



DEPARTMENT OF COMMERCE

International Trade Administration

[A-337-808, A-570-162, A-201-862]

Certain Glass Wine Bottles from Chile, the People's Republic of China, and Mexico:

Initiation of Less-Than-Fair-Value Investigations

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

DATES: Applicable January 18, 2024.

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NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

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

Between January 3 and 11, 2024, Commerce requested supplemental information

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 Petitions). 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.*

pertaining to certain aspects of the Petitions in separate supplemental questionnaires.³ The petitioner filed responses to the supplemental questionnaires between January 8 and 12, 2024.⁴

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of wine bottles from Chile, China, and Mexico 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 wine bottles industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are 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

Periods of Investigation

Because the Petitions were filed on December 29, 2023, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Chile and Mexico LTFV investigations is October 1, 2022, through September 30, 2023. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the China LTFV investigation is April 1, 2023, through September 30, 2023.

³ See Commerce's Letter, "Supplemental Questions," dated January 3, 2024 (General Issues Questionnaire); *see also* Country-Specific Supplemental Questionnaires: Chile Supplemental, dated January 3, 2024; Country-Specific Supplemental Questionnaires: China Supplemental and Mexico Supplemental, dated January 4, 2024; 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 First Supplemental Questions Regarding Common Issues and Injury Petition Volume I of the Petitions," dated January 8, 2024 (First General Issues Supplement); Country-Specific Supplemental Responses: Chile Supplemental, Mexico Supplemental, and China Supplemental, dated January 9 and 10, 2024; Second Chile and Mexico Supplemental Responses, dated January 11, 2024; "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); and "Second China Supplemental Response," dated January 12, 2024.

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 Petitions," *infra*.

Scope of the Investigations

The products covered by these investigations are wine bottles from Chile, China, and Mexico. 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 3 and 10, 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 January 8 and 12, 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 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 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 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.¹¹

⁷ *See* General Issues Questionnaire; *see also* January 10 Memorandum.

⁸ *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.

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

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

¹¹ 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 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.").

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 such submissions must be filed on the records of each of the concurrent LTFV and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using 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 wine bottles 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 (FOP) or costs 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

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 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_on_Electronic_Filing_Procedures.pdf.

may be some physical product characteristics utilized by manufacturers to describe wine bottles, 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 p.m. ET on February 7, 2024, which is 20 calendar days from the signature date of this notice.¹³ Any rebuttal comments 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.¹⁴ 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

¹³ See 19 CFR 351.303(b)(1).

¹⁴ 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 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.”).

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,¹⁵ 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.¹⁶

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.¹⁷ Based on our analysis of the information submitted on the record, we have determined that wine bottles, as defined in the

¹⁵ See section 771(10) of the Act.

¹⁶ 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)).

¹⁷ See Petitions 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.¹⁸

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 the total 2022 production of the domestic like product for the U.S. producers that support the Petitions and compared this to the estimated total 2022 production of the domestic like product for the entire domestic industry.¹⁹ We 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

¹⁸ 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 Glass Wine Bottles from Chile, the People’s Republic of China, and Mexico, 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 Glass Wine Bottles from Chile, the People’s Republic of China, and Mexico (Attachment II). These checklists are on file electronically via ACCESS.

¹⁹ *See* Petitions 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.

²⁰ *See* Petitions 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 Country-Specific AD Initiation Checklists.

²¹ *See* Petitions 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 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.

under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.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 exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁶

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.²⁷ 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.²⁸

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 wine bottles from Chile, China, and Mexico. The sources of data for the deductions and adjustments relating to U.S. price and

²⁴ *Id.*

²⁵ *Id.*

²⁶ See Petitions at Volume I (pages 20-21 and Exhibit I-22).

²⁷ *Id.* at Volume I (pages 15-30 and Exhibits I-14 and I-19 through I-29); see also General Issues Supplement at 6 and Exhibit I-Supp-10.

²⁸ 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 Glass Wine Bottles from Chile, the People's Republic of China, and Mexico.

normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

U.S. Price

For Chile, China, and Mexico, the petitioner based export price (EP) on pricing information for sales of, or offers for sale of, wine bottles produced in and exported from each country.²⁹ For each country, the petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.³⁰

Normal Value³¹

For Chile and Mexico, the petitioner stated that it was unable to obtain home market or third country pricing information for wine bottles to use as a basis for NV.³² Therefore, for Chile and Mexico, the petitioner calculated NV based on CV.³³ For further discussion of CV, *see* the section “Normal Value Based on Constructed Value,” below.

Commerce considers China to be an NME country.³⁴ 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 as an NME country 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 Chile 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

²⁹ See Country-Specific AD Initiation Checklists.

³⁰ *Id.*

³¹ In accordance with section 773(b)(2) of the Act, for the Chile and Mexico investigations, Commerce will request information necessary to calculate the constructed value (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.

³² See Country-Specific AD Initiation Checklists.

³³ *Id.*

³⁴ 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).

is a significant producer of identical and comparable merchandise.³⁵ The petitioner provided publicly available information from Chile to value all FOPs.³⁶ Based on the information provided by the petitioner, we believe it is appropriate to use Chile as a surrogate country 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 producers/exporters was not reasonably available, the petitioner used product-specific consumption rates from a U.S. producer of wine bottles as a surrogate to value Chinese manufacturers' FOPs.³⁷ Additionally, the petitioner calculated factory overhead, SG&A, and profit based on the experience of a Chilean producer of comparable merchandise.³⁸

Normal Value Based on Constructed Value

As noted above for Chile and Mexico, the petitioner stated that it was unable to obtain home market or third-country prices for wine bottles to use as a basis for NV. Therefore, for these countries, the petitioner calculated NV based on CV.³⁹

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.⁴⁰ For each of these countries, in calculating the cost of manufacturing, the petitioner relied on the production experience and input consumption rates of a U.S. producer of wine bottles, valued using publicly available

³⁵ See China AD Initiation Checklist.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ See Country-Specific AD Initiation Checklists.

⁴⁰ *Id.*

information applicable to the respective countries.⁴¹ In calculating SG&A, financial expenses, and profit ratios, the petitioner relied on the calendar year 2022 financial statements of a producer of identical or comparable merchandise domiciled in each respective subject country.⁴²

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of wine bottles from Chile, China, and Mexico 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 wine bottles for each of the countries covered by this initiation are as follows: (1) Chile – 609.71 percent; (2) China – 284.53 to 301.12 percent; and (3) Mexico – 79.83 to 96.95 percent.⁴³

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 wine bottles from Chile, China, and Mexico 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.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

Respondent Selection

Chile and Mexico

In the Petitions, the petitioner identified three companies in Chile and seven companies in Mexico as producers/exporters of wine bottles.⁴⁴ 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 January 16, 2024, Commerce released CBP data on imports of wine bottles from Chile and Mexico under administrative protective order (APO) to all parties with access to information 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.⁴⁵ 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>.

China

⁴⁴ See Petitions at Volume I (page 10 and Exhibits I-12 and I-13); see also First General Issues Supplement at 1 and Exhibits I-Supp-1 and I-Supp-2.

⁴⁵ See Memorandum, "Release of U.S. Customs and Border Protection Entry Data," dated January 12, 2024; see also Memorandum, "Release of U.S. Customs and Border Protection Data," dated January 16, 2023; and Memorandum, "Certain Glass Wine Bottles from the People's Republic of China: Release of U.S. Customs and Border Protection Entry Data," dated January 16, 2024.

In the Petitions, the petitioner named 36 companies in China as producers and/or exporters of wine bottles.⁴⁶ Our standard practice for respondent selection in AD investigations involving NME countries is to select respondents based on 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. Because there are 36 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 that are identified in the CBP data for which there is complete address information on the record.

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 wine bottles from China 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 producers/exporters no later than 5:00 p.m. ET on February 1, 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>.

⁴⁶ See Petitions at Volume I (page 10 and Exhibit I-11); see also First General Issues Supplement at 1 and Exhibit I-Supp-3.

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 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 submit a response both to the Q&V questionnaire and to the separate rate application by the respective deadlines in order 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.⁴⁷

⁴⁷ See Enforcement and Compliance's Policy Bulletin 05.1, regarding, "Separate-Rates Practice and Application of

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 Chile, China, and Mexico 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 wine bottles from Chile, China, and/or Mexico are materially injuring, or threatening material injury to, a U.S. industry.⁴⁸ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁴⁹ 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 under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁵⁰ and, if

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>.

⁴⁸ See section 733(a) of the Act.

⁴⁹ *Id.*

⁵⁰ See 19 CFR 351.301(b).

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.⁵¹ 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 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

⁵¹ See 19 CFR 351.301(b)(2).

extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.⁵² 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.⁵³

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁵⁴ Parties must use the certification formats provided in 19 CFR 351.303(g).⁵⁵ 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).

⁵² 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>.

⁵³ See 19 CFR 351.302; see also, e.g., *Time Limits Final Rule*.

⁵⁴ See section 782(b) of the Act.

⁵⁵ 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>.

Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information.⁵⁶

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: January 18, 2024.

Abdelali Elouaradia,
Deputy Assistant Secretary
for Enforcement and Compliance.

⁵⁶ 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 covered by the investigations 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 investigations 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 investigations 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 investigations is dispositive.