

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A–570–056, A–552–821]

**Certain Tool Chests and Cabinets from the People’s Republic of China and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations****AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.**DATES:** *Effective Date:* May 1, 2017.**FOR FURTHER INFORMATION CONTACT:** Minoo Hatten at (202) 482–1690, AD/CVD Operations, Enforcement & Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.**SUPPLEMENTARY INFORMATION:****The Petitions**

On April 11, 2017, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of certain tool chests and cabinets (tool chests) from the People’s Republic of China (the PRC) and the Socialist Republic of Vietnam (Vietnam), filed in proper form on behalf of Waterloo Industries Inc. (the petitioner).<sup>1</sup> The AD petitions were accompanied by a countervailing duty (CVD) petition for tool chests from the PRC. The petitioner is a domestic producer of tool chests.<sup>2</sup>

On April 13, 2017, the petitioner filed an amendment to the Petitions.<sup>3</sup> On April 13, 2017, the Department requested additional information and clarification of certain areas of the Petitions.<sup>4</sup> The petitioner filed responses to these requests on April 18 and 20, 2017.<sup>5</sup> On April 27, 2017, the

<sup>1</sup> See Letter to the Secretary of Commerce from the petitioner “Certain Tool Chests and Cabinets from the People’s Republic of China and the Socialist Republic of Vietnam—Petition for the Imposition of Antidumping and Countervailing Duties” (April 11, 2017) (the Petitions).

<sup>2</sup> See Volume I of the Petitions, at 1.

<sup>3</sup> See Letter from the petitioner to the Secretary of Commerce “Certain Tool Chests and Cabinets From the People’s Republic of China and the Socialist Republic of Vietnam—Petitioner’s Amendment to Volume I of the Antidumping and Countervailing Duty Petition” (April 13, 2017) (clarifying the scope of the imported merchandise that the petitioner intends to cover).

<sup>4</sup> See Country-specific letters to the petitioner from the Department concerning supplemental questions on each of the country-specific records (April 13, 2017); see also letter to the petitioner from the Department concerning supplemental questions on general issues (April 13, 2017) (General Issues Supplemental Questionnaire).

<sup>5</sup> See Letter to the Secretary of Commerce from the petitioner “Certain Tool Chests and Cabinets from the People’s Republic of China and the Socialist Republic of Vietnam—Petitioner’s 2nd

petitioner filed an additional amendment to the Petition.<sup>6</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of tool chests from the PRC and Vietnam are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed these Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.<sup>7</sup>

**Period of Investigation**

Because the Petitions were filed on April 11, 2017, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is October 1, 2016, through March 31, 2017.

**Scope of the Investigations**

The products covered by these investigations are tool chests from the PRC and Vietnam. For a full description of the scope of these investigations, see the “Scope of the Investigations,” in Appendix I of this notice.

**Comments on Scope of the Investigations**

During our review of the Petitions, the Department issued questions to and received responses from the petitioner pertaining to the proposed scope to ensure that the scope language in the

Amendment to Volume I of Antidumping and Countervailing Duty Petition” (April 18, 2017) (General Issues 2nd Amendment); see also responses to the Department’s April 13, 2017, questionnaires concerning supplemental questions on each of the country-specific records (April 18, 2017) (PRC AD Supplemental Response) (Vietnam AD Supplemental Response); and letter to the Secretary of Commerce from the petitioner “Certain Tool Chests and Cabinets from the People’s Republic of China and the Socialist Republic of Vietnam—Petitioner’s Correction to Import Table (April 20, 2017) (Import Correction).

<sup>6</sup> See Letter to the Secretary of Commerce from the petitioner “Certain Tool Chests and Cabinets From the People’s Republic of China and the Socialist Republic of Vietnam—Petitioner’s 3rd Amendment to Volume I of the Antidumping and Countervailing Duty Petition” (April 27, 2017) (General Issues 3rd Amendment).

<sup>7</sup> See the “Determination of Industry Support for the Petitions” section below.

Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>8</sup>

As discussed in the preamble to the Department’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).<sup>9</sup> The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (see 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on Monday, May 22, 2017, which is the next business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Thursday, June 1, 2017, which is 10 calendar days from the deadline for initial comments.<sup>10</sup>

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

**Filing Requirements**

All submissions to the Department must be filed electronically using Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>11</sup> An electronically-filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the

<sup>8</sup> See General Issues Supplemental Questionnaire; see also General Issues 2nd Amendment; and General Issues 3rd Amendment.

<sup>9</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>10</sup> See 19 CFR 351.303(b).

<sup>11</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department’s electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement & Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

### Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of tool chests to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties will have the opportunity to provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics used by manufacturers to describe tool chests, it may be that only a select few product characteristics take into account commercially-meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all comments must be filed by 5:00 p.m. ET on Tuesday, May 16, 2017. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Tuesday, May 23, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the PRC and Vietnam less-than-fair-value investigations.

### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>12</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>13</sup>

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is

"the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that tool chests, as defined in the scope, constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>14</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations," in Appendix I of this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2016.<sup>15</sup> In addition, the petitioner provided a letter of support from Metal Box International, stating that the company supports the Petitions and providing its own production of the domestic like product in 2016.<sup>16</sup> The petitioner identifies itself and Metal Box International as the companies constituting the U.S. tool chests industry and states that there are no other known producers of tool chests in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.<sup>17</sup>

Our review of the data provided in the Petitions and other information readily available to the Department indicates that the petitioner has established industry support for the Petitions.<sup>18</sup> First, the Petitions established support from domestic producers (or workers)

<sup>14</sup> For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Certain Tool Chests and Cabinets from the People's Republic of China (PRC AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Tool Chests and Cabinets from the People's Republic of China and the Socialist Republic of Vietnam, (Attachment II); and Antidumping Duty Investigation Initiation Checklist: Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam (Vietnam AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically *via* ACCESS. Access to documents filed *via* ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>15</sup> *See* Volume I of the Petitions, at 3 and Exhibit GEN-1.

<sup>16</sup> *Id.*, at 3 and Exhibit GEN-1.

<sup>17</sup> *Id.*, at 2-3 and Exhibits GEN-1 and GEN-2.

<sup>18</sup> *See* PRC AD Initiation Checklist and Vietnam AD Initiation Checklist, at Attachment II.

<sup>12</sup> *See* section 771(10) of the Act.

<sup>13</sup> *See* *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (e.g., polling).<sup>19</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>20</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>21</sup> Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting that the Department initiate.<sup>22</sup>

#### **Allegations and Evidence of Material Injury and Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>23</sup>

The petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; declining production and shipments; declining net sales; and deteriorating financial performance.<sup>24</sup> We have

assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>25</sup>

#### **Allegations of Sales at Less Than Fair Value**

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate AD investigations of imports of tool chests from the PRC and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

#### **Export Price**

For the PRC, the petitioner based export price (EP) on pricing information for a sale of a combination tool chest and cabinet set produced in, and exported from, the PRC and sold in the United States.<sup>26</sup> For Vietnam, the petitioner based EP on pricing information for a sale of a combination tool chest and cabinet set produced in, and exported from Vietnam, and sold in the United States.<sup>27</sup> Where applicable, the petitioner made deductions from U.S. price for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. merchandise processing and harbor maintenance fees, and U.S. inland freight to the customer.<sup>28</sup> In addition, for the PRC, the petitioner deducted an amount for the irrecoverable portion of the value added tax in the PRC, consistent with the terms of sale.<sup>29</sup>

#### **Normal Value**

The petitioner stated that the Department has found the PRC and Vietnam to be non-market economy (NME) countries as recently as the month before the Petitions were filed with respect to the PRC,<sup>30</sup> and as recently as two weeks before the Petitions were filed with respect to Vietnam.<sup>31</sup> In accordance with section

771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for either the PRC or Vietnam has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of these investigations. Accordingly, the NV of the product is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

The petitioner claims that South Africa is an appropriate surrogate country for the PRC because it is a market economy that is at a level of economic development comparable to that of the PRC, it is a significant producer of comparable merchandise, and public information from South Africa is available to value all FOPs.<sup>32</sup> The petitioner claims that Indonesia is an appropriate surrogate country for Vietnam because it is a market economy that is at a level of economic development comparable to that of Vietnam, it is a significant producer of comparable merchandise, and public information from Indonesia is available to value all FOPs.<sup>33</sup>

Based on the information provided by the petitioner, we believe it is appropriate to use South Africa as a surrogate country for the PRC and Indonesia as a surrogate country for Vietnam for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs no later than 30 days before the scheduled date of the preliminary determinations.

#### **Factors of Production**

Because information regarding the volume of inputs consumed by Chinese producers/exporters is not reasonably available, the petitioner based the FOPs for materials, labor, and energy on its own production experience, adjusted for known differences.<sup>34</sup> The petitioner asserts that the production process for tool chests is similar regardless of whether the product is produced in the United States or in the PRC.<sup>35</sup> The

<sup>19</sup> See section 732(c)(4)(D) of the Act; *see also* PRC AD Initiation Checklist and Vietnam AD Initiation Checklist, at Attachment II.

<sup>20</sup> See PRC AD Initiation Checklist and Vietnam AD Initiation Checklist, at Attachment II.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See Volume I of the Petitions, at 17–19 and Exhibits GEN–2, GEN–7, and GEN–11.

<sup>24</sup> See Volume I of the Petitions, at 12–26 and Exhibits GEN–2, GEN–6 through GEN–9, and GEN–11 through GEN–15.

<sup>25</sup> See PRC AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Tool Chests and Cabinets from the People's Republic of China and the Socialist Republic of Vietnam, (Attachment III); and Vietnam AD Initiation Checklist, at Attachment III.

<sup>26</sup> See PRC AD Initiation Checklist.

<sup>27</sup> See Vietnam AD Initiation Checklist.

<sup>28</sup> See PRC AD Initiation Checklist and Vietnam AD Initiation Checklist.

<sup>29</sup> See PRC AD Initiation Checklist.

<sup>30</sup> See Volume II of the Petition, at 1.

<sup>31</sup> See Volume III of the Petition, at 1.

<sup>32</sup> See Volume II of the Petition, at 2; *see also* section 773(c) of the Act.

<sup>33</sup> See Volume III of the Petition, at 1–2 and 5, and Exhibits AD–VN–2A, AD–VN–2B, and AD–VN–2C.

<sup>34</sup> See Volume II of the Petition, at 6, and Exhibits AD–PRC–8 and AD–PRC–9. *See also* Import Correction, at Revised Exhibit II–SUPP–6.

<sup>35</sup> See Volume II of the Petition, at 6 and Exhibit AD–PRC–8.

petitioner valued the estimated FOPs using surrogate values from South Africa.

Because information regarding the volume of inputs consumed by Vietnamese producers/exporters is not reasonably available, the petitioner based the FOPs for materials, labor, and energy on its own production experience, adjusted for known differences.<sup>36</sup> The petitioner asserts that the production process for tool chests is similar regardless of whether the product is produced in the United States or in the Vietnam.<sup>37</sup> The petitioner valued the estimated FOPs using surrogate values from Indonesia.

#### Valuation of Raw Materials

For the PRC, the petitioner valued direct materials based on publicly-available import data for South Africa obtained from the Global Trade Atlas (GTA) for the period September 2016 through February 2017 (*i.e.*, the most recent six month period for which data were available).<sup>38</sup> The petitioner excluded all import data from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries.<sup>39</sup> In addition, in accordance with the Department's practice, the petitioner excluded imports that were labeled as originating from an unidentified country.<sup>40</sup> The petitioner stated that the Chinese producers use a more expensive powder coat process to paint subject tool chests than the petitioner who uses a less expensive electrophoretic (e-coat) process.<sup>41</sup> Therefore, the petitioner adjusted its actual e-coat paint usage to reflect the additional material required under the Chinese producers' powder coat paint process.<sup>42</sup> The petitioner made offsets to cost for steel scrap generated by the production process, using its own experience and valued at

<sup>36</sup> See Volume III of the Petition, at 5 and Exhibits AD-VN-7 and AD-VN-8; *see also* Vietnam AD Supplemental Response, at 6-8 and Exhibit III-Supp-4.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*, at 7 and Exhibit AD-PRC-10; *see also* PRC AD Supplemental Response, at Exhibit II-SUPP-3, and Import Correction, at Revised Exhibit II-SUPP-3.

<sup>39</sup> These countries include India, Indonesia, PRC, South Korea, Thailand, and Vietnam. *See* Volume II of the Petition, at Exhibit AD-PRC-10. *See also* PRC AD Supplemental Response, at Exhibit II-SUPP-3, and Import Correction, at Revised Exhibit II-SUPP-3.

<sup>40</sup> *Id.*

<sup>41</sup> *See* Volume II of the Petition, at 8 and Exhibit AD-PRC-10.

<sup>42</sup> *Id.*

the average cost of scrap imported into South Africa from GTA.<sup>43</sup>

For Vietnam, the petitioner valued direct materials using public import data for Indonesia obtained from GTA for the period February 2016 through July 2016 (*i.e.*, the most recent six-month period for which data were available).<sup>44</sup> The petitioner excluded all import values from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries.<sup>45</sup> In addition, in accordance with the Department's practice, the petitioner excluded imports that were labeled as originating from an unidentified country.<sup>46</sup> The petitioner stated that the Vietnamese producers use a more expensive powder coat process to paint subject tool chests than the petitioner who uses a less expensive e-coat process.<sup>47</sup> Therefore, the petitioner adjusted its actual e-coat paint usage to reflect the additional material required under Vietnamese producers' powder coat paint process.<sup>48</sup> Finally, the petitioner made an offset to cost for steel scrap generated in the production process, estimated using its own production experience and valued at the average cost of scrap imported into Indonesia from GTA.<sup>49</sup> The Department determines that the surrogate values used by the petitioner are reasonably available and, thus, are acceptable for purposes of initiation.

#### Valuation of Labor

For the PRC, the petitioner relied on 2012 data published by the International Labour Organization, inflated to 2016 using the South African Consumer Price Index.<sup>50</sup> For Vietnam, the petitioner relied on 2017 data published by the World Bank in *Doing Business 2017: Indonesia (DBI)*.<sup>51</sup> As noted above,

<sup>43</sup> See Volume II of the Petition, at 7-8 and Exhibit AD-PRC-10. *See also* Import Correction, at Revised Exhibit II-SUPP-6.

<sup>44</sup> See Volume III of the Petition, at 6 and Exhibits AD-VN-7, AD-VN-8, and AD-VN-9; *see also* Vietnam AD Supplemental Response, at 6-8 and Exhibit III-Supp-4.

<sup>45</sup> See Volume III of the Petition, at Exhibit AD-VN-9.

<sup>46</sup> *Id.*

<sup>47</sup> See Volume III of the Petition, at 6-7 and Exhibit AD-VN-8.

<sup>48</sup> *Id.*

<sup>49</sup> See Volume III of the Petition, at 6, and Exhibits AD-VN-7, AD-VN-8, and AD-VN-9.

<sup>50</sup> See Volume II of the Petition, at 9 and Exhibit AD-PRC-13. *See also* PRC AD Supplemental Response, at 4-5 and Exhibits II-SUPP-4 and II-SUPP-5, and Import Correction, at Revised Exhibit II-SUPP-6.

<sup>51</sup> See Volume III of the Petition, at 7-8 and Exhibit AD-VN-12.

because producers in the PRC and Vietnam use a powder coat method to paint subject tool chests, which is more labor-intensive, the petitioner adjusted its actual labor usage for the e-coat process to reflect its actual labor usage experience in its powder painting line.<sup>52</sup>

#### Valuation of Energy

For the PRC, the petitioner valued natural gas using the average unit value of imports of liquid natural gas into South Africa. The petitioner converted that cost to an equivalent per million British Thermal Units of natural gas, and applied that rate to its estimated usage rate.<sup>53</sup> The petitioner valued electricity using an average per-kilowatt-hour electricity cost obtained from *Doing Business 2017: South Africa*. The petitioner applied that rate to the kilowatt hours of electricity that the petitioner estimated it consumed.<sup>54</sup>

For Vietnam, the petitioner valued natural gas using the average unit value of imports of liquid natural gas into Indonesia.<sup>55</sup> The petitioner converted that cost to an equivalent per million British Thermal Units of natural gas, and applied that rate to its estimated usage rate.<sup>56</sup> The petitioner valued electricity using a per-kilowatt-hour electricity cost in Indonesia in effect during the POI obtained from *DBI*.<sup>57</sup> The petitioner applied that rate to the number of kilowatt hours of electricity that the petitioner estimated it consumed.<sup>58</sup>

#### Valuation of Packing Materials

For the PRC, the petitioner determined the FOPs for packing materials based on its own experience in packing its products.<sup>59</sup> The petitioner indicated the packing materials would be cardboard shipping boxes, polybags, and Styrofoam, and valued them based on South African import values.<sup>60</sup>

<sup>52</sup> See Volume II of the Petition, at 9 and Exhibit AD-CN-13; *see also* Volume III of the Petition, at 7-8 and Exhibit AD-VN-12.

<sup>53</sup> See Volume II of the Petition, at 8 and Exhibit AD-PRC-11. *See also* PRC AD Supplemental Response, at 4 and Exhibit II-SUPP-3, and Import Correction, at Revised Exhibit II-SUPP-6.

<sup>54</sup> See Volume II of the Petition, at 8 and Exhibit AD-PRC-12. *See also* Import Correction, at Revised Exhibit II-SUPP-6.

<sup>55</sup> See Volume III of the Petition, at 7 and Exhibit AD-VN-10.

<sup>56</sup> See Volume III of the Petition, at 7 and Exhibits AD-VN-7, AD-VN-8 and AD-VN-10.

<sup>57</sup> See Volume III of the Petition, at 7 and Exhibit AD-VN-11.

<sup>58</sup> See Volume III of the Petition, at 7 and Exhibits AD-VN-7, AD-VN-8 and AD-VN-11.

<sup>59</sup> See Volume II of the Petition, at 9 and Exhibits AD-PRC-9 and AD-PRC-10. *See also* Import Correction, at Revised Exhibit II-SUPP-6.

<sup>60</sup> See Volume II of the Petition, at 9 and Exhibits AD-PRC-9 and AD-PRC-10. *See also* PRC AD Supplemental Response, at 4 and Exhibit II-SUPP-

For Vietnam, the petitioner determined the FOPs for packing materials based on its own experience in packing its products.<sup>61</sup> The petitioner indicated the packing materials would be cardboard shipping boxes, polybags, and Styrofoam, and valued them based on Indonesian import values.<sup>62</sup>

*Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit*

For the PRC, the petitioner calculated ratios for factory overhead, SG&A expenses, and profit based on the 2016 consolidated financial statements of Trellidor Holdings Limited (Trellidor), a South African producer of security doors, shades, grates, and bars.<sup>63</sup> Because Trellidor had net financial income rather than net financial expenses, the petitioner reported financial expenses as zero, in accordance with Department practice.<sup>64</sup> The petitioner calculated a profit for Trellidor by dividing its operating profit before taxes by the sum of cost of sales and SG&A expenses. The resulting profit was added to the cost of production (COP) values for the sale product to arrive at total cost of production plus profit for the product.<sup>65</sup>

For Vietnam, the petitioner calculated ratios for factory overhead, SG&A expenses, and profit based on publicly available 2015 consolidated financial statements of PT Lion Metal Works Tbk (PT Lion), an Indonesian producer of filing cabinets, other steel office equipment, and other steel fabricated products.<sup>66</sup> Because PT Lion had net

financial income rather than net financial expenses, the petitioner reported financial expenses as zero, in accordance with Department practice.<sup>67</sup> The petitioner calculated a profit for PT Lion by dividing its operating profit before taxes by the sum of cost of sales and SG&A expenses.<sup>68</sup> The resulting profit was added to the COP values for the sale product to arrive at the total cost of production plus profit for the product.<sup>69</sup>

**Fair Value Comparisons**

Based on the data provided by the petitioner, there is reason to believe that imports of tool chests from the PRC and Vietnam are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margin for tool chests from the PRC is 159.99 percent<sup>70</sup> and from Vietnam is 21.85 percent.<sup>71</sup>

**Initiation of Less-Than-Fair-Value Investigations**

Based upon the examination of the AD Petitions on tool chests from the PRC and Vietnam, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of tool chests from the PRC and Vietnam are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.<sup>72</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments

comparable to those involved in the manufacture of the merchandise under investigation.

<sup>61</sup> See Volume III of the Petition, at 8 and Exhibits AD-VN-7 and AD-VN-8.

3, and Import Correction, at Revised Exhibits II-SUPP-3 and II-SUPP-6.

<sup>62</sup> See Volume III of the Petition, at 8 and Exhibits AD-VN-7, AD-VN-8, and AD-VN-9.

<sup>63</sup> See Volume II of the Petition, at 10-11 and Exhibits AD-PRC-15. The petitioner was unable to find publicly-available financial statements for a South African producer of tool chests; it contends that Trellidor's production process is reasonably comparable to that of tool chests because both require bending metal in presses, welding, and painting. Further, the petitioner was unable to obtain unconsolidated financial statements from Trellidor and has therefore used the consolidated financial statements. See PRC AD Supplemental Response, at 5-6.

<sup>64</sup> See Volume II of the Petition, at 10 and Exhibit AD-PRC-15.

<sup>65</sup> See Volume II of the Petition, at 11 and Exhibits AD-PRC-9 and AD-PRC-15. See also Import Correction, at Revised Exhibit II-SUPP-6.

<sup>66</sup> See Volume III of the Petition, at 8 and Exhibit AD-VN-13. The petitioner explained that it was unable to find publicly available financial statements for an Indonesian producer of merchandise identical to the merchandise under investigation; the petitioner asserted that PT Lion manufactures products through processes that require bending metal in presses, welding, and painting, production methods which are reasonably

comparable to those involved in the manufacture of the merchandise under investigation.

<sup>67</sup> See Volume III of the Petition, at 8 and Exhibits AD-VN-8 and AD-VN-14; see also Vietnam AD Supplemental Response, at 8 and Exhibit III-Supp-5.

<sup>68</sup> See Volume III of the Petition, at Exhibit AD-VN-14 and Vietnam AD Supplemental Response, at Exhibit III-Supp-5.

<sup>69</sup> See Volume III of the Petition, at Exhibit AD-VN-8 and Vietnam AD Supplemental Response, at Exhibit III-Supp-4.

<sup>70</sup> See PRC AD Initiation Checklist.

<sup>71</sup> See Vietnam AD Initiation Checklist.

<sup>72</sup> See Trade Preferences Extension Act of 2015, Public Law 114-27, 129 Stat. 362 (2015).

contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>73</sup> The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.<sup>74</sup>

**Respondent Selection**

The petitioner named 47 companies in the PRC,<sup>75</sup> and five companies in Vietnam,<sup>76</sup> as producers/exporters of tool chests. In accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to these investigations and, in the event we determine to limit the number of companies individually examined, base respondent selection on the responses received. For these investigations, the Department will request Q&V information from known exporters and producers identified, with complete contact information, in the Petitions. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement & Compliance Web site at <http://www.trade.gov/enforcement/news.asp>.

Exporters/producers of tool chests from the PRC or Vietnam that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement & Compliance Web site. The Q&V response must be submitted by all PRC or Vietnam exporters/producers no later than May 11, 2017, which is ten days from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS.

**Separate Rates**

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>77</sup> The specific requirements for submitting a separate-rate application are outlined in detail in the

<sup>73</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

<sup>74</sup> *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>75</sup> See Volume I of the Petitions, at 12 and Exhibit GEN-8.

<sup>76</sup> See *Id.*, at 12 and Exhibit GEN-9.

<sup>77</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

application itself, which is available on the Department's Web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>78</sup> Exporters and producers who submit a separate-rate application and are selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that respondents submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

#### Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.<sup>79</sup>

#### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of the PRC and Vietnam *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

<sup>78</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

<sup>79</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of tool chests from the PRC and/or Vietnam are materially injuring or threatening material injury to a U.S. industry.<sup>80</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country;<sup>81</sup> otherwise, these investigations will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>82</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>83</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in these investigations.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR part 351. For submissions that are due from multiple parties simultaneously, an

extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>84</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>85</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

<sup>84</sup> See section 782(b) of the Act.

<sup>85</sup> See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>80</sup> See section 733(a) of the Act.

<sup>81</sup> *Id.*

<sup>82</sup> See 19 CFR 351.301(b).

<sup>83</sup> See 19 CFR 351.301(b)(2).

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

Dated: May 1, 2017.

**Ronald K. Lorentzen,**  
*Acting Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### Scope of the Investigations

The scope of these investigations covers certain metal tool chests and tool cabinets, with drawers, (tool chests and cabinets), from the People's Republic of China (the PRC) and the Socialist Republic of Vietnam (Vietnam). The scope covers all metal tool chests and cabinets, including top chests, intermediate chests, tool cabinets and side cabinets, storage units, mobile work benches, and work stations and that have the following physical characteristics:

- (1) A body made of carbon, alloy, or stainless steel and/or other metals;
- (2) two or more drawers for storage in each individual unit;
- (3) a width (side to side) exceeding 15 inches for side cabinets and exceeding 21 inches for all other individual units but not exceeding 60 inches;
- (4) a drawer depth (front to back) exceeding 10 inches but not exceeding 24 inches; and
- (5) prepackaged for retail sale.

For purposes of this scope, the width parameter applies to each individual unit, *i.e.*, each individual top chest, intermediate top chest, tool cabinet, side cabinet, storage unit, mobile work bench, and work station.

Prepackaged for retail sale means the units are packaged in a cardboard box or other container suitable for retail display and sale. Subject tool chests and cabinets are covered whether imported in assembled or unassembled form. Subject merchandise includes tool chests and cabinets produced in the PRC or Vietnam but assembled, prepackaged for sale, or subject to other minor processing in a third country prior to importation into the United States. Similarly, it would include tool chests and cabinets produced in the PRC or Vietnam that are later found to be assembled, prepackaged for sale, or subject to other minor processing after importation into the United States.

Subject tool chests and cabinets may also have doors and shelves in addition to drawers, may have handles (typically mounted on the sides), and may have a work surface on the top. Subject tool chests and cabinets may be uncoated (*e.g.*, stainless steel), painted, powder coated, galvanized, or otherwise coated for corrosion protection or aesthetic appearance.

Subject tool chests and cabinets may be packaged as individual units or in sets. When packaged in sets, they typically include a cabinet with one or more chests that stack on top of the cabinet. Tool cabinets act as a base tool storage unit and typically have rollers, casters, or wheels to permit them to be moved more easily when loaded with tools. Work stations and work benches are tool cabinets with a work surface on the top that may be made of rubber, plastic, metal, wood, or other materials.

Top chests are designed to be used with a tool cabinet to form a tool storage unit. The top chests may be mounted on top of the base tool cabinet or onto an intermediate chest. They are often packaged as a set with tool cabinets or intermediate chests, but may also be packaged separately. They may be packaged with mounting hardware (*e.g.*, bolts) and instructions for assembling them onto the base tool cabinet or onto an intermediate tool chest which rests on the base tool cabinet. Smaller top chests typically have handles on the sides, while the larger top chests typically lack handles.

Intermediate tool chests are designed to fit on top of the floor standing tool cabinet and to be used underneath the top tool chest.

Although they may be packaged or used separately from the tool cabinet, intermediate chests are designed to be used in conjunction with tool cabinets. The intermediate chests typically do not have handles. The intermediate and top chests may have the capability of being bolted together.

Side cabinets are designed to be bolted or otherwise attached to the side of the base storage cabinet to expand the storage capacity of the base tool cabinet.

Subject tool chests and cabinets also may be packaged with a tool set included. Packaging a subject tool chest and cabinet with a tool set does not remove an otherwise covered subject tool chest and cabinet from the scope. When this occurs the tools are not part of the subject merchandise.

Excluded from the scope of the investigations are tool boxes, chests and cabinets with bodies made of plastic, carbon fiber, wood, or other non-metallic substances. Also excluded from the scope of the investigations are portable metal tool boxes. Portable metal tool boxes have each of the following characteristics: (1) Fewer than three drawers; (2) a handle on the top that allows the tool box to be carried by hand; and (3) a width that is 21 inches or less; and depth (front to back) not exceeding 10 inches.

Also excluded from the scope of the investigations are industrial grade steel tool chests and cabinets. The excluded industrial grade steel tool chests and cabinets are those:

- (1) Having a body that is over 60 inches wide; or
- (2) having each of the following physical characteristics:
  - (a) A body made of steel that is 0.055" or more in thickness;
  - (b) all drawers over 21" deep;
  - (c) all drawer slides rated for 200 lbs. or more; and
  - (d) not prepackaged for retail sale.

Also excluded from the scope of the investigations are work benches with fewer than two drawers. Excluded work benches have a solid top working surface, fewer than two drawers, are supported by legs and have no solid front, side, or back panels enclosing the body of the unit.

Also excluded from the scope of the investigations are metal filing cabinets that are configured to hold hanging file folders and are classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 9403.10.0020.

Merchandise subject to the investigations is classified under HTSUS categories

9403.20.0021, 9403.20.0026, 9403.20.0030 and 7326.90.8688, but may also be classified under HTSUS category 7326.90.3500. While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of these investigations is dispositive.

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## DEPARTMENT OF EDUCATION

RIN 1840-AD14

[Docket ID: ED-2015-OPE-0020]

### Request for Information Regarding Disclosures for Student Financial Accounts

**AGENCY:** Office of Postsecondary Education, Department of Education.  
**ACTION:** Request for information.

**SUMMARY:** The Secretary seeks information from the public regarding the major features and types of commonly assessed fees that postsecondary institutions (institutions) must disclose under 34 CFR 668.164(d)(4)(i)(B)(2) of the cash management regulations with regard to each of the institution's Tier 1 (T1) or Tier 2 (T2) arrangements as defined under § 668.164(e)(1) and (f)(1), respectively. The Secretary also requests feedback regarding the proposed format of these disclosures. The Secretary intends to use this information in developing a notice to be published in the **Federal Register** describing the format, content, and update requirements that institutions may follow to satisfy the requirements of § 668.164(d)(4)(i)(B)(2) with respect to the major features and assessed fees associated with the T1 and T2 arrangements.

**DATES:** We must receive your submission no later than June 8, 2017.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

*Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket is available on the site under the "Help" tab.

*Postal Mail, Commercial Delivery, or Hand Delivery:* The Department of