify under names that are included on your business license/registration documents, or are otherwise permitted, as explained in your response to this question.

requesting certification eligibility. Please note that the applicant must provide documentary evidence that the trade name or d.b.a. name was used during the relevant period.

3. Provide an organization chart and description of your company's operating structure.

Describe the general organization of the company and each of its operating units. For example, if your operations are structured by product or families of products, provide a description of each product group; if your operations are structured by function, provide a list of functional groups and the activities performed by each.

Although you may provide a general description of the structure of the company as a whole, it is particularly important that the description of those units involved in the development, manufacture, sale and distribution of the subject merchandise be sufficiently detailed to provide Commerce with a good working understanding of how these units function within the company.

4. Provide a full narrative history of your company.

5. Provide a list of all the manufacturing facilities, sales office locations, research and development facilities and administrative offices involved in the manufacture and sale of the subject merchandise exported by your company. Please give a full address for each facility, and briefly describe the purpose of each.

6. Provide the full name and contact information (including address, telephone, fax, and e-mail address) of each of the applicant's producers and/or suppliers of subject merchandise whose merchandise the applicant sold or exported to the United States during the POR.

7. Provide the full name and contact information (including address, telephone, fax, and e-mail address) of each of the applicant's input producers and/or suppliers during the POR.

### **Affiliation**

Section 771(33) of the Tariff Act of 1930, as amended, defines affiliates as:

- A. Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and linked descendants
- B. Any officer and director of an organization and such organization
- C. Partners
- D. Employer and Employee
- E. Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares or any organization and such organization
- F. Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person
- G. Any person who controls any other person

For the purposes of affiliation, Commerce will consider a person to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

8. Explain whether your firm made sales to unaffiliated parties, affiliated parties, or both during the period of review, as defined by section 771(33) of the Tariff Act of 1930.
9. As defined by section 771(33) of the Tariff Act of 1930, as amended, does the applicant have *any affiliates that are located in the United States, or that exported merchandise to the United States* which would fall under the description of merchandise covered by the scope of the proceeding?
10. Provide an organization chart and description of your company's legal structure. In addition to the chart, provide a list of names and addresses of all companies affiliated with your company through stock ownership or otherwise. In addition, it would be useful if you would provide a chart demonstrating the ownership and affiliation structure of all of your affiliates that are involved in the production or sale of subject merchandise. For an example of how you might design this chart, *see Appendix A*.
11. Provide a list of all third parties in which your company or its owners, either collectively or individually, own five percent or more in stock. Include each third party's full name and address and describe its activities. Also provide a complete list of companies or individuals that own five percent or more in stock in the third party which includes each owner's full name and address and specifies its percentage of ownership.

### **Accounting and Financial Practices**

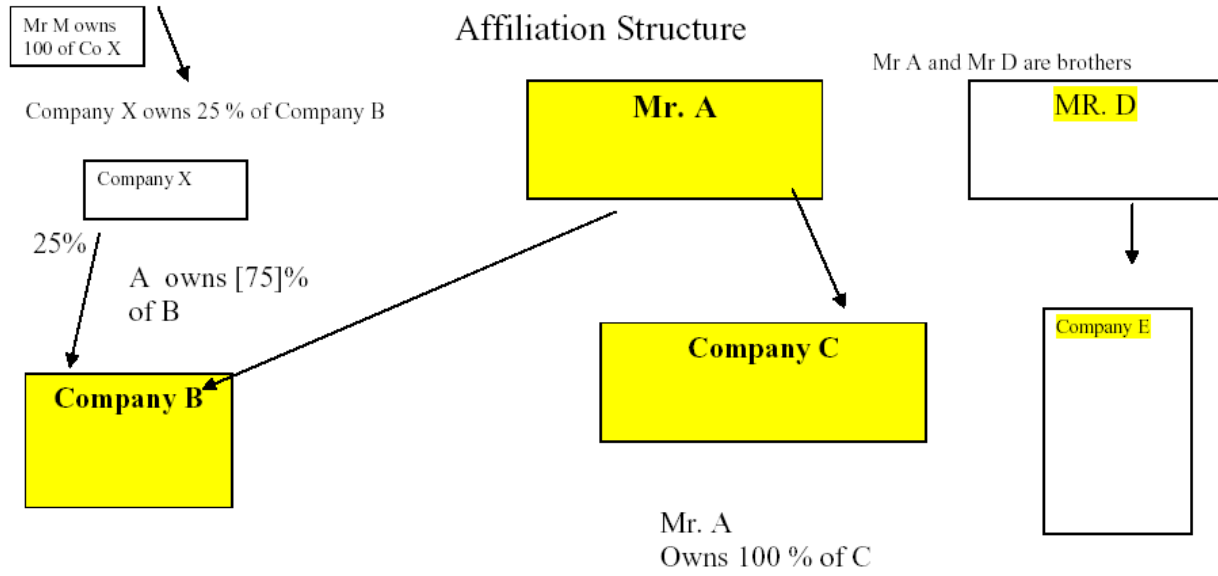
12. Describe your company's accounting and financial reporting practices, including your normal corporate accounting period.
13. Please provide the following financial documents for the fiscal years corresponding to the POR and for the fiscal year immediately preceding the POR: (1) chart of accounts; (2) audited, consolidated and unconsolidated financial statements (including any footnotes and auditor's opinion), or, if company has no audited financial statements, tax returns; (3) internal financial statements or profit and loss reports of any kind that are prepared and maintained in the normal course of business; and (4) financial statements or other relevant documents of all affiliates involved in the production or sale of subject merchandise to the U.S. market, of all affiliated suppliers to these affiliates, and of the parent(s) of these affiliates.

### **Production**

14. Provide a description of the manufacturing process for the subject merchandise that was shipped to the United States. Your description should address each of the items listed below.
  - a. Describe your production facilities used to manufacture subject merchandise. If manufacturing operations take place at more than one facility, identify each facility and describe the production activities that take place at each one.
  - b. Identify all products manufactured at those production facilities.
  - c. Provide a flowchart that details the complete production cycle for subject merchandise. This should include descriptions of each stage of production and the locations of primary cost centers.
  
15. Provide a list of major and primary inputs needed in the manufacture of subject merchandise.
  
16. Provide an inventory movement schedule that details each major input used in the production of subject merchandise (**regardless of country of origin**) for each month of the POR. This should include the following items:
  - a. Opening inventory;
  - b. Purchases;
  - c. Consumption;
  - d. Sales;
  - e. Ending inventory.
  
17. Tie the above inventory movement schedules to your audited financial statements, or if you do not have audited financial statements, tax returns.
  
18. Explain how you track the country of origin for the major inputs used to produce subject merchandise. Provide documentation to support your response.
  
19. If you do not know the country of origin of some, or all of the major inputs used to produce subject merchandise:
  - a. Identify the major inputs for which you are unable to track the country of origin.
  - b. Explain why you do not know the country of origin for these major inputs.
  
19. For each major input purchased from suppliers, provide an Excel worksheet with the following information:
  - a. name of each supplier;
  - b. the major inputs each supplier provided;
  - c. whether the supplier was an affiliate;
  - d. quantity and value of each major input supplied by the supplier;
  - e. country of origin of each major input supplied by the supplier.



# Appendix A



## **SECTION III**

### Instructions for Filing the Response

The following instructions apply to all documents you submit to Commerce during the course of this proceeding.

#### A. Due Date

1. All submissions must be made electronically using Commerce's ACCESS website at <http://access.trade.gov>. If an exception to the electronic filing requirement applies, you must address and manually submit your response to the address indicated on the cover page of this questionnaire. To determine if your response qualifies for manual filing, see the section on "Manual Filing" below. All laws, regulations, and other descriptive materials that supplement your responses should be submitted on the same date as the initial response.
2. The **business proprietary** response should be submitted on the day specified on the cover page of this questionnaire. The **public version** of the response may be filed one business day after the proprietary response.
3. An electronically filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Time (ET) on the due date, unless an earlier time is specified. Where applicable, a submitter must manually file a document between the hours of 8:30 a.m. and 5 p.m. ET on the due date, unless an earlier time is specified.

#### B. Format

1. You are required to state in the upper right-hand corner of your cover letter the following information in the following format:
  - a. on the first line, indicate the case number stated on the cover page to this questionnaire;
  - b. on the second line, indicate the total number of pages in the document including cover pages, appendices, and any unnumbered pages;
  - c. on the third line, indicate the specific segment of the proceeding, (*e.g.*, investigation, administrative review, scope inquiry, suspension agreement, etc.) and, if applicable, indicate the complete period covered (MM/DD/YY - MM/DD/YY);
  - d. on the fourth line, indicate Commerce office conducting the proceeding;
  - 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,
  - “Public Version,” or
  - “Public Document.”
2. Please include a “Re:” line on the cover letter of your response, or any other submissions you make during this proceeding. In the Re: line, briefly summarize the purpose of your submission, e.g., “response to Quantity & Value questionnaire,” “case brief.”
  3. Prepare your response in typed form and in English (see 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, including financial statements.
  4. It is your responsibility to contact the official in charge if subsequent to your filing there are events that affect your response (e.g., changes in your cost accounting system are relevant to antidumping proceedings, and changes as a result of an audit are relevant to both antidumping and CVD proceedings).

C. Manual Filing

1. **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 20 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 E&C website, which is <http://www.trade.gov/enforcement/>.

- Apart from the above, if you are unable to comply with the electronic filing requirement, as provided in § 351.103(c) of Commerce’s Regulations, and in accordance with section 782(c) of the Tariff Act of 1930, as amended (the Act), you must promptly notify the official in charge and submit a full written explanation of the reasons you are 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.
2. 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.
  3. 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.
  4. Manual submissions must be addressed and submitted to:  
**Secretary of Commerce**  
**APO/Dockets Unit**  
**Room 18022**  
**U.S. Department of Commerce**  
**1401 Constitution Avenue, N.W.**  
**Washington, D.C. 20230**  
**Attn: Enforcement & Compliance**  
**AD/CVD Operations, Office {Insert Office Number}**

D. Certification

1. Submit the required **certification of accuracy**. 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 questionnaire responses that do not contain the certification statements. Forms for such certification are included as appendices to this questionnaire. You may photocopy this form and submit a completed copy with each of your submissions.
2. Provide the required **certificate of service** (included as an appendix) with each business proprietary document and public version submitted to Commerce.
3. Signed certifications of accuracy and certificates of service 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 an antidumping or countervailing duty proceeding in a public reading file. 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 sections 351.304, 351.305, and 351.306 of Commerce's regulations. You must submit the request for proprietary treatment at the same time as the claimed business proprietary information is submitted to Commerce.
2. Utilize the "one-day lag rule" under section 351.303(c)(2) of Commerce's regulations 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 (section 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 (section 351.303(c)(2)(i)(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 (section 351.303(c)(2)(i)(iii)). A public version must contain:
  - (1) 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
  - (2) an itemization of particular information that you believe you are unable to summarize. State the reasons why you cannot summarize each piece of information.

Please note: The summarization requirement does not apply solely to the narrative portion of your response. It applies equally to worksheets and other appendices to your response, and even to sales and cost databases submitted in antidumping proceedings. Generally, numerical data, such as that provided in

sales and cost databases in antidumping proceedings, are adequately summarized only if grouped or presented in terms of indices or figures ranged within 10 percent of the actual figure. If a particular portion of data is voluminous, use ranged figures for at least one percent of the voluminous portion.

Responses, or portions thereof, that are not adequately summarized may be rejected from the record of this 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. (Note that data 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:
  - (1) a statement agreeing to permit the release under APO of information submitted by you in confidence during the course of the proceeding, or
  - (2) 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 questionnaire response 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 section 351.304 of Commerce's regulations for specific instructions.<sup>3</sup>)

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.<sup>4</sup>

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<sup>3</sup> If you do not agree to release under APO all or part of the proprietary information, but we determine that the information should be released, you will have the opportunity to withdraw the information (see section 351.304(d) of our regulations). However, any information which you withdraw will be taken out of the official record and will not be used in our determination.

<sup>4</sup> Commerce will not disclose proprietary customer names under APO during an antidumping or countervailing duty investigation until either an order is published or the investigation is suspended. To ensure that proprietary customer names are properly treated in this case, place double brackets (“[[ ]]”) around all proprietary customer names in your submissions to Commerce during the course of this investigation.

6. Provide to all parties whose representatives have been granted APO access and who are listed on 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 at <http://web.ita.doc.gov/ia/webapotrack.nsf> under People's Republic of China and the case name. 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 <http://enforcement.trade.gov/filing/index.html>. Detailed and supplemental information concerning APOs, including the APO Handbook, a complete set of APO regulations, and APO application forms and service lists, can be found at <http://enforcement.trade.gov/apo/index.html>.

## SECTION IV

### GLOSSARY OF TERMS

This glossary is intended to provide parties with a basic understanding of many technical terms that appear in the antidumping questionnaire. 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.

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#### **Administrative Protective Order**

An administrative protective order is the legal 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 antidumping (AD) 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). *See also* **Proprietary Information** and **Proprietary Treatment**.)

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#### **Administrative Review**

Administrative proceeding conducted by Commerce to determine the amount of AD duties that Customs will assess on imports of the subject merchandise during the period of review or to determine if a suspension agreement has been violated. Commerce also establishes new cash deposit rates for entered subject merchandise for each of the companies reviewed. (Section 751 of the Act.)

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#### **Affiliated Persons**

The term affiliated persons (affiliates) includes: (1) members of a family; (2) an officer or director of an organization and that organization; (3) partners; (4) employers and employees; (5) any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and that organization; (6) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (7) any person who controls any other person and that other person. Control exists when a person is legally or operationally in a position to exercise restraint or direction over another person. A control relationship should also have the potential to affect decisions concerning the production, pricing, or cost of the merchandise under investigation or review. (Section 771(33) of the Act; sections 351.102(b) and 351.401(f) of the regulations.)

Examples of situations which may indicate control include (but are not limited to): (a) joint ventures and franchises; (b) lender/borrower situations; (c) a close relationship with a supplier, (sub) contractor, lender, distributor, exporter or reseller; and (d) a group of companies controlled



by, for example, a family, a corporation, or the same investors. An example of affiliation by common control may be the affiliation between the owners of a joint venture when each owner is in a control position with that joint venture.

Section 351.102(b) of Commerce's regulations states that the term person includes any interested party as well as any other individual, enterprise, or entity, as appropriate. In Commerce's practice, the term person includes any company, individual, organization, partnership or group.

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## **Antidumping Law and Regulations**

The United States antidumping laws are set forth in Title VII of the Act (19 U.S.C. 1673 *et seq.*). Commerce's regulations governing antidumping proceedings are set forth at 19 CFR Part 351, published in the *Federal Register* on May 19, 1997 (62 FR 27379-27424), and September 20, 2021 (86 FR 52300-52384). For procedures governing Administrative Protective Orders and the treatment of proprietary information, please *see* 19 CFR Parts 351 and 354, published in the *Federal Register* on May 4, 1998 (63 FR 24391), and September 29, 2023 (88 FR 67069-67081).

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## **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.

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## **Certification of Accuracy**

Any person that submits factual information to Commerce must include with the submission a certification of the completeness and accuracy of the factual information. Certifications must be made by a knowledgeable official responsible for presentation of the factual information and by the party's legal counsel or other representative, if any. A sample certification form is included as Appendix IV to the Q&V Questionnaire. (Section 782 (b) of the Act; section 351.303(g) of the regulations.)

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## **Dumping**

Dumping occurs when imported merchandise is sold in, or for export to, the United States at less than the normal value of the merchandise. The dumping margin is the amount by which the normal value exceeds the export price or constructed export price of the subject merchandise. The weighted-average dumping margin is the sum of the dumping margins divided by the sum of the export prices and constructed export prices.

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## **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.

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### **Facts Available**

Commerce seeks to make its antidumping determinations on the basis of responses to its antidumping questionnaires. However, for a variety of reasons, the data needed to make such determinations may be unavailable or unusable. In such instances, the law requires Commerce to make its determinations on the basis of “the facts otherwise available” (more commonly referred to as “the facts available”). More specifically, Commerce must use the facts available if necessary information is not available on the record of an antidumping proceeding. In addition, Commerce must use the facts available where an interested party or any other person: (1) withholds information requested by Commerce; (2) fails to provide requested information by the requested date or in the form and manner requested; (3) significantly impedes an antidumping proceeding; or (4) provides information that cannot be verified.

In selecting the information to use as the facts available, the law authorizes Commerce to make an inference that is adverse to an interested party if Commerce finds that party failed to cooperate by not acting to the best of its ability to comply with a request for information. However, the law also provides that when Commerce relies on secondary information rather than on information obtained in the course of an antidumping proceeding, Commerce must, to the extent practicable, corroborate that information from independent sources that are reasonably at Commerce’s disposal.

Submitted information that does not meet all of the requirements may be used if: (1) the information is submitted within applicable deadlines; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for a determination; (4) the party establishes that it acted to the best of its ability; and (5) Commerce can use the information without undue difficulties. Finally, if an interested party promptly informs Commerce of difficulties it is having in responding to a request for information, Commerce will consider modifying its request to the extent necessary to avoid imposing an unreasonable burden on the party. (Sections 776 and 782(c)-(e) of the Act; section 351.308 of the regulations.)

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### **Non-Market Economy**

A non-market economy country is any country that Commerce determines does not operate on market principles. Commerce considers the following factors about a foreign country in making these decisions: (1) the extent to which the currency is convertible; (2) the extent to which wage rates are determined by free bargaining between labor and management; (3) the extent to which joint ventures or foreign investment are permitted; (4) the extent of government ownership or control of means of production; (5) the extent of government control over allocation of resources and over the price and output decisions of enterprises; and (6) other factors Commerce considers appropriate. (Section 771(18)(B) of the Act.)

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## **Regulations**

*See Antidumping Law and Regulations*

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## **Verification**

To establish the adequacy and accuracy of information submitted in response to questionnaires and other requests for information, Commerce examines the records of the party that provided the information and interviews company personnel who prepared the questionnaire response and are familiar with the sources of the data in the response. This process is called verification. Commerce will verify information relied upon in making a final determination in an investigation, or in an administrative review when revocation of an antidumping order is properly requested. Commerce also will verify information submitted in an administrative review if an interested party so requests and no verification of the producer or exporter had been conducted during the two immediately preceding reviews of that producer or exporter, or if good cause for verification is shown. (Section 782(i) of the