
**OFFICE OF AD/CVD ENFORCEMENT
SEPARATE-RATE CERTIFICATION FOR FIRMS PREVIOUSLY AWARDED
SEPARATE RATE STATUS**

REQUESTER(S): {insert name of firm}

REPRESENTATION: {insert name of counsel and law firm and contact info}

CASE: Fresh Garlic from the People's Republic of China ("PRC") A-570-831

PERIOD OF REVIEW: November 1, 2005 through October 31, 2006

DEADLINE FOR SUBMISSION OF CERTIFICATION: **February 22, 2007**

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The Department assigns separate rates in non-market economy (“NME”) cases only if the firm seeking a separate rate can demonstrate an absence of both *de jure* and *de facto* governmental control over its export activities in accordance with the separate-rates test criteria. In determining whether companies should receive separate rates, we focus our attention on the exporter rather than the manufacturer. See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People’s Republic of China, 60 FR 56045 (November 6, 1995). Consequently, in this proceeding, the Department will limit its consideration of separate-rates to NME firms that exported subject merchandise to the United States during the period of review (“POR”). To be considered for separate-rate treatment, an applying NME firm must have exported subject merchandise to the United States during POR in a commercial transaction.

To establish whether a company’s export activities are sufficiently independent of the government to be eligible for separate rate status, the Department analyzes each exporting entity under the test established in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China, 56 FR 20588 (May 6, 1991) (“Sparklers”), and later expanded upon in Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China, 59 FR 22585 (May 2, 1994) (“Silicon Carbide”). Under this analysis, exporters in non-market economies are accorded separate, company-specific margins if they can provide sufficient proof of an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: 1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; 2) any legislative enactments decentralizing control of companies; and 3) any other formal measures by the central and/or local government decentralizing control of companies. See Sparklers, 56 FR at 20588.

Our analysis of absence of *de facto* government control over exports is typically based on the following four factors: 1) whether each exporter sets its own export prices independent of the government and without the approval of a government authority; 2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; 3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and 4) whether each exporter has autonomy from the government regarding the selection of management. See Silicon Carbide, 59 FR at 22586-87.

For this review, because of the Department’s resource constraints, the Department will accept full completion of this form from firms that were previously awarded a separate rate during the investigation. Firms that previously have been awarded a separate rate have the opportunity below to certify that they are able to document the *de jure* and *de facto* factors above and can submit this documentation to the Department upon request. *All* firms that were not previously awarded a separate rate by the Department *must* submit a complete application for separate rates status (posted separately on the Department’s website) and must submit to the Department all of the necessary supporting documentation. Therefore, the series of certifications contained in this document is *only* for firms that have already been awarded separate rates status.

- Firms must individually complete and submit this form by April 28, 2006. The deadline appears on the coversheet of this document, and applies equally to NME-owned and wholly market-economy owned firms. Firms whose certifications are incomplete or otherwise deficient may be denied a separate rate in the administrative review.
- In addition to making the required certifications, your firm must also respond to the Department's Q&V questionnaire as discussed in the initiation notice to receive consideration for a separate rate. This form is available on our website (<http://www.ia.ita.doc.gov/>). Responses to the Q&V questionnaire from all participating respondents is necessary to ensure that the Department has the requisite information to appropriately select mandatory respondents.
- NME firms owned wholly by entities located in market-economy countries, provided that the ultimate owners are also located in market-economy countries ("wholly market-economy owned firms"), need only fill out the certifications for the fields in this form that are marked with an asterisk, "*". These marked fields pertain to the firm's eligibility for separate rates consideration based on having sold subject merchandise to the United States during the POR and support the firm's claim that it is in fact wholly owned by a market-economy entity. This information is also necessary for administration once a separate rate has been issued.
- There are two sets of requirements for reporting any affiliations with other firms involved in the production or sale of the subject merchandise, one for wholly market-economy owned firms and another for NME-owned firms.
 - Wholly market-economy owned firms are required to report *all* of their affiliations with other firms involved in the production or sale of the subject merchandise.
 - Firms that are not owned wholly by market-economy entities, however, must only identify any affiliates that exported subject merchandise to the United States during the period of review and any U.S. affiliates involved in the sale of the subject merchandise.
- Each firm seeking separate rate status must submit a separate and complete series of certifications contained herein regardless of any common ownership or affiliation between firms and regardless of foreign ownership.
- The name that is provided to the Department in this form must be the name that appears on the exporter's business license/registration documents. All shipments to the United States declared to U.S. Customs and Border Protection must identify the exporter by its legal business name, and this name must match the name that appears on the exporter's business/registration documents. If your firm is assigned separate rate status, your firm

will only be able to ship under your separate rate under names that are included on your business license/registration documents.

- Unlike the application that exporters that have not previously been granted a separate rate must complete, firms are not required to supply supporting documentation with this certification. However, by completing the certifications contained herein, firms certify that they have the documents relevant to separate rates status and can submit them in a legible form on a timely basis to the Department upon request. If a firm that has completed this form is not able to furnish any of the documents requested by the Department, the Department may apply a margin based on adverse facts available to that firm.

The certification form is divided into five sections. Section I contains the required certifications that an officer of the company must make to the Department, indicating that the information provided in this form is correct. Section II identifies the firm that is applying for separate rate status and demonstrates that this firm is eligible for a separate rate by confirming that it exported or sold subject merchandise to the United States during the period of review. Section III certifies that the firm is able to furnish, upon request, documentation demonstrating that the firm meets the *de jure* requirements, *i.e.*, that there are no legal barriers to a firm's independent control over its export activities at either the national or any sub-national level. Section IV certifies that the firm is able to furnish, upon request, documentation demonstrating that the firm also has *de facto* independence, *i.e.*, that this *de jure* independence also exists in practice. Section V deals with filing requirements and gives firms an opportunity to request business proprietary treatment for information that they submit. Appendix A provides a sample chart of corporate affiliations that firms may wish to reference.

Firms completing this form are certifying that their responses contained in this form are true and accurate and that they are able to supply documentation upon request to support the answers they provide in this certification form. The Department only accepts certifications that are completed in full (except for wholly market-economy owned enterprises¹) and filed timely and in proper form. Sections II, III, and IV list the specific types of documents that will need to be furnished should the Department request to see supporting documentation. If the Department requests this supporting information from your firm, all supporting documentation pertaining to a U.S. sale must pertain to the same sale and be legible to the maximum extent possible.

Completing the certifications contained in this form does not guarantee receipt of separate rate status. The Department will review each series of certifications and may request supporting documentation. If the Department finds that the certifications cannot be supported by additional documentation, your firm may receive a rate based on adverse facts available. If necessary, the Department will issue questionnaires for the purpose of clarifying fully responsive answers. The Department retains the right to require additional information concerning the representations

¹ Please note that all wholly market-economy owned enterprises are required to complete only the asterisked fields.

made in this form. All information submitted and representations made your firm is subject to verification. If the Department selects your firm for an on-site verification, the Department will provide your firm with additional instructions at a time preceding the verification.

SECTION I

General Certifications

(To be signed by the company official of the firm requesting the separate rate who is officially responsible for presentations made to the Department of Commerce.)

*1.²

I, (name and title), currently employed by (person), certify that (1) I have read the attached submission, and (2) the information contained in this submission is, to the best of my knowledge, complete and accurate.

(For the person's legal counsel or other representative)

*2. I, (name), of (law or other firm), counsel or representative to (person), certify that (1) I have read the attached submission, and, (2) based on the information made available to me by (person), I have no reason to believe that this submission contains any material misrepresentation or omission of fact.

SECTION II

Administration

*1. The full name and contact information (including address, telephone, fax, and e-mail address) of the exporter applying for separate rate status:

² Note again that the asterisked fields are to be completed by *all* firms, including those wholly foreign-owned by entities located in market-economy countries. Wholly market-economy owned firms need not respond to non-asterisked fields.

*2. Is the firm identified by any other names, as a legal matter in the home market, in third countries, or in the United States (*i.e.*, does the company use trade names)?³

___ Yes

___ No

(If yes, then list any and all other names here, when and under what circumstances they are used, and confirm whether the firm's business license/registration documents covering the POR include each of these or other alternative names)

*3. The firm certifies the accuracy of and can document the following statements:
(check any of the following that apply)

- a. It has exported, or has sold for export, subject merchandise to the United States during the period of review.

- b. It has, under its own name(s), made a shipment of merchandise that was entered for consumption in the United States or sold the merchandise during the period of this review to an unaffiliated third-country customer for export to the United States (there must be either a sale or entry during the period of review to proceed with the separate-rate request).

³ Trade names are other names under which the company does business. It does not include product brand names or the names of any other entities in the firm's "group," affiliated or otherwise. If your firm is assigned separate rate status, your firm will only be able to ship under your separate rate under names that are included on your business license/registration documents.

*4. The firm certifies that it will, to the maximum extent possible, be able to provide upon request a direct legible photocopy (not a copy of a copy) of all of the following original documents for the first sale by invoice date of subject merchandise to an unaffiliated customer in the United States during the POR for a commercial transaction. If your firm's first sale by invoice date during the period of review was a sample sale, a sale of non-commercial quantities, or a sale to an affiliated party, you must be able to provide documentation on another sale.⁴

A. The U.S. Customs 7501 Entry Summary or the U.S. FDA Release Form.⁵

For the U.S. Customs 7501 Entry Summary, if the exporter is unable to obtain the relevant U.S. Customs 7501 Entry Summary or U.S. FDA Release Form, the exporter must explain why it is unable to submit these documents and provide documentation that it has attempted to obtain these documents from its customers.

- B. The bill of lading.
- C. The commercial invoice.
- D. The packing list.
- E. Documentation demonstrating receipt of payment.

Check the box if you certify that you will provide the documents listed above upon request:

*5. Does the firm have any knowledge that merchandise it sold was resold to the United States through market-economy third-country exporters in U.S. dollars?⁶

- Yes
- No

*6. Provide the full name and contact information (including address, telephone, fax, and e-mail address) of each of the firm's producers and/or suppliers of subject merchandise whose merchandise the firm sold or exported to the United States during the POR⁷:

⁴ If your firm has *only* made sales to affiliated parties during the period of review, you must provide evidence of the first sale by that affiliated party to an *unaffiliated* U.S. customer to qualify for a separate rate.

⁵ If the merchandise was entered into the United States informally using Customs Form 368 or 368A because the value of the entry was USD \$2000 or less, you must be able to provide a copy of Customs Form 368 or 368A upon request.

⁶ The Department considered China, Vietnam, Ukraine, Belarus, Moldova, Azerbaijan, Georgia, Armenia, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan to be non-market economies during this period of review.

⁷ If your firm is assigned separate rate status, the rate will *only* apply to merchandise exported by your firm and supplied by the producers identified here.

*7. Are the producers and/or suppliers, listed under question 6 above, identified by any other names as a legal matter in the home market, in third countries, or in the United States (*i.e.*, do the companies use trade names)?⁸

_____ Yes

_____ No

(If yes, then list any and all other names here)

*8. Indicate whether, to the best of your knowledge, the producers and/or suppliers identified under question 6 above directly exported subject merchandise to the United States during the period of review.

SECTION III

De Jure Control

Please check the boxes below if you can certify that the statements below are accurate

1. The firm certifies that there are no government laws or regulations, at either national and sub-national (*e.g.*, provincial, local) levels of government, that control the firm's export activities.

*2a. The firm possesses an official government business license/registration documents valid during the period of review and will submit upon request original-language and translated copies of any business licenses in effect during the POR, the most current business license, and original-language and translated unaltered photocopies of any and all additional business licenses/registration documents or amendments thereto issued to the firm and in effect during the POR.⁹

*2b. Indicate the full name and contact information (address, telephone, fax, and e-mail address) of the business license/registration documents authority which issued your business license/registration documents and the expiration date of your business license/registration documents (see footnote 11 below).

⁸ Trade names are other names under which the company does business. It does not include product brand names or the names of any other entities in the firm's "group," affiliated or otherwise.

⁹ Note that if the Department determines that your firm is eligible for separate rate status, the separate rate will only apply to the firm as named in your business license/registration documents and not to any alternative or trade names that are not included in your business license/registration documents. It is the Department's understanding that a valid business license/registration documents with a clearly defined periods of validity issued by the appropriate licensing authority is required for all business activity. A firm submitting a business license without an expiration date must provide an explanation in order for the Department to consider its application.

*2c. Provide the month, day, and year on which the business license authority last renewed your business license/registration documents.

*2d. Indicate from the following choices the ownership structure under which your company has registered itself with the official government business license issuing authority.

owned by all of the people

collective

limited liability

proprietorship

partnership

joint-stock limited company

other

If "other", please describe: _____

Select from the following choices any applicable secondary forms of registration related to foreign-invested enterprises that apply to your firm:

domestic-foreign equity joint venture

domestic-foreign contractual joint venture

wholly foreign-owned enterprise

other

If "other", please describe: _____

3a. Indicate the full name and contact information (address, telephone, fax, e-mail address) of the business license authority which issued your export certificate of approval and the dates in which it was in effect.

3b. Provide the month, day, and year on which the business license authority issued your export certificate of approval.

3c. By checking the box, the firm certifies that it can submit upon request an original-language and translated copy of its export certificate of approval which was valid during the period of review.¹⁰

4. In order to conduct export activities, is the firm required by any national, provincial, or local government law or regulation to possess additional certificates or other documents related to the legal status and/or operation of its business beyond those discussed above?¹¹

Yes

No

If yes, identify the certificates below, and maintain for submission upon request original-language and translated copies thereof.

5. Check the box next to the following PRC government laws and legislative enactments that apply to the firm seeking a separate rate:

Company Law of the PRC, effective as of July 1, 1994

Foreign Trade Law of the PRC, effective 1994

Administrative Regulations of the PRC Governing the Registration of Legal Corporations

PRC's Enterprise Legal Person Registration Administrative Regulations of June 13, 1988

Law of the PRC on Chinese-Foreign Cooperative Joint Ventures

Regulation Governing Rural Collectively-Owned Enterprises of the PRC of 1990

Law of the PRC on Industrial Enterprises Owned by the Whole People, adopted on April 13, 1988 ("The Industrial Enterprises Law")

Regulations for Transformation of Operational Mechanisms of State-Owned Industrial Enterprises of 1992 ("Business Operation Provisions")

The Organic Law on Village Communities in the PRC ("Village Committee Law")

Other

If "other", identify below any additional specific national PRC laws and/or legislative enactments which relate to the export functions of the applying company.

¹⁰ It is the Department's understanding that an export certificate of approval issued by the appropriate licensing authorities is required for all export activity. Therefore, the Department will not consider a separate rate for any firm that is not able to provide such a certificate upon request.

¹¹ The Department is interested only in government laws or regulations which restrict or limit exports rather than regulations which regulate purely domestic operations (*i.e.*, environmental or labor regulations). If you are unsure of the possible relevance of a given law, please contact the Department immediately.

6. Are there any sub-national (provincial, local) government laws affecting the firm's export operations?

___ Yes

___ No

If yes, identify the laws and maintain for submission upon request original and translated copies of each provincial or local government law:

SECTION IV

De Facto Control

A. Ownership

*1. For all intermediate and ultimate¹² shareholder entity (*i.e.*, shareholders that are not individuals) of the applying firm, please respond to the following:

- A. Provide the names and contact information (full business address, telephone number, fax number, and e-mail address) of the legal entities which are the shareholders (*i.e.*, both intermediate and ultimate owners) of each shareholder entity and indicate the percentage ownership.
- B. If requested by the Department, submit a copy of each shareholder entity's business license.
- C. State the legal domicile of each shareholder entity.¹³

¹² If you have questions as to the meaning of intermediate and ultimate shareholders, please contact the Department immediately.

¹³ Note to firms applying as wholly market-economy owned entities: document whether the ultimate owners of your company are located in market-economy countries and, if so, indicate which market-economy countries.

*2. Your firm must be able to provide upon request the following documentation to support your response to question 1 above.

- A. capital verification report
- B. consolidated financial statements
- C. share transfer agreement
- D. articles of incorporation/articles of association
- E. export certificate of approval

Check the box if you certify that you will provide the documents listed above upon request:

- 3. In addition, identify the top 10 individual shareholders of your company.
- 4A. For each of the applying firm's top ten shareholders (individuals and entities) and all of their entity shareholders, at any time during period of review, report in detail any significant relationship¹⁴ with any of the following:
 - 1. PRC state asset management company (government-owned and/or private chartered)
 - 2. The PRC national government and/or its ministries/agencies;
 - 3. PRC provincial governments;
 - 4. PRC local/municipal/village government(s)/agency(ies);
- 4B. Please state what relationship(s) that each shareholder entity's managers and board of director members has with level of the government, (*e.g.*, national, provincial, local) and/or government agencies.
- 5. For the top ten individual owners of the intermediate and ultimate shareholder entities (*i.e.*, shareholders that are not individuals) of the applying firm, please state whether they hold office at any level of the PRC government (*e.g.*, national, provincial, local) or held office at any PRC government agencies during the past three years. If so, for each individual, identify the office held, the level of the government and/or agency with which the office is held, and describe the official role of each.

¹⁴ A significant relationship would include ownership, control, affiliation, significant transactions, *etc.*

B. Price Negotiation

Please check the boxes below to make the following certifications.

6. The firm certifies that its export prices are not set by, subject to the approval of, or in any way controlled by a government entity at any level (national, provincial, local).¹⁵
7. The firm certifies that it has independent authority to negotiate and sign export contracts and other agreements (conducts independent price negotiation).¹⁶
8. Your firm must maintain for submission upon request, documentation supporting your certification that your firm conducts independent price negotiation (see question 7 above).¹⁷ Examples of documentation to be furnished upon request include the following:
 - A. faxes/e-mail correspondence between the firm and unaffiliated U.S. customer
 - B. purchase order from unaffiliated U.S. customer
 - C. order confirmation
 - D. logs of negotiations conducted over the telephone with an unaffiliated U.S. customer.

C. Selection of Management

9. By checking the box, the firm certifies that it has autonomy from all levels of the government (national, provincial, local) and from any government entities in making decisions regarding the selection of management.

¹⁵ This includes, but is not limited to, the presence of government officials at any meeting where export and pricing decisions are discussed.

¹⁶ The authority to conduct independent price negotiation refers to the ability of an NME exporter to set its own export prices independently of the government at any level (national, provincial, local) and without the approval of any government entity.

¹⁷ Firms must provide documents showing price negotiation, not documents merely confirming that a sale will take place at a given price. If your firm conducts its price negotiation by phone, does not keep phone logs of meetings conducted over the phone, and therefore has no records of price negotiation, you are required to attach 1) a certification that there are no records of price negotiation, and 2) an affidavit signed and dated by the unaffiliated U.S. customer attesting that it conducts independent price negotiation with the applying firm. Affidavits must provide adequate information to link the firm to the party signing the affidavit.

10. The firm must provide upon request specific documentation that evidence independence in the selection of management which support its certification in question 6 above. Examples might include the following:

- appointment letters
- director meeting minutes
- company-issued resolutions/notifications (besides appointment letters)

11. Provide the name of each manager and board member in your company who held a management position during the period of review and the date (month, day, year) that each of the managers obtained his or her position at your company. Also provide the names of each manager and his or her employment (*i.e.*, position, name of company) for the three years prior to working at your company if they have been working at your company for less than three years.

12. Have any of your firm’s managers or board members worked for the government, at any level (national, provincial, local), or any government entities, in the past three years?

Yes
 No

(If yes, briefly describe the government involvement of the manager in question.)

13. Does the firm have to submit any of its candidates for managerial positions within the firm for approval to any government entity at any level (national, provincial, local)?

Yes
 No

(If yes, you certify that you are filing a document with the application containing an explanation.)

D. Disposition of Profits

14. By checking the box, the firm certifies that it retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.

15. If the firm realized a profit during the period of review, then describe the process by which the firm’s profits were distributed. Specifically, indicate the sections in the company’s books and records where such profits were accounted.

16. Did the firm make any disbursements to government accounts during the period of review other than for tax or government-provided goods or services?

___ Yes

___ No

(If yes, you must be able to describe these disbursements, the specific government accounts, and file a document or documents with the Department illustrating these disbursements upon request.)

17. For each bank account held by the firm during the period of review, the firm certifies it can provide the following information upon request:

- Name and address of the bank
 - Bank account number
 - Month/Year in which the account was opened
-
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18. You certify that your firm will submit upon request year-end financial statements covering all months of the POR as well as any other information which support the firm's response to question 17 above.¹⁸

E. Affiliation

All firms must respond to question 19. In addition, firms applying under NME ownership must respond to question 20, and firms that are applying for separate rate status under the status of 100% foreign ownership must respond to question 21.

Section 771(33) of the Tariff Act of 1930, as amended, defines affiliates as:

- A. Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and linked descendants
- B. Any officer and director of an organization and such organization
- C. Partners
- D. Employer and Employee
- E. Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares or any organization and such organization
- F. Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person

¹⁸ If financial statements covering the POR are not available at the time this certification is submitted, please indicate when these would be available and provide the Department with monthly financial statements if available.

G. Any person who controls any other person

For the purposes of affiliation, the Department will consider a person to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

*19. Explain whether your firm made shipments or sales to unaffiliated parties, affiliated parties or both, during the period of review, as defined by Section 771(33) of the Tariff Act of 1930. If your firm *only* made sales to affiliated parties during the period of review, you must provide evidence of the first sale to the first unaffiliated party to qualify for a separate rate.

shipments or sales to affiliated parties only

shipments or sales to unaffiliated parties only

shipments or sales to both affiliated and unaffiliated parties

20. As defined by Section 771(33) of the Tariff Act of 1930, as amended, does the firm have *any affiliates that are located in the United States, or that exported merchandise to the United States* which would fall under the description of merchandise covered by the scope of the proceeding?

Yes

No

If your firm is affiliated with any other exporters of merchandise described in the petition of the review pursuant to this definition of affiliation, then the firm must list the full names and contact information (business address, telephone, fax, e-mail address) of the affiliates below. In addition, it would be useful if you would provide a chart demonstrating the ownership and affiliation structure of all of your affiliates that are involved in the production or sale of subject merchandise. For an example of how you might design this chart, see Appendix A.

*20. As defined by Section 771(33) of the Tariff Act of 1930, as amended, does the firm have *any affiliates involved in the production or sale of merchandise in the home market, third-country markets, or the United States* which would fall under the description of merchandise covered by the scope of the proceeding?

Yes

No

If your firm is affiliated with any other producers or exporters of subject merchandise pursuant to this definition of affiliation, then list the full names and contact information (business address, telephone, fax, e-mail address) of the affiliates below. In addition, it would be useful if you would provide a chart demonstrating the ownership and affiliation structure of all of your affiliates that are involved in the production or sale of subject merchandise. For an example of how you might design this chart, see Appendix A.

SECTION V

Instructions for Filing the Application

1. File your application in Washington, D.C., at the address listed on the coversheet of the application.
2. Proprietary versions of the application must be submitted by the day specified on the coversheet of the application. The public version of the application may be filed one business day after the proprietary version. As per section 351.204(c)(2) of the Department's regulations, you will also have one day after submission of the proprietary version to correct any errors in the bracketing. If you make any changes, you will be required to resubmit the entire application.
3. File the original and six copies of the proprietary version. However, if you file an electronic copy of the proprietary version in either Word Perfect or Microsoft Word format, you need file only the original version and four copies. In case of any difference between the paper response and the content of the electronic media, the paper response is the controlling version.

File the original and three copies of the public version of your narrative response and attachments.

4. Submit the required certification of accuracy. Providers of information and the person(s) submitting it, if different (e.g., a legal representative), must certify that they have read the submission and that the information submitted is accurate and complete. The Department cannot accept questionnaire responses that do not contain the certification statements.
5. Provide the required certificate of service with each proprietary version and public version submitted to the Department.
6. Request proprietary treatment for information submitted that you do not wish to be made publicly available. As a general rule, the Department places all

correspondence and submissions received in the course of an antidumping proceeding in a public reading file. However, information deemed to be proprietary information will not be made available to the public.¹⁹

If you wish to make a request for proprietary treatment for particular information, refer to sections 351.304, 351.305, and 351.306 of the Department's regulations. Submit the request for proprietary treatment with the submission of the proprietary version of the questionnaire response accompanied by:

- (A) a non-proprietary (public) version of your response that is in sufficient detail to permit a reasonable understanding of the information submitted in confidence, and/or
- (B) an itemization of particular information that you believe you are unable to summarize. State the reasons why you cannot summarize each piece of information.²⁰

Responses, or portions thereof, that are not adequately summarized may be returned to you and not used.

7. Submit the statements required regarding limited release of proprietary information under the provisions of an administrative protective order ("APO"). U.S. law permits limited disclosure to representatives of parties (e.g., legal counsel) of certain business proprietary information, including electronic business proprietary information, under an APO. (Note that data received under an APO cannot be shared with others who are not covered by the APO.) Under the provisions governing APO disclosure, you must submit either:
 - (A) a statement agreeing to permit the release under APO of information submitted by you in confidence during the course of the proceeding, or
 - (B) a statement itemizing those portions of the information which you believe should not be released under APO, together with arguments supporting your objections to that release.²¹ As per section 351.304(b)(2)(i) of the Department's regulations, you

¹⁹ Supplier names will not be considered proprietary information where the Department has excluded the exporter from the antidumping duty order. Exclusions of non-producing exporters will be granted only to exporter-supplier combinations.

²⁰ Generally, numerical data are adequately summarized if grouped or presented in terms of indices or figures ranged within then percent of the actual figure. If a particular portion of the data is voluminous, use ranged figures for at least one percent of the voluminous portion.

²¹ The Department will not disclose proprietary customer names under APO during an antidumping investigation until either an order is published or the investigation is suspended. To insure that proprietary customer names are properly treated in this case, place double brackets (“[[]]”) around all proprietary customer names in your submissions to the Department during

must provide a clear and compelling need not to disclose the information under APO

We are required by our regulations to reject, at the time of filing, submissions of business proprietary information that do not contain one of these statements. You must state in the upper right-hand corner of the cover letter accompanying your questionnaire response whether you agree or object to release of the submitted information under APO. (See section 351.304 of our regulations for specific instructions.)²²

8. Place brackets ("[]") around information for which you request business proprietary treatment. Place double brackets ("[[]]") around information for which you request proprietary treatment and which you do not agree to release under APO.
9. Provide to all parties whose representatives have been granted APO access (as listed in the cover letter to the questionnaire or as listed on the most recent APO and public service lists posted on the Department's website at: <http://ia.ita.doc.gov/apo/apo-svc-lists.html>.) a complete copy of the submission, proprietary and public versions, except for that information which you do not agree to release under APO. If you exclude information because you do not agree to release it under APO, submit with your response to the Department a certificate of service and a copy of the APO version of the document containing the information that you agree may be released under APO. For parties that do not have access to information under APO, you are required to provide a public version only.
10. Please prepare your response in typed form and in English.

the course of this investigation.

²² If you do not agree to release under APO all or part of the proprietary information, but we determine that the information should be released, you will have the opportunity to withdraw the information (see section 351.304(d) of our regulations). However, any information which you withdraw will be taken out of the official record and will not be used in our determination.

APPENDIX A

