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Total Number of Pages: {Insert Total Number of Pages}
Investigation/AD Review
AD/CVD Operations, Office X
{Indicate Type of Document}

OFFICE OF AD/CVD OPERATIONS

**SOCIALIST REPUBLIC OF VIETNAM (“VIETNAM”)
SEPARATE RATE CERTIFICATION
FOR FIRMS PREVIOUSLY AWARDED SEPARATE RATE STATUS***

* Firms that do not currently hold a separate rate may **not** use this Certification and **must** instead submit an Application for separate rate status (posted on the Department’s website at <http://trade.gov/ia/index.asp>, “Decisions and Data”).

REQUESTER(S): {insert name of applicant }

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

CASE: {insert name of subject merchandise, country and case number }

PERIOD OF REVIEW: {insert the period of review }

DEADLINE FOR SUBMISSION: 60 days from **publication** date of the initiation notice, *See* <http://ia.ita.doc.gov/frn/index.html>.

FILING INSTRUCTIONS: *See* “General Instructions” section at Appendix I.
See also <http://ia.ita.doc.gov/filing/index.html>

SEPARATE RATE BACKGROUND

The Department assigns a separate rate in non-market economy (“NME”) cases only if the firm can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), over its export activities in accordance with the separate-rate test criteria. The Department limits its separate rate consideration to firms that exported or sold subject merchandise to the United States during the period of review (“POR”) in a commercial transaction.

- Completion of this Certification does not guarantee separate rate status for this POR.
- If your responses to the questions in this Certification do not demonstrate your eligibility for separate rate status, you will not be granted a separate rate for this POR.
- Each firm seeking separate rate status must submit a separate Certification regardless of any common ownership or affiliation between firms and regardless of foreign ownership.
- Firms whose Certifications are untimely, incomplete or otherwise deficient may be denied a separate rate in the administrative review.
- By completing the Certification, firms certify that they have relevant supporting documents and can submit them to the Department upon request. If a firm that has completed this form is not able to furnish supporting documents as requested by the Department, the Department may conclude the firm is not eligible for a separate rate.
- Along with requesting supporting documentation, the Department may issue questionnaires for clarification purposes. All information submitted and representations made by your firm are subject to verification.
- There is a possibility that your firm may be selected as a mandatory respondent, in which case your firm will be required to respond to the Department’s antidumping questionnaire in full in order to retain eligibility for consideration of separate rate status.
- Companies who had changes to corporate structure, ownership, or to the official company name may not file a Separate Rate Certification but must instead file a Separate Rate Application. Please note that, as explained in the bullet point below and in Question 7, changes to trade names are allowed. Only changes to the official company name (*i.e.*, the name appearing on the business license and other registration documents) require the filing of a Separate Rate Application.
- The firm name provided to the Department in this Certification must be the name that appears on the firm’s business license/registration documents. All shipments to the United States declared to U.S. Customs and Border Protection must identify the firm by its legal business name, and this name must match the name that appears on the firm’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, or for which you have explained are otherwise permitted (*see* question 7 below).

- 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 not respond to questions marked with an asterisk (“*”).

SEPARATE RATE CERTIFICATION

APPLICANT INFORMATION:

1. Please provide the full name and contact information (including address, telephone, fax, and e-mail address) of the firm, previously granted separate status, which is seeking separate rate status for this administrative review.
2. I certify that during the POR, the firm was owned (select one):
 - wholly or partially by a domestic entity/entities located in Vietnam
 - 100% by a foreign entity/entities¹ located in (identify country or countries)

FIRM OFFICIAL AND REPRESENTATIVE CERTIFICATIONS:

3. I, (PRINTED NAME AND TITLE) , currently employed by (COMPANY NAME) , certify that I prepared or otherwise supervised the preparation of the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE) pursuant to the (INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF POR) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY)) (CASE NUMBER) or THE SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY OF AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER). I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for

¹ Wholly market-economy owned firms need not respond to questions marked with an asterisk (“*”).

purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____

* For multiple person certifications, all persons should be listed in the first sentence of the certification and all persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, e.g., “I” should be changed to “we” and “my knowledge” should be changed to “our knowledge.”

4. .
I, (PRINTED NAME) , with (LAW FIRM or OTHER FIRM) , counsel or representative to (COMPANY OR GOVERNMENT OR PARTY) , certify that I have read the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE) pursuant to the (INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF FOR) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY OF AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER). In my capacity as an adviser, counsel, preparer or reviewer of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am

filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____

** For multiple representative certifications, all representatives and their firms should be listed in the first sentence of the certification and all representatives should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, e.g., “I” should be changed to “we” and “my knowledge” should be changed to “our knowledge.”

GENERAL CERTIFICATIONS:²

5. I certify that (Firm) was previously granted separate rate status as part of the final determination/results in the (insert investigation/review and period of investigation/review); published in Federal Register (insert citation), that the separate rate status is currently applicable, and the separate rate status has not been revoked.

(Firm official, legal counsel or representative signature)

² If you cannot certify to each question in this section, please contact the official in charge.

6. I certify that I will provide, to the best of my ability, any and all documents requested by the Department in support of separate rate status for this administrative review. I understand that if I cannot furnish these documents, the Department may conclude the firm is not eligible for a separate rate.

(Firm official, legal counsel or representative signature)

EXPORT CERTIFICATIONS (check any that apply):

7. I certify that during the POR, the firm conducted business under the following (please include a list of all trade names)³:

- only the same trade names as identified in the segment of investigation or review in which the firm was granted a separate rate (“previous Granting Period”).
- the same trade names as identified in the previous Granting Period, as well as new trade names. For new trade names, please provide evidence that these names were used during the POR, and that the trade names are permitted by the firm's business license/registration documents.
- only new trade names. For new trade names, please provide evidence that these names were used during the POR, and that the trade names are permitted by the firm's business license/registration documents.

If a trade name is not listed on the company’s business license/registration documents, please provide an explanation and any evidence as to how the company is permitted to use that trade name.

8. I certify the firm possesses an official government business license/registration documents for each trade name listed in response to question 7, above, valid during the POR. (list each trade name, the corresponding document and its expiration date).⁴

³ Trade names are other names under which the firm does business. It does not include product brand names or the names of any other entities in the firm’s “group,” affiliated or otherwise. 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 or not otherwise permitted, as explained in your response to this question.

⁴ It is the Department’s understanding that a valid business license/registration documents with 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 Certification.

9. I certify the firm exported or sold subject merchandise to the United States during the POR.

CERTIFICATIONS OF ABSENCE OF *DE JURE* CONTROL (check any that apply):

10. * I certify that during the POR, as with the previous Granting Period, there were no government laws or regulations, at either national and sub-national (*e.g.*, provincial, local) levels of government, that controlled the firm's export activities.
11. I certify that during the POR, the ownership under which the firm registered itself with the official government business license issuing authority remains the same as for the previous Granting Period.⁵
12. * I certify that during the POR, the firm had valid Vietnamese Business Registration Certificate(s) and Certificate(s) of Tax Registration.⁶
13. * I certify that during the POR, as with the previous Granting Period, in order to conduct export activities, the firm was not 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.
14. * I certify that during the POR, the Vietnamese government laws and legislative enactments applicable to the firm seeking a separate rate remained the same as for the previous Granting Period.

CERTIFICATIONS OF ABSENCE OF *DE FACTO* CONTROL (check any that apply):

15. * I certify that during the POR, the largest 10 individual/entity shareholders of the firm and all of their shareholders had no significant relationship⁷ with any of the following:⁸
- Vietnamese state asset management company (government-owned and/or private chartered);
 - The Vietnamese national government and/or its ministries/agencies;

⁵ If you cannot certify to this statement, leave the box unchecked and provide a short narrative explanation.

⁶ If you cannot certify to this statement, leave the box unchecked and provide a short narrative explanation.

⁷ A significant relationship would include ownership, control, affiliation, significant transactions, *etc.*

⁸ If you cannot certify to this statement, leave the box unchecked and provide a short narrative explanation.

- Vietnamese provincial governments;
- Vietnamese local/municipal/village government(s)/agency(ies).

16. * I certify that during the POR, the firm's export prices were not set by, subject to the approval of, or in any way controlled by a government entity at any level (*e.g.*, national, provincial, local).⁹
17. I certify that during the POR, the firm had independent authority to negotiate and sign export contracts and other agreements (*i.e.*, the firm conducted independent price negotiation).¹⁰
18. I certify that during the POR, the firm had autonomy from all levels of the government (*e.g.*, national, provincial, local) and from any government entities in making decisions regarding the selection of management.
19. I certify that during the POR, the firm did not have to submit for approval any of its candidates for managerial positions within the firm to any government entity at any level (*e.g.*, national, provincial, local).
20. * I certify that during the POR, the firm retained the proceeds of its export sales and made independent decisions regarding the disposition of profits or financing of losses.

SALES & AFFILIATION:

21. I certify the firm made at least one export or sale to the United States during the POR to (select only one):

- affiliated¹¹ parties only.
- unaffiliated parties only.
- both affiliated and unaffiliated parties.

⁹ This includes, but is not limited to, the presence of government officials at any meeting where export and pricing decisions are discussed.

¹⁰ The authority to conduct independent price negotiation refers to the ability of an NME firm to set its own export prices independently of the government at any level (national, provincial, local) and without the approval of any government entity.

¹¹ See Section 771(33) of the Tariff Act of 1930, as amended, for a definition of affiliation. For the purposes of control under the definition 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.

ADDITIONAL DOCUMENTATION:

22. Please provide copies of the following documentation:
- The firm's business license(s)/registration document(s) valid during the POR;
 - * The firm's Vietnamese Business Registration Certificate(s) and Certificate(s) of Tax Registration valid during the POR.

APPENDIX I

Instructions for Filing the Certification

The following instructions apply to all documents you submit to the Department during the course of this proceeding.

A. Due Date

1. All submissions must be made electronically using the Department's IA ACCESS website at <http://iaaccess.trade.gov>. If an exception to the electronic filing requirement applies, you must address and manually submit your response to the address indicated on the cover page of this questionnaire. To determine if your response qualifies for manual filing, see the section on "Manual Filing" below. All laws, regulations, and other descriptive materials that supplement your responses should be submitted on the same date as the initial response.
2. The **business proprietary** response should be submitted on the day specified on the cover page of this questionnaire. The **public version** of the response may be filed one business day after the proprietary response.
3. An electronically filed document must be received successfully in its entirety by IA ACCESS by 5 p.m. Eastern Time (ET) on the due date, unless an earlier time is specified. Where applicable, a submitter must manually file a document between the hours of 8:30 a.m. and 5 p.m. ET on the due date, unless an earlier time is specified.

B. Format

1. You are required to state in the upper right-hand corner of your cover letter the following information in the following format:
 - a. on the first line, indicate the case number stated on the cover page to this questionnaire;
 - b. on the second line, indicate the total number of pages in the document including cover pages, appendices, and any unnumbered pages;
 - c. on the third line, indicate the specific segment of the proceeding, (e.g., investigation, administrative review, scope inquiry, suspension agreement, etc.) and, if applicable, indicate the complete period covered (MM/DD/YY - MM/DD/YY);
 - d. on the fourth line, indicate the Department office conducting the proceeding;
 - e. on the fifth and subsequent lines, indicate whether any portion of the document contains business proprietary information and, if so, list the page

numbers containing business proprietary information; and indicate the business proprietary/public status of the document and whether you agree or object to release of the submitted information under **administrative protective order** (APO) by stating one of the following:

- “Business Proprietary Document -- May Be Released Under APO,”
 - “Business Proprietary Document -- May Not Be Released Under APO,”
 - “Business Proprietary/APO Version-- May Be Released Under APO,” as applicable,
 - “Public Version,” or
 - “Public Document.”
2. Please include a “Re:” line on the cover letter of your response, or any other submissions you make during this proceeding. In the Re: line, briefly summarize the purpose of your submission, e.g., “response to Quantity & Value questionnaire,” “case brief.”
 3. Prepare your response in typed form and in English (see 351.303(d) and (e) for these and other formatting requirements). Include an original and translated version of all pertinent portions of non-English language documents that accompany your response, including financial statements.
 4. It is your responsibility to contact the official in charge if subsequent to your filing there are events that affect your response (e.g., changes in your cost accounting system are relevant to antidumping proceedings, and changes as a result of an audit are relevant to both antidumping and CVD proceedings).

C. Manual Filing

1. **All submissions must be filed electronically.** Only under the following four circumstances will the Department accept a hardcopy response that is manually filed:
 - Documents exceeding 500 pages in length may be filed manually (in paper form) in the APO/Dockets Unit. This is referred to as a “bulky document.”
 - Data files greater than 20 MB must be filed manually on CD-ROM or DVD.
 - If the IA ACCESS system is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour between 12:00 p.m. and 4:30 p.m. ET or for any duration of time between 4:31 p.m. and 5:00 p.m. ET, then a person may manually file the document in the APO/Dockets Unit. The Department will provide notice of such technical

failures on the IA ACCESS Help Desk line at 202-482-3150 and on the IA website, which is <http://www.trade.gov/ia/>.

- Apart from the above, if you are unable to comply with the electronic filing requirement, as provided in § 351.103(c) of the Department's Regulations, and in accordance with section 782(c) of the Tariff Act of 1930, as amended (the Act), you must promptly notify the official in charge and submit a full written explanation of the reasons you are unable to file the document electronically. You must also suggest alternative forms in which to submit the information. The Department will consider the ability of a submitter and may modify the electronic filing requirement on a case-by-case basis.
2. All manually filed documents must be accompanied by a cover sheet generated in IA ACCESS. For manually filed bulky documents, separator sheets must also be generated and used.
 3. If your response qualifies as a bulky document and you opt to file it manually, you must file two identical paper copies of the document. For all other authorized manual submissions, only one paper copy is required.
 4. Manual submissions must be addressed and submitted to:
Secretary of Commerce
APO/Dockets Unit
Room 1870
U.S. Department of Commerce
Fourteenth Street and Constitution Avenue, N.W.
Washington, D.C. 20230
Attn: Import Administration
AD/CVD Operations, Office X

D. Certification

1. 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. Forms for such certification are included as appendices to this questionnaire. You may photocopy this form and submit a completed copy with each of your submissions.
2. Provide the required **certificate of service** (included as an appendix) with each business proprietary document and public version submitted to the Department.
3. Signed certifications of accuracy and certificates of service should be scanned and appended to the appropriate electronic documents filed in IA ACCESS.

E. Business Proprietary Information and Summarization of Business Proprietary Information

1. Request business 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 or countervailing duty proceeding in a public reading file. However, information deemed to be proprietary information will not be made available to the public. 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. You must submit the request for proprietary treatment at the same time as the claimed business proprietary information is submitted to the Department.
2. Utilize the "one-day lag rule" under section 351.303(c)(2) of the Department's regulations if you wish an additional day to review the final bracketing of business proprietary information in a document and to prepare the required public version. The filing requirements under the one-day lag rule provide for a party to file only the business proprietary document within the applicable time limit (section 351.303(c)(2)(i)). By the close of business one business day after the date the business proprietary document is filed, the person must file the complete final business proprietary document (section 351.303(c)(2)(i)(ii)). The final business proprietary document must be identical to the original document except for any bracketing corrections.
3. By the close of business one business day after the date the business proprietary document is filed (refer to the "one-day lag rule" in the preceding paragraph), submit the public version of your response (section 351.303(c)(2)(i)(iii)). A public version must contain:
 - (1) 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
 - (2) an itemization of particular information that you believe you are unable to summarize. State the reasons why you cannot summarize each piece of information.

Please note: The summarization requirement does not apply solely to the narrative portion of your response. It applies equally to worksheets and other appendices to your response, and even to sales and cost databases submitted in antidumping proceedings. Generally, numerical data, such as that provided in sales and cost databases in antidumping proceedings, are adequately summarized only if grouped or presented in terms of indices or figures ranged within 10 percent of the actual figure. If a particular portion of data is voluminous, use ranged figures for at least

one percent of the voluminous portion.

Responses, or portions thereof, that are not adequately summarized may be rejected from the record of this proceeding.

4. Submit the statements required regarding limited release of business proprietary information under the provisions of an 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:
 - (1) a statement agreeing to permit the release under APO of information submitted by you in confidence during the course of the proceeding, or
 - (2) 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.

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. As discussed above, 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 (e.g., May Be Released Under APO or May Not Be Released Under APO). (See section 351.304 of the Department's regulations for specific instructions.¹²)

5. 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.¹³
6. Provide to all parties whose representatives have been granted APO access and who are listed on the Department's most recent APO Service List, a complete copy of the submission--proprietary document and public version, except for that

¹² 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.

¹³ The Department will not disclose proprietary customer names under APO during an antidumping or countervailing duty investigation until either an order is published or the investigation is suspended. To ensure 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 the course of this investigation.

information which you do not agree to release under APO. (APO service lists, as well as public service lists, are maintained at <http://web.ita.doc.gov/ia/webapotrack.nsf> under the (Country) and the (Case Name). If you exclude information because you do not agree to release it under APO, you must submit the complete business proprietary version, wherein information in double brackets has been excluded. This version of the response must be marked "Business Proprietary/APO Version-- May Be Released Under APO" on the cover page. For parties that do not have access to information under APO, please provide a public version only.

Note: A chart summarizing AD/CVD document filing requirements can be found at <http://ia.ita.doc.gov/filing/index.html>. Detailed and supplemental information concerning APOs, including the APO Handbook, a complete set of APO regulations, and APO application forms and service lists, can be found at <http://ia.ita.doc.gov/apo/index.html>.