

**UNITED STATES DEPARTMENT OF COMMERCE  
INTERNATIONAL TRADE ADMINISTRATION  
IMPORT ADMINISTRATION**

**COUNTERVAILING DUTY QUESTIONNAIRE**

**Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam  
C-552-805**

**PERIOD OF INVESTIGATION:** **Calendar Year 2008  
(January 1, 2008 through December 31, 2008)<sup>1</sup>**

**SECTIONS II and III  
RESPONSE DUE DATE:** **June 24, 2009**

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**Return Questionnaire Response to:**

**Secretary of Commerce  
Import Administration/APO Dockets Unit, Room 1870  
U.S. Department of Commerce  
Fourteenth Street and Constitution Avenue, NW  
Room 1870  
Washington, D.C. 20230**

**STATUTORY REFERENCE:** **Tariff Act of 1930, Title VII, as amended**

**REGULATORY REFERENCE:** **19 CFR Parts 351 and 354**

**COUNTERVAILING DUTY INVESTIGATION  
TIME LINE**

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<sup>1</sup> The period of investigation (POI) is January 1, 2008 through December 31, 2008, or the most recently completed fiscal year for the Government of Vietnam (GOV) and all of the companies under investigation, provided the GOV and the companies have the same fiscal year.

	<b>Days per Event</b>	<b>One-year Count</b>
Initiation	0	0
Questionnaire Issued	28	28
Notification of Difficulty in Responding to the Questionnaire (14 days after receipt) <i>See 351.301(c)(2)(iv)</i>	14	34
Response <i>See 351.301(c)(2)(iii)</i>	37	59
Allegation of Upstream Subsidies <i>See 351.301 (d)(4)(ii)(A)</i>		55
Preliminary Determination <i>See 351.205(b)(1)</i>	65**	65**
Submission of Proposed Suspension Agreement <i>See 351.208(f)(1)(B)</i>	7	72
Submission of Ministerial Error Comments <i>See 351.224(c)(2)</i>	5	75
Request to Align CVD case with concurrent AD case <i>See 351.210(I)</i>		77
Submission of Factual Information <i>See 351.301(b)(1)</i>		79
Verification <i>See 351.307</i>	15	86-101
Verification Report	14	115
Case Briefs Due <i>See 351.309(c)(1)(I)</i>	50	122
Rebuttal Briefs Due <i>See 351.309(d)</i>	5	127
Hearing <i>See 351.310(d)(1)</i>		129
Final Determination Issued <i>See 351.210(b)(1)</i>	75	140**
Most of the deadlines shown here are approximate. The actual deadline in any particular segment of a proceeding may depend on the date of an earlier event or be established by the Secretary.  ** May be extended.		

## PUBLIC SERVICE LIST

The public service list is a compilation of parties with Administrative Protective Order (APO) access, interested parties, and other parties who have requested to be included on the Public Service List. Only the authorized applicants with an APO are entitled to be served with business proprietary information. All parties on this list are entitled to public documents and public versions of proprietary documents.

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## **SECTION I GENERAL INSTRUCTIONS**

The U.S. Department of Commerce (the Department) requests information about subsidies alleged to be provided to producers/exporters in the Socialist Republic of Vietnam (Vietnam) of Polyethylene Retail Carrier Bags (PRCBs) or “subject merchandise.” Section 775 of the Tariff Act of 1930, as amended (the Act), also requires the Department to investigate any other potential subsidies it discovers during the course of this investigation that pertain to the manufacture, production, or exportation of PRCBs.

If you have questions during the course of this investigation, we urge you to consult with the officials in charge named on the cover page. If for any reason you do not believe that you can complete the response to the questionnaire by the date specified on the cover page of this questionnaire, or in the form requested, you should contact the official in charge immediately.

Your response to the questionnaire should include all of the information requested. It is essential, and in your interest, that the Department receives complete information early in the proceeding to ensure a thorough and accurate analysis, and to provide all parties the fullest opportunity to review and comment on your submission and the Department’s analysis. We appreciate your cooperation in this investigation.

### **I. PRODUCERS/EXPORTERS SUBJECT TO INVESTIGATION**

We have selected Advance Polybag Co., Ltd., Chin Sheng Co., Ltd., and Fotai Vietnam Enterprise Corporation, the three largest publicly identifiable Vietnamese producers/exporters of subject merchandise, as the mandatory company respondents (hereinafter, “respondents,” “company respondents,” or “companies under investigation”). See Selection of Respondents for the Countervailing Duty Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam, May 13, 2009 (Respondent Selection Memorandum).

### **II. SCOPE AND TIME PERIOD OF INVESTIGATION**

#### **A. Scope**

The merchandise subject to this investigation is polyethylene retail carrier bags (PRCBs), which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail,

discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.

Imports of merchandise included within the scope of this investigation are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

B. Period of Investigation

The time period covered by this investigation (the period of investigation - POI) is calendar year 2008 (January 1, 2008 through December 31, 2008), or the most recently completed fiscal year for the Government of Vietnam (GOV) and the companies under investigation, provided the GOV and the companies have the same fiscal year.

**It is the responsibility of the GOV to notify the companies selected as respondents of the appropriate POI.**

**III. FILING REQUIREMENTS AND GUIDELINES**

A. Due Date

1. **June 24, 2009, for Sections II and III**
2. The GOV is responsible for submitting the responses for all central, provincial, and local governments, as well as any company information requested in the government section of this questionnaire. Either the GOV or the companies under investigation are responsible for submitting the company's responses to the Department in a timely manner such that they will be received by the Department in Washington, D.C., no later than the close of business on the *due date indicated above*. All laws, regulations, and other descriptive materials that supplement your responses should be submitted on the same date as the initial responses.
3. Proprietary versions must be submitted by the due date specified above. The public version may be filed one business day after the proprietary version. However, you may not use this time as an opportunity to amend or revise in any way the business proprietary version of the response. Responses containing no proprietary information must be filed on the due

date.

B. Number of Copies

1. Generally, you must submit six (6) copies (one original plus five copies).
2. If a response contains any proprietary information, under the “one-day lag rule” (see 19 CFR 351.303<sup>2</sup>) you may submit one (1) copy of the business proprietary document within the time limit; then, by close of business of the following business day, you must submit:

Six (6) copies of the proprietary version

Three (3) copies of the non-proprietary version

One (1) copy of the APO version, if one has been prepared.

However, if you file an electronic copy of the proprietary version in Microsoft Word 1997-2003, you need file only four (4) copies of the proprietary version. Filing requirements for the non-proprietary and APO versions remain the same. If you opt to file an electronic copy of the proprietary version, please also certify that you have scanned the diskette for viruses.

*Note:* the final business proprietary version must be identical to the business proprietary version filed on the previous day, except for bracketing corrections.

3. If a response contains no proprietary information, you must submit:

Six (6) copies (one original plus five copies) of the non-proprietary response.

4. Please submit three courtesy copies to the attention of Mark Hoadley, Program Manager, AD/CVD Operations, Office 6, Room 7866.

C. Document Format and Information Guidelines

1. You are required to state in the upper right-hand corner of your cover letter:
  - a. the Department case number (**C-552-805**);

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<sup>2</sup> All references to the Department’s regulations refer to 19 CFR 351 and 354, as published in the Federal Register on May 19, 1997 (62 FR 27296), May 4, 1998 (63 FR 24391), November 25, 1998 (63 FR 65348), and January 22, 2008 (73 FR 3634), unless otherwise noted.

- b. the total number of pages in the document including cover pages and appendices;
  - c. the numbers of any pages containing proprietary information; and
  - d. whether you agree or object to release of the submitted information under APO (see Section H below).
2. Please include a “Re:” line on the cover letter of your response, or any other submissions you make during this investigation. In the Re: line, briefly summarize the purpose of your submission, e.g., “response to August 18, 2008 questionnaire,” “case brief,” etc.
3. In your response, please repeat the number and narrative of each question prior to providing your answer. We are enclosing a diskette with this questionnaire in Microsoft Word 2007 (in a format that is compatible with Microsoft Word 1997 – 2003) for your convenience. You may wish to scan the diskette for viruses before using it.
4. Prepare your response in typed form and in English or accompanied by an English translation. Any foreign language submission which is not accompanied by an English translation will be disregarded.

In addition, any document we request below must also be translated and copies of both the Vietnamese and English versions of the documents should be submitted.

5. In each of your answers, please list your source(s) of information. Please provide, with your response, copies of all source materials.
6. Identify all units of measurement, currencies and conversion factors used in your narrative response, worksheets or other appendices. All monetary amounts should be shown in the currency in which they were originally denominated, and in the currency in which they are registered in your accounts (if the two are different). Also, report the actual exchange rate used for a particular conversion. For all values adjusted for inflation, please provide the data in both nominal and adjusted terms and explain how these values were adjusted.
7. We request that tabulated information regarding company use of programs (e.g., loans, loan guarantees, and grants) be submitted on IBM-PC compatible 3.5" DS/DD floppy disks or CDs, using the Microsoft Excel financial spreadsheet program compatible with the Microsoft Windows Operating System (MS-Windows) software. Two sets of spreadsheet files on separate diskettes or CDs will be needed.

8. Please file your questionnaire response in Washington, D.C. at the address listed on the cover page.

D. Certification

You must certify that all information you provide is accurate and complete.

Section 782(b) of the Act requires that the providers of information and the person submitting it, if different (i.e., your legal representative), certify that they have read the information contained in the submission and that it is accurate and complete to the best of their knowledge. All submissions that do not contain such certification statements will be rejected at the time of filing. A form for such certification is included as Appendix 7 to Section II and Appendix 7 to Section III of this questionnaire. You may photocopy this form and submit a completed copy with each of your submissions; refer to 19 CFR 351.303 for guidance.

E. Proprietary Information

If you wish to make a request for proprietary treatment of particular information, refer to 19 CFR 351.304.

1. As a general rule, all information will be made available in the public file unless proprietary treatment is requested.
2. You must indicate, at the time of your submission, whether the information is public or proprietary.
3. Proprietary treatment may be requested for all or any part of the information submitted during this investigation.
4. Proprietary treatment may not be requested for information which is publicly available.
5. If we disagree with your contention that the information is proprietary, you either may agree to have the material made publicly available, or you may withdraw the material. Material which you withdraw will not be considered in our determinations.
6. If we agree that the information is proprietary, we will not publicly disclose that information.
7. Place brackets (“[ ]”) around information for which you request business proprietary treatment. Place double brackets (“[[ ]]”) around information for which you request proprietary treatment and which you do not agree to

release under APO.

8. Place double brackets (“[[ ]]”) around customer names. The Department may not release customer names under APO during an investigation.

F. Public Summary of Proprietary Information

Where you request proprietary treatment of information (see 19 CFR 351.304(a)), your response must be in accordance with one of the two options listed below:

1. the public summary of the proprietary information must conform to the requirements of 19 CFR 351.304(c)(1); or
2. alternatively, if you submit a statement that the information cannot be summarized as described in 19 CFR 351.304(b)(2), you must state all supporting reasons that you believe justify withholding the information.

As indicated above, you are permitted to file and serve the public version of any document containing business proprietary information within one day after filing the business proprietary version. However, you may not use this time as an opportunity to amend or revise in any way the business proprietary version of the response.

G. Government Confidential Information

Any government confidential information communicated to us should be clearly labeled, preferably with the national security classification mark of the responsible authority. The appropriate authority should also submit a statement explaining, in detail, why the information is confidential in accordance with U.S. Executive Order No. 12356.

Please note that any company-specific information submitted by government authorities, for which the government is acting merely as a conduit, is not entitled to government confidential treatment; such information is covered by the proprietary standards outlined above.

H. Administrative Protective Order

Section 351.305 of the Department’s regulations permits limited disclosure to representatives of parties (e.g., legal counsel) of certain business proprietary information, under an administrative protective order. (Note that data received under an APO cannot be shared with others who are not covered by the APO.) Section 351.304(b) of the Department’s regulations requires that all submissions contain either:

1. a statement which permits release under APO of information submitted by you in confidence during the course of the investigation; or,
2. a statement itemizing which portions of that information should not be released under APO together with all arguments supporting any objections to release under APO.

All submissions of proprietary information that do not contain one of these statements will be rejected at the time of the filing. You must state in the upper right-hand corner of the cover letter accompanying your questionnaire response whether you agree or object to release of the submitted information under APO (see 19 CFR 351.304(b) for specific instructions).

If you do not agree to release all or part of the proprietary information, but we determine that the information should, in fact, be released, you will have the opportunity to agree to serve the contested proprietary information under APO or withdraw the information, according to 19 CFR 351.304(d). However, any information which you withdraw or which we return to you will be taken out of the official record and, thus, will not be used in our determination.

I. Serving Other Parties to the Proceeding

1. Parties under APO

- a. Section 777(b) of the Act requires that a submitter of proprietary information shall, at the same time the information is submitted to the Department, directly serve the information upon *all other interested parties* who are parties to the proceeding that are subject to the APO.
- b. This section further states that the administering authority shall not accept any such information that is not accompanied by a *certificate of service* and a copy of the APO version of the document containing the information. Forms for such certification are included at Appendix 3 of Section II and Appendix 4 of Section III of this questionnaire. You may photocopy these forms and submit completed copies with each of your submissions.

2. Parties not under APO

- a. If an interested party is not covered by the APO, then the Department requires a submitter of information to serve *public versions* of the information to those parties.
- b. The accompanying certificate of service must indicate which parties

received only public versions.

3. Submission of Public Information

If an interested party is submitting information which is entirely public (i.e., the original, complete document contains no business proprietary information), the Department requires the submitter to serve the information to all interested parties in the investigation. The submission should also be accompanied by the certificate of service.

J. Verification

All information submitted will be subject to verification. Failure to allow full and complete verification of any piece of information may affect the consideration accorded to that or any other verified or non-verified item in the responses.

## SECTION II QUESTIONNAIRE FOR THE GOVERNMENT OF VIETNAM

This questionnaire requests information about programs alleged to be provided to producers/exporters in Vietnam of PRCBs (or “subject merchandise”). Section 775 of the Act also requires the Department to investigate any other programs discovered during the course of this investigation that potentially confer countervailable subsidies on the manufacture, production, or exportation of PRCBs.

### I. GENERAL QUESTIONS

- A. Please provide the GOV’s tariff schedule numbers which correspond to the HTSUS item numbers listed under Scope in Section I, General Instructions, of this questionnaire. Provide the official description applicable to the products covered by these numbers.
- B. Also provide, if available, any bulletins of economic and/or financial statistics regarding lending, economic development, and economic planning, published during the POI and the three years prior to the POI.
- C. If the company under investigation underwent a change in ownership, in whole or in part, during the preceding number of years corresponding to the average useful life of renewable physical assets (AUL), please contact the official in charge. See the Allocation Appendix attached as Appendix 5 to this section.
- D. Please provide the following documents for each respondent:
  - a) the most recent business registration filed during or before the POI; and,
  - b) other recent documentation that indicates company ownership during and/or the year prior to the POI (only if the business registrations do not indicate ownership).

Please provide these documents for all affiliates of the respondents that produce or export the subject merchandise, are holding companies or parent companies (with their own operations), or that supply an input product primarily dedicated to the production of the subject merchandise. See 19 CFR 351.525(b)(6)(iv). See, also, section III of this questionnaire regarding the identification of cross-owned companies, and sales of subject merchandise made to the United States through export trading companies. In addition, if a respondent is a trading company, then provide the above information for all producers supplying subject merchandise to the respondent. If a respondent is a producer of subject merchandise but sells

subject merchandise through a trading company, provide the above information for the trading company.

E. Accounting Principles

Please provide a copy of the generally accepted accounting principles of Vietnam. If there are different accounting principles applicable to different types of companies, explain the difference in detail and describe to which type of companies each set of principles applies.

F. State Asset Management

Please provide an overview of the system by which the GOV manages and regulates commercial enterprises in which it maintains an ownership interest. Are such enterprises owned and managed by a single agency, through several agencies, or through other publicly owned companies? Please state which laws are applicable, and describe the situation at the central, provincial, and local level. If separate regimes exist for different types of enterprises (e.g., banks, manufacturers), please provide separate responses for these different regimes.

## II. PROGRAM SPECIFIC QUESTIONS

*For each program*, if no company(ies) under investigation or “cross-owned” companies as defined in Section III applied for, used, or benefitted from that program during the POI, the GOV must so state and provide a brief explanation of the program and a detailed description of the records kept on that program. Otherwise, please answer the questions listed.

Respondents should be aware that the Department allocates the benefits received from certain types of subsidies over time.<sup>3</sup> In this investigation, the U.S. Internal Revenue Service’s Depreciation Range System (IRS tables) indicates that the AUL in the plastics industry is 11 years. Thus, in order to appropriately measure any allocated subsidies, the Department plans to use an 11-year AUL in this investigation.<sup>4</sup> Although the POI is a recent period, we are investigating alleged subsidies received over a time period corresponding to the AUL.

The government is responsible for providing the information requested below even if the alleged subsidy was received by companies, or their former parent companies, which

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<sup>3</sup> See 19 CFR 351.524.

<sup>4</sup> Pursuant to 19 CFR 351.524(d)(2), interested parties may argue that the company-specific or country-wide AUL for the industry under investigation differs “significantly” from 11 years. If so, the GOV will need to report subsidies for the alternative AUL.

have since been merged with, purchased by, or have transferred a substantial portion of their assets to, other companies. If former parent companies received assistance under any of the programs listed below, please indicate and provide separate answers.

For any program which had multiple funding sources or was administered by different governmental levels, please provide information as to the roles played by each administering authority.

If a question requires information from other authorities, e.g., provincial or local governments, please forward questions to the correct source. **However, it is the responsibility of the GOV to ensure that full and complete responses to questions on all alleged programs are obtained from the appropriate regional, provincial, or local authority.**

## **Government of Vietnam (GOV) Programs**

### **A. Policy Lending Programs**

#### Economic Planning

The allegations in the petition refer to planning documents, such as five- and ten-year plans for economic development. Please provide an overview of your planning system. Your overview should discuss the types of plans involved (e.g., five year, ten year), should list each type of document involved (e.g., five year plan outlines, catalogues of encouraged industries, implementing guidance and regulations), indicate and describe the agencies involved in planning and preparation of the planning documents, discuss how individual sectors or industries are dealt with separately from the overall economy, and discuss how planning at the provincial or local level corresponds to central level planning. Please ensure all significant general planning documents (e.g., five-year plans, catalogues of encouraged industries), covering the POI, as well as those relating specifically to the plastics industry and subject merchandise, are on the record.

#### Banking

- 1) Please provide an overview of all banks in Vietnam. How many different types of banks are there? Please provide a definition for each type of bank. Please include in your overview an outline of the statutes and regulations applying to lending and bank management, and indicate and describe the agencies responsible for administering banking. If different rules and systems exist for different type of banks, provide complete information for each type of bank.
- 2) Please explain how the GOV defines a “privately owned” bank and whether this definition includes only wholly-owned private banks in which there is no direct or

indirect government ownership. Also please provide definitions for:

- a) state-owned commercial banks;
  - b) joint-stock commercial banks; and
  - c) joint-venture banks.
- 3) Please explain the interest rate structure for long-term and short-term loans in Vietnam. Are there any controls (even through central bank refinancing) of interest rates? Please explain whether the GOV maintains either a ceiling or floor on interest rates that can be charged by banks, and, in addition, explain whether the GOV maintains caps on deposit rates that can be paid by banks.
  - 4) What percentage of lending to industry in Vietnam is provided by the five state-owned commercial banks,<sup>5</sup> by policy banks, by joint-stock commercial banks, by foreign bank branches, by joint-venture banks, and by 100 percent foreign invested branches? Please explain whether banks with state ownership, either direct or indirect ownership, can be classified as joint-stock commercial banks or joint-venture banks.
  - 5) Please provide the three most recent annual reports of your country's central bank.

#### Preferential Lending for Exporters

The petitioners allege that the GOV's industrial policies encourage exports and provide financial support to exporting companies. According to the petitioners, as a matter of GOV policy, exporting companies in Vietnam pay less for financing than other companies. The petitioners have provided information demonstrating that several Vietnamese producers of PRCBs produce goods primarily for export, and have been recognized by the GOV for their export performance. The petitioners contend that exporters of PRCBs are eligible for discounted loans from state-owned banks under this program.

Please provide the information requested in Appendices 1 and 3 with respect to this program. Appendix 3 contains references to "loans under this program," and "loans from the government." Please consider these references to include any loans to respondents provided by the five state-owned banks identified above or by any other state-owned policy or commercial banks.

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<sup>5</sup> Bank of Foreign Trade (Vietcombank), Industrial and Commercial Bank (Incombank), Bank of Investment and Development (BIDV), Agriculture and Rural Development Bank (VBARD), and the Mekong Housing Bank (MHB).

Because benefits provided under this program may be treated as non-recurring, please provide the information requested in Appendix 5, for the entire AUL (i.e., 11 years, from year 1998 through year 2008).

#### Preferential Lending for the Plastics Industry

According to the petitioners, under GOV policy, projects in specified industries are eligible for preferential loans. Specifically, the petitioners claim that the GOV's "Decision No. 11/2004/QD-BCN of February 17, 2004 Approving the General Planning on Development of Vietnam's Plastic Industry Till {sic} 2010" calls for investing in factories that produce plastic products in large capacities. This GOV policy decision also states that the "State's budget capital and preferential credit capital shall be concentrated on investment projects in support of the industry's development."

The petitioners argue that GOV policies direct its Ministry of Finance to make funds available through "preferential loans" in coordination with the State Bank of Vietnam, the Development Assistance Fund and its successor, the Vietnam Development Bank. The petitioners contend that the State Bank of Vietnam owns and regulates Vietnamese commercial banks, and thus lending can be directed to encouraged projects and industries. The petitioners claim that, as a result, these policies and the GOV's ability to direct lending have resulted in preferential loans to manufacturers of plastic products. The petitioners also state that in 2008, the BIDV, a state-owned commercial bank, reduced its interest rates for loans made to enterprises in certain industries, including the plastics industry. The petitioners have provided information that indicates at least one manufacturer of plastic products received preferential loans in connection with several projects, including the construction of a packaging plant.

Please provide the information requested in Appendices 1 and 3 with respect to this program. Appendix 3 contains references to "loans under this program," and "loans from the government." Please consider these references to include any loans to respondents provided by the five state-owned banks identified above or by any other state-owned policy or commercial banks.

Because benefits provided under this program may be treated as non-recurring, please provide the information requested in Appendix 5, for the entire AUL (i.e., 11 years, from year 1998 through year 2008).

## **B. Grant Programs**

### Export Promotion Program

According to the petitioners, the GOV offers financial support to exporting companies pursuant to its “Regulation on Elaboration and Implementation of the 2006-2010 National Trade Promotion Program.” Specifically, the GOV uses an “Export Assistance Fund” to pay portions of companies’ costs to participate in export promotion activities. The petitioners claim that under this program, the GOV pays 50 percent of the costs associated with: 1) disseminating commercial information about exports, or establishing a database for exporting enterprises; 2) export consulting; 3) export-related training; and 4) attending trade fairs for export goods. The petitioners also claim that the GOV pays 70 percent of the costs associated with: 1) export market surveys; 2) promoting brand names; 3) establishing exporting infrastructure such as bonded warehouses; 4) “E-Commerce” research related to exports; and 5) other export-related activities approved by the GOV. According to the petitioners, a joint report prepared by the WTO and the GOV confirms that the GOV provides producers of plastics products support to attend trade fairs. Petitioners have provided information that indicates several producers of PRCBs have been recognized by the GOV for their export performance.

Please provide the information requested in Appendices 1 and 2 with respect to this program. To determine the time period for which you need to report information regarding this program, refer to Appendix 5.

#### Export Bonus Program

The petitioners allege that, the GOV’s Subsidy Notification to the WTO describes several programs to encourage businesses to implement export-oriented investment and development projects. Specifically, the petitioners claim that the GOV has an export bonus program that expressly includes “plastic articles” among the products considered for export bonuses. The petitioners claim that the GOV provides a bonus of 300 *dong* per one U.S. dollar to companies that export plastic products. The petitioners have placed information on the record that indicates at least one Vietnamese producer of PRCBs exports plastic products, and may be eligible for this program.

Please provide the information requested in Appendices 1 and 2 with respect to this program. To determine the time period for which you need to report information regarding this program, refer to Appendix 5.

#### New Product Development Program

According to the petitioners, the GOV’s “Decision No. 55/2007/QD-TTG” designates plastics as a “priority” industry that is eligible for special government support. The petitioners claim companies participating in this program may receive grants for the development of new products. Petitioners have provided information indicating that at least one Vietnamese producer of PRCBs has developed a new variety of plastic bag, and

may have received benefits under this program.

Please provide the information requested in Appendices 1 and 2 with respect to this program. To determine the time period for which you need to report information regarding this program, refer to Appendix 5.

## **C. Income Tax Programs**

### Tax and Tariff Structure

The Department has initiated on a number of allegations regarding income tax preferences for both exporters and foreign invested enterprises (FIEs) and VAT and import tax exemptions for FIEs (see below). Therefore please outline, separately, the structures of your income tax, VAT, and import tariff systems for enterprises. Your outline should address the following.

- 1) Whether separate regimes exists for different types of enterprises, such as corporations, private enterprises, FIEs, stated-owned enterprises (SOEs), small businesses. If so, please list the separate regimes.
- 2) Please list the statutes and regulations applicable to each regime. Please indicate the relationship between different laws applied to a single regime (for example, indicate whether one law serves as the implementing instructions for another).
- 3) Please describe all other types of state-issued documents that affect the interpretation and administration of these statutes and regulations; i.e., are there circulars or decrees issued by state agencies responsible for the interpretation and administration of these documents. For each type of document, state which agencies are authorized to issue the documents, and whether the documents provide guidance or mandatory directives.
- 4) Provide a description of the organizational structure of the agencies responsible for administering your tax regimes, including how responsibilities are divided among central level agencies, agencies at the provincial level, at the municipal level, township level, etc. Please briefly indicate whether there may be exceptions to the general structure (e.g., are some municipalities, such as provincial level municipalities, governed differently from others?). Describe how these agencies fit within the overall administrative structure; e.g. do they report to provincial governments or the central government?
- 5) What authority is exercised by subdivisions of the central government? Can provincial governments enact their own tax and tariff regimes, or modify those of the central government?

### Income Tax Preferences for FIEs and Income Tax Preferences for Exporters

The GOV stated prior to the initiation of this investigation that earlier investment laws have been replaced. The earlier laws, however, state that if there is a subsequent change in the law, a company is still eligible for the benefits set forth in the earlier law and detailed in its original investment certificate. Therefore, please provide the original investment certificates for all three respondents.

In addition, because there appear to have been changes in the investment and tax laws in Vietnam during the past eight years, please provide a detailed explanation of the relationship of each to each other and explain the expiration or replacement of these various income and investment laws and programs and the continuation of pre-existing preferential treatment and benefits.

### Income Tax Preferences for Exporters

The petitioners state that, in 2004, the GOV established a standard corporate income tax rate of 28 percent. In establishing this income tax rate, the GOV provided incentives for companies operating in encouraged sectors and industries. The petitioners argue that the GOV's "Decree No. 164/2003/ND-CP of December 22, 2003 Detailing the Implementation of the Law of Enterprise Income Tax" states that companies exporting goods with an export value exceeding 50 percent of the total value of goods produced in a fiscal year are eligible for preferential income tax rates. Specifically, companies exporting the requisite value of production receive a preferential income tax rate of 20 percent, or if located in designated areas of "economic difficulty" or "special economic difficulty," the preferential income tax rates are 15 or 10 percent, respectively. Petitioners claim that these preferential income tax rates are available for up to 15 years, depending on the circumstances.

The petitioners also claim that the GOV's regulations also provide for an income tax moratorium and further reductions of the already preferential income tax rates. Specifically, companies that meet the GOV's minimum export thresholds may receive an income tax moratorium for the first two years after taxable income is generated, followed by an additional two years of income tax payments at one-half the applicable rate. According to the petitioners, the length of the income tax moratorium can be extended if the company operates in a specially designated geographic area. The petitioners have provided information that indicates several Vietnamese producers of PRCBs have been recognized by the GOV for their export performance, and are eligible for preferential income tax rates.

Please provide the information requested in Appendices 1 and 4 with respect to this program.

### Income Tax Preferences for Foreign Invested Enterprises (FIEs)

The petitioners claim that during 2008, the anticipated POI, the standard corporate income tax rate in Vietnam was 28 percent. However, the petitioners continue, the standard corporate income tax rate for FIEs was only 25 percent. As a result, the petitioners argue, the GOV treated FIEs differently than other similarly situated companies during 2008. According to the petitioners, several Vietnamese producers of PRCBs are known to have foreign investment, and thus qualify as FIEs, which makes these companies eligible to participate in this program.

Please provide the information requested in Appendices 1 and 4 with respect to this program.

### Income Tax Preferences for FIEs Operating in Encouraged Industries

The petitioners allege that in addition to being eligible for a lower standard corporate income tax rate, FIEs operating in industries designated by the GOV as either “encouraged” or “specially encouraged” qualify for additional income tax preferences. The petitioners claim that FIEs operating a project identified in the GOV’s list of encouraged projects are eligible for preferential income tax rates of 10 or 15 percent, depending, for example, on the company’s geographic location or export production volume. According to the petitioners, these preferential rates are applicable for up to 15 years. The petitioners state that the GOV’s subsidy notification to the WTO provides that FIEs producing “high-quality packages for export” are eligible for this program. The petitioners have placed information on the record that indicates the GOV considers plastic bags to be high-quality packages for export, and have provided information demonstrating that several producers of PRCBs are known to have foreign investment.

Please provide the information requested in Appendices 1 and 4 with respect to this program.

## **D. Import Tax and Value Added Tax (VAT) Exemption Programs**

In addition to answering the questions on page II-7 above regarding the structure of Vietnam’s VAT regime, please provide the following information:

- 1) What are the VAT rates applicable to goods and services and explain whether there are certain goods and services that are exempt for VAT?
- 2) Explain how companies determine both their input and output VAT and the formula used to determine final VAT remittances to the government tax authorities.

- 3) Companies are required to pay to the government the difference between VAT on outputs and on inputs; therefore, explain whether VAT paid on all purchases by a company such as purchases of raw materials, capital equipment, services, etc. are included in input VAT, and are thus used as an offset to output VAT.
- 4) How often are companies required to make VAT payments to the government tax authorities; is this done on a monthly- or quarterly-basis?
- 5) If a company's input VAT exceeds its output VAT for a given payment period, explain whether the company will be provided with a VAT rebate or whether the company will credit the balance that is then carried-forward to be used to offset future output VAT.

#### Import Tax Exemptions for FIEs Using Imported Goods to Create Fixed Assets

The petitioners allege that FIEs are exempt from import taxes on goods imported to create fixed assets, such as manufacturing equipment and spare parts. The petitioners have provided information indicating that several Vietnamese producers of PRCBs have foreign investment, and thus qualify as FIEs. The petitioners have also provided information indicating that at least one Vietnamese producer of PRCBs may have equipment that was manufactured in China, which possibly was imported duty-free under this program.

Please provide the information requested in Appendix 1 with respect to this program. Because benefits provided under this program may be treated as non-recurring, please provide the information requested in Appendix 5 for the entire AUL (i.e., 11 years, from year 1998 through year 2008).

#### Import Tax Exemptions for FIEs Importing Raw Materials

The petitioners state that Article 57.5 of the GOV's "FIE Implementation Regulations" provides FIEs that are investing in "specially encouraged investment projects" with a five-year exemption, from the start of production, on import duties for raw materials used for production. According to the petitioners, "specially encouraged investment projects" include those that export at least 80 percent of total production over the course of a fiscal year. The petitioners state that FIEs meeting the 80 percent minimum threshold pay no import duties on any imported raw materials, including materials used to manufacture the 20 percent of production that is not required to be exported. Thus, according to the petitioners, this alleged program provides exporting FIEs with import tax exemptions for inputs, but does not require all of the resulting products to be exported. The petitioners have provided information indicating that several Vietnamese producers of PRCBs have foreign investment, and export large portions of their production.

Please provide the information requested in Appendix 1 with respect to this program. To determine the time period for which you need to report information regarding this program, refer to Appendix 5.

In addition, please answer the following questions.

- 1) Please indicate each of the raw materials for which any respondent received import duty exemptions during the POI. In addition, please indicate the duties and other import fees that would have been charged on these items absent the import duty exemption. Please provide documentation to support your answer. Please provide copies of all relevant sections of the tariff schedule, amendments thereto, and policies affecting the relevant rates, for all raw materials imported by respondents during the POI.
- 2) Please also specify the rate and amount of import duties and other import fees actually paid by respondents for the imported raw materials for which they received import duty exemptions.
- 3) Please state whether all respondents pay the same rate of import duty. If not, please indicate which rates are applicable to each respondent.
- 4) For each duty exemption received under this program, please indicate whether the respondent had to meet an export obligation, and how fulfillment of the obligation was established and documented.
- 5) Please explain, in detail, whether the exemption is limited to raw materials consumed in the production of the exported product.

#### VAT Exemptions for FIEs Using Imported Goods to Create Fixed Assets

The petitioners allege that FIEs are exempted from payment of VAT on several categories of purchases, including construction materials and equipment not available from Vietnamese sources, provided that the goods purchased are used to create fixed assets. The petitioners have provided documentation indicating that several Vietnamese producers of PRCBs have foreign investment and thus qualify as FIEs. The petitioners have also provided information indicating that at least one Vietnamese producer of PRCBs may have equipment that was manufactured in China, which may have been imported under this program without the payment of VAT.

Please provide the information requested in Appendix 1 with respect to this program.

Because benefits provided under this program may be treated as non-recurring, please provide the information requested in Appendix 5 for the entire AUL (i.e., 11 years, from year 1998 through year 2008).

**Other Subsidies**

Does the GOV (or entities owned directly, in whole or in part, by the GOV or any provincial or local government) provide, directly or indirectly, any other forms of assistance to producers or exporters of PRCBs? If so, please describe such assistance in detail, including the amounts, date of receipt, purpose, and terms.

**SECTION II**  
**Appendix 1**

Standard Questions

- A. Provide a description of the program including the purpose of the program and the date it was established.
- B. Provide the name and address of each of the government agencies or authorities responsible for administering the program. Please be specific in identifying the level of government that has the authority to approve the assistance, and the level of government responsible for administering the distribution of assistance.
- C. If any of the companies under investigation, including all cross-owned companies (see 19 CFR 351.523) and any trading companies, whether or not cross-owned, through which a company under investigation exported subject merchandise to the United States during the POI (see 19 CFR 351.523), applied for, received, claimed, accrued or used assistance under this program during the period designated, you must reply to the remaining questions in this Appendix for the period designated. If none of these companies applied for, received, claimed, accrued or used assistance under this program during the period designated, you need not reply to all of the remaining questions in this Appendix. Please note that if this program has been terminated but there are residual benefits or a replacement program has been put into place (see Appendix 5 and 19 CFR 351.524), and the companies under investigation are still receiving, claiming or using assistance under the program or if they have applied for, received, claimed, accrued or used assistance under the replacement program, you must respond to all of the remaining questions for residual assistance or replacement programs.
- D. Provide translated copies of the laws and regulations relating to the program and any internal or external reports pertaining to the program that were applicable during the POI.
- E. Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.
- F. Describe the application process for assistance under the program and provide a blank copy of the application form (translated, if necessary). After an application is submitted, please describe the procedures by which an application is analyzed and eventually approved or rejected. Please provide for each company under investigation a copy of at least one completed application and approval package (and provide translations of headings and any summaries and of the exact reason(s) for the application and the exact reason(s) for approving the assistance)
- G. Please answer the following questions regarding eligibility for and actual use of the assistance provided under this program.

1. Describe the criteria governing the eligibility for and receipt of any assistance under this program. Please also describe the criteria for determining the amount of the assistance provided. Provide a copy of any law, regulation or other official document detailing these criteria. As part of your response, please also address the following questions:
  - (a) Is the actual export performance or export potential of an applicant or recipient taken into account in any way in determining eligibility for or receipt of any assistance under this program? Please explain. If eligibility for, or actual use of, this program is contingent upon export performance, whether solely or as one of several other conditions, you need not respond to the remaining questions under section G.
  - (b) Is the use of domestic goods or the creation of domestic value added by an applicant or recipient taken into account in any way in determining eligibility for or receipt of any assistance under this program? Please explain. If eligibility for this program is contingent upon the use of domestic over imported goods, you need not respond to the remaining questions under section G.
  - (c) Is eligibility for the subsidy limited to enterprises or industries located within designated geographical regions within the jurisdiction that authorized the program? If so, please provide the criteria for eligibility and you need not respond to the remaining questions under section G.
  - (d) Is the industry or sector in which the applicant or recipient operates taken into account in any way, either under the law or through discretion exercised by the government agency or authority administering the program, in determining eligibility for or receipt of any assistance under this program? Please explain, and identify those industries or sectors that are eligible or otherwise receive special consideration for eligibility. If eligibility is limited, by law or in fact, to any enterprise or group of enterprises, or to any industry or group of industries, you need not respond to the remaining questions under section G.
  - (e) With respect to the eligibility criteria and your administration of this program, please address the following, and provide documentation, if possible, to support your explanation:
    - i. If the eligibility criteria, as listed in the applicable law, regulation or

other official documents are met, will an applicant always and automatically receive assistance, or is final approval by the government agency or authority which administers the program necessary?

- ii. Is the amount of the assistance provided determined solely by established criteria found in the law, regulation or other official document, or is the amount ultimately determined by the government agency or authority which administers the program?
  - iii. If the government agency or authority has any discretion that goes beyond the criteria laid out in the law, regulation or other official document, please explain the nature and extent of that discretion.
  - iv. Explain how the companies under investigation who have applied for, claimed, received, accrued or used assistance under this program have met the eligibility criteria.
2. Please provide the following information, in table form, regarding the number of recipient companies and industries and the amount of assistance approved under this program for each year during the designated period for this program (either the AUL or the year in which a loan was approved or the POI) in which any company under investigation was approved for<sup>6</sup> assistance, as well as each of the preceding three years (e.g., if a respondent was approved for assistance in 2007 and 2008, provide this information, by year, for 2004 through 2008):
- (a) The amount of assistance approved for each company under investigation, including all cross-owned companies and trading companies that sell the subject merchandise to the United States.
  - (b) The total amount of assistance approved for all companies under the program.
  - (c) The total number of companies that were approved for assistance under this program.
  - (d) The total amount of assistance approved for the industry in which the respondent companies operate, as well as the totals for every other industry in which companies were approved for assistance under this program. In identifying the industries, please use whatever resource or classification scheme your government normally relies upon to define industries and to

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<sup>6</sup> If this information is not available on the basis of year of approval, provide the information based on the year of bestowal.

classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.

(e) The total number of companies that applied for, but were denied, assistance under this program. Be sure that your response to question provides a complete discussion of the circumstances in which applications for assistance are denied.

H. Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program is being terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program? If the program has been terminated and replaced by a similar type of program, please provide a discussion of the replacement program to include the purpose of the program and the date it was established.

I. Please indicate which of the companies under investigation (including all cross-owned companies and any trading companies exporting subject merchandise into the United States) applied for, accrued, or received benefits under the program during the POI.

**SECTION II**  
**Appendix 2**

Grant Information

Please provide the following information in chart form for each mandatory respondent, and any companies which are cross-owned, and any trading companies through which the mandatory respondents sold the subject merchandise to the United States during the POI:

- A. the amount of the grant authorized by the government;
- B. the date of government authorization/approval;
- C. the amount actually disbursed; and,
- D. the date(s) the grant was disbursed.
- E. Please indicate whether the grant was paid in a lump sum or in multiple disbursements.

## SECTION II Appendix 3

### Loan Benchmark and Loan Guarantee Appendix

#### *Short-term Loans*

If short-term loans (one year or less) were provided under this program and principal or interest was repaid, accrued, and/or waived during the POI on those loans, answer the following questions. If the short-term financing being investigated is provided in foreign currency, or if the interest rate is based on or tied to a foreign currency rate, please provide the cost of commercial borrowing in that foreign currency, and the charges associated with commercial borrowing in that currency, in response to questions B and C, below.

- A. Please describe the types of institutions (e.g., banks, leasing firms, brokers, insurance companies) which provide short-term commercial credit in your country. In addition, please explain the role of the government in controlling/directing these institutions and their lending policies. For each type of institution, specify whether loans are provided in domestic currency, foreign exchange, or both.
- B. Please provide the predominant national average short-term interest rate in your country (including copies of the source material) for the POI and the previous 12 months. If a predominant national average does not exist, please provide the interest rate in your country for the POI and the previous 12 months for each type of short-term financing and the weight each of these represents as a percentage of the total of outstanding short-term loans.
- C. Specify other charges or practices that lenders use in normal commercial transactions, such as commitment fees, compensating balances, loan origination fees, taxes, commissions, loan discounting, adjusted payment schedules, or the requirement (direct or indirect) that all or a significant portion of a company's business be channeled through a particular lending institution. To what extent do these additional charges and practices add to the cost of normal commercial financing? Specify the amount of each additional charge.
- D. Provide the date and amount of any forgiveness or assumption of any principal or interest payments during the POI.
- E. In all cases, state whether the applicable rate is for loans provided by publicly-owned or controlled institutions, or by privately held institutions, and whether such rate is subject to any government-mandated ceiling or cap.

#### *Long-term Loans*

If long-term loans (longer than one year) were provided under this program which had principal or interest outstanding during the POI, answer the following questions. If the long-term financing being investigated is provided in foreign currency, or if the rate is based on or tied to a foreign currency rate, please provide the cost of commercial borrowing in that foreign currency and the charges associated with commercial borrowing in that currency.

- F. Please describe the types of institutions (e.g., banks, leasing firms, brokers, insurance companies) which provide long-term commercial credit in your country. For each type of institution, specify whether loans are provided in domestic currency, foreign exchange, or both.
- G. Please provide the following information (including copies of the source material) for each year in which a long-term loan was approved under this program that had principal or interest outstanding during the POI.
1. If the loan has a fixed interest rate, please provide the long-term fixed interest rate(s) available from private commercial lenders to most firms in Vietnam at the time the government loan was approved. If such a figure(s) is (are) not available, please provide the long-term variable interest rate(s) available from private commercial lenders to most firms during the same period. If this figure is not available, please list each type of short-term financing available in your country at the time the loan was approved, state the percentage each type represented of the total amount of short-term financing, and provide the corresponding monthly average interest rates for each type in the POI.
  2. If the loan has a variable interest rate, please provide the long-term variable interest rate(s) available from private commercial lenders to most firms in Vietnam at the time the government loan was approved. Also provide the interest rate(s) during the POI of long-term variable rate loans from private commercial lenders. If a long-term variable interest rate from commercial lenders is not available, please provide the long-term fixed interest rate(s) available from private commercial lenders. If this figure is not available, please list each type of short-term financing available in the country in question at the time the loan was approved, state the percentage each type represented of the total amount of short-term financing, and provide the corresponding monthly average interest rates for each type in the POI.
  3. In all cases, state whether the applicable rate is for loans provided by publicly-owned or controlled institutions or by privately held institutions, and whether such rate is subject to any government-mandated ceiling or cap.
  4. Please provide the yields on industrial bonds as documented by the central bank of your country.

- H. Specify other charges or practices that lenders use in normal commercial transactions, such as commitment fees, loan guarantee fees, compensating balances, loan origination fees, taxes, commissions, loan discounting, adjusted payment schedules, or the requirement (direct or indirect) that all or a significant portion of a company's business be channeled through a particular lending institution. To what extent do these additional charges and practices add to the cost of normal commercial financing? Specify the amount of each additional charge and indicate whether such charges are included in the rates you have provided.
- I. If principal or interest on any loan provided under this program was forgiven or assumed during the POI or during a prior period corresponding to the industry's AUL (see section III, Part I, question D of the questionnaire) please provide the dates and amounts of each forgiveness or assumption.

***Loan Guarantees***

- J. For any short-term loans with principal or interest outstanding during the POI that were guaranteed or insured, please provide the information requested in questions B, C, and D, above. For any long-term loans with principal or interest outstanding during the POI that were guaranteed or insured, please provide the information requested in questions F and G, above.

**SECTION II**  
**Appendix 4**

Tax Programs Appendix

If deductions from taxable income, credit toward taxes payable, exemptions from taxes owed, deferral of payment of taxes owed, carry-forward of losses, accelerated depreciation, or other tax benefits were provided under this program to the producers and/or exporters of the subject merchandise, please answer the following questions:

- A. Is the benefit a deduction from taxable income, a credit toward taxes payable, an exemption from taxes owed, a deferral of taxes owed, a carry-forward of losses, a result of accelerated depreciation, or other type of tax benefit? Please explain.
- B. How do companies using this program calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.
- C. If a company is in a tax loss situation, how does this particular program affect it?
- D. If tax losses are generated through the use of this program, can the company carry forward these losses? What are the normal tax provisions for loss carry-forward? Please provide the relevant portion of the tax laws.
- E. If the program involves a deferral of taxes owed, please provide the following information:
  - 1. Please provide the length of the deferral allowed under the program.
  - 2. If the length of the tax deferral is one year or less, please provide the national average short-term interest rate in your country for the POI.
  - 3. If the length of the tax deferral is more than one year, please provide the national average interest rate on long-term fixed-rate loans available from private commercial lenders to most firms in your country. This information should be provided for the year in which the multi-year tax deferral was *first approved or claimed*.
- F. In addition, please provide blank corporate tax forms filed in the tax administrative districts in which respondents are located, including relevant schedules and appendices, with fully translated headings. Identify the specific sections and line items where the tax assistance would be claimed.

## **SECTION II**

### **Appendix 5**

#### Allocation Appendix

Respondents should be aware that pursuant to section 351.524 of its regulations, the Department allocates the benefits received from certain types of subsidies over time. Although the POI is a recent period, we are investigating alleged subsidies received over a time period corresponding to the industry's average useful life of productive assets (AUL). According to section 351.524 (d)(2)(i) of the Department's regulations, the Department will presume that the industry's AUL corresponds to the average useful life of renewable physical assets for the industry concerned as listed in the U.S. Internal Revenue Service's Depreciation Range System (IRS tables). In the case of PRCBs, the AUL is set at 11 years. Therefore with respect to PRCBs, we will investigate alleged subsidies received during the POI and the preceding 10 years. Accordingly, for non-recurring subsidies (other than loans), please provide information for the POI and for the 10 years preceding the POI.

According to section 351.524(d)(2) of the Department's regulations, parties to the investigation may choose to argue that the IRS tables do not reasonably reflect the AUL for the industry in question. To do so, parties must demonstrate that the AUL applicable to the industry producing subject merchandise in Vietnam differs by one year or more from the AUL in the IRS tables. If any of the parties under investigation choose to pursue an AUL other than that identified in the IRS tables, you will be required to provide information for the corresponding number of years.

Pursuant to sections 351.524(a) through (c) of the Department's regulations, each program (other than loan programs) will normally be treated as either recurring or non-recurring. The Secretary normally will treat the following types of subsidies as providing recurring benefits: direct tax exemptions and deductions; exemptions and excessive rebates of indirect taxes or import duties; provision of goods and services for less than adequate remuneration; price support payments; discounts on electricity, water, and other utilities; freight subsidies; export promotion assistance; early retirement payments; worker assistance; worker training; wage subsidies; and upstream subsidies. The Secretary normally will treat the following types of subsidies as providing non-recurring benefits: equity infusions, grants, plant closure assistance, debt forgiveness, coverage for operating losses, debt-to-equity conversions, provision of non-general infrastructure, and provision of plant and equipment.

If a particular form of assistance is not on one of the non-binding illustrative lists, or if you wish to claim that a particular form of assistance on the recurring list should be treated as non-recurring, or that a particular form of assistance on the non-recurring list should be treated as recurring, please address the following criteria:

- A. Whether the subsidy is exceptional in the sense that the recipient cannot expect to receive additional assistance under the same program on an ongoing basis, from year to year;
- B. Whether the subsidy required or received the government's express authorization or approval (i.e., receipt of benefits is not automatic); or
- C. Whether the subsidy was provided for, or tied to, the capital structure or capital assets of the recipient firm.

After considering the above criteria, please provide information for each non-loan program for either the POI or the AUL period, as appropriate.

We will normally allocate non-recurring benefits over a period corresponding to the AUL. Therefore, please provide the following information for each year that a program providing non-recurring benefits was approved. The relevant time period is the POI and the preceding number of years corresponding to the AUL.

- D. The national average cost of long-term, fixed-rate debt in Vietnam in the year the subsidy program was approved.
- E. An explanation of how the average is calculated, including the calculation formula and the sources of the variables used in the calculation.

**SECTION II**  
**Appendix 6**

Certificate of Service

I, \_\_\_\_\_, hereby certify that a copy of the  
(name of certifying official)

foregoing submission on behalf of \_\_\_\_\_,  
(company name)

dated \_\_\_\_\_, was served by first class mail or by hand delivery (circle the method used) on the following parties:

(Business Proprietary Version)

On Behalf of

Name and address

(Public Version)

On Behalf of

Name and address

\_\_\_\_\_  
(signature of certifying official)

**SECTION II**  
**Appendix 7**

Government Official Certification

I, \_\_\_\_\_, currently employed  
(name and title)

by \_\_\_\_\_, certify that (1) I have  
(Interested Party)

read the attached submission, and (2) the information contained  
in this submission is, to the best of my knowledge, complete and  
accurate.

\_\_\_\_\_  
(signature of certifying official)

**SECTION II**  
**Appendix 8**

Legal Representation Certification

I, \_\_\_\_\_, of \_\_\_\_\_, counsel to or  
(Name of Certifying Official) (Name of Law Firm)

representative of \_\_\_\_\_, certify that (1) I have read the attached  
(Name of Respondent)

submission, and (2) based on the information made available to me by

\_\_\_\_\_, I have no reason to believe that this submission contains any  
(Name of Respondent)

material misrepresentation or omission of fact.

\_\_\_\_\_  
(Signature of Certifying Official)

\_\_\_\_\_  
(Date)

### **SECTION III**

#### **QUESTIONNAIRE FOR PRODUCERS/EXPORTERS OF PRCBS FROM VIETNAM**

This questionnaire requests information about programs alleged to be provided to producers/exporters in Vietnam of PRCBs (or “subject merchandise”). Section 775 of the Act also requires the Department to investigate any other programs discovered during the course of this investigation that potentially confer countervailable subsidies on the manufacture, production, or exportation of PRCBs. You will be instructed by your government as to which time period, or POI, is covered by this investigation.

Please note that if your company is an exporter only, and does not produce the subject merchandise, complete questionnaire responses must be provided for all Vietnamese producers which supply the subject merchandise to your company. Likewise, if your company sells the subject merchandise to an export trading company which then exports the subject merchandise to the United States, complete questionnaire responses must be provided for all such trading companies.

A Vietnamese press report provided in the petition quotes the Secretary General of the Vietnamese Plastic Association as stating that “some foreign-invested plastic producers just package their finished products in Vietnam and then export them with certificates of origin issued by Vietnamese authorities.” (See “Vietnam’s Plastic Bags under US Lawsuit Threat” at Exhibit 3 of the petition.) Therefore, we need to confirm that any company selected as a mandatory respondent is actually a producer of the subject merchandise and not merely a repackager. Thus, please confirm that your company is an actual producer of subject merchandise in Vietnam or that, if you purchase the products you export, that you only purchase Vietnamese produced PRCBs. If your company both produces and repackages the subject merchandise, provide the total value and volume of the subject merchandise you produced, and the total value and volume of the subject merchandise that you merely repackaged (*i.e.*, subject merchandise that was produced by a third party, but repackaged and exported by your company). If you purchased subject merchandise for repackaging from more than one supplier, identify the name of each supplier, state the total value and volume purchased from each supplier, and state whether each supplier’s production took place in Vietnam (this information should be provided in chart form). Your response is due **14 days from the date of the cover letter**.

If the PRCBs you produced or sold were produced in Vietnam, then you must respond to the attached questionnaire within the due date specified in the cover letter.

#### **AFFILIATED AND CROSS-OWNED COMPANIES**

In accordance with section 771(33) of the Act, affiliated companies include: (1) members of the same family, (2) any officer or director of an organization and such organization, (3) partners, (4) employers and their employees, and (5) any person or organization 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. In addition, affiliates include (6) any person who controls any other person and that person, or (7) any two persons who directly control, are controlled by, or are under common control with, any person. "Control" exists where one person is legally or operationally in a position to exercise restraint or direction over the other person.

- A. Please identify all companies with which your company is affiliated according to the above criteria. Provide the full name and mailing address of each company as well as the location and address of each facility or plant operated by that company.
- B. Please describe in detail the nature of the relationship between your company and those companies listed in response to question A, above. Specify, for example, whether the companies share a board of directors, or whether members of each company's board sit on the board(s) of the other company(ies), and how the voting rights are distributed among board members; specify if, and how, officers of one company are directly involved in overseeing the operations of another company. Specify whether an affiliated company supplies inputs into your company's production process.

Affiliated companies may be required to respond to this questionnaire where "cross-ownership" exists. According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. Normally, this standard will be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations.

- C. You must provide a complete questionnaire response for those affiliates where "cross-ownership" exists and:
  - 1. the affiliate produces the subject merchandise; or
  - 2. the affiliate is a holding company or a parent company (with its own operations) of your company; or
  - 1. the affiliate supplies an input product to you that is primarily dedicated to the production of the subject merchandise, or
  - 2. the affiliate has received a subsidy and transferred it to your company.

If you have any questions regarding whether another company is affiliated with your company or whether cross-ownership exists, we urge you to consult with the official in charge named on the cover page as soon as possible.

**I. GENERAL QUESTIONS**

- A. Please provide the following information for your company, as well as for each cross-owned affiliate, as defined above, that is involved in the manufacture, production or exportation of PRCBs. Please also provide the information for all trading companies (whether or not affiliated), through which your company sold subject merchandise to the United States during the POI, in accordance with 19 CFR 351.525(c).
1. The addresses of the company's headquarters, plant, and export facilities.
  2. A description of the company. Please include in your response:
    - a. the date the company was formed;
    - b. a history of the company's ownership;
    - c. the products the company produces and/or sells.
  3. Using diagrams and/or flow charts, describe the process by which your company produces the subject merchandise. If different steps of the production process occur in different production units, divisions, or affiliated companies, please identify those production units, divisions, or affiliated companies.
  4. Does your company (including cross-owned affiliates) export PRCBs produced by other companies in Vietnam? If so, please identify the name and address of each such supplier of PRCBs.
  5. Please provide your company's complete audited financial statements from the last three fiscal years. (Please provide the financial statements in English, if available. If they are not available in English, provide translations of the Income Statement, the Balance Sheet, and all notes thereto, plus the auditor's opinion.) These should be the official financial statements filed with your government. If there is no such filing requirement, the financial statements should be those presented to the banks or other independent third parties. The financial statements should include the complete set of statements, *e.g.*, income statement, balance sheet, cash flow statement, statement of change in equity, footnotes, and must be accompanied by the auditors' opinion. If you do not prepare audited financial statements, please provide whatever unaudited financial

statements that are prepared for your Board of Directors, your shareholders, and for the government.

6. Please provide complete, translated tax returns filed during the POI.
7. Please provide your most up-to-date business registration documents filed with government authorities. If your business registration documents do not indicate the names of your company's owners, please provide additional documentation that does. If the documents identify corporate owners which own more than 10 percent of your company, please identify the owners of your company's corporate owners.
8. Provide the HTSUS subheadings or your country's tariff schedule numbers under which you export the subject merchandise.

B. Please provide the following information for your company for the POI. Do not include the volume and value of merchandise produced outside of Vietnam or returned merchandise. Separately report the value of services sold by your company, if any.

1. Total Sales

What was the quantity and f.o.b. value of total sales (both subject and non-subject merchandise) to all markets (domestic and foreign)? Please report the sales value on an f.o.b. (port) basis with respect to export sales and/or on an f.o.b. (factory) basis for domestic sales. If the actual value recorded in your accounting records is booked on a basis other than f.o.b., please describe any adjustments that were made to derive the f.o.b. value.

2. Sales of Subject Merchandise

What was the quantity and f.o.b. value of the subject merchandise sold to all markets (domestic and foreign)? Please report the sales value on an FOB (port) basis with respect to export sales and/or on an f.o.b. (factory) basis for domestic sales. If the actual value recorded in your accounting records is booked on a basis other than f.o.b., please describe any adjustments that were made to derive the f.o.b. value.

3. Total Exports

What was the total quantity and f.o.b. (port) value of export sales (both subject and non-subject merchandise) to all markets? If the actual value recorded in your accounting records is booked on a basis other than f.o.b.,

please describe any adjustments that were made to derive the f.o.b. value.

4. Total Exports to the United States

What was the total quantity and f.o.b. (port) value of export sales (both subject and non-subject merchandise) to the United States? If the actual value recorded in your accounting records is booked on a basis other than f.o.b., please describe any adjustments that were made to derive the f.o.b. value.

5. Exports of Subject Merchandise

What was the total quantity and f.o.b. (port) value of the subject merchandise exported to all markets (including the United States)? If the actual value recorded in your accounting records is booked on a basis other than f.o.b., please describe any adjustments that were made to derive the f.o.b. value.

6. Exports to the United States of Subject Merchandise

What was the total quantity and f.o.b. (port) value of the subject merchandise exported to the United States? If the actual value recorded in your accounting records is booked on a basis other than f.o.b., please describe any adjustments that were made to derive the f.o.b. value.

7. Please explain how the sales of PRCBs are recorded in your company's financial records. Are your company's sales consolidated with those of other companies in the financial report of a parent, holding company, or group of companies? If so, please explain how, and provide copies of the consolidated financial statements.

C. As established in 19 CFR 351.524(d)(2), the allocation period for non-recurring<sup>1</sup> subsidies is defined by the AUL of renewable physical assets for the industry concerned, as listed in the U.S. Internal Revenue Service's Depreciation Range System (IRS Tables). The AUL listed in the IRS tables that would apply to the PRCBs industry is **eleven (11) years**.

Parties may rebut the presumption to use the IRS tables by demonstrating either that the company-specific AUL or country-wide AUL for the industry in the respondent country differs by one year or more from the AUL in the IRS tables for

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<sup>1</sup> For examples of **recurring** and **non-recurring** benefits, see 19 CFR 351.524(c).

the industry under review. Unless the parties establish that the IRS tables do not reasonably reflect the AUL of a firm's assets, however, the Department will rely on the IRS tables to define the appropriate AUL.

If your company chooses to rebut the presumption to use the IRS tables, please perform the calculations described in 19 CFR 351.524(d)(2)(iii). Explain your company's accounting policies concerning depreciation of productive assets. State whether straight-line or accelerated depreciation is used, and what conventions are applied. If you do not want to rebut the use of the AUL in the IRS tables, you do not need to answer this question.

## **II. PROGRAM-SPECIFIC QUESTIONS**

*For each program*, if your company (including cross-owned companies as defined above, as well as any trading companies through which you sell subject merchandise to the United States, or any producer from which you buy subject merchandise produced in Vietnam which you export to the United States) did not apply for, use, or receive or claim benefits under that program during the POI, you must clearly state so. Otherwise, please answer all of the questions listed. To determine the information which must be reported under each program, please see the instructions for each program in this section of the questionnaire and in the referenced appendices.

If any government assistance, as enumerated below, was received by companies which have since been merged with or purchased by your company, you are responsible for answering the questions with respect to such assistance to the merged or purchased company.

### **Government of Vietnam (GOV) Programs**

#### **A. Policy Lending Programs**

Please provide any blanket loan/line of credit agreements/contracts that you have with any bank. Identify the type of bank (e.g., state-owned commercial bank, privately owned commercial bank). Please provide copies of individual loan contracts for all loans on which principal or interest was outstanding during the POI.

Please notify the GOV of the names of the banks which provided the loans identified above and request that the government provide in its questionnaire response total government ownership, direct and indirect, and total private ownership (including foreign investment) for each of these banks.

### Preferential Lending for Exporters

The petitioners allege that the GOV's industrial policies encourage exports and provide financial support to exporting companies. According to the petitioners, as a matter of GOV policy, exporting companies in Vietnam pay less for financing than other companies. The petitioners have provided information demonstrating that several Vietnamese producers of PRCBs produce goods primarily for export, and have been recognized by the GOV for their export performance. The petitioners contend that exporters of PRCBs are eligible for discounted loans from state-owned banks under this program.

Please provide the information requested in Appendices 1 and 3 with respect to this program. Appendix 3 contains references to "loans under this program," and "loans from the government." Please consider these references to include all loans on which principle or interest was outstanding during the POI, from any bank.

### Preferential Lending for the Plastics Industry

According to the petitioners, under GOV policy, projects in specified industries are eligible for preferential loans. Specifically, the petitioners claim that the GOV's "Decision No. 11/2004/QD-BCN of February 17, 2004 Approving the General Planning on Development of Vietnam's Plastic Industry Till {sic} 2010" calls for investing in factories that produce plastic products in large capacities. This GOV policy decision also states that the "State's budget capital and preferential credit capital shall be concentrated on investment projects in support of the industry's development."

The petitioners argue that GOV policies direct its Ministry of Finance to make funds available through "preferential loans" in coordination with the State Bank of Vietnam, the Development Assistance Fund and its successor, the Vietnam Development Bank. The petitioners contend that the State Bank of Vietnam owns and regulates Vietnamese commercial banks, and thus lending can be directed to encouraged projects and industries. The petitioners claim that, as a result, these policies and the GOV's ability to direct lending have resulted in preferential loans to manufacturers of plastic products. The petitioners also state that in 2008, the BIDN, a state-owned commercial bank, reduced its interest rates for loans made to enterprises in certain industries, including the plastics industry. The petitioners have provided information that indicates at least one manufacturer of plastic products received preferential loans in connection with several projects, including the construction of a packaging plant.

Please provide the information requested in Appendices 1 and 3 with respect to this program. Appendix 3 contains references to "loans under this program," and "loans from the government." Please consider these references to include all loans on which principle or interest was outstanding during the POI, from any bank.

## **B. Grant Programs**

### Export Promotion Program

According to the petitioners, the GOV offers financial support to exporting companies pursuant to its “Regulation on Elaboration and Implementation of the 2006-2010 National Trade Promotion Program.” Specifically, the GOV uses an “Export Assistance Fund” to pay portions of companies’ costs to participate in export promotion activities. The petitioners claim that under this program, the GOV pays 50 percent of the costs associated with: 1) disseminating commercial information about exports, or establishing a database for exporting enterprises; 2) export consulting; 3) export-related training; and 4) attending trade fairs for export goods. The petitioners also claim that the GOV pays 70 percent of the costs associated with: 1) export market surveys; 2) promoting brand names; 3) establishing exporting infrastructure such as bonded warehouses; 4) “E-Commerce” research related to exports; and 5) other export-related activities approved by the GOV. According to the petitioners, a joint report prepared by the WTO and the GOV confirms that the GOV provides producers of plastics products support to attend trade fairs. Petitioners have provided information that indicates several producers of PRCBs have been recognized by the GOV for their export performance.

Please provide the information requested in Appendices 1 and 2 with respect to this program. To determine the time period for which you need to report information regarding this program, refer to Appendix 5.

### Export Bonus Program

The petitioners allege that the GOV’s Subsidy Notification to the WTO describes several programs to encourage businesses to implement export-oriented investment and development projects. Specifically, the petitioners claim that the GOV has an export bonus program that expressly includes “plastic articles” among the products considered for export bonuses. The petitioners claim that the GOV provides a bonus of 300 *dong* per one U.S. dollar to companies that export plastic products. The petitioners have placed information on the record that indicates at least one Vietnamese producer of PRCBs exports plastic products, and may be eligible for this program.

Please provide the information requested in Appendices 1 and 2 with respect to this program. To determine the time period for which you need to report information regarding this program, refer to Appendix 5.

### New Product Development Program

According to the petitioners, the GOV's "Decision No. 55/2007/QD-TTG" designates plastics as a "priority" industry that is eligible for special government support. The petitioners claim companies participating in this program may receive grants for the development of new products. Petitioners have provided information indicating that at least one Vietnamese producer of PRCBs has developed a new variety of plastic bag, and may have received benefits under this program.

Please provide the information requested in Appendices 1 and 2 with respect to this program. To determine the time period for which you need to report information regarding this program, refer to Appendix 5.

## **C. Income Tax Programs**

### Income Tax Preferences for Exporters

The petitioners state that in 2004, the GOV established a standard corporate income tax rate of 28 percent. In establishing this income tax rate, the GOV provided incentives for companies operating in encouraged sectors and industries. The petitioners argue that the GOV's "Decree No. 164/2003/ND-CP of December 22, 2003 Detailing the Implementation of the Law of Enterprise Income Tax" states that companies exporting goods with an export value exceeding 50 percent of the total value of goods produced in a fiscal year are eligible for preferential income tax rates. Specifically, companies exporting the requisite value of production receive a preferential income tax rate of 20 percent, or if located in designated areas of "economic difficulty" or "special economic difficulty," the preferential income tax rates are 15 or 10 percent, respectively. Petitioners claim that these preferential income tax rates are available for up to 15 years, depending on the circumstances.

The petitioners also claim that the GOV's regulations also provide for an income tax moratorium and further reductions of the already preferential income tax rates. Specifically, companies that meet the GOV's minimum export thresholds may receive an income tax moratorium for the first two years after taxable income is generated, followed by an additional two years of income tax payments at one-half the applicable rate. According to the petitioners, the length of the income tax moratorium can be extended if the company operates in a specially designated geographic area. The petitioners have provided information that indicates several Vietnamese producers of PRCBs have been recognized by the GOV for their export performance, and are eligible for preferential income tax rates.

Please provide the information requested in Appendices 1 and 4 with respect to this

program.

#### Income Tax Preferences for Foreign Invested Enterprises (FIEs)

The petitioners claim that during 2008, the anticipated POI, the standard corporate income tax rate in Vietnam was 28 percent. However, the petitioners continue, the standard corporate income tax rate for FIEs was only 25 percent. As a result, the petitioners argue, the GOV treated FIEs differently than other similarly situated companies during 2008. According to the petitioners, several Vietnamese producers of PRCBs are known to have foreign investment, and thus qualify as FIEs, which makes these companies eligible to participate in this program.

Please provide the information requested in Appendices 1 and 4 with respect to this program.

#### Income Tax Preferences for FIEs Operating in Encouraged Industries

The petitioners allege that in addition to being eligible for a lower standard corporate income tax rate, FIEs operating in industries designated by the GOV as either “encouraged” or “specially encouraged” qualify for additional income tax preferences. The petitioners claim that FIEs operating a project identified in the GOV’s list of encouraged projects are eligible for preferential income tax rates of 10 or 15 percent, depending, for example, on the company’s geographic location or export production volume. According to the petitioners, these preferential rates are applicable for up to 15 years. The petitioners state that the GOV’s subsidy notification to the WTO provides that FIEs producing “high-quality packages for export” are eligible for this program. The petitioners have placed information on the record that indicates the GOV considers plastic bags to be high-quality packages for export, and have provided information demonstrating that several producers of PRCBs are known to have foreign investment.

Please provide the information requested in Appendices 1 and 4 with respect to this program.

### **D. Import Tax and Value Added Tax (VAT) Exemption Programs**

#### Import Tax Exemptions for FIEs Using Imported Goods to Create Fixed Assets

The petitioners allege that FIEs are exempt from import taxes on goods imported to create fixed assets, such as manufacturing equipment and spare parts. The petitioners have provided information indicating that several Vietnamese producers of PRCBs have foreign investment, and thus qualify as FIEs. The petitioners have also provided information indicating that at least one Vietnamese producer of PRCBs may have equipment that was manufactured in China, which possibly was imported duty-free under this program.

Please provide the information requested in Appendix 1 with respect to this program. Because benefits provided under this program may be treated as non-recurring, please provide the information requested in Appendix 5 for the entire AUL (i.e., 11 years, from year 1998 through year 2008).

#### Import Tax Exemptions for FIEs Importing Raw Materials

The petitioners state that Article 57.5 of the GOV's "FIE Implementation Regulations" provides FIEs that are investing in "specially encouraged investment projects" with a five-year exemption, from the start of production, on import duties for raw materials used for production. According to the petitioners, "specially encouraged investment projects" include those that export at least 80 percent of total production over the course of a fiscal year. The petitioners state that FIEs meeting the 80 percent minimum threshold pay no import duties on any imported raw materials, including materials used to manufacture the 20 percent of production that is not required to be exported. Thus, according to the petitioners, this alleged program provides exporting FIEs with import tax exemptions for inputs, but does not require all of the resulting products to be exported. The petitioners have provided information indicating that several Vietnamese producers of PRCBs have foreign investment, and export large portions of their production.

Please provide the information requested in Appendix 1 with respect to this program. To determine the time period for which you need to report information regarding this program, refer to Appendix 5.

In addition, please answer the following questions.

- 1) Provide a chart identifying each raw material for which your company received import duty exemptions during the POI. Additionally, please indicate in your chart the import duties and other import fees that your company would have been charged on these items absent the import duty exemptions. Please provide supporting documentation.
- 2) Please specify in the chart the rate and the amount of import duties and other import fees actually paid by your company for the imported raw materials for which you received an import duty exemption.
- 3) Please explain how you report to the government agency that monitors this program what material is consumed in the production of exported products, products sold domestically, waste, and scrap sold domestically (waste has no resale value, while scrap can be sold).
- 4) In addition, please explain whether the exemption under the program was limited

to materials consumed in the production of exported merchandise (see 19 CFR 351.519). Please provide a reconciliation between materials consumed in the production of domestically sold goods and import taxes paid to customs. Document the amount paid to customs.

#### VAT Exemptions for FIEs Using Imported Goods to Create Fixed Assets

The petitioners allege that FIEs are exempted from payment of VAT on several categories of purchases, including construction materials and equipment not available from Vietnamese sources, provided that the goods purchased are used to create fixed assets. The petitioners have provided documentation indicating that several Vietnamese producers of PRCBs have foreign investment and thus qualify as FIEs. The petitioners have also provided information indicating that at least one Vietnamese producer of PRCBs may have equipment that was manufactured in China, which may have been imported under this program without the payment of VAT.

Please provide the information requested in Appendix 1 with respect to this program. Because benefits provided under this program may be treated as non-recurring, please provide the information requested in Appendix 5 for the entire AUL (i.e., 11 years, from year 1998 through year 2008).

**SECTION III**  
**Appendix 1**

Standard Questions

- A. Specify the eligibility criteria your company had to meet in order to receive assistance under this program. State whether eligibility was or is currently contingent on one or more of the following criteria: 1) whether or not your company exports or has increased its exports, 2) the use of domestic rather than imported inputs, 3) the industry to which your company belongs, or 4) the region in which your company is located.
- B. Describe in detail the application and approval process your company underwent to receive assistance through the program.
- C. Specify the criteria your company met to receive the particular amount of assistance provided. Provide your company's executed application forms, any other application documents, and approval documents, with respect to this program. Did the application or approval specify the merchandise for which this assistance was to be provided? If so, provide details of which merchandise was specified in the application and/or approval documents.
- D. What records does your company keep regarding assistance received under this program?
- E. Indicate where assistance under this program can be found in your accounting system (i.e., specify the ledgers or journals), tax returns, and/or financial statements. If you have to file anything with the government to continue receiving benefits under this program, provide a complete translated set of your most recent submissions made during, or before, the POI.
- F. Has the program been terminated? If so, please explain. When is the last date that your company could *apply for or claim* assistance under the program? When is the last date that your company could *receive* assistance under the program?

**SECTION III**  
**Appendix 2**

Grant Information

Please provide in chart form:

- A. the amount of all grants authorized and the amount received (state whether the grant was received in a lump sum or in multiple disbursements);
- B. the date of the approval of the grant and the date(s) it was received, and;
- C. the total value of sales or export sales (depending on whether the program is a domestic or export program) in the year in which the grant was approved and received.

**SECTION III**  
**Appendix 3**

Loan Benchmark and Loan Guarantee Appendix

The following information should be given for loans provided under the program in question. For *short-term loans* (one year or less) or guarantees or insurance on short-term loans, information must be provided for all loans on which principal was outstanding or on which interest was paid, accrued, and/or waived during the POI. Please indicate if any short-term loan program was a line of credit. For *long-term loans* (greater than one year) or guarantees on long-term loans, information must be provided for all loans with principal or interest outstanding during the POI or for any such loans forgiven or assumed. This information must be provided in chart form, separately for each short-term loan and each long-term loan.

***Loan Information***

- A. loan control number;
- B. source of loan;
- C. program under which loan is provided;
- D. original amount of loan and any required collateral;
- E. date of loan agreement;
- F. date of loan receipt;
- G. length of loan;
- H. effective interest rate of loan (specify if fixed or variable);
- I. principal, and/or, interest amounts paid in 2008;
- J. a description of the repayment schedule (principal and interest) and any special features associated with the loan such as grace periods, forgiveness of payments, opportunities for re-discounting, rollovers or debt retirement, repayment contingent upon subsequent events; also, if the repayment schedule has not been met, please provide the actual repayment schedule;
- K. if the program provides short-term loans or long-term loans with an initial indefinite repayment schedule, please provide the actual repayment schedule (principal and interest);

- L. amount of any fees, commissions, compensating balances, taxes or penalties paid in addition to interest, which affect the cost of the loan (indicate whether paid or provided); specify what type of charges were included in this column;
- M. any adjustments made in the loan balance or interest payment to take account of inflation;
- N. if principal or interest on any loan provided under this program was forgiven or assumed, during the POI or over a prior period corresponding to the company's AUL, please provide the dates and amounts of each forgiveness or assumption.

### ***Long-Term Benchmark***

If any of the loans identified above are long-term loans, please provide the information requested in A through M above for any other long-term commercial debt incurred contemporaneously and comparable to the loan(s) in question. This information may be used for purposes of a benchmark interest rate. Please note that the benchmark loans should be denominated in the same currency as the corresponding loan above.

### ***Short-Term Benchmark***

If any of the loans identified above are short-term loans, please provide the information requested in A through M above for any other commercial short-term debt incurred during the POI and comparable to the loan(s) in question. Please provide your company-specific interest rate for these short-term commercial loans by weighing the rates by the principal amount of each loan. Please provide the calculation worksheets showing how your company derived the weighted-average rate.

If you had short-term interest loans granted prior to the POI where interest was paid during the POI, you must provide the above information for the year during which the loans were received.

### ***Loan Guarantees***

Please provide the information requested in A through M above for loans guaranteed or insured under this program. If the guaranteed loan is a long-term loan, please provide the benchmark information requested under the "Long-Term Benchmark" section and the following:

- O. source of the loan guarantee and the program under which it is provided;
- P. terms of guarantee including any fee paid;
- Q. the effect that the guarantee had on the terms (e.g., interest rate, length, collateral) of the loan. For example, if there were similar commercial loans in the same year without guarantees, please provide the terms of those loans.

R. in the case of government ownership, provide any evidence that it is normal commercial practice for shareholders in the country in question to provide similar loan guarantees.

Please see section III.C.7 of the General Instructions above concerning submissions of loan information on computer disks.

**SECTION III**  
**Appendix 4**

Tax Programs Appendix

If your company used this program to take deductions from taxable income, receive credit toward taxes payable, take exemptions from taxes owed, defer payment of taxes owed, carry forward losses, use accelerated depreciation, or claim other tax benefits on the tax return *filed during the POI* (the tax period covered by this tax return does not have to correspond with the period of investigation), please answer the following questions:

- A. Please provide a copy of the tax return (including an English translation) filed by your company in the POI. Indicate where in the tax return the assistance is shown (please identify the specific line item and form or schedule/appendix, if possible).
- B. Explain whether the assistance is a deduction from taxable income, an exemption from taxes, a credit toward taxes payable, accelerated depreciation, a deferral of taxes owed, a loss carry-forward, or other tax benefit.
- C. Indicate the amount of the tax savings derived from the use of this program by comparing the taxes your company actually paid and the taxes you would have paid absent the program. Provide a detailed calculation of the assistance and all source materials. Show the amount of tax that would have been due absent this program. Show the amount of profit or loss that your company would have incurred absent this program. For tax deferrals, please indicate the amount of tax owed and the length of the deferral period.
- D. If your company was in a tax loss position for the tax year to which the return applies, please explain the effect of this assistance on your company's tax position.
- E. Will you carry forward any loss to future years? Does the loss represent accrued losses from earlier years? Please explain.
- F. Indicate where in your company's financial statements tax information can be found. Please explain whether accrued tax losses are carried as assets in the financial statements.
- G. If you carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the POI, demonstrate that this loss was not generated by use of any alleged tax program.
- H. As indicated in section 351.509(a)(2) of the CVD regulations, a tax deferral of one year or less will be treated as a short-term loan and a tax deferral of more than one year will be treated as a long-term loan. Therefore, if the program involves a deferral of taxes owed, please provide the following information needed to establish a comparison interest rate:

1. Please provide the length of the deferral.
2. Please indicate whether your company paid any interest on the amount deferred. If so, provide the amount of interest paid, the interest rate, and the date on which the interest was paid.
3. If the length of the tax deferral is one year or less, please answer questions A through M in the Loan Appendix for all commercial short-term loans obtained by your company. Include only short-term loans that were outstanding in the POI. If you have already provided this information in another part of this questionnaire, please so indicate.
4. If length of the tax deferral is more than one year, please answer questions A through M in the Loan Appendix for all commercial long-term loans obtained by your company that were outstanding in the POI. Include only long-term loans whose terms were established in the same year that the multi-year tax deferral was *first approved*. If you have already provided this information in another part of this questionnaire, please so indicate.

**SECTION III**  
**Appendix 5**

Allocation Appendix

Questions A through C below relate to whether benefits received under this program are recurring or non-recurring. For a further explanation of recurring and non-recurring benefits, see section 351.524(a) through (c) of the CVD regulations.

- A. Does your company receive benefits under this program on an ongoing basis from year to year, or is the program exceptional in the sense that it provides one-time assistance?
- B. Have you filed a separate application each time you have received assistance under this program? Has each disbursement or allowance been contingent upon expressed government authorization or approval? Please explain.
- C. Is assistance under this program provided for or tied to the capital structure or capital assets of your company? (For a definition of capital structure and capital assets, see the preamble of the CVD regulations (63 FR at 65393).)

If assistance received under this program is non-recurring, you must report the following information for each benefit received during the POI and the preceding number of years corresponding to the AUL (i.e., in this case, eleven years, from year 1998 through year 2008). If benefits received under this program are recurring, you do not need to answer questions D and E of this appendix.

- D. Your company's total or export sales (depending on whether the program is a domestic or an export subsidy) in the year in which the assistance was approved.
- E. We will normally allocate non-recurring benefits over a period corresponding to the AUL. Therefore, for each year in which a non-recurring benefit was approved, please provide your company's cost of long-term fixed rate debt incurred in that year. Include only loans that were provided in the same currency as the non-recurring benefit. Please explain your calculation (if the calculation includes loans received under any of the programs being investigated, please so indicate and list all of the details of the loans used in the calculation).

F. Please complete this table for imported goods to create fixed assets during the AUL (i.e., eleven years, from year 1998 through year 2008).

Date of Importation	Equipment Name	Unit	Quantity	Tariff Code	Import Value /Currency	Import Duty Rate	VAT Rate	Import Duty Paid	VAT Paid
Total									

Under import duty rate and VAT rate, report the rates that would have been applicable absent the program under investigation.

**SECTION III**  
**Appendix 6**

Certificate of Service

I, \_\_\_\_\_, hereby certify that a copy of the  
(name of certifying official)

foregoing submission on behalf of \_\_\_\_\_,  
(company name)

dated \_\_\_\_\_, was served by first class mail or by hand delivery (circle the method used) on the following parties:

(Business Proprietary Version)

On Behalf of

Name and address

(Public Version)

On Behalf of

Name and address

\_\_\_\_\_  
(signature of certifying official)

**SECTION III**  
**Appendix 7**

Company Official Certification

I, \_\_\_\_\_, currently employed  
(Name and Title)

by \_\_\_\_\_, certify that (1) I have  
(Interested Party)

read the attached submission, and (2) the information contained  
in this submission is, to the best of my knowledge, complete and  
accurate.

\_\_\_\_\_  
(signature of certifying official)

**SECTION II**  
**Appendix 8**

Legal Representation Certification

I, \_\_\_\_\_, of \_\_\_\_\_, counsel to or  
(Name of Certifying Official) (Name of Law Firm)

representative of \_\_\_\_\_, certify that (1) I have read the attached  
(Name of Respondent)

submission, and (2) based on the information made available to me by

\_\_\_\_\_, I have no reason to believe that this submission contains any  
(Name of Respondent)

material misrepresentation or omission of fact.

\_\_\_\_\_  
(Signature of Certifying Official)

\_\_\_\_\_  
(Date)

# INDEX TO THE CVD REGULATIONS

## PART ONE: In Order by Section

**SECTION 351.102:** This section of the regulations provides definitions of terms which are used in other sections of the regs. The actual reg is at **page 65407 of the November 25, 1998 Federal Register Notice of the CVD Final Rule.**

Preamble is at **65349-50.**

**SECTION 351.501:** This section restates very generally the subject matter of the identification and measurement of countervailable subsidies. The actual reg is at **65407.**

Preamble is at **65350-55.**

*Indirect Subsidies* are discussed at **65250-51.**

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**SECTION 351.502:** This section deals with the specificity of domestic subsidies, The actual reg is at **65407.**

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*Integral Linkage* is discussed at **65357.**

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*Subsidies to Small and Medium-Sized Businesses* are discussed at **65358.**

*Purpose of the Specificity Test* is discussed at **65358-59.**

*Universe of Recipients* is discussed at **65359.**

**SECTION 351.503:** This section deals with the concept of benefit. The actual reg is at **65408.**

Preamble is at **65359-62.**

**SECTION 351.504:** This section deals with the grants. The actual reg is at **65408.**

Preamble is at **65362.**

**SECTION 351.505:** This section deals with loans and other forms of debt financing. The actual reg is at **65408-10.**

Preamble is at **65362-70.**

*Use of Effective Interest Rates* is discussed at **65362.**

*Selection of Benchmark Loans and Interest Rates* discussion at **65362.**

*Comparable Commercial Loans* are discussed at **65362-64**.  
*Loans Could Actually Obtain on the Market* are discussed at **65364**.  
*Benchmark for Uncreditworthy Companies* is discussed at **65364-66**.  
*Creditworthy Analysis* is discussed at **65366-67**.  
*Significance of Long-term Commercial Loans* is discussed at **65367**.  
*Significance of Prior Subsidies* is discussed at **65367-68**.  
*Calculation of Benefit from Long-term Variable Rate Loans* is discussed at **65368**.  
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*Timing of Receipt of Benefit* is discussed at **65369**.  
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**SECTION 351.506:** This section deals with loan guarantees. The actual reg is at **65410**.

Preamble is at **65370-71**.

**SECTION 351.507:** This section deals with equity infusions. The actual reg is at **65410**.

Preamble is at **65371-75**.

*Actual Private Investor Prices Available* discussed at **65372-73**.

*Actual Private Investor Prices Unavailable* discussed at **65373-75**.

**SECTION 351.508:** This section deals with assumptions or forgiveness of debt. The actual reg is at **65411**.

Preamble is at **65375**.

**SECTION 351.509:** This section deals with subsidy programs that provide a benefit in the form of relief from direct taxes. The actual reg is at **65411**.

Preamble is at **65375-76**.

**SECTION 351.510:** This section deals with programs that provide full or partial exemptions from, and deferrals of, indirect taxes and import charges. The actual reg is at **65411**.

Preamble is at **65376-77**.

**SECTION 351.511:** This section deals with the provision of goods and services. The actual reg is at **65412**.

Preamble is at **65377-79**.

**SECTION 351.512:** This section deals with the purchase of good by a government. The actual

reg is [Reserved] at **65412**.

Preamble is at **65379**.

**SECTION 351.513:** This section deals with worker-related subsidies. The actual reg is at **65412**.

Preamble is at **65379-80**.

**SECTION 351.514:** This section contains the standard for determining when a subsidy is an export subsidy. The actual reg is at **65412**.

Preamble is at **65380-81**.

**SECTION 351.515:** This section corresponds to paragraph (c) of the Illustrative List, and deals with preferential internal transport and freight charges on export shipments. The actual reg is at **65412**.

Preamble is at **65381-82**.

**SECTION 351.516:** This section deals with the government provision of goods or services on favorable terms or conditions to exporters, and is based upon paragraph (d) of the Illustrative List. The actual reg is at **65412**.

Preamble is at **65382-83**.

**SECTION 351.517:** This section deals with the exemption, remission or rebate upon export of indirect taxes. The actual reg is at **65413**.

Preamble is at **65383**.

**SECTION 351.518:** This section deals with the exemption, remission, or deferral of prior-stage cumulative indirect taxes. The actual reg is at **65413**.

Preamble is at **65383-84**.

**SECTION 351.519:** This section deals with the remission or drawback of import charges. The actual reg is at **65413**.

Preamble is at **65384-85**.

**SECTION 351.520:** This section deals with export insurance. The actual reg is at **65414**.

Preamble is at **65385**.

**SECTION 351.521:** This section deals with import substitution subsidies. The actual reg is [Reserved] at **65414**.

Preamble is at **65385-86**.

**SECTION 351.522:** This section deals with “Green Box” subsidies for certain agricultural programs, and “Green Light” subsidies for certain R&D and environmental programs. The actual reg is at **65414**.

Preamble is at **65386-90**.

*Green Light Subsidies* discussed at **65387-88**.

*Alleged Green Light Subsidies Not Used* discussed at **65388–89**.

*Subsidies for Adaptation of Existing Facilities to New Environmental Requirements* are discussed at **65389-90**.

**SECTION 351.523:** This section deals with the identification and measurement of upstream subsidies. The actual reg is at **65415**.

Preamble is at **65390-92**.

**SECTION 351.524:** This section deals with the allocation of subsidies to a particular time period. The actual reg is at **65415**.

Preamble is at **65392-99**.

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**SECTION 351.525:** This section deals with the calculation of the ad valorem subsidy rate and the attribution of a subsidy to a particular product (the “tying” of subsidies). The actual reg is at **65416**.

Preamble is at **65399-404**.

**SECTION 351.526:** This section deals with program-wide changes. The actual reg is at **65417**.

Preamble is at **65404**.

**SECTION 351.527:** This section deals with transnational subsidies. The actual reg is at **65417**.

Preamble is at **65404-05**.

**PART TWO: By Topic in Alphabetical Order**

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*The 0.5 Percent Test and the Expensing of Small Subsidies* is discussed at **65394**.

*The Time Period over which Non-Recurring Benefits are Allocated* is discussed at **65395**.

*Selection of AUL Method* discussed at **65395-97**.

*Calculation of a Company-Specific AUL* discussed at **65397-98**.

*Calculation of the Benefit Stream* discussed at **65398-99**.

*Selection of Discount Rate* discussed at **65399**.

**Attribution of a Subsidy**      *SECTION 351.525:* The actual reg is at **65416**.

Preamble is at **65399-404**.

**Assumption or Forgiveness of Debt**

*SECTION 351.508:* The actual reg is at **65411**.

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**Equity Infusions**

*SECTION 351.507:* The actual reg is at **65410**

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**Export Subsidies** *SECTION 351.514:* The actual reg is at **65412**.  
Preamble is at **65380-81**.

**Full or Partial Exemptions from, and Deferrals of, Indirect Taxes and Import Charges** *SECTION 351.510:* The actual reg is at **65411**.  
Preamble is at **65376-77**.

**Government Provision of Goods or Services on Favorable Terms or conditions to Exporters** *SECTION 351.516:* The actual reg is at **65412**.  
Preamble is at **65382-83**.

**Grants** *SECTION 351.504:* The actual reg is at **65408**.  
Preamble is at **65362**

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<b>Loan Guarantees</b>	<p><i>SECTION 351.506</i>: The actual reg is at <b>65410</b>.</p> <p>Preamble is at <b>65370-71</b></p>
<b>Preferential internal transport and Freight charges on Exports</b>	<p><i>SECTION 351.515</i>: The actual reg is at <b>65412</b>.</p> <p>Preamble is at <b>65381-82</b></p>
<b>Program-Wide Changes</b>	<p><i>SECTION 351.526</i>: The actual reg is at <b>65417</b>.</p> <p>Preamble is at <b>65404</b></p>
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*Universe of Recipients* is discussed at **65359**.

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Preamble is at **65404-05**

**Upstream Subsidies**

*SECTION 351.523*: The actual reg is at **65415**.

Preamble is at **65390-92**

**Worker-Related Subsidies**

*SECTION 351.513*: The actual reg is at **65412**.

Preamble is at **65379-80**.