



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-163]

Certain Glass Wine Bottles from the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: Applicable January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Preston Cox, Scarlet Jaldin, or Theodora Mattei, AD/CVD Operations Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5041, 202-482-4275, or (202) 482-4834, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On December 29, 2023, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain glass wine bottles (wine bottles) from the People's Republic of China (China) filed in proper form on behalf of the U.S. Glass Producers Coalition (the petitioner).¹ The CVD Petition was accompanied by antidumping duty (AD) petitions concerning imports of wine bottles from Chile, China, and Mexico.²

¹ See Petitioner's Letter, "Certain Glass Wine Bottles from the People's Republic of China, the United Mexican States, and Chile: Petitions for the Imposition of Antidumping and Countervailing Duties," dated December 29, 2023 (the Petition). The members of the U.S. Glass Producers Coalition are Ardagh Glass Inc. (Ardagh) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW).

² *Id.*

Between January 3 and 11, 2024, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ The petitioner filed responses to the supplemental questionnaires between January 8 and 12, 2024.⁴

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of wine bottles from China, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing wine bottles in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for the alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition 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 with respect to the initiation of the requested CVD investigation.⁶

Period of Investigation

Because the Petition was filed on December 29, 2023, the period of investigation (POI) is January 1, 2022, through December 31, 2022.⁷

Scope of the Investigation

The products covered by this investigation are wine bottles from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

³ See Commerce's Letter, "Supplemental Questions," dated January 3, 2024 (General Issues Questionnaire); *see also* Commerce's Letter, "Supplemental Questions," dated January 3, 2024; and Memorandum, "Phone Call," dated January 10, 2024 (January 10 Memorandum); and Memorandum, "Phone Call," dated January 11, 2024.

⁴ See Petitioner's Letters, "Response to Supplemental Questions Regarding Common Issues and Injury Petition Volume I of the Petitions," dated January 8, 2024 (First General Issues Supplement); "Response to Supplemental Questions Regarding Volume III of the Petitions," dated January 9, 2024; and "Response to Second Supplemental Scope Questions Regarding Common Issues and Injury Petition Volume I of the Petition," dated January 12, 2024 (Second General Issues Supplement).

⁵ The members of the U.S. Glass Producers Coalition (Ardagh and the USW) are interested parties as defined under section 771(9)(C) and (D) of the Act, respectively.

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

⁷ See 19 CFR 351.204(b)(2).

Comments on Scope of the Investigation

On January 3 and 10, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁸ On January 8 and 12, 2024, the petitioner provided clarifications and revised the scope.⁹ The description of merchandise covered by this investigation, 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 parties to raise issues regarding product coverage (*i.e.*, scope).¹⁰ 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 determination. If scope comments include factual information,¹¹ 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 p.m. Eastern Time (ET) on February 7, 2024, 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 p.m. ET on February 20, 2024, which is the next business day after 10 calendar days from the initial comment deadline.¹²

Commerce requests that any factual information that the parties consider relevant to the scope of the investigation be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional

⁸ See General Issues Questionnaire; *see also* January 10 Memorandum.

⁹ See First General Issues Supplement at 2-4 and Exhibits I-Supp-4 and I-Supp-5; *see also* Second General Issues Supplement at 1-3.

¹⁰ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); *see also* 19 CFR 351.312.

¹¹ See 19 CFR 351.102(b)(21) (defining "factual information").

¹² The deadline for rebuttal comments falls on February 17, 2024, which is a Saturday. In accordance with 19 CFR 351.303(b)(1), Commerce will accept rebuttal comments filed by 5:00 p.m. ET on February 20, 2024. *Id.* ("For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.").

information. All scope comments must also be filed on the record of each of the concurrent AD 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.¹³ An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC of the receipt of the Petition and provided it an opportunity for consultations with respect to the Petition.¹⁴ The GOC requested a consultation,¹⁵ which was held via video conference on January 11, 2023.¹⁶

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(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 702(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

¹³ 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.

¹⁴ See Commerce's Letter, "Countervailing Duty Petition on Glass Wine Bottles from the People's Republic of China," dated December 29, 2023.

¹⁵ See GOC's Letter, "Request for Consultations to Discuss the Countervailing Duty Petition," dated January 4, 2024.

¹⁶ See Memorandum, "Ex-Parte Memorandum – Consultations with the Government of China on the Countervailing Duty Petition on Certain Glass Wine Bottles from China," dated January 17, 2024.

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 must apply the same statutory definition regarding the domestic like product,¹⁷ 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.¹⁸

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 investigation.¹⁹ Based on our analysis of the information submitted on the record, we have determined that wine bottles, as defined in the

¹⁷ See section 771(10) of the Act.

¹⁸ 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)).

¹⁹ See Petition at Volume I (pages 12-15); see also Second General Issues Supplement at 3.

scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.²⁰

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided the 2022 production of the domestic like product for the U.S. producers that support the Petition and compared this to the estimated total 2022 production of the domestic like product for the entire domestic industry.²¹ We relied on the data provided by the petitioner for purposes of measuring industry support.²²

Our review of the data provided in the Petition, 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 Petition.²³ First, the Petition 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).²⁴ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁵ Finally, the

²⁰ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Certain Glass Wine Bottles from the People’s Republic of China, dated concurrently with this notice (China CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Glass Wine Bottles from Chile, the People’s Republic of China, and Mexico (Attachment II). This checklist is on file electronically via ACCESS.

²¹ *See* Petition at Volume I (pages 2-3 and Exhibits I-3 and I-4); *see also* First General Issues Supplement at 5-6 and Exhibits I-Supp-6 through I-Supp-9.

²² *See* Petition at Volume I (pages 2-3 and Exhibits I-3 and I-4); *see also* First General Issues Supplement at 5-6 and Exhibits I-Supp-6 through I-Supp-9; and Second General Issues Supplement at 3-4. For further discussion, *see* Attachment II of the China CVD Initiation Checklist.

²³ *See* Petition at Volume I (pages 2-3 and Exhibits I-3 and I-4); *see also* First General Issues Supplement at 5-6 and Exhibits I-Supp-6 through I-Supp-9; and Second General Issues Supplement at 3-4. For further discussion, *see* Attachment II of the China CVD Initiation Checklist.

²⁴ *See* Attachment II of the China CVD Initiation Checklist; *see also* section 702(c)(4)(D) of the Act.

²⁵ *See* Attachment II of the China CVD Initiation Checklist.

domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition 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 Petition.²⁶ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²⁷

Injury Test

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefiting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports from China exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁸

The petitioner contends that the industry’s injured condition is illustrated by the significant volume and market share of subject imports; underselling and price depression and/or suppression; lost sales and revenues; negative impact on the domestic industry’s production and shipments; layoffs; and declining financial performance.²⁹ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as

²⁶ *Id.*

²⁷ *Id.*

²⁸ See Petition at Volume I (pages 20-21 and Exhibit I-22).

²⁹ *Id.* (pages 15-30 and Exhibits I-14 and I-19 through I-29); see also First General Issues Supplement at 6 and Exhibit I-Supp-10.

negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³⁰

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of wine bottles from China benefit from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 37 of 38 programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate an investigation of each program, *see* the China CVD Initiation Checklist. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner identified 36 companies in China as producers and/or exporters of wine bottles.³¹ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event that Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of wine bottles during the POI under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheading(s) listed in the "Scope of the Investigation," in the appendix

On January 16, 2024, Commerce released CBP data on U.S. imports of wine bottles from China, under administrative protective order (APO), to all parties with access to information

³⁰ *See* China CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Glass Wine Bottles from Chile, the People's Republic of China, and Mexico.

³¹ *See* Petition at Volume I (page 11 and Exhibit I-11); *see also* First General Issues Supplement at 1 and Exhibit I-Supp-3.

protected by APO, and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days after the publication date of the notice of initiation of this investigation.³² Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5 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>.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. To the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of wine bottles from China are materially injuring, or threatening material injury to, a U.S. industry.³³ A negative ITC determination will result in the investigation being terminated.³⁴ Otherwise, this CVD investigation will proceed according to statutory and regulatory time limits.

³² See Memorandum, "Release of U.S. Customs and Border Protection Entry Data," dated January 16, 2024.

³³ See section 703(a)(1) of the Act.

³⁴ *Id.*

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 under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁵ 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.³⁶ 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 this investigation.

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 351.301.³⁷ For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10 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, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be

³⁵ See 19 CFR 351.301(b).

³⁶ See 19 CFR 351.301(b)(2).

³⁷ See 19 CFR 351.302.

filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances will we 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 this investigation.³⁸

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁹ Parties must use the certification formats provided in 19 CFR 351.303(g).⁴⁰ 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 this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.*, by filing the required letters of appearance). Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information.⁴¹

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: January 18, 2024.

Abdelali Elouaradia,
Deputy Assistant Secretary
for Enforcement and Compliance.

³⁸ See 19 CFR 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>.

³⁹ See section 782(b) of the Act.

⁴⁰ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁴¹ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023).

Appendix

Scope of the Investigation

The merchandise covered by the investigation is certain narrow neck glass bottles, with a nominal capacity of 740 milliliters (25.02 ounces) to 760 milliliters (25.70 ounces); a nominal total height between 24.8 centimeters (9.75 inches) to 35.6 centimeters (14 inches); a nominal base diameter between 4.6 centimeters (1.8 inches) to 11.4 centimeters (4.5 inches); and a mouth with an outer diameter of between 25 millimeters (.98 inches) to 37.9 millimeters (1.5 inches); frequently referred to as a “wine bottle.” In scope merchandise may include but is not limited to the following shapes: Bordeaux (also known as “Claret”), Burgundy, Hock, Champagne, Sparkling, Port, Provence, or Alsace (also known as “Germanic”). In scope glass bottles generally have an approximately round base and have shapes including but not limited to, straight-sided, a tapered slope from shoulder (*i.e.*, the sloping part of the bottle between the neck and the body) to base, or a long neck with sloping shoulders to a wider base. The scope includes glass bottles, whether or not clear, whether or not colored, with or without a punt (*i.e.*, an indentation on the underside of the bottle), and with or without design or functional enhancements (including, but not limited to, embossing, labeling, or etching). In scope merchandise is made of non-“free blown” glass, *i.e.*, in scope merchandise is produced with the use of a mold and is distinguished by mold seams, joint marks, or parting lines. In scope merchandise is unfilled and may be imported with or without a closure, including a cork, stelvin (screw cap), crown cap, or wire cage and cork closure.

Excluded from the scope of the investigation are: (1) glass containers made of borosilicate glass, meeting United States Pharmacopeia requirements for Type 1 pharmaceutical containers; and (2) glass containers without a “finish” (*i.e.*, the section of a container at the opening including the lip and ring or collar, threaded or otherwise compatible with a type of closure, including but not limited to a cork, stelvin (screw cap), crown cap, or wire cage and cork closure).

Glass bottles subject to the investigation are specified within the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7010.90.5019. The HTSUS subheading is provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

[FR Doc. 2024-01397 Filed: 1/24/2024 8:45 am; Publication Date: 1/25/2024]