

A-570-112
Circumvention Inquiry: From Thailand
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E&C/VIII: Team

August 18, 2023

MEMORANDUM TO: Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Certain Collated Steel Staples from the People's Republic of
China: Preliminary Decision Memorandum for the Circumvention
Inquiry with Respect to the Kingdom of Thailand

I. SUMMARY

The U.S. Department of Commerce (Commerce) preliminarily determines that imports of certain collated steel staples (collated staples) from the Kingdom of Thailand (Thailand) are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on collated staples from the People's Republic of China (China).¹

II. BACKGROUND

On November 15, 2022, KYOCERA SENCO Industrial Tools, Inc. (the petitioner) filed a circumvention inquiry request alleging that collated staples from China that are completed or assembled in Thailand are circumventing the *Orders*.² On December 14, 2022, Commerce initiated a country-wide circumvention inquiry pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(d)(1)(ii) to determine whether imports of collated staples using Chinese-origin steel wire and wire band that are completed or assembled (e.g., processing galvanized steel wire or wire bands through staple-forming machines) in Thailand are circumventing the *Orders*.³

¹ See *Certain Collated Steel Staples from the People's Republic of China: Antidumping Duty Order*, 85 FR 43815 (July 20, 2020); and *Certain Collated Steel Staples from the People's Republic of China: Countervailing Duty Order*, 85 FR 43813 (July 20, 2020) (collectively, *Orders*).

² See Petitioner's Letter, "Request for Anticircumvention Inquiry Pursuant to Section 781(b) of the Tariff Act of 1930, as Amended," dated November 15, 2022 (Circumvention Inquiry Request).

³ See *Certain Collated Steel Staples from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 87 FR 78047 (December 21, 2022) (*Initiation Notice*); see also Memorandum, "Certain Collated Steel Staples from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders," dated December 14, 2022 (*Initiation Memorandum*).



On December 16, 2022, we released entry data from U.S. Customs and Border Protection (CBP) for the period June 1, 2019, through November 30, 2022, to all interested parties under an administrative protective order and invited interested parties to comment on the data.⁴ On December 22 and 23, 2022, we received comments from a company named in the inquiry (*i.e.*, YF Technology Corporation, Ltd. (YF Technology))⁵ and the petitioner regarding the CBP data and the selection of respondents in this inquiry, respectively.⁶ The petitioner asked Commerce to select the largest Thai producer by quantity identified in the CBP data, and if necessary, to also select the second largest producer for individual examination.⁷

We relied on the data in the CBP Information Memorandum and the petitioner's CBP Data Comments to identify the companies most likely to be the largest exporters or producers of inquiry merchandise in Thailand.⁸

On January 11, 2023, we issued questionnaires to five companies, requesting the quantity and value (Q&V) of their sales to the United States of collated staples produced with Chinese stainless steel or galvanized wire and wire band inputs during the period June 1, 2019, through November 30, 2022, as well as information regarding their sourcing of steel or galvanized wire and wire band inputs from China.⁹ The companies were: (1) Ajax International Co., Ltd. (Ajax); (2) Chia Pao Metal Co., Ltd. (Chia Pao); (3) Come Best Thailand Co. Ltd. (Come Best); (4) UM Industry Co., Ltd. (UM Industry); and (5) YF Technology. On January 30, 2023, Ajax, Chia Pao, Come Best, and YF Technology timely filed Q&V responses.¹⁰ On February 15, 2023, UM Industry submitted its Q&V response,¹¹ which we later determined to be timely and properly filed based on the Q&V questionnaire cover letter instructions.¹²

As it was not practicable to individually examine all of the Thai producers of the inquiry merchandise that responded to the Q&V questionnaire, we selected for individual examination YF Technology and UM Industry, the two producers accounting for the largest volume of the inquiry

⁴ See Memorandum, "Release of CBP Data," dated December 16, 2022 (CBP Information Memorandum).

⁵ YF Technology is registered in Hong Kong but, in fact, its staff and operations are all located at and shared with its affiliated producer, YF Technology (Thailand) Co., Ltd. (YF Technology Thailand), in Thailand. See YF Technology's Letter, "Initial Circumvention Inquiry Questionnaire Response," dated April 24, 2023 (YF Technology IQR) at 5.

⁶ See YF Technology's Letter, "Comments on CBP Data and Request to Issue Q&V Questionnaire," dated December 22, 2022 (YF Technology CBP Data Comments); and Petitioner's Letter, "Comments on CBP Data and Respondent Selection," dated December 23, 2022 (Petitioner CBP Data Comments).

⁷ See Petitioner CBP Comments at 4.

⁸ In a request for CBP entry data of this type, it is not possible to distinguish between inquiry and non-inquiry merchandise. The CBP data could possibly contain non-subject merchandise entered under the same Harmonized Tariff Schedule of the United States (HTSUS) number as subject merchandise.

⁹ See Letters to Ajax, Chia Pao, UM, and YF, "Quantity and Value Questionnaire for Circumvention Inquiry With Respect to Thailand," dated January 11, 2023.

¹⁰ See Ajax's Letter, "Response to Quantity and Value Questionnaire," dated January 30, 2023 (Ajax Q&V Response); Chia Pao's Letter, "Chia Pao's Q&V Questionnaire Response in the Circumvention Inquiry from Thailand of Certain Collated Steel Staples From the People's Republic of China," dated January 30, 2023 (Chia Pao's Q&V Response); Come Best's Letter, "Response to Quantity and Value Questionnaire," dated January 30, 2023 (Come Best's Q&V Response); YF Technology's Letter, "YF Hong Kong's Quantity and Value Questionnaire Response," dated January 30, 2023 (YF Technology's Q&V Response).

merchandise from Thailand that can be reasonably examined.¹³ On March 10, 2023, we issued initial questionnaires to UM Industry¹⁴ and YF Technology.¹⁵ On March 31, Chia Pao, a company not selected as a mandatory respondent, requested voluntary respondent treatment.¹⁶ On April 24 and 25, 2023, YF Technology and UM Industry each submitted their response to the Initial Questionnaire (IQR), respectively.¹⁷ Chia Pao also submitted a voluntary IQR.¹⁸ On May 15, 2023, the petitioner submitted comments on both mandatory respondent's IQRs.¹⁹

On May 8, 2023, we provided interested parties with a surrogate country (SC) list and invited them to comment on the list, the selection of surrogate countries, and the selection of surrogate values (SVs).²⁰ On May 11, 2023, Commerce extended the deadline for issuing the preliminary determination in this circumvention inquiry to August 18, 2023.²¹

On May 15, 2023, we received SC comments from the petitioner²² and the mandatory respondents.²³ On June 13, 2023, we received SV comments from the petitioner²⁴ and the mandatory respondents.²⁵

¹¹ See UM Industry's Letter, "Quantity and Value Questionnaire Response," dated February 15, 2023 (UM Industry's Q&V Response).

¹² See Memorandum, "Acceptance of Quantity and Value Questionnaire Response Submitted Via ACCESS and Return of Mailed Submission in Circumvention Inquiry," dated February 22, 2023.

¹³ See Memorandum, "Kingdom of Thailand Respondent Identification," dated March 7, 2023.

¹⁴ See Commerce's Letter, "Inquiry Questionnaire for UM Industry Co., Ltd.," dated March 10, 2023 (UM Industry Initial Questionnaire).

¹⁵ See Commerce's Letter, "Circumvention Inquiry Questionnaire for YF Technology Corporation, Ltd.," dated March 10, 2023 (YF Technology Initial Questionnaire).

¹⁶ See Chia Pao's Letter, "Chia Pao's Request for Voluntary Respondent Treatment in the Circumvention Inquiry from Thailand of Certain Collated Steel Staples From the People's Republic of China," dated March 31, 2023.

¹⁷ See YF Technology's Letter, "Initial Circumvention Inquiry Questionnaire Response," dated April 24, 2023 (YF Technology IQR); and UM Industry's Letter, "Initial Circumvention Inquiry Questionnaire Response," dated April 25, 2023 (UM Industry IQR).

¹⁸ See Chia Pao's Letter, "Chia Pao's Voluntary Initial Questionnaire Response," dated April 24, 2023.

¹⁹ See Petitioner's Letters, "Comments on UM Industry's Initial Circumvention Questionnaire Response" and "Comments on YF Technology's Initial Circumvention Questionnaire Response," both dated May 15, 2023.

²⁰ See Commerce's Letter, "Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated May 8, 2023 (SC Letter).

²¹ See Memorandum, "Extension of Preliminary Determination," dated May 11, 2023.

²² See Petitioner's Letter, "Comments on Surrogate Country," dated May 15, 2023 (Petitioner's SC Comments).

²³ See Mandatory Respondents' Letter, "Comments on Selection of the Primary Surrogate Country," dated May 15, 2023 (Mandatory Respondents' SC Comments).

²⁴ See Petitioner's Letter, "Surrogate Value Comments and Data for China," dated June 13, 2023 (Petitioner's SV Comments).

²⁵ See Mandatory Respondents' Letter, "Submission of Surrogate Value Comments," dated June 13, 2023 (Mandatory Respondents' SV Comments).

On May 23 and June 9, 2023, we issued supplemental questionnaires to YF Technology and UM Industry²⁶ and received their timely responses on June 20 and July 10, 2023, respectively.²⁷

On August 1, 2023, the petitioner submitted pre-preliminary comments.²⁸ On August 14, 2023, the petitioner filed additional comments regarding a factor of the statutory analysis.²⁹

On August 18, 2023, we determined not to individually examine Chia Pao as a voluntary respondent in this inquiry.³⁰

III. SCOPE OF THE *ORDERS*

The merchandise covered by the *Orders* is certain collated steel staples. Certain collated steel staples subject to the *Orders* are made from steel wire having a nominal diameter from 0.0355 inch to 0.0830 inch, inclusive, and have a nominal leg length from 0.25 inch to 3.0 inches, inclusive, and a nominal crown width from 0.187 inch to 1.125 inch, inclusive. Certain collated steel staples may be manufactured from any type of steel, and are included in the scope of the *Orders* regardless of whether they are uncoated or coated, and regardless of the type or number of coatings, including but not limited to coatings to inhibit corrosion.

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

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

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

Also excluded from the *Orders* are collated fasteners commonly referred to as "C-ring hog rings" and "D-ring hog rings" produced from stainless or carbon steel wire having a nominal diameter of 0.050 to 0.081 inches, inclusive. C-ring hog rings are fasteners whose legs are not perpendicular to the crown, but are curved inward resulting in the fastener forming the shape of the letter "C". D-ring hog rings are fasteners whose legs are straight but not perpendicular to the crown, instead intersecting with the crown at an angle ranging from 30 degrees to 75 degrees. The hog rings

²⁶ See Commerce's Letter to YF Technology, "YF Technology Supplemental Questionnaire in Circumvention Inquiry," dated May 23, 2023; and Commerce's Letter to UM Industry, "UM Industry Supplemental Questionnaire in Circumvention Inquiry," dated June 9, 2023.

²⁷ See YF Technology's Letter, "Supplemental Questionnaire Response in Circumvention Inquiry," dated June 20, 2023 (YF Technology SQR); and UM Industry's Letter, "UM Industry's Supplemental Questionnaire Response," dated July 10, 2023 (UM Industry SQR).

²⁸ See Petitioners' Letter, "Pre-Prelim Comments," dated August 1, 2023.

²⁹ See Petitioner's Letter, "Comments Regarding the Level of Investment," dated August 14, 2023.

³⁰ See Memorandum, "Whether to Select Voluntary Respondents," dated concurrently with this memorandum.

subject to the exclusion are collated using glue, adhesive, or tape. The hog rings subject to this exclusion have either a 90 degree blunt point or 15-75 degree divergent point.

Certain collated steel staples subject to the *Orders* are currently classifiable under subheading 8305.20.0000 of the HTSUS.

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

IV. MERCHANDISE SUBJECT TO THE CIRCUMVENTION INQUIRY

The circumvention inquiry covers collated staples produced using Chinese-origin steel wire and wire band that are completed or assembled (*e.g.*, processing steel wire or wire bands through staple-forming machines) in Thailand, before being exported from Thailand to the United States.³¹

V. PERIOD OF THE CIRCUMVENTION INQUIRY

The period of the inquiry is June 1, 2019, through November 30, 2022.

VI. AFFILIATION

Statutory and Regulatory Provisions

A. Affiliation

Section 771(33) of the Act provides that the following persons shall be considered to be “affiliated” or “affiliated persons”:

- (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.
- (B) Any officer or 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, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
- (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
- (G) Any person who controls any other person and such other person.

Section 771(33) of the Act further states that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. “Person” is defined to include “any interested party as well as any other individual, enterprise, or entity, as appropriate.”³²

³¹ See Initiation Memorandum at 3.

³² See 19 CFR 351.102(b).

The Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreement Act states the following:

The traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm “operationally in a position to exercise restraint or direction” over another in the absence of an equity relationship. A company may be in a position to exercise restraint or direction, for example, through corporate or family groupings, franchise or joint venture agreements, debt financing, or close supplier relationships in which the supplier or buyer becomes reliant upon the other.³³

Affiliated persons and affiliated parties are defined by 19 CFR 351.102(b)(3) as having the same meaning as in section 771(33) of the Act. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, Commerce will consider the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. Commerce will not find that control exists on the basis of these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. Commerce will consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as evidence of control.

Analysis

The record of the inquiry supports a finding that YF Technology, a trading company registered in Hong Kong, and YF Technology Thailand, a producer of the inquiry merchandise, were affiliated during the inquiry period.³⁴ YF Technology purchased collated staples from YF Technology Thailand and sold them to the United States during the period of inquiry.³⁵

YF Technology is registered in Hong Kong but is operated by YF Technology Thailand personnel based in Thailand.³⁶ Both companies are also owned and controlled by the same family.³⁷ Under section 771(33)(F) of the Act, two or more persons, directly or indirectly controlling, controlled by, or under common control with, any person are affiliated persons. Furthermore, 19 CFR 351.102(b)(3) states that in determining whether control over another person exists within the meaning of section 771(33) of the Act, Commerce will consider factors such as corporate or family groupings.

The business proprietary record of this inquiry provides a sufficient basis to find that YF Technology and YF Technology Thailand are affiliated pursuant to section 771(33)(F) of the Act.³⁸

³³ See SAA, H.R. Doc. No. 316, 103rd Congress, 2d Session (1994) at 838.

³⁴ See YF Technology’s IQR at 1.

³⁵ *Id.*

³⁶ *Id.* at 5 and 11.

³⁷ *Id.* at 4.

³⁸ *Id.*

VII. NON-MARKET ECONOMY METHODOLOGY FOR VALUING MATERIAL INPUTS FROM CHINA

In this circumvention inquiry, Commerce must determine whether Chinese-produced merchandise that is assembled and completed in a third country and then sold to the United States is circumventing the *Orders*. As part of that analysis, as explained below, section 781(b)(1)(D) of the Act requires Commerce to determine whether the value of the merchandise that is produced in the foreign country to which an order applies (which, in these proceedings, is China), and that is assembled and completed in a third country, is a significant portion of the total value of the final product exported from the third country to the United States.

Commerce considers China to be a non-market economy (NME) country.³⁹ Pursuant to section 771(18) of the Act, “the term ‘nonmarket economy country’ means any foreign country that {Commerce} determines does not operate on market principles of cost or pricing structures...” Consequently, valuing the China-produced material inputs for purposes of section 781(b)(1)(D) of the Act falls under the purview of Commerce’s NME methodology, which by statute presumes that NME costs and prices are inherently unreliable and requires Commerce to value Chinese-produced material inputs using SVs from one or more market economy countries. While Commerce may use the prices paid for China-produced inputs in market economy proceedings, as noted above, these circumvention inquiries involve AD and CVD orders on China, which is an NME country, and we are attempting to determine whether Chinese-produced merchandise that is completed and assembled in a third country is circumventing those orders.

In accordance with section 773(c)(4) of the Act, Commerce’s NME methodology involves valuing factors of production (FOPs), including material inputs, to the extent possible, based on the prices or costs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.

As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because, either: (a) they are not significant producers of comparable merchandise; (b) they do not provide sufficient reliable sources of publicly available SV data; or (c) they are not suitable for use for other reasons.⁴⁰ Surrogate countries that are not at the same level of economic development as the NME country, but are still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development, Commerce generally relies on gross national income (GNI) data from the

³⁹ See *Certain Collated Steel Staples from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination and Extension of Provisional Measures*, 85 FR 882 (January 8, 2020), and accompanying Preliminary Decision Memorandum (PDM), unchanged in *Certain Collated Steel Staples from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination*, 85 FR 33623 (June 2, 2020).

⁴⁰ *Id.*

World Bank's World Development Report.⁴¹ Further, Commerce will normally value all FOPs from a single surrogate country.⁴²

In this circumvention inquiry, Commerce identified Bulgaria, Costa Rica, Malaysia, Panama, Romania, and Turkey as countries economically comparable to China.⁴³ Both the petitioner and respondents submitted data showing that both Malaysia and Turkey are net exporters of the merchandise under inquiry.⁴⁴ The petitioner also submitted Malaysian SV data⁴⁵ to value the Chinese-sourced inputs, whereas the mandatory respondents submitted both Malaysian and Turkish SV data.⁴⁶

Commerce preliminarily selected Malaysia as the primary surrogate country for valuing Chinese-produced material inputs because record evidence indicates that: (1) Malaysia is at a level of economic development comparable to that of China; (2) Malaysia is a significant producer of merchandise comparable to the merchandise subject to the *Orders*; (3) we have reliable SV data from Malaysia on the record for the inputs named in the inquiry (*i.e.*, wire band, galvanized wire, and stainless steel wire) and, unlike the Turkish SV data, we have more specific values for numerous packing materials (*e.g.*, packing tape, labels, mechanical stretch film, blister boxes and plastic boxes); and (4) there is no record evidence calling into question the reliability of the Malaysian SV data. Therefore, we calculated the value of Chinese-produced inputs using Malaysian prices. Specifically, we valued Chinese-produced material inputs using the average unit value of imports into Malaysia during 2022 as reported by the Global Trade Atlas.⁴⁷

VIII. STATUTORY AND REGULATORY FRAMEWORK FOR THE CIRCUMVENTION INQUIRY

Circumvention inquiries are conducted pursuant to section 781 of the Act and 19 CFR 351.226.⁴⁸ With respect to merchandise assembled or completed in a third country, section 781(b) of the Act provides that Commerce may find circumvention of AD and CVD orders when merchandise imported into the United States was assembled or completed in a foreign country other than the country to which the order applies and the merchandise is of the same class or kind as the merchandise subject to the orders. Section 781(b)(1) of the Act provides that, after taking into account any advice provided by the U.S. International Trade Commission under section 781(e) of the Act, Commerce may include imports of merchandise assembled or completed in a third country within the scope of an order at any time the order is in effect if:

⁴¹ See Surrogate Comments Request.

⁴² See 19 CFR 351.408(c)(2).

⁴³ See SC Letter at Attachment 1.

⁴⁴ See Petitioner's SC Comments, at Exhibit 1; See also Mandatory Respondents' SC Comments at 2.

⁴⁵ See Petitioner's SV Comments.

⁴⁶ See Mandatory Respondents' SV Comments.

⁴⁷ See Memorandum, "Factor Valuation Memorandum for the Circumvention Inquiry with Respect to the Kingdom of Thailand," dated concurrently with this memorandum.

⁴⁸ The legislative history to section 781(b) of the Act indicates that Congress intended Commerce to make determinations regarding circumvention on a case-by-case basis, in recognition that the facts of individual cases and the nature of specific industries are widely variable. See S. Rep. No. 103-412 (1994) at 81-82.

- (A) the merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping and/or countervailing duty order;
- (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which (i) is subject to such order, or (ii) is produced in the foreign country with respect to which such order applies;
- (C) the process of assembly or completion in the foreign country is minor or insignificant;
- (D) the value of the merchandise produced in the foreign country to which the antidumping and/or countervailing duty order applies is a significant portion of the total value of the merchandise exported to the United States; and
- (E) Commerce determines that action is appropriate to prevent evasion of an order.

In determining whether the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider:

- (1) the level of investment in the foreign country;
- (2) the level of research and development (R&D) in the foreign country;
- (3) the nature of the production process in the foreign country;
- (4) the extent of production facilities in the foreign country; and
- (5) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

No single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.⁴⁹ Accordingly, it is Commerce's practice to evaluate each of five factors in section 781(b)(2) of the Act, as they exist in the third country, and consider the totality of its analysis of those factors in making a determination.⁵⁰ The importance of any one of the factors listed under section 781(b)(2) of the Act can vary from case to case based on the particular circumstances unique to each circumvention inquiry.⁵¹

⁴⁹ See SAA, H.R. Doc. No. 103-316, Vol. I (1994), at 893.

⁵⁰ See *Hydrofluorocarbon Blends from the People's Republic of China: Final Negative Scope Ruling on Gujarat Fluorochemicals Ltd.'s R-410A Blend; Affirmative Final Determination of Circumvention of the Antidumping Duty Order by Indian Blends Containing Chinese Components*, 85 FR 61930 (October 1, 2020) (*HFC Blends from China*), and accompanying IDM at 20.

⁵¹ *Id.*

Section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include within the scope of an AD and/or CVD order merchandise imported into the United States that was assembled or completed in a third country. Specifically, Commerce shall take into account such factors as:

(A) the pattern of trade, including sourcing patterns;

(B) whether the manufacturer or exporter of the subject merchandise, or the merchandise produced in the order country, that is completed or assembled in a third country, is affiliated with the person who performs the completion or assembly in the foreign country in order to produce the merchandise that is subsequently imported into the United States; and

(C) whether imports into the third country of the merchandise that is completed or assembled in the third country, have increased after the initiation of the investigation that resulted in the issuance of an order.

IX. STATUTORY ANALYSIS FOR THE CIRCUMVENTION INQUIRY

Section 781(b) of the Act directs Commerce to consider the criteria described in the “Statutory and Regulatory Framework for the Circumvention Inquiry” section of this memorandum above, to determine whether merchandise completed or assembled in a third country is circumventing an order. Below we analyze those statutory criteria based on record evidence.

Merchandise of the Same Class or Kind

Section 781(b)(1) of the Act provides that Commerce may include imports of merchandise assembled or completed in a third country within the scope of an order at any time the order is in effect if, among other things, the merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an AD and/or CVD order.

YF Technology reported that, during the inquiry period, YF Technology Thailand, YF Technology’s affiliate, produced collated staples in Thailand. YF Technology also reported that it purchased and exported those collated staples produced by YF Technology Thailand to the United States. These collated staples were of the same class or kind of collated staples subject to the *Orders*.⁵² Similarly, UM Industry reported that, during the inquiry period, it produced collated staples in Thailand, and exported those collated staples to the United States, which were of the same class or kind of collated staples subject to the *Orders*.⁵³

Based on the foregoing, in accordance with section 781(b)(1)(A) of the Act, we find that the information on the record indicates that inquiry merchandise imported into the United States from Thailand is of the same class or kind as the class or kind of merchandise subject to the *Orders*.

⁵² See YF Technology’s IQR at 1-2.

⁵³ See UM Industry’s IQR at 3 an 8.

Whether, Before Importation into the United States, Such Merchandise is Completed or Assembled in Thailand from Merchandise that Is Subject to the *Order* or Produced in China

Section 781(b)(1) of the Act provides that Commerce may include imports of merchandise assembled or completed in a third country within the scope of an order at any time the order is in effect if, among other things, before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which: (i) is subject to such order, or (ii) is produced in the foreign country with respect to which such order applies.

YF Technology reported that during the inquiry period, YF Technology Thailand produced collated staples from stainless steel and galvanized steel wire (*i.e.*, collated staple inputs) sourced from China.⁵⁴ In addition, YF Technology provided sample documentation demonstrating how it determined the country of origin for the galvanized wire purchased during the inquiry period.⁵⁵ Similarly, UM Industry reported that during the inquiry period, it produced collated staples from wire bands (*i.e.*, a collated staple input) sourced from its Chinese affiliate located in China⁵⁶ and also provided sample documentation demonstrating how it determined the country of origin for the wire bands purchased during the inquiry period.⁵⁷

Thus, record evidence supports a preliminary determination, in accordance with section 781(b)(1)(B) of the Act, that collated staples imported into the United States were completed in Thailand from merchandise (*i.e.*, stainless steel wire, galvanized wire, and wire bands) produced in China.

Whether the Process of Assembly or Completion in Thailand Is Minor or Insignificant

Section 781(b)(1) of the Act provides that Commerce may include imports of merchandise assembled or completed in a third country within the scope of an order at any time the order is in effect if, among other things, the process of assembly or completion in the third country is minor or insignificant.

Under section 781(b)(2) of the Act, Commerce considers five factors to determine whether the process of assembly or completion of merchandise in a foreign country is minor or insignificant: (1) the level of investment in the foreign country in which the merchandise is completed or assembled; (2) the level of R&D in the foreign country in which the merchandise is completed or assembled; (3) the nature of the production process in the foreign country in which the merchandise is completed or assembled; (4) the extent of production facilities in the foreign country in which the merchandise is completed or assembled; and (5) whether the value of the processing performed in the foreign country in which the merchandise is completed or assembled represents a small proportion of the value of the merchandise imported into the United States.

⁵⁴ See YF Technology's IQR at 3.

⁵⁵ *Id.* at Exhibit 27.

⁵⁶ See UM Industry's IQR at 3, 8, 16, and 37.

⁵⁷ *Id.* at Exhibit 25.

The SAA explains that no single factor listed in section 781(b)(2) of the Act will be controlling.⁵⁸ Accordingly, Commerce's practice is to evaluate each factor as it exists in the third country and consider the totality of its analysis of those factors in making a determination.⁵⁹ The importance of any one of the factors listed under section 781(b)(2) of the Act can vary from case to case depending on the particular circumstances unique to each circumvention inquiry.

In this inquiry, Commerce based its analysis on both qualitative and quantitative factors in determining whether the process of assembly or completion in Thailand is minor or insignificant, in accordance with the criteria of section 781(b)(2) of the Act. This approach is consistent with our analysis in prior circumvention inquiries.⁶⁰ Additionally, in evaluating these factors, we compared YF Technology Thailand's production process for inquiry merchandise to that of its affiliated collated staple producer in China.⁶¹ We also compared UM Industry's collated staple production process to the staple production process of its affiliated supplier in China.⁶²

As discussed in detail below, Commerce preliminarily finds that the process of assembly or completion of inquiry merchandise is minor or insignificant for both mandatory respondents. As much of the information used to make this determination is business proprietary in nature, where necessary, we discussed this information in company-specific preliminary analysis memoranda.⁶³

(1) Level of Investment in Thailand

YF Technology

YF Technology was established on July 5, 2019, and began operations in August 2019, whereas YF Technology Thailand was established on July 3, 2019, and started production in October 2019. Thus, both companies were established and started operations before the date of the *Orders* (i.e., July 20, 2020).⁶⁴

YF Technology Thailand purchases galvanized wire, stainless steel wire, glue, and packing materials from a Chinese affiliate which in turn sources these inputs from Chinese suppliers.⁶⁵ YF

⁵⁸ See SAA at 893.

⁵⁹ See *HFC Blends from China* IDM at 20.

⁶⁰ See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 46571, 46575 (August 6, 2003), unchanged in *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003); see also *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Circumvention Involving the United Arab Emirates*, 85 FR 8841 (February 18, 2020), unchanged in *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Final Determination of Circumvention Involving the United Arab Emirates*, 85 FR 41957 (July 13, 2020) (*CORE from China*).

⁶¹ See YF's IQR at 2-3 and Exhibits 21-22.

⁶² See UM's IQR at 3, 4, 8, 16, and 37.

⁶³ See Memorandum, "Preliminary Analysis Memorandum for UM Industry" (UM Industry Preliminary Analysis Memorandum), and Memorandum, "Preliminary Analysis Memorandum for YF Technology" (YF Technology Preliminary Analysis Memorandum), both dated concurrently with this memorandum.

⁶⁴ See YF Technology's IQR at 6.

⁶⁵ *Id.* at 9.

Technology Thailand then performs three production stages at its facility (*i.e.*, flattening, collating or banding, and staple forming) using purchased equipment to produce collated staples, which are sold through YF Technology for export to the United States.⁶⁶ To explain the financing of this operation, YF Technology provided a list of its cash investments since YF Technology Thailand's establishment (*i.e.*, July 3, 2019),⁶⁷ and noted the number of workers required to operate the production facility.⁶⁸ YF Technology noted that its China-based affiliate also produces collated staples from galvanized wire and purchases (rather than makes) its galvanized wire.⁶⁹

Given that none of the shareholders' investments in YF Technology Thailand were associated with equipment necessary to operate a fully integrated production facility capable of converting wire rod into steel wire and steel wire into collated staples, we preliminarily find that the level of investment in YF Technology Thailand is minor or insignificant. This finding weighs in favor of a finding that the process of assembly or completion in Thailand is minor or insignificant.⁷⁰

UM Industry

UM Industry was established on December 17, 2019, and started production in February 2020. Thus, it was established and started operations before the date of the *Orders* (*i.e.*, July 20, 2020).⁷¹ UM Industry purchases wire band from both its Chinese affiliate and from unaffiliated Chinese suppliers and also purchases glue from unaffiliated Chinese suppliers. UM Industry then forms the wire bands into collated staples using staple-forming equipment,⁷² and sells the collated staples to the United States. To explain the financing of its operation, UM Industry provided a list of investments in equipment and noted that its shareholders have made additional investments since its establishment in 2019.⁷³ UM Industry also noted the number of workers at its facility processing wire bands into collated staples.⁷⁴ Finally, UM Industry noted that its China-based affiliate also produces collated staples from wire bands but, unlike UM Industry, the Chinese affiliate produces the wire bands rather than purchases them.⁷⁵

Given that none of the shareholders' investments into UM Industry were associated with equipment necessary to operate a fully integrated production facility capable of converting wire rod into galvanized wire and processing the galvanized wire into collated staples, or processing galvanized or stainless steel wire into collated staples, we preliminarily find that the level of investment in UM Industry is minor or insignificant. This finding weighs in favor of a finding that the process of assembly or completion in Thailand is minor or insignificant.

⁶⁶ See YF Technology's IQR at 3, 7, 12, and Exhibit 5; and YF Technology's SQR at Exhibit S-7.

⁶⁷ See YF Technology's IQR at 6, 11 and Exhibit 12; and YF Technology's SQR at Exhibit S-6.

⁶⁸ See YF Technology's IQR at 12 and Exhibit 16.

⁶⁹ *Id.* at 2-3.

⁷⁰ Much of this analysis is based upon proprietary information; for a full explanation, see the YF Technology Preliminary Analysis Memorandum.

⁷¹ UM Industry's IQR at 6.

⁷² *Id.* at 11.

⁷³ *Id.* at 10-11 and Exhibit 5.

⁷⁴ *Id.* at 11.

⁷⁵ *Id.* at 4 and 16.

(2) Level of R&D in Thailand

YF Technology

YF Technology reported that YF Technology Thailand incurred R&D expenditures (which included materials consumption, technician salaries, testing expenses, R&D rewards) to improve production efficiency and product quality at its facility.⁷⁶ Specifically, YF Technology Thailand claims to have incurred R&D expenses to improve its flattening and banding machines through developing synchronizing equipment and on-line testing technology; and in modifying various dies used to fit the appropriate shape of staple leg point, improve aligning technology, and glue coating wire band stress measurement.⁷⁷

We preliminarily find that the level and extent of R&D in YF Technology Thailand's facility does not weigh in favor of a finding that the process of assembly or completion in Thailand is minor or insignificant.

UM Industry

UM Industry reported that it has not incurred R&D expenditures.⁷⁸ Therefore, we preliminarily find that UM Industry's R&D in Thailand weighs in favor of a finding that the process of assembly or completion in Thailand is minor or insignificant.

(3) Nature of the Production Process in Thailand

YF Technology

YF Technology Thailand performs three production stages at its facility (*i.e.*, flattening, collating or banding, and staple forming) to process the stainless steel wire or galvanized wire (both sourced from China) into collated staples (*i.e.*, the finished product).⁷⁹

The first stage is to flatten the round galvanized steel wire into the desired shape and then wind flattened wires onto holding spools. The second stage involves collating or banding through a banding machine multiple strands of wire pulled from up to a hundred back-stand holding spools and then applying glue or adhesive to the banded wires. The intermediate product from this stage is collated wire band which will be further processed before being sold. The third stage is to process the wire band into collated staples through a staple forming machine. After the third stage, the collated staples are packed for sale.⁸⁰

Given that the production stages described above only involve processing the galvanized or stainless steel wire into staples (rather than also making the galvanized or stainless steel wire from wire rod), we preliminarily find that the nature of YF Technology Thailand's production process

⁷⁶ See YF Technology's IQR at 14 and Exhibits 17 and 18..

⁷⁷ *Id.* at 15.

⁷⁸ See UM Industry's IQR at 13.

⁷⁹ See YF Technology's IQR at 7.

⁸⁰ *Id.* at 16 and Exhibits 19-20.

in Thailand weighs in favor of finding that the process of assembly or completion in Thailand is minor or insignificant.

UM Industry

UM Industry uses staple-forming equipment to form the wire bands into collated staples.⁸¹ Given that UM Industry's production process involves only forming the wire band into a collated staple (*i.e.* the final stage of production), we preliminarily find that the nature of UM Industry's production process in Thailand weighs in favor of finding that the process of assembly or completion in Thailand is minor or insignificant.

(4) Extent of Production Facilities in Thailand

YF Technology Thailand's production facility in Thailand requires an insignificant number of workers to operate the flattening, banding, and staple forming equipment needed to process the galvanized wire and stainless steel wire into collated staples.⁸² YF Technology Thailand provided a layout of its facility and noted the amount of land it rents to operate its facility.⁸³ YF Technology Thailand also provided pictures of the equipment it uses to process the galvanized wire into collated staples and a list of all production equipment.⁸⁴

We also note that YF Technology Thailand and its Chinese affiliate both process galvanized wire into collated staples and produce the same type of staples.⁸⁵ This similarity suggests that YF Technology Thailand has the same type of manufacturing facility as its affiliate to perform the same operations. However, YF Technology Thailand's production facility and equipment do not include machinery capable of drawing wire rod into steel wire but is limited to staple formation.

Accordingly, we find that the extent of YF Technology Thailand's production facilities weighs in favor of a finding that the process of assembly or completion in Thailand is minor or insignificant.

UM Industry

UM Industry's production facility in Thailand also employed an insignificant number of workers to operate the staple-forming equipment needed to process the wire bands into collated staples.⁸⁶ UM Industry provided a layout of its facility and noted the amount of land it rents to operate its facility.⁸⁷ We also note that UM Industry and its Chinese affiliate both convert wire bands into collated staples and produce some of the same types of staples.⁸⁸ However, unlike its Chinese affiliate, UM Industry does not produce the wire bands.

⁸¹ See UM Industry's IQR at 11.

⁸² See YF Technology's IQR. at 12 and Exhibit 5.

⁸³ *Id.* at 11 and Exhibit 15; and YF Technology's SQR at 6.

⁸⁴ *Id.* at 13 and Exhibits 15 and 20.

⁸⁵ *Id.* at 18-19.

⁸⁶ See UM Industry's IQR at 12.

⁸⁷ *Id.* at 6 and Exhibit 17.

⁸⁸ *Id.* at 16 and Exhibit 21.

Given that UM Industry's operations are limited to staple forming, we find that the extent of UM Industry's production facilities weighs in favor of finding that the process of assembly or completion in Thailand is minor or insignificant.

- (5) Whether the Value of Processing in Thailand Represents a Small Proportion of the Value of the Merchandise Imported into the United States

YF Technology

To determine the proportion of the value of imported inquiry merchandise represented by third country processing, we summed the per-unit costs incurred in the third country by YF Technology Thailand for non-Chinese material inputs used during the Thai processing of inquiry merchandise, labor, and fixed and variable overhead, and divided the sum by the per-unit weighted-average value of YF Technology's U.S. sales of inquiry merchandise during 2022. Based on our calculations, we preliminarily find that the value of processing performed by YF Technology's operation in Thailand is a small proportion of the value of the inquiry merchandise imported into the United States and thus, weighs in favor of finding that the process of assembly or completion in Thailand is minor or insignificant.⁸⁹

UM Industry

To determine the proportion of the value of imported inquiry merchandise represented by third country processing, we summed the per-unit costs incurred in the third country by UM Industry for non-Chinese material inputs used during the Thai processing of inquiry merchandise, labor, and fixed and variable overhead, and divided the sum by the per-unit weighted-average value of UM Industry's U.S. sales of inquiry merchandise during 2022. Based on our calculations, we preliminarily find that the value of processing performed by UM Industry's operation in Thailand is a small proportion of the value of the inquiry merchandise imported into the United States and thus, weighs in favor of finding that the process of assembly or completion in Thailand is minor or insignificant.⁹⁰

As noted above, four of the five factors identified in section 781(b)(2) of the Act weigh in favor of a preliminary finding that the process of assembly or completion in Thailand for each respondent is minor or insignificant. Therefore, based on the factors considered in totality, we preliminarily find that the process of assembly or completion in Thailand is minor or insignificant pursuant to section 781(b)(1)(C) of the Act.

⁸⁹ See YF Technology Preliminary Analysis Memorandum for further details.

⁹⁰ See UM Industry Preliminary Analysis Memorandum for further details.

Whether the Value of the Merchandise Produced in China Is a Significant Portion of the Total Value of the Merchandise Exported to the United States

Section 781(b)(1) of the Act provides that Commerce may include imports of merchandise assembled or completed in a third country within the scope of an order at any time the order is in effect if, among other things, the value of the merchandise produced in the foreign country to which the AD and/or CVD order applies is a significant portion of the total value of the merchandise exported to the United States.

To determine whether the value of the material inputs produced in China that were used to produce the inquiry merchandise represents a significant portion of the value of exported inquiry merchandise, for each mandatory respondent, we divided the per-unit value of each Chinese direct material input named in the allegation by the weighted-average per-unit U.S. sales value of inquiry merchandise during 2022.⁹¹ Because China is an NME country, we valued the direct material inputs produced in China using SVs. Based on our calculations, we preliminarily find that the value of the merchandise produced in China that was used by each mandatory respondent to produce inquiry merchandise is a significant portion of the total value of the merchandise exported to the United States.⁹² This finding supports an affirmative finding of circumvention.

Other Factors to Consider

Section 781(b)(3) of the Act directs Commerce to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of an order, such as:

(A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise ... is affiliated with the person who uses the merchandise ... to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States; and (C) whether imports into the foreign country of the merchandise... have increased after the initiation of the investigation which resulted in the issuance of such order.

(1) Pattern of Trade and Sourcing Patterns

We analyzed patterns of trade by comparing publicly available U.S. import statistics for imports of collated staples from 2016 (*i.e.*, starting three years prior to initiation of the investigations which resulted in the *Orders*) through 2022.⁹³ The U.S. import data show the value of U.S. imports of collated staples from Thailand increasing substantially from 54,698 USD during the pre-initiation period (*i.e.*, February 2016 through June 2019) to 38,287,395 USD during the post-

⁹¹ This is the same time period used to calculate the value of processing in Thailand.

⁹² For a complete analysis of the value of the merchandise produced in China, *see* YF Technology Preliminary Analysis Memorandum and UM Industry Preliminary Analysis Memorandum.

⁹³ *See* Memorandum to the File, "U.S. and Third Country Import Data Used in Preliminary Analysis," dated currently with this memorandum (Import Data Memorandum).

initiation period (*i.e.*, July 2019 through December 2022) resulting in a 69,897.80 percent increase.⁹⁴

Additionally, the value of U.S. imports of collated staples from China decreased substantially from 264,536,316 USD during the pre-initiation period to 144,885,625 USD during the post-initiation period resulting in a 45.23 percent decrease. This pattern of trade indicates a shift to Thailand from China in exports of collated staples to the United States. This shift weighs in favor of finding circumvention.⁹⁵

We also analyzed patterns of trade with respect to YF Technology and UM Industry specifically. Both YF Technology and UM Industry were asked to report the value and volume of their shipments of collated staples to customers in the domestic market, the U.S. market, and other third country markets from 2019 through 2022.⁹⁶ The data provided by both YF Technology and UM Industry indicate a shift in the pattern of trade that supports a preliminary determination of circumvention.⁹⁷

(2) Affiliation

Generally, Commerce considers circumvention to be more likely to occur when the manufacturer of the subject merchandise or of inputs from the order country that are completed or assembled in a third country is affiliated with the entity in the third country that performs the completion or assembly.⁹⁸ As described above, in analyzing the “minor or insignificant” factors in section 781(b)(2) of the Act, we found that both YF Technology Thailand and UM Industry sourced inputs for the inquiry merchandise from their affiliated Chinese suppliers.⁹⁹ We preliminarily find that these affiliations weigh in favor of finding circumvention for both mandatory respondents.

⁹⁴ *Id.*

⁹⁵ *Id.*; see also *CORE from China; Certain Uncoated Paper from Brazil: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order for Uncoated Paper Rolls*, 86 FR 7261 (January 27, 2021), unchanged in *Certain Uncoated Paper from Brazil, the People’s Republic of China, and Indonesia: Affirmative Final Determinations of Circumvention of the Antidumping Duty Orders and Countervailing Duty Orders for Certain Uncoated Paper Roll*, 86 FR 71025 (December 14, 2021); and *Oil Country Tubular Goods from the People’s Republic of China: Preliminary Affirmative Determinations of Circumvention*, 86 FR 43627 (August 10, 2021), unchanged in *Oil Country Tubular Goods from the People’s Republic of China: Final Affirmative Determinations of Circumvention*, 86 FR 67443 (November 26, 2021).

⁹⁶ See YF Technology’s IQR at Exhibit 10; and UM Industry’s IQR at 18-19.

⁹⁷ See YF Technology Preliminary Analysis Memorandum and UM Industry Preliminary Analysis Memorandum for further discussion.

⁹⁸ See, e.g., *Certain Cold-Rolled Steel Flat Products from the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018), and accompanying IDM at Comment 5; see also *Certain Tissue Paper Products from the People’s Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination*, 73 FR 21580, 21586 (April 22, 2008), unchanged in *Certain Tissue Paper Products from the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 73 FR 57591, 57592 (October 3, 2008).

⁹⁹ See YF Technology IQR at 3 and UM Industry IQR at 3-4, 8, 16, and 37.

(3) Whether Shipments of Inputs from China to the Third Country Increased

To determine whether shipments of the inputs from China that were used to complete or assemble the final product in the third country increased, we compared publicly available Global Trade Atlas import statistics for the value of Thai imports of Chinese galvanized wire, stainless steel wire, and wire bands during the pre-initiation period (February 2016 through June 2019) to the post-initiation period (July 2019 through December 2022).¹⁰⁰

In summary, the value of Chinese imports of galvanized wire, stainless steel wire, and wire band into Thailand increased by 10.14, 74.64, and 158.17 percent, respectively, from the pre-initiation to the post-initiation period.¹⁰¹ This information indicates that purchases of such inputs increased since the *Orders* were imposed, which weighs in favor of finding circumvention.

We also examined each mandatory respondent's purchases of Chinese inputs named in the allegation during the years covering the inquiry period (*i.e.*, 2019 to 2022). Proprietary information indicates that purchases of such inputs increased since the *Orders*, which weighs in favor of finding circumvention.¹⁰²

X. SUMMARY OF STATUTORY ANALYSIS

As discussed above, to make an affirmative determination of circumvention, all the criteria under section 781(b)(1) of the Act must be satisfied, taking into account the factors listed under section 781(b)(2) of the Act for determining whether completion or assembly in the third country is minor or insignificant. Moreover, pursuant to section 781(b)(3) of the Act, in determining whether to include merchandise assembled or completed in a foreign country within the scope of an order, Commerce must take into account such factors as the pattern of trade, including sourcing patterns, affiliations, and whether imports into the foreign country of the merchandise described in section 781(b)(1)(B) of the Act have increased after initiation of the investigation that results in the order.

Pursuant to sections 781(b)(1)(A) and (B) of the Act, Commerce preliminarily finds that the inquiry merchandise imported into the United States is within the same class or kind of merchandise as the class or kind of merchandise subject to the *Orders* and that this merchandise is being completed, in part, from inputs produced in China, the country with respect to which the applicable *Orders* apply.

Based on the factors listed under section 781(b)(2) of the Act, and pursuant to section 781(b)(1)(C) of the Act, Commerce preliminarily finds that the process of assembly or completion of inquiry merchandise in Thailand is minor or insignificant for both YF Technology and UM Industry. Therefore, we preliminarily find that the totality of the factors indicates the process of completion in Thailand is minor or insignificant.¹⁰³

¹⁰⁰ See Import Data Memorandum.

¹⁰¹ *Id.*

¹⁰² For a full explanation, see YF Technology Preliminary Analysis Memorandum and UM Industry Preliminary Analysis Memorandum.

¹⁰³ See *Uncovered Innerspring Units from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 78 FR 41784 (July 11, 2013).

Pursuant to section 781(b)(1)(D) of the Act, Commerce preliminarily finds that the value of the merchandise produced in China that was used to produce inquiry merchandise is a significant portion of the total value of the merchandise exported from Thailand to the United States by both YF Technology and UM Industry.

Concerning the three factors under section 781(b)(3) of the Act (*i.e.*, pattern of trade and sourcing, affiliations, and whether imports of material inputs from China increased), Commerce preliminarily finds that each of these factors supports a preliminary affirmative determination of circumvention for both YF Technology and UM Industry.

Based on an analysis of the totality of the information on the record of the circumvention inquiry related to both YF Technology and UM Industry, we preliminarily find that both mandatory respondents are circumventing the *Orders* in accordance with section 781(b) of the Act. Based on the totality of the circumstances, we preliminarily find, on a country-wide basis, that imports of collated staples completed in Thailand from Chinese-origin inputs, are circumventing the antidumping and countervailing duty orders on collated staples from China.

Furthermore, upon taking into consideration section 781(b)(3) of the Act, we also have preliminarily determined that action is warranted to prevent evasion of the *Orders* pursuant to section 781(b)(1)(E) of the Act.

XI. CERTIFICATION PROCESS AND COUNTRY-WIDE AFFIRMATIVE DETERMINATION OF CIRCUMVENTION

As noted above, Commerce identified the universe of potential producers of collated staples in, and exporters of collated staples from, Thailand using CBP import data. We then issued Q&V questionnaires to certain companies, invited all other companies to respond to the Q&V questionnaire, and selected, as mandatory respondents, companies that exported the largest quantity of collated staples to the United States from Thailand based on information reported in response to the Q&V questionnaire.

Under 19 CFR 351.226(m)(1), Commerce is authorized, based on available evidence, to take the appropriate remedy to address circumvention and prevent evasion of an order, including the application of a determination on a country-wide basis. As stated above, we preliminarily determine that YF Technology and UM Industry are both circumventing the *Orders*. Because Commerce was unable to examine all Thai producers of collated staples, Commerce determines that a country-wide determination is most appropriate to prevent further circumvention of the *Orders* by non-examined producers of inquiry merchandise in Thailand. Therefore, Commerce is applying this preliminary affirmative determination of circumvention to all shipments of inquiry merchandise from Thailand on or after December 21, 2022 (*i.e.*, the date of publication of the *Initiation Notice*).¹⁰⁴

In order to administer this preliminary country-wide affirmative determination of circumvention, Commerce has established importer and exporter certifications that specific entries of inquiry

¹⁰⁴ See 19 CFR 351.226(l)(2)(ii).

merchandise are not subject to suspension of liquidation or the collection of cash deposits pursuant to this preliminary country-wide affirmative determination of circumvention because the merchandise was not manufactured using certain inputs produced in China. For a copy of this type of certification and information regarding the certification requirements, *see* the accompanying *Federal Register* notice.

Accordingly, companies that were not individually examined can certify whether their products are subject to suspension of liquidation or the collection of cash deposits based on the requirements and process described in the accompanying *Federal Register* notice.

XII. RECOMMENDATION

We recommend preliminarily finding, pursuant to 781(b) of the Act and 19 CFR 351.226(g)(1), that imports of collated staples, completed in Thailand using steel wire and wire bands manufactured in China, are circumventing the *Orders* on a country-wide basis and consequently, should be included within the scope of the *Orders*.

Agree

Disagree

8/18/2023

X



Signed by: LISA WANG
Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-112, C-570-113

Antidumping and Countervailing Duty Orders on Certain Collated Steel Staples from the People's Republic of China: Preliminary Affirmative Determinations of Circumvention with Respect to the Kingdom of Thailand and the Socialist Republic of Vietnam

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of certain collated steel staples (collated staples) that were: (1) exported from the Kingdom of Thailand (Thailand) using inputs (*i.e.*, steel wire and wire band) manufactured in the People's Republic of China (China), and (2) exported from the Socialist Republic of Vietnam (Vietnam) using wire band manufactured in China, as specified below, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on collated staples from China.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Brian Smith (Thailand) and Shane Subler (Vietnam), Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1766 and (202) 482-6241, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2020, Commerce published in the *Federal Register* AD and CVD orders on

U.S. imports of collated staples from China.¹ On December 14, 2022, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(d)(1)(ii), Commerce initiated country-wide circumvention inquiries to determine whether imports of collated staples, completed in Thailand and Vietnam (collectively, the third countries), using inputs (*i.e.*, steel wire and wire bands) manufactured in China, are circumventing the *Orders* and, accordingly, should be covered by the scope of the *Orders*.² On March 3 and 7, 2023, Commerce selected two respondents from each of the examined third countries as the mandatory respondents in these circumvention inquiries.³

On May 11, 2023, Commerce extended the deadline for issuing the preliminary determinations in these circumvention inquiries by 88 days, until August 18, 2023.⁴ For a complete description of the events that followed the initiation of these circumvention inquiries, *see* the Preliminary Decision Memoranda.⁵ The topics included in the Preliminary Decision Memoranda are identified in Appendix I of this notice. The Preliminary Decision Memoranda are public documents and are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete

¹ *See Certain Collated Steel Staples from the People's Republic of China: Antidumping Duty Order*, 85 FR 43815 (July 20, 2020) (*Collated Staples AD Order*) and *Certain Collated Steel Staples from the People's Republic of China: Countervailing Duty Order*, 85 FR 43813 (July 20, 2020) (*Collated Staples CVD Order*) (collectively, *Orders*).

² *See Certain Collated Steel Staples from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 87 FR 78047 (December 21, 2022) (*Initiation Notice*).

³ *See* Memorandum, "Identification of Mandatory Respondents," dated March 3, 2023; *see also* Memorandum, "Kingdom of Thailand Respondent Identification," dated March 7, 2023.

⁴ *See* Memorandum, "Extension of Preliminary Determination," dated May 11, 2023.

⁵ *See* Memoranda, "Certain Collated Steel Staples from the People's Republic of China: Preliminary Decision Memorandum for the Circumvention Inquiry with Respect to the Kingdom of Thailand," and "Certain Collated Steel Staples from the People's Republic of China: Preliminary Decision Memorandum for the Circumvention Inquiry with Respect to the Socialist Republic of Vietnam," each dated concurrently with, and hereby adopted by, this notice (collectively, Preliminary Decision Memoranda).

version of the Preliminary Decision Memoranda can be accessed directly at

<https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the *Orders*

The merchandise covered by the *Orders* is certain collated steel staples. For a full description of the scope of the *Orders*, see the Preliminary Decision Memoranda.

Merchandise Subject to the Circumvention Inquiries

These circumvention inquiries cover collated staples, assembled or completed in Thailand using Chinese-origin steel wire and/or wire bands, and in Vietnam using Chinese-origin wire bands, that are subsequently exported from Thailand and Vietnam to the United States (inquiry merchandise).

Methodology

Commerce made these preliminary circumvention determinations in accordance with section 781(b) of the Act and 19 CFR 351.226. For a full description of the methodology underlying the preliminary determinations, see the Preliminary Decision Memoranda.

Preliminary Circumvention Determinations

We preliminarily determine that collated staples, assembled or completed in Thailand by the entities identified in Appendix II of this notice, using Chinese-origin steel wire, and/or wire bands, that are subsequently exported from Thailand to the United States, are circumventing the *Orders*. For a detailed explanation of our determinations with respect to the entities identified in Appendix II, see the Preliminary Decision Memorandum for Thailand.

We also preliminarily determine that collated staples, assembled or completed in Vietnam by the entities identified in Appendix II of this notice, using Chinese-origin wire bands, that are subsequently exported from Vietnam to the United States, are circumventing the *Orders*. For a

detailed explanation of our determinations with respect to the entities identified in Appendix II, *see* the Preliminary Decision Memorandum for Vietnam and the “Use of Adverse Facts Available” section, below.

As detailed in the Preliminary Decision Memoranda, we also preliminarily determine that U.S. imports of inquiry merchandise exported from Thailand and Vietnam are circumventing the *Orders* on a country-wide basis.

See the “Suspension of Liquidation and Cash Deposit Requirements” section below for details regarding suspension of liquidation and cash deposit requirements. *See* the “Certification” and “Certification Requirements” sections below for details regarding the use of certifications for inquiry merchandise exported from Thailand and/or Vietnam.

Use of Adverse Facts Available

Pursuant to section 776(a) of the Act, if necessary information is not available on the record, or an interested party withholds requested information, fails to provide requested information by the deadline or in the form and manner requested, or significantly impedes a proceeding, Commerce shall use the facts otherwise available in reaching the applicable determination. Moreover, pursuant to section 776(b) of the Act, Commerce may use inferences adverse to the interests of an interested party in selecting from among the facts otherwise available if the party fails to cooperate by not acting to the best of its ability to provide requested information.

For purposes of respondent selection, Commerce requested information from certain companies in Vietnam related to the quantity and value (Q&V) of their exports during the inquiry period. In these Q&V questionnaires, Commerce explained that, if the company to which Commerce issued the questionnaire failed to respond to the questionnaire, or failed to

provide the requested information, Commerce may find that the company failed to cooperate by not acting to the best of its ability to comply with the request for information, and may use an inference that is adverse to the company's interests in selecting from the facts otherwise available. Two companies to which Commerce issued the Q&V questionnaire in the Vietnam inquiry (*i.e.*, Meihotech Vietnam Inc. (Meihotech) and Weifang Wenhe Pneumatic Tools Co., Ltd. (Weifang Wenhe)) received, but failed to timely respond to, the Q&V questionnaire.

Therefore, we preliminarily find that necessary information is not available on the record and that Meihotech and Weifang Wenhe withheld requested information, failed to provide requested information by the deadline or in the form and manner requested, and significantly impeded the inquiry. Moreover, we find that these companies failed to cooperate to the best of their ability to provide the requested Q&V information because they did not timely respond to Commerce's Q&V questionnaire. Consequently, we relied upon adverse inferences with respect to Meihotech and Weifang Wenhe in selecting from among the facts otherwise available on the record, pursuant to sections 776(a) and (b) of the Act. For details regarding the adverse facts available relied upon in our decision, *see* the Preliminary Decision Memorandum for Vietnam.

Therefore, we preliminarily determine that Meihotech and Weifang Wenhe exported inquiry merchandise and that U.S. entries of that merchandise are circumventing the *Orders*. Additionally, we are preliminarily precluding Meihotech and Weifang Wenhe from participating in the certification program that we are establishing for exports of collated staples from Vietnam.

U.S. entries of inquiry merchandise made on or after December 14, 2022, that are ineligible for certification based on the failure of Meihotech and Weifang Wenhe to cooperate, or for other reasons, shall remain subject to suspension of liquidation until final assessment instructions on those entries are issued, whether by automatic liquidation instructions, or by

instructions pursuant to the final results of an administrative review.⁶ Interested parties that wish to have their suspended entries, if any, reviewed, and their ineligibility for the certification program re-evaluated, should request an administrative review of the relevant suspended entries during the next anniversary month of these *Orders* (i.e., July 2024).⁷

Suspension of Liquidation and Cash Deposit Requirements

Based on the preliminary affirmative country-wide determinations of circumvention for Thailand and Vietnam, and the preliminary affirmative determinations of circumvention for the companies identified in Appendix II, in accordance with 19 CFR 351.226(l)(2), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of collated staples, assembled or completed in Thailand using Chinese-origin steel wire and/or wire bands, and in Vietnam using Chinese-origin wire bands, that were entered, or withdrawn from warehouse, for consumption on or after December 21, 2022, the date of publication of the *Initiation Notice*.⁸

For exporters of the collated staples that have a company-specific cash deposit rate under the *Collated Staples AD Order* and/or *Collated Staples CVD Order*, the cash deposit rate will be the company-specific AD and/or CVD cash deposit rate established for that company in the most recently completed segment of the collated staples proceedings. For exporters of collated staples that do not have a company-specific cash deposit rate under the *Collated Staples AD Order* and/or *Collated Staples CVD Order*, the cash deposit rate will be the company-specific cash deposit rate established under the *Collated Staples AD Order* and/or *Collated Staples CVD*

⁶ Commerce continues to consider the process by which companies may demonstrate eligibility for the certification program in future segments of the collated staples proceedings. Commerce encourages interested parties to provide comments on this topic in their case briefs.

⁷ See 19 CFR 351.213(b).

⁸ See 19 CFR 351.226(l)(2)(ii).

Order for the company that exported the steel wire and/or wire bands to the producer/exporter in Thailand and for the company that exported the wire bands to the producer/exporter in Vietnam that were incorporated in the imported collated staples.

If neither the exporter of the collated staples from Thailand, nor the Chinese exporter of the steel wire and/or wire bands has a company-specific cash deposit rate, the AD cash deposit rate will be the China-wide rate (112.01 percent), and the CVD cash deposit rate will be the “all-others” rate (12.32 percent).

If neither the exporter of the collated staples from Vietnam, nor the Chinese exporter of the wire bands, has a company-specific cash deposit rate, the AD cash deposit rate will be the China-wide rate (112.01 percent), and the CVD cash deposit rate will be the “all-others” rate (12.32 percent). Commerce has established the following third-country case numbers in the Automated Commercial Environment (ACE) for such entries: Thailand A-549-112 / C-549-113; Vietnam A-552-112 / C-552-113. The suspension of liquidation will remain in effect until further notice.

Certified Entries

Entries for which the importer and exporter have met the certification requirements described below and in Appendices III and IV to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to antidumping and countervailing duties.

Certifications

In order to administer the preliminary country-wide and company-specific affirmative determinations of circumvention for Thailand and Vietnam, Commerce has established importer

and exporter certifications. These certifications will permit importers and exporters to establish that specific entries of collated staples from Thailand and Vietnam are not subject to suspension of liquidation or the collection of cash deposits pursuant to these preliminary country-wide affirmative determinations of circumvention because the merchandise meets the component content requirements described in the certification (*see* Appendix III (for Thailand) and Appendix IV (for Vietnam) to this notice). Because Meihotech and Weifang Wenhe were non-cooperative, they are not eligible to use the certifications described above.⁹

Importers and exporters that claim that an entry of collated staples is not subject to suspension of liquidation or the collection of cash deposits based on the inputs used to manufacture such merchandise must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to

⁹ *See* Preliminary Decision Memorandum for Vietnam at "Use of Facts Available with Adverse Inferences," and, *e.g.*, *Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672, 54675-76 (October 13, 1998).

facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.*, invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification must be completed by the party selling the collated staples that were manufactured in Thailand or Vietnam to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all collated staples from Thailand and Vietnam that were entered, or withdrawn from warehouse, for consumption during the period December 2022 (*i.e.*, the date of publication of the *Initiation Notice*, through the date of publication of these preliminary determinations in the *Federal Register*, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should be completed and signed as soon as practicable, but not later than 45 days after the date of publication of these preliminary determinations in the *Federal Register*. For such entries, importers and exporters each have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof. The exporter must provide the importer with a copy of the

exporter certification within 45 days of the date of publication of these preliminary determinations in the *Federal Register*.

For unliquidated entries (and entries for which liquidation has not become final) of collated staples that were declared as non-AD/CVD type entries (*e.g.*, type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period December 21, 2022 (the date of publication of the *Initiation Notice*) through the date of publication of these preliminary determinations in the *Federal Register*, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD/CVD type entries to AD/CVD type entries (*e.g.*, type 01 to type 03). Importers should report those AD/CVD type entries using the following third-country case numbers: Thailand A-549-112 / C-549-113; Vietnam A-552-112 / C-552-113. Other third-country case numbers may be established following the process described above. The importer should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

If it is determined that an importer and/or exporter has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to these preliminary country-wide affirmative determinations of circumvention and the *Orders*,¹⁰ all unliquidated entries for which these requirements were not met and to require the importer to post applicable AD and CVD cash deposits equal to the rates noted above.

¹⁰ See *Orders*.

Interested parties may comment in their case briefs on these certification requirements, and on the certification language contained in the appendices to this notice.

Public Comment

Case briefs or other written comments for a particular country should be submitted to the Assistant Secretary for Enforcement and Compliance no later than 14 days after the issuance of these preliminary determinations.¹¹ Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.¹² Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these circumvention inquiries are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing for a particular country, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the *Federal Register*. Requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues that the party intends to discuss at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing

¹¹ See 19 CFR 351.226(f)(4).

¹² *Id.*; see also 19 CFR 351.303 (for general filing requirements).

¹³ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

U.S. International Trade Commission Notification

Consistent with section 781(e) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these circumvention inquiries within the *Orders*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(1).

Dated: August 18, 2023

/S/ Lisa W. Wang

Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

Appendices

Appendix Number	Appendix Name
I	Topics Discussed in the Preliminary Decision Memoranda
II	Companies Preliminarily Found to Be Circumventing the <i>Orders</i>
III	Certification Regarding Chinese Inputs – Thailand
IV	Certification Regarding Chinese Inputs – Vietnam

Appendix I

Topics Discussed in the Preliminary Decision Memoranda

Thailand

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Period of the Circumvention Inquiry
- VI. Affiliation
- VII. Non-Market Economy Methodology for Valuing Material Inputs from China
- VIII. Statutory and Regulatory Framework for the Circumvention Inquiry
- IX. Statutory Analysis for the Circumvention Inquiry
- X. Summary of Statutory Analysis
- XI. Certification Process and Country-Wide Affirmative Determination of Circumvention
- XII. Recommendation

Vietnam

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Period of the Circumvention Inquiry
- VI. Application of Facts Available and Use of Adverse Inferences
- VII. Surrogate Country and Methodology for Valuing Factors of Production and Processing in Vietnam
- VIII. Surrogate Country and Methodology for Valuing Factors of Production and Processing in China
- IX. Statutory and Regulatory Framework for the Circumvention Inquiry
- X. Analysis of Statutory Criteria for the Circumvention Inquiry
- XI. Summary of Statutory Analysis
- XII. Country-Wide Affirmative Determination of Circumvention
- XIII. Recommendation

Appendix II

Companies Found to Be Circumventing the *Orders*

Thailand

1. YF Technology Corporation, Ltd.
2. UM Industry, Co., Ltd.

Vietnam

1. Vina Hardwares Joint Stock Company
2. VN Fasteners Co., Ltd.
3. Vina Staples Company Limited
4. Meihotech Vietnam Inc. (based on adverse facts available)
5. Weifang Wenhe Pneumatic Tools Co., Ltd. (based on adverse facts available)

Appendix III

CERTIFICATION REGARDING CHINESE INPUTS (FOR THAILAND)

IMPORTER CERTIFICATION

I hereby certify that:

- A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.
- B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the certain collated steel staples (collated staples) from the People's Republic of China (China) completed in Thailand that entered under the entry summary number(s), identified below, and are covered by this certification. "Direct personal knowledge" refers to the facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the exporter's and/or seller's identity and location.
- C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:
- The collated staples covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.
- If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:
- {NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.
- D. The collated staples covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.
- E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. "Personal knowledge" includes facts obtained from another party, (e.g., correspondence received by the importer (or exporter) from the producer regarding the source of the inputs used to produce the imported products).
- F. The importer certifies that the collated staples produced in Thailand that are covered by this certification were not manufactured using steel wire and/or wire bands produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.

G. The collated staples covered by this certification are not covered by the antidumping duty or countervailing duty orders on collated staples from China.

H. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller's Address:

Foreign Seller's Invoice #:

Foreign Seller's Invoice Line Item #:

Producer:

Producer's Address:

I. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

J. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to information regarding the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

K. I understand that {NAME OF IMPORTING COMPANY} is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon the request of either agency.

L. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

M. I understand that failure to maintain the required certifications and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are entries of merchandise that is covered by the

scope of the antidumping and countervailing duty orders on certain collated steel staples from China. I understand that such a finding will result in:

- (i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;
- (ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and
- (iii) the importer no longer being allowed to participate in the certification process.

N. I understand that agents of the importer, such as brokers, are not permitted to make this certification.

O. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce’s preliminary determination of circumvention in the *Federal Register*. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce’s preliminary determination of circumvention in the *Federal Register*, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce’s preliminary determination of circumvention in the *Federal Register*.

P. I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

EXPORTER CERTIFICATION

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL’S NAME} and I am an official of {NAME OF EXPORTING COMPANY}, located at {ADDRESS OF EXPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the production and exportation of the collated staples for which sales are identified below. “Direct personal knowledge” refers to

facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

- C. The collated staples covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.
- D. The seller certifies that the collated staples produced in Thailand that are covered by this certification were not manufactured using steel wire and/or wire bands produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.
- E. The collated staples covered by this certification are not covered by the antidumping duty or countervailing duty orders on collated staples from China.
- F. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:

Foreign Seller's Invoice to U.S. Customer Line Item #:

Producer Name:

Producer's Address:

Producer's Invoice # to the Foreign Seller: (*if the foreign seller and the producer are the same party, report "NA" here*)

- G. I understand that {EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product specification sheets, customer specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.
- H. I understand that {EXPORTING COMPANY} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon the request of either agency.
- I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.
- J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are sales of merchandise that is covered by the scope of the

antidumping and countervailing duty orders on collated staples from China. I understand that such a finding will result in:

- (i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;
- (ii) the importer being required to post the antidumping and countervailing duty cash deposits determined by Commerce; and
- (iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is after the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*. If the shipment date is on or before the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*.

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

APPENDIX IV

CERTIFICATION REGARDING CHINESE INPUTS (FOR VIETNAM)

IMPORTER CERTIFICATION

I hereby certify that:

- A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.
- B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the certain collated steel staples (collated staples) from the People's Republic of China (China) completed in Vietnam that entered under the entry summary number(s), identified below, and are covered by this certification. "Direct personal knowledge" refers to the facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the exporter's and/or seller's identity and location.

- C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The collated staples covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

- D. The collated staples covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.
- E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. "Personal knowledge" includes facts obtained from another party, (e.g., correspondence received by the importer (or exporter) from the producer regarding the source of the inputs used to produce the imported products).
- F. The importer certifies that the collated staples produced in Vietnam that are covered by this certification were not manufactured using wire bands produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.

G. The collated staples covered by this certification are not covered by the antidumping duty or countervailing duty orders on collated staples from China.

H. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller's Address:

Foreign Seller's Invoice #:

Foreign Seller's Invoice Line Item #:

Producer:

Producer's Address:

I. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

J. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to information regarding the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

K. I understand that {NAME OF IMPORTING COMPANY} is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon the request of either agency.

L. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

M. I understand that failure to maintain the required certifications and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are entries of merchandise that is covered by the scope of the antidumping and countervailing duty orders on collated staples from China. I understand that such a finding will result in:

- (i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;
- (ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and
- (iii) the importer no longer being allowed to participate in the certification process.

N. I understand that agents of the importer, such as brokers, are not permitted to make this certification.

O. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*.

P. I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

EXPORTER CERTIFICATION

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF EXPORTING COMPANY}, located at {ADDRESS OF EXPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the production and exportation of the collated staples for which sales are identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

- C. The collated staples covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.
- D. The seller certifies that the collated staples produced in Vietnam that are covered by this certification were not manufactured using wire bands produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.
- E. The collated staples covered by this certification are not covered by the antidumping duty or countervailing duty orders on collated staples from China.
- F. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:

Foreign Seller's Invoice to U.S. Customer Line Item #:

Producer Name:

Producer's Address:

Producer's Invoice # to the Foreign Seller: (if the foreign seller and the producer are the same party, report "NA" here)

- G. I understand that {EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product specification sheets, customer specification sheets, production records, invoices, etc.) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.
- H. I understand that {EXPORTING COMPANY} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon the request of either agency.
- I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.
- J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are sales of merchandise that is covered by the scope of the antidumping and countervailing duty orders on collated staples from China. I understand that such a finding will result in:

- (i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;
- (ii) the importer being required to post the antidumping and countervailing duty cash deposits determined by Commerce; and
- (iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is after the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*. If the shipment date is on or before the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*.

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}