

(Case Number)
New Shipper Review Initiation
Public or Proprietary (as appropriate) Document
Office XX: (Analyst Initials)

MEMORANDUM TO: File

THROUGH: Office Director

FROM: The Team

SUBJECT: Initiation of (AD)/(CVD) New Shipper Review: (Product) from
(Country) (Case Number).

OFFICE OF AD/CVD ENFORCEMENT (Office Title)
NEW SHIPPER INITIATION CHECKLIST

REQUESTER(S):

Company Name (if the producer is separate from the exporter, identify both companies)

COUNSEL:

Requester Counsel

On behalf of Company Name

Section 751(a)(2)(B) of the Tariff Act provides for an expedited review for purposes of establishing an individual dumping margin or countervailing duty rate for a “new shipper.” In general, a new shipper is an exporter or producer that did not export, and is not affiliated with an exporter or producer that did export, to the United States during the period of investigation.

Section 351.214 of the Department’s regulations sets forth the requirements that a company must meet for the Department to initiate a request for a new shipper review.

Note: This New Shipper Initiation Checklist is intended for initiation purposes only. If the information supplied in the certifications is found to be insufficient or incorrect during the course of the proceeding, the Department may rescind the review or apply adverse facts available, depending upon the facts on record.

Part I

Checklist (19 CFR 351.214 of the Department’s new shipper review regulations pursuant to section 751(a)(2)(B) of the Tariff Act)

1. Is there clear information in the request that the applicant:
 - a. Has exported, or has sold for export, subject merchandise to the United States? (Section 351.214(b)(1))
 - Yes
 - No
 - b. Has made an entry for consumption in the United States, or sold the subject merchandise to an unaffiliated customer during the relevant period of review (there must be either a sale or entry during the new shipper POR to proceed with initiation)? (Section 351.214(f)(2)(i))
 - Yes
 - No
2. In the case of a producing exporter, does the request include the following:
 - a. Certification that the producing exporter did not export to the United States during the period of investigation (POI)? (Section 351.214(b)(2)(i))
 - Yes
 - No

b. Certification that, since the investigation was initiated, the producing exporter has not been affiliated with an exporter or producer that exported to the United States during the POI, including those not individually examined? (Section 351.214(b)(2)(iii)(A))

Yes
 No

3. In the case of a non-producing exporter, does the request include the following:

a. Certification from the exporter that it did not export during the POI?
(Section 351.214(b)(2)(ii)(A))

Yes
 No

b. Certification from the exporter that, since the investigation was initiated, it has not been affiliated with an exporter or producer that exported to the United States during the POI, including those not individually examined? (Section 351.214(b)(2)(iii)(A))

Yes
 No

c. Certification from the producer (and supplier if the producer is not the supplier) that it did not export to the United States during the POI? (Section 351.214(b)(2)(ii)(B))

Yes
 No

d. Information regarding whether the producer (and supplier if the producer is not the supplier), since the investigation was initiated, has been affiliated with an exporter or producer that exported to the United States during the POI, including those not individually examined?

Yes
 No

4. Does the request provide documentation establishing the date on which subject merchandise of the exporter or producer was first entered, or withdrawn from warehouse, for consumption, or, if the exporter or producer cannot establish the date of first entry, the date on which the exporter or producer first shipped the subject merchandise for export to the United States?
(Section 351.214(b)(2)(iv)(A))

Yes
 No

5. Does the request provide documentation describing the volume of the initial shipment of the subject merchandise for export to the United States? (Section 351.214(b)(2)(iv)(B))

Yes
 No

6. Does the request provide documentation of one of the following:

a. The volume of subsequent shipments of the subject merchandise for export to the United States (if subsequent shipments were made)? (Section 351.214(b)(2)(iv)(B))

Yes

No

b. A clear statement that no subsequent shipments were made by the applicant? (Section 351.214(b)(2)(iv)(B))

Yes

No

7. In an antidumping proceeding involving imports from a nonmarket-economy country, does the request include certification that the export activities of the exporter are not controlled by the central government? (Section 351.214(b)(2)(iii)(B))

Yes

No

8. Does the request seek an exception from the assessment of antidumping or countervailing duties due to the fact that it is a regional-industry case? (Section 351.214(b)(2)(iii)(A))

Yes

No (If no, please proceed to question # 9)

If yes, does the request provide:

a. Certification that the exporter or producer did not export subject merchandise for sale in the region concerned during or after the POI? (Section 351.212(f)(1)(i))

Yes

No

b. Certification that the exporter or producer will not export subject merchandise for sale in the region concerned in the future so long as the antidumping or countervailing duty order is in effect? (Section 351.212(f)(1)(ii))

Yes

No

c. Certification that no subject merchandise of the exporter or producer was entered into the United States outside the region and then sold into the region during or after the POI? (Section 351.212(f)(1)(iii))

Yes

No

9. Does the request provide the date of the first sale to an unaffiliated customer in the United States? (Section 351.214(b)(2)(iv)(C))

Yes
 No

10. In the case of a review of a countervailing duty order, does the request provide a certification that the exporter or producer has informed the government of the exporting country that the government will be required to provide a full response to the Department's questionnaire? (Section 351.214(b)(2)(v))

Yes
 No
 NA

11. Has the request for a new shipper review been filed within one year of the date on which the subject merchandise was first entered, or withdrawn from warehouse, for consumption in the United States or, if the exporter or producer cannot establish the date of first entry, the date on which the exporter or producer first sold the subject merchandise for export to the United States? (Section 351.214(c))

Yes
 No

12. Is the request for the review made during the 6-month period ending with the end of the anniversary month? (Section 351.214(d)(1))

Yes (Please specify the month below)
 No (If no, please proceed to question # 13)

Anniversary month:

13. Is the request for the review made during the 6-month period ending with the end of the semiannual anniversary month? (Section 351.214(d)(1))

Yes (Please specify the month below)

Semiannual anniversary month:

14. Based on the Customs data query of all subject merchandise suspended under the order, within the limitations permitted by Customs, does the price, quantity, date of sale, and date of entry of the requesting party's sale correspond with the information provided by the applicant within the initiation request? If no, discuss each discrepancy below. *Note: All Customs data query information is proprietary. Please discuss its use with your team attorney.*

Yes
 No

Discussion:

15. Does the Customs data query show entries by the applicant for the period following the preliminary determination in the investigation and ending on the date of first shipment reported in the applicant's request?

Yes (If entries are found, please discuss below)
 No

Discussion:

16. Does the Customs data query show subsequent shipments made by the applicant?

Yes (If yes, proceed to question #17)
 No

17. Does the information on subsequent shipments contained within the applicant's request correspond with the information provided in the Customs data query?

Yes
 No (If no, please discuss below)

Discussion:

18. Is there any other relevant information that affects the analysis of whether to initiate this new shipper review (for example, information that would demonstrate that this transaction is not commercially reasonable, or discrepancies in company names or names and titles of officials)? If yes, please identify and discuss the information below:

Discussion:

If the request for a new shipper review does not explicitly meet all of the regulatory requirements outlined above, we should decline to initiate the new shipper review and promptly notify the requester of our rejection of the request. If sufficient time remains prior to the end of the semi-annual anniversary month or anniversary month, you must give the applicant the opportunity to correct the deficiencies prior to the end of the appropriate anniversary month or semi-annual anniversary month.

Part II**Filing Requirements (19 CFR 351.304)***(Check yes or no for each filing requirement for the New Shipper Applicant)*

1. Does the request identify the information for which it claims business proprietary treatment by enclosing the information within single brackets? (Section 351.304(b)(1))

Yes
 No

2. Does the request provide an explanation of why each item of bracketed information is entitled to business proprietary treatment? (Section 351.304(b)(1))

Yes
 No

3. Does the request for business proprietary treatment include an agreement to permit disclosure under an administrative protective order, unless the request claims that there is a clear and compelling need to withhold the information from disclosure under an administrative protective order? (Section 351.304(b)(1))

Yes
 No

4. If the request claims that there is a clear and compelling need to withhold certain information from disclosure under an administrative protective order, does the request identify the information by enclosing the information within double brackets and also include a full explanation of the reasons for the claim? (Section 351.304(b)(2))

Yes
 No
 NA

5. Does the request contain the standard certifications required under Section 351.304 of the regulations in addition to the required certifications for new shipper reviews set forth in Section 351.214 of the regulations?

Yes
 No

6. If the requester claims proprietary treatment, is the proprietary information summarized? If not, is there a clear explanation as to why the information is not capable of summarization?

Yes
 No

If an applicant's request for a new shipper review is found to be non-compliant with the Department's regulations regarding requests for proprietary treatment, the submission will be returned to the applicant and, in accordance with section 351.301 of the regulations, the applicant will be given two days to correct the request for proprietary treatment and the public versions and file the request. The provision to correct business proprietary requests and public versions is permissible regardless of whether there is sufficient time before the end of the anniversary month or semi-annual anniversary month.

Note to Analysts: Much of the information on sales and entry documents (e.g., ports of entry and product descriptions) is not normally entitled to proprietary treatment. In addition, applicants should summarize bracketed proprietary information contained on such documents unless the requester demonstrates a clear and compelling reason why it can't be summarized. Applicants should not claim bracketed proprietary treatment of the entire document by bracketing it completely. In the narrative text of the request, bracketed proprietary information should be summarized unless the requester demonstrates a clear and compelling reason why it can't be summarized.