

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-164, A-549-849, A-552-839

Certain Paper Plates from the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Applicable February 14, 2024.

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo (the People's Republic of China (China)) at (202) 482-3979; Theodore Pearson (Thailand) at (202) 482-2631; and Bryan Hansen (the Socialist Republic of Vietnam (Vietnam)) at (202) 482-3683, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 25, 2024, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of certain paper plates (paper plates) from China, Thailand, and Vietnam filed in proper form on behalf of the American Paper Plate Coalition (the petitioner).¹ These AD Petitions were accompanied by countervailing duty (CVD) petitions concerning imports of paper plates from China and Vietnam.²

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties," dated January 25, 2024 (the Petitions). The members of the American Paper Plate Coalition are AJM Packaging Corporation, Aspen Products, Inc., Dart Container Corporation, Hoffmaster Group, Inc., Huhtamaki Americas, Inc., and Unique Industries, Inc.

² *Id.*

Between January 29 and February 6, 2024, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.³ The petitioner filed responses to the supplemental questionnaires between January 31 and February 8, 2024.⁴

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

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(F) of the Act.⁵ Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested LTFV investigations.⁶

³ See Commerce's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Paper Plates from the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Supplemental Questions," dated January 29, 2024 (General Issues Questionnaire); see also Country-Specific Supplemental Questionnaires: China Supplemental, Thailand Supplemental, and Vietnam Supplemental, dated January 29, 2024; and Memorandum, "Phone Call," dated February 6, 2024 (February 6 Memorandum).

⁴ See Petitioner's Letters, "Petitioner's Responses to Supplemental Questions – General Issues," dated February 2, 2024 (First General Issues Supplement); Country-Specific AD Supplemental Responses: First China AD Supplement, First Thailand AD Supplement, and First Vietnam AD Supplement, dated February 2, 2024; Country-Specific AD Supplemental Responses: Second China AD Supplement, Second Thailand AD Supplement, and Second Vietnam AD Supplement, dated February 8, 2024; and "Petitioner's Responses to Supplemental Questions – General Issues," dated February 8, 2024 (Second General Issues Supplement).

⁵ The members of the American Paper Plate Coalition are interested parties as defined under section 771(9)(C) of the Act.

⁶ See section on "Determination of Industry Support for the Petitions," *infra*.

Periods of Investigation

Because the Petitions were filed on January 25, 2024, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Thailand LTFV investigation is January 1, 2023, through December 31, 2023. Because China and Vietnam are non-market economy (NME) countries, pursuant to 19 CFR 351.204(b)(1), the POI for the China and Vietnam LTFV investigations is July 1, 2023, through December 31, 2023.

Scope of the Investigations

The products covered by these investigations are paper plates from China, Thailand, and Vietnam. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On January 29 and February 6, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.⁷ On February 2 and 8, 2024, the petitioner provided clarifications and revised the scope.⁸ The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁹ Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments

⁷ See General Issues Questionnaire; *see also* February 6 Memorandum.

⁸ See First General Issues Supplement at 5-11; *see also* Second General Issues Supplement at 3-6.

⁹ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); *see also* 19 CFR 351.312.

include factual information,¹⁰ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on March 5, 2024, which is 20 calendar days from the signature date of this notice.¹¹ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 15, 2024, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of these investigations be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All scope comments must be filed simultaneously on the records of the concurrent LTFV and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹² An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of paper plates to be reported in response to Commerce's AD

¹⁰ See 19 CFR 351.102(b)(21) (defining "factual information").

¹¹ See 19 CFR 351.303(b)(1).

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOP) or cost of production (COP) accurately, as well as to develop appropriate product comparison criteria.

Interested parties may 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 utilized by manufacturers to describe paper plates, 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, Commerce 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 questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on March 5, 2024, which is 20 calendar days from the signature date of this notice.¹³ Any rebuttal comments must be filed by 5:00 p.m. ET on March 15, 2024, which is 10 calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the LTFV investigations.

¹³ See 19 CFR 351.303(b)(1).

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, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. 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 Commerce and the ITC apply the same statutory definition regarding the domestic like product,¹⁴ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in

¹⁴ See section 771(10) of the Act.

different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁵

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic-like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.¹⁶ Based on our analysis of the information submitted on the record, we have determined that paper plates, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁷

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 the appendix to this notice. To establish industry support, the petitioner provided its own shipments of the domestic like product in 2023 and compared this to the estimated total 2023 shipments of the domestic like product for

¹⁵ 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 Algoma Steel Corp., Ltd. v. United States*, 865 F.2d 240 (Fed. Cir. 1989)).

¹⁶ See Petitions at Volume I (pages 11-13); see also First General Issues Supplement at 17-18.

¹⁷ For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Antidumping Duty Investigation Initiation Checklists: Certain Paper Plates from the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam, dated concurrently with this notice (Country-Specific AD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Paper Plates from the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam (Attachment II). These checklists are dated concurrently with this notice and on file electronically via ACCESS.

the entire domestic industry.¹⁸ Because total industry production data for the domestic like product for 2023 are not reasonably available to the petitioner, and the petitioner has established that shipments are a reasonable proxy for production data,¹⁹ we have relied on the data provided by the petitioner for purposes of measuring industry support.²⁰

Our review of the data provided in the Petitions, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.²¹ First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²² 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.²³ 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

¹⁸ See First General Issues Supplement at 12-14, 16, and Attachments 2-4; *see also* Second General Issues Supplement at 7-8 and Attachment 1.

¹⁹ See Petitions at Volume I (page 4 and Exhibit I-2); *see also* First General Issues Supplement at 12 and 14.

²⁰ See Petitions at Volume I (pages 3-4); *see also* First General Issues Supplement at 11-16 and Attachments 2-4; and Second General Issues Supplement at 7-8 and Attachment 1. For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

²¹ See Petitions at Volume I (pages 3-4); *see also* First General Issues Supplement at 11-16 and Attachments 2-4; and Second General Issues Supplement at 6-8 and Attachments 1-3. For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

²² See Attachment II of the Country-Specific AD Initiation Checklists; *see also* section 732(c)(4)(D) of the Act.

²³ See Attachment II of the Country-Specific AD Initiation Checklists.

Petitions.²⁴ Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²⁵

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 LTFV. In addition, the petitioner alleges that subject imports from China and Vietnam exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁶

With regard to Thailand, while the allegedly dumped imports do not exceed the statutory requirements for negligibility,²⁷ the petitioner alleges and provides supporting evidence that: (1) there is a reasonable indication that data obtained in the ITC's investigation will establish that imports exceed the negligibility threshold;²⁸ and (2) there is the potential that imports from Thailand will imminently exceed the negligibility threshold and, therefore, are not negligible for purposes of a threat determination.²⁹ The petitioner's arguments regarding the limitations of publicly available import data and the collection of scope-specific import data in the ITC's investigations are consistent with the SAA. Furthermore, the petitioner's arguments regarding the potential for imports from Thailand to imminently exceed the negligibility threshold are consistent with the statutory criteria for "negligibility in threat analysis" under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there

²⁴ *Id.*

²⁵ *Id.*

²⁶ See Petitions at Volume I (pages 15-16 and Exhibit I-8).

²⁷ *Id.* at 16-17 and Exhibits I-8 through I-10, I-12, and I-13; see also First General Issues Supplement at 18-19.

²⁸ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) (SAA), at 857; see also Petitions at Volume I (pages 16-17 and Exhibits I-8 through I-10); and First General Issues Supplement at 18-19.

²⁹ See section 771(24)(A)(iv) of the Act; see also First General Issues Supplement at 19.

is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.

The petitioner contends that the industry's injured condition is illustrated by the significant volume of subject imports; underselling and price depression and/or suppression; loss of market share; decrease in production volume and capacity utilization; and lost sales and revenues.³⁰ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³¹

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate LTFV investigations of imports of paper plates from China, Thailand, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

U.S. Price

For China, Thailand, and Vietnam, the petitioner based export price (EP) on pricing information for sales, or offers for sale, of paper plates produced in and exported from each country.³² For each country, the petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.³³

³⁰ See Petitions at Volume I (pages 15-39 and Exhibits I-2, I-3, and I-7 through I-35); see also First General Issues Supplement at 18-19.

³¹ See Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Paper Plates from the People's Republic of China, Thailand, and the Socialist Republic of Vietnam.

³² See Country-Specific AD Initiation Checklists.

³³ *Id.*

Normal Value³⁴

For Thailand, the petitioner stated that it was unable to obtain home market or third country pricing information for paper plates to use as a basis for NV.³⁵ Therefore, for Thailand, the petitioner calculated NV based on constructed value (CV).³⁶ For further discussion of CV, see the section “Normal Value Based on Constructed Value,” below.

Commerce considers China and Vietnam to be NME countries.³⁷ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China and Vietnam as NME countries for purposes of the initiation of these investigations. Accordingly, we base NV on FOPs valued in a surrogate market economy country in accordance with section 773(c) of the Act.

The petitioner claims that Malaysia is an appropriate surrogate country for China because it is a market economy that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.³⁸ The petitioner provided publicly available information from Malaysia to value all FOPs except labor.³⁹ Consistent with

³⁴ In accordance with section 773(b)(2) of the Act, for the Thailand investigation, Commerce will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

³⁵ See Thailand AD Initiation Checklist.

³⁶ *Id.*

³⁷ See, e.g., *Certain Freight Rail Couplers and Parts Thereof from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, 88 FR 15372 (March 13, 2023), and accompanying Preliminary Decision Memorandum at 5, unchanged in *Certain Freight Rail Couplers and Parts Thereof from the People’s Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value and Final Affirmative Determination of Critical Circumstances*, 88 FR 34485 (May 30, 2023); and *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016-2017*, 84 FR 18007 (April 29, 2019).

³⁸ See China AD Initiation Checklist.

³⁹ *Id.*

Commerce's recent practice in cases involving Malaysia as a surrogate country,⁴⁰ to value labor, the petitioner provided labor statistics from another surrogate country, Turkey.⁴¹ Based on the information provided by the petitioner, we believe it is appropriate to use Malaysia as a surrogate country for China to value all FOPs except labor and to value labor using labor statistics from Turkey for initiation purposes.

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 and is a significant producer of comparable merchandise.⁴² The petitioner provided publicly available information from Indonesia to value all FOPs.⁴³ Based on the information provided by the petitioner, we believe it is appropriate to use Indonesia as a surrogate country for Vietnam to value all FOPs 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 within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by Chinese and Vietnamese producers/exporters was not reasonably available, the petitioner used product-specific consumption rates from a U.S. producer of paper plates as a surrogate to value Chinese

⁴⁰ See, e.g., *Certain Collated Steel Staples from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; and *Final Determination of No Shipments; 2021-2022*, 88 FR 85242 (December 7, 2023), and accompanying Issues and Decision Memorandum (IDM) at Comment 2; and *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 88 FR 15671 (March 14, 2023), and accompanying IDM at Comment 2.

⁴¹ See China AD Initiation Checklist.

⁴² See Vietnam AD Initiation Checklist.

⁴³ *Id.*

and Vietnamese manufacturers' FOPs.⁴⁴ Additionally, the petitioner calculated factory overhead, selling, general, and administrative expenses (SG&A), and profit based on the experience of a Malaysian and an Indonesian producer of comparable merchandise for China and Vietnam, respectively.⁴⁵

Normal Value Based on Constructed Value

As noted above for Thailand, the petitioner stated that it was unable to obtain home market or third-country prices for paper plates to use as a basis for NV. Therefore, for Thailand, the petitioner calculated NV based on CV.⁴⁶

Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing, SG&A, financial expenses, and profit.⁴⁷ For Thailand, in calculating the cost of manufacturing, the petitioner relied on the production experience and input consumption rates of a U.S. producer of paper plates, valued using publicly available information applicable to Thailand.⁴⁸ In calculating SG&A, financial expenses, and profit ratios, the petitioner relied on the fiscal year 2022 financial statements of a producer of identical merchandise in Thailand.⁴⁹

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of paper plates from China, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for paper plates for each of the countries covered by this

⁴⁴ See China AD Initiation Checklist; *see also* Vietnam AD Initiation Checklist.

⁴⁵ See China AD Initiation Checklist; *see also* Vietnam AD Initiation Checklist. As noted above, for China, the petitioner calculated labor using information specific to Turkey. *See* China AD Initiation Checklist.

⁴⁶ See Thailand AD Initiation Checklist.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

initiation are as follows: (1) China – 154.57 to 178.80 percent; (2) Thailand – 61.03 to 73.17 percent; and (3) Vietnam – 153.09 to 165.27 percent.⁵⁰

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating LTFV investigations to determine whether imports of paper plates from China, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. 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 these initiations.

Respondent Selection

Thailand

In the Petitions, the petitioner identified nine companies in Thailand as producers/exporters of paper plates.⁵¹ Following standard practice in LTFV investigations involving market economy countries, in the event Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce’s resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheading(s) listed in the “Scope of the Investigations,” in the appendix.

On February 9, 2024, Commerce released CBP data on imports of paper plates from Thailand under administrative protective order (APO) to all parties with access to information

⁵⁰ See Country-Specific AD Initiation Checklists.

⁵¹ See Petitions at Volume I (page 9 and Exhibit I-5); see also First General Issues Supplement at 3 and Attachment 1.

protected by APO and indicated that interested parties wishing to comment on CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations.⁵² Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <https://www.trade.gov/administrative-protective-orders>.

China and Vietnam

In the Petitions, the petitioner named 149 companies in China and nine companies in Vietnam as producers and/or exporters of paper plates.⁵³ Our standard practice for respondent selection in AD investigations involving NME countries is to select respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and/or exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce determines that the number is large and decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. For Vietnam, because there are nine Vietnamese producers and/or exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to

⁵² See Memorandum, "Release of Data from U.S. Customs and Border Protection," dated February 9, 2024.

⁵³ See Petitions at Volume I (page 9 and Exhibit I-5); see also First General Issues Supplement at 3-4 and Attachment 1.

each potential respondent for which the petitioner has provided a complete address. For China, because there are 149 Chinese producers and/or exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to the largest producers and/or exporters in China that are identified in the CBP data for which there is complete address information on the record.⁵⁴

Commerce will post the Q&V questionnaires along with filing instructions on Commerce's website at <https://www.trade.gov/ec-adcvd-case-announcements>.

Producers/exporters of paper plates from China and Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Commerce's website. Responses to the Q&V questionnaire must be submitted by the relevant Chinese and Vietnamese producers/exporters no later than 5:00 p.m. ET on February 28, 2024, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). As stated above, instructions for filing such applications may be found on Commerce's website at <https://www.trade.gov/administrative-protective-orders>.

Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate application. The specific requirements for submitting a separate rate application in an NME investigation are outlined in detail in the application itself, which is

⁵⁴ See Memorandum, "Release of U.S. Customs and Border Protection Data," dated February 9, 2024.

available on Commerce's website at <https://access.trade.gov/Resources/nme/nme-sep-rate.html>.

The separate rate application will be due 30 days after publication of this initiation notice.

Exporters and producers must file a timely separate rate application if they want to be considered for individual examination. Exporters and producers who submit a separate rate application and have been selected as mandatory respondents will be eligible for consideration for separate rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China and Vietnam submit a response both to the Q&V questionnaire and to the separate rate application by the respective deadlines to receive consideration for separate rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce 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 {Commerce} 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.⁵⁵

⁵⁵ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries," (April 5, 2005) at 6 (emphasis added), available on Commerce's website at <https://access.trade.gov/Resources/policy/bull05-1.pdf>.

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 China, Thailand, 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).

ITC Notification

Commerce 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 paper plates from China, Thailand, and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.⁵⁶ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁵⁷ Otherwise, these LTFV 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 Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify

⁵⁶ See section 733(a) of the Act.

⁵⁷ *Id.*

under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁵⁸ 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.⁵⁹ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to

⁵⁸ See 19 CFR 351.301(b).

⁵⁹ See 19 CFR 351.301(b)(2).

section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301, or as otherwise specified by Commerce.⁶⁰ 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, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in these investigations.⁶¹

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶² Parties must use the certification formats

⁶⁰ See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

⁶¹ See 19 CFR 351.302; see also, e.g., *Time Limits Final Rule*.

⁶² See section 782(b) of the Act.

provided in 19 CFR 351.303(g).⁶³ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letter of appearance). Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information and has made additional clarifications and corrections to its AD/CVD regulations.⁶⁴

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 14, 2024

/S/ Ryan Majerus

Ryan Majerus
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties
of the Assistant Secretary for Enforcement and Compliance

⁶³ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Additional information regarding the *Final Rule* is available at <https://access.trade.gov/Resources/filing/index.html>.

⁶⁴ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023).

Appendix

Scope of the Investigations

The merchandise subject to these investigations is certain paper plates. Paper plates subject to these investigations may be cut from rolls, sheets, or other pieces of paper and/or paper board. Paper plates subject to these investigations have a depth up to and including two (2.0) inches, as measured vertically from the base to the top of the lip, or the edge if the plate has no lip. Paper plates subject to these investigations may be uncolored, white, colored, or printed. Printed paper plates subject to these investigations may have any type of surface finish, and may be printed by any means with images, text and/or colors on one or both surfaces. Colored paper plates subject to this investigation may be colored by any method, including but not limited to printing, beater-dyeing, and dip-dyeing. Paper plates subject to these investigations may be produced from paper of any type (including, but not limited to, bamboo, straws, bagasse, hemp, kenaf, jute, sisal, abaca, cotton inters and reeds, or from non-plant sources, such as synthetic resin (petroleum)-based resins), may have any caliper or basis weight, may have any shape or size, may have one or more than one section, may be embossed, may have foil or other substances adhered to their surface, and/or may be uncoated or coated with any type of coating.

The paper plates subject to these investigations remain covered by the scope of these investigations whether imported alone, or in any combination of subject and non-subject merchandise. When paper plates subject to these investigations are imported in combination with non-subject merchandise, only the paper plates subject to these investigations are subject merchandise.

The paper plates subject to these investigations include paper plates matching the above description that have been finished, packaged, or otherwise processed in a third country by performing finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the paper plates. Examples of finishing, packaging, or other processing in a third country that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the paper plates include, but are not limited to, printing, application of other surface treatments such as coatings, repackaging, embossing, and application of foil surface treatments.

Excluded from the scope of these investigations are paper plates molded or pressed directly from paper pulp (including but not limited to unfelted pulp), which are currently classifiable under subheading 4823.70.0020 of the Harmonized Tariff Schedule of the United States (HTSUS).

Also excluded from the scope of these investigations are articles that otherwise would be covered but which exhibit the following two physical characteristics: (a) depth (measured vertically from the base to the top of the lip, or edge if no lip) equal to or greater than 1.25 inches but less than two (2.0) inches, and (b) a base not exceeding five (5.0) inches in diameter if round, or not exceeding 20 square inches in area if any other shape.

Also excluded from the scope of these investigations are paper bowls, paper buckets, and paper food containers with closeable lids.

Paper plates subject to these investigations are currently classifiable under HTSUS subheading 4823.69.0040. Paper plates subject to these investigations also may be classified under HTSUS subheading 4823.61.0040. If packaged with other articles, the paper plates subject to these investigations also may be classified under HTSUS subheadings 9505.90.4000 and 9505.90.6000. While the HTSUS subheading(s) are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.