

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-112, A-580-901, A-583-866

Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Effective June 26, 2019.

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SUPPLEMENTARY INFORMATION:

The Petitions

On June 6, 2019, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of certain collated steel staples (collated staples) from China, Korea, and Taiwan.<sup>1</sup> The AD Petitions were filed in proper form by Kyocera Senco Industrial Tools, Inc. (the petitioner). The AD Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of collated staples from China.<sup>2</sup>

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<sup>1</sup> See the Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan," dated June 6, 2019 (Petitions).

<sup>2</sup> *Id.*

On June 11 and June 17, 2019, Commerce requested supplemental information pertaining to certain aspects of the Petitions.<sup>3</sup> The petitioner filed responses to these requests between June 13 and June 19, 2019.<sup>4</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of collated staples from China, Taiwan, and Korea 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 such imports are materially injuring, or threatening material injury to, the domestic industry producing collated staples in the United States. Consistent with section 732(b)(1) of the Act, the AD Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce 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.

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<sup>3</sup> See Commerce's Letters, "Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Supplemental Questions;" "Petitions for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan and Countervailing Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Supplemental Questions (General Issues Supplemental Questionnaire);" "Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from Korea: Supplemental Questions;" and "Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from Taiwan: Supplemental Questions;" all dated June 11, 2019; *see also* Memoranda, "Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Phone Call with the Petitioner;" "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Phone Call with Counsel to the Petitioner (General Issues Second Supplemental Questionnaire);" "Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from Korea: Phone Call with Counsel to the Petitioner;" and "Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from Taiwan: Phone Call with Counsel to the Petitioner;" all dated June 17, 2019.

<sup>4</sup> See the Petitioner's Letters, "Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Petition Supplement – General and Injury" (General Issues Supplement); and "Certain Collated Steel Staples from Taiwan: Petition Supplement," both dated June 13, 2019; *see also* the Petitioner's Letters, "Certain Collated Steel Staples from China: Petition Supplement," and "Certain Collated Steel Staples from Korea: Petition Supplement," both dated June 14, 2019; and "Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Petition Supplement - General Issues" (Second General Issues Supplement); "Certain Collated Steel Staples from Korea: Petition Supplement;" "Certain Collated Steel Staples from Taiwan: Petition Supplement;" and "Certain Collated Steel Staples from China: Petition Supplement," all dated June 19, 2019.

Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigations.<sup>5</sup>

#### Periods of Investigation

Because the AD Petitions were filed on June 6, 2019, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Taiwan and Korea investigations is April 1, 2018 through March 31, 2019. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the China investigation is October 1, 2018 through March 31, 2019.

#### Scope of the Investigations

The product covered by these investigations consists of collated staples from China, Korea, and Taiwan. For a full description of the scope of these investigations, *see* the Appendix to this notice.

#### Comments on Scope of the Investigations

During our review of the Petitions, Commerce issued questions to, and received responses from, the petitioner pertaining to 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.<sup>6</sup> As a result of these exchanges, the scope of the Petitions was modified to clarify the description of the merchandise covered by the Petitions. The description of the merchandise covered by these initiations, as described in the Appendix to this notice, reflects these clarifications.

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<sup>5</sup> *See* Volume I of the AD Petitions, at 2-3.

<sup>6</sup> *See* General Issues Supplement, at 4-7 and exhibit 3; *see also* Second General Issues Supplement, at 2.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).<sup>7</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>8</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on July 16, 2019, which is 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 July 26, 2019, which is 10 calendar days from the initial comment deadline.<sup>9</sup>

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this 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 Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD 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).<sup>10</sup> An electronically filed document must be received successfully in its

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<sup>7</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>8</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>9</sup> See 19 CFR 351.303(b).

<sup>10</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 Commerce's electronic filing requirements, effective August 5, 2011. Information on help 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%20on%20Electronic%20Filing%20Procedures.pdf>.

entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and 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

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of collated staples to be reported in response to Commerce's AD 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 (FOPs) 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 collated staples, 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 July 16, 2019, which is 20 calendar days from the signature date of this notice.<sup>11</sup> Any rebuttal comments must be filed by 5:00 p.m. ET on July 26, 2019.<sup>12</sup> All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD 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, 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 Act directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining

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<sup>11</sup> See 19 CFR 351.303(b).

<sup>12</sup> *Id.*

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 must apply the same statutory definition regarding the domestic like product,<sup>13</sup> 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 different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>14</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 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 Petitions.<sup>15</sup> Based on our analysis of the information submitted on the record, we have determined that collated staples, 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>16</sup>

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<sup>13</sup> See section 771(10) of the Act.

<sup>14</sup> See, *e.g.*, *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)).

<sup>15</sup> See Volume I of the Petitions, at 9-13 and Exhibit IN-4; see also General Issues Supplement, at 4 and Exhibit 1.

<sup>16</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Antidumping Duty Investigation Initiation Checklist: Certain Collated Steel Staples from the People’s Republic of China (China AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Collated Steel Staples from the People’s Republic of China, the Republic of Korea, and Taiwan (Attachment II); Antidumping Duty Investigation Initiation Checklist: Certain Collated Steel Staples from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Certain Collated Steel Staples from Taiwan (Taiwan AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and are on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Commerce building.

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 2018 production of the domestic like product and compared this to the estimated total production of the domestic like product for the entire domestic industry.<sup>17</sup> We relied on data provided by the petitioner for purposes of measuring industry support.<sup>18</sup>

Our review of the data provided in the Petitions, the 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.<sup>19</sup> 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).<sup>20</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>21</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

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<sup>17</sup> See Volume I of the AD Petitions, at 3 and Exhibit GEN-1; *see also* General Issues Supplement, at 7 and Exhibit 5; and Second General Issues Supplement, at Exhibit 1.

<sup>18</sup> See Volume I of the AD Petitions, at 3 and Exhibit GEN-1; *see also* China AD Initiation Checklist, at Attachment II; Korea AD Initiation Checklist, at Attachment II; and Taiwan AD Initiation Checklist, at Attachment II.

<sup>19</sup> See China AD Initiation Checklist, at Attachment II; *see also* Korea AD Initiation Checklist, at Attachment II; and Taiwan AD Initiation Checklist, at Attachment II.

<sup>20</sup> See section 732(c)(4)(D) of the Act; *see also* China AD Initiation Checklist, at Attachment II; Korea AD Initiation Checklist, at Attachment II; and Taiwan AD Initiation Checklist, at Attachment II.

<sup>21</sup> See China AD Initiation Checklist, at Attachment II; *see also* Korea AD Initiation Checklist, at Attachment II; and Taiwan AD Initiation Checklist, at Attachment II.



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>22</sup> 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.

#### 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 exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>23</sup>

With respect to Korea and Taiwan, while the allegedly dumped imports from Korea and Taiwan do not exceed the statutory requirements for negligibility,<sup>24</sup> 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,<sup>25</sup> and (2) there is the potential that imports from Korea and Taiwan will imminently exceed the negligibility threshold and, therefore, are not negligible for purposes of a threat determination.<sup>26</sup> 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 Korea and Taiwan 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

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

<sup>23</sup> See Volume I of the AD Petitions, at 23 and Exhibits GEN-4 and IN-15.

<sup>24</sup> *Id.*

<sup>25</sup> See *Statement of Administrative Action* (SAA), H.R. Doc. No. 103-316, Vol. 1, (1994) (SAA), at 857; see also Volume I of the AD Petitions, at 23-24.

<sup>26</sup> See SAA at 856; see also Volume I of the AD Petitions, at 23-26 and Exhibits GEN-4, IN-15 and IN-18.

imports shall not be treated as negligible if there 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 a significant and increasing volume of subject imports; reduced market share; lost sales and revenue; underselling and price depression or suppression; and low capacity utilization rates and declining shipments, production, and profitability.<sup>27</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, cumulation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>28</sup>

#### 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 AD investigations of imports of collated staples from China, Korea, and Taiwan. 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 AD Initiation Checklist for each country.

#### Export Price (EP)

For China and Korea, the petitioner based the U.S. price on quoted offer prices for sales of collated staples produced in and exported from China and Korea and sold, or offered for sale, to customers in the United States through a U.S. distributor.<sup>29</sup> Where applicable, the petitioner

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<sup>27</sup> See Volume I of the AD Petitions, at 9, 16-35 and Exhibits GEN-4, IN-1 through IN-7, IN-9 through IN-18, and IN-19; *see also* General Issues Supplement, at 4, 8-11 and Exhibit 1.

<sup>28</sup> See China 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 Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan (Attachment III); *see also* Korea AD Initiation Checklist, at Attachment III; and Taiwan AD Initiation Checklist, at Attachment III.

<sup>29</sup> See China AD Initiation Checklist; *see also* Korean AD Initiation Checklist.

made deductions from U.S. price for distributor markup, movement and other expenses, consistent with the terms of sale.<sup>30</sup>

#### Constructed Export Price (CEP)

For Taiwan, because the petitioner had reason to believe the sale reflected a transaction from a Taiwanese producer/exporter to an unrelated customer in the United States after importation, the petitioner based CEP on a sale of collated staples produced in, and exported from, Taiwan and sold to an unaffiliated U.S. distributor for sale in the United States.<sup>31</sup> The petitioner made deductions from U.S. price for movement and other expenses, consistent with the terms of sale.<sup>32</sup>

#### Normal Value

For Korea, the petitioner based NV on home market prices obtained through market research for collated staples produced in and sold, or offered for sale, in Korea within the POI.<sup>33</sup>

For Taiwan, the petitioner was unable to obtain information relating to the prices charged for collated staples produced and sold in the home market or in third countries; accordingly, the petitioner based NV on constructed value (CV).<sup>34</sup> For further discussion of CV, *see* the section “Normal Value Based on Constructed Value.”<sup>35</sup>

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<sup>30</sup> See China AD Initiation Checklist; *see also* Korea AD Initiation Checklist

<sup>31</sup> See Taiwan AD Initiation Checklist.

<sup>32</sup> *Id.*

<sup>33</sup> See Korea AD Initiation Checklist.

<sup>34</sup> See Taiwan AD Initiation Checklist.

<sup>35</sup> In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and cost of production (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. Commerce no longer requires a COP allegation to conduct this analysis.

With respect to China, Commerce considers China to be an NME country.<sup>36</sup> In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by Commerce. Therefore, we continue to treat China as an NME for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.<sup>37</sup>

The petitioner claims that Mexico is an appropriate surrogate country for China, because it is a market economy country that is at a level of economic development comparable to that of China, it is a significant producer of comparable merchandise, and public information from Mexico is available to value all material input factors.<sup>38</sup> Based on the information provided by the petitioner, we determine that it is appropriate to use Mexico as a surrogate country 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 the Chinese producers/exporters is not available, the petitioner relied on its own production experience as an

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<sup>36</sup> See, e.g., *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying decision memorandum, *China's Status as a Non-Market Economy*; unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

<sup>37</sup> See China AD Initiation Checklist.

<sup>38</sup> See Volume II of the AD Petitions at 2-6.

estimate of Chinese manufacturers' FOPs.<sup>39</sup> The petitioner valued the estimated FOPs using surrogate values from Mexico and used the average POI exchange rate to convert the data to U.S. dollars.<sup>40</sup>

#### Normal Value Based on Constructed Value

The petitioner was unable to obtain information relating to the prices charged for collated staples produced in Taiwan, or third country prices; accordingly, the petitioner based NV on CV.<sup>41</sup> Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, packing expenses, and profit. For Taiwan, the petitioner calculated the COM by first identifying and calculating the amount (*i.e.*, consumption rate) of each production input based on staples production at its own manufacturing facilities.<sup>42</sup> The petitioner based the input FOPs on the quantity of inputs needed to produce one net short ton of the same merchandise. The input FOPs were valued using publicly available data on costs specific to Taiwan, during the proposed POI.<sup>43</sup> Specifically, the prices for raw materials, scrap offsets, and packing inputs were valued using publicly available import data for Taiwan.<sup>44</sup> Labor and energy (*i.e.*, electricity, natural gas) costs were valued using publicly available sources for Taiwan.<sup>45</sup> The petitioner calculated factory overhead, SG&A expenses, financial expenses, and profit for Taiwan based on the ratios found in the experience of a Taiwanese producer of identical or comparable merchandise.<sup>46</sup>

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<sup>39</sup> See China AD Initiation Checklist.

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

<sup>41</sup> See Taiwan AD Initiation Checklist.

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

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

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

### Fair Value Comparisons

Based on the data provided by the AD Petitions, there is reason to believe that imports of collated staples from China, Korea and Taiwan are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP, or CEP, to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for collated staples for each of the countries covered by this initiation are as follows: (1) China – 119.37 and 122.55 percent;<sup>47</sup> (2) Taiwan – 47.60 percent;<sup>48</sup> and (3) Korea – 10.23 to 14.25 percent.<sup>49</sup>

### Initiation of LTFV Investigations

Based upon the examination of the AD Petitions and supplements to the AD Petitions, we find that the AD Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of collated staples from China, Korea and Taiwan 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 this initiation.

### Respondent Selection

The petitioner named 29 companies in Taiwan<sup>50</sup> and 15 companies in Korea<sup>51</sup> as producers/exporters of collated staples. Following standard practice in AD 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 respondents in Taiwan and Korea

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<sup>47</sup> See China AD Initiation Checklist.

<sup>48</sup> See Taiwan AD Initiation Checklist.

<sup>49</sup> See Korea AD Initiation Checklist.

<sup>50</sup> See Volume I of the AD Petitions, at Exhibit GEN-2.

<sup>51</sup> *Id.*

based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) number listed in the Appendix.<sup>52</sup>

The petitioner named 99 producers/exporters of collated staples in China.<sup>53</sup> In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to the investigation. For this investigation, Commerce will request Q&V information from known exporters and producers identified in the Petition with complete contact information. In addition, Commerce will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance web site at <http://www.trade.gov/enforcement/news.asp>. In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to base respondent selection on the responses to the Q&V questionnaire that we receive.

Producers/exporters of collated staples from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement & Compliance's website. The Q&V response must be submitted by the relevant Chinese exporters/producers no later than 5:00 p.m. ET on July 11, 2019. All Q&V responses must be filed electronically via ACCESS.

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<sup>52</sup> See, e.g., *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223, 58227 (November 19, 2018).

<sup>53</sup> See Volume I of the AD Petitions, at Exhibit Gen-2.

## Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>54</sup> The specific requirements for submitting a separate-rate application in the China investigation are outlined in detail in the application itself, which is available on Commerce'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>55</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 Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V 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 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

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<sup>54</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).

<sup>55</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.



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>56</sup>

#### Distribution of Copies of the AD 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 AD Petitions have been provided to the governments of China, Korea, and Taiwan via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

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

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of collated staples from China, Korea, and/or Taiwan are materially injuring, or threatening material injury to, a U.S. industry.<sup>57</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>58</sup> Otherwise, the 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

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<sup>56</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

<sup>57</sup> See section 733(a) of the Act.

<sup>58</sup> *Id.*

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 under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>59</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>60</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. Interested parties should review the regulations prior to submitting factual information in these investigations.

#### Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.<sup>61</sup> Section 773(e) of the Act states that “[I]f 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

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<sup>59</sup> See 19 CFR 351.301(b).

<sup>60</sup> See 19 CFR 351.301(b)(2).

<sup>61</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

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

#### 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 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 351.301. 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 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, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should 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>62</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>63</sup> 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. On January 22, 2008, Commerce 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 at 19 CFR 351.103(d)).

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<sup>62</sup> See section 782(b) of the Act.

<sup>63</sup> See also *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are 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).

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

*/S/ Jeffrey I. Kessler*

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Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

June 26, 2019

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Date

## Appendix

### Scope of the Investigations

The merchandise covered by the scope of these investigations is certain collated steel staples. Certain collated steel staples subject to these investigations are made from steel wire having a nominal diameter from 0.0355 inch to 0.0830 inch, inclusive, and have a nominal leg length from 0.25 inch to 3.0 inches, inclusive, and a nominal crown width from 0.187 inch to 1.125 inch, inclusive.

Certain collated steel staples may be manufactured from any type of steel, and are included in the scope of the investigations regardless of whether they are uncoated or coated, and regardless of the type or number of coatings, including but not limited to coatings to inhibit corrosion.

Certain collated steel staples may be collated using any material or combination of materials, including but not limited to adhesive, glue, and adhesive film or adhesive or paper tape.

Certain collated steel staples are generally made to American Society for Testing and Materials (ASTM) specification ASTM F1667-18a, but can also be made to other specifications.

Excluded from the scope of these investigations are any carton-closing staples covered by the scope of the existing antidumping duty order on Carton-Closing Staples from the People's Republic of China. *See Carton-Closing Staples From the People's Republic of China: Antidumping Duty Order*, 83 FR 20792 (May 8, 2018).

Certain collated steel staples subject to these investigations are currently classifiable under subheading 8305.20.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).

While the HTSUS subheading and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.