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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-552-821

Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain tool chests and cabinets (tool chests) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2016, through March 31, 2017.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on May 9, 2017.¹ On August 21, 2017, the Department postponed the preliminary

¹ See *Certain Tool Chests and Cabinets from the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 21523 (May 9, 2017) (*Initiation Notice*).

determination of this investigation and the revised deadline is now November 7, 2017.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of the Investigation

The products covered by this investigation are tool chests from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments

² *See Certain Tool Chests and Cabinets from the People's Republic of China and the Socialist Republic of Vietnam: Postponements of Preliminary Determinations of Antidumping Duty Investigations*, 82 FR 39563 (August 21, 2017).

³ *See* Memorandum, "Decision Memorandum for Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*, 82 FR at 21523.

timely received, *see* the Preliminary Scope Decision Memorandum.⁶ The Department has preliminarily modified the scope language that appeared in the *Initiation Notice*. *See* the revised scope in Appendix I to this notice. The Department intends to address any scope comments received⁷ and issue a final scope decision along with the final determination in the concurrent countervailing duty (CVD) investigation on tool chests from the People’s Republic of China.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. The Department has calculated export prices and constructed export prices in accordance with sections 772(a) and (b) of the Act, respectively. Because Vietnam is a non-market economy, within the meaning of section 771(18) of the Act, the Department has calculated normal value (NV) in accordance with section 773(c) of the Act. In addition, pursuant to section 776(a) and (b) of the Act, the Department preliminarily has relied on facts otherwise available, with adverse inferences, for the Vietnam-wide entity. For a full description of the methodology underlying the Department’s preliminary determination, *see* the Preliminary Decision Memorandum.

⁶ *See* Memorandum, “Certain Tool Chests and Cabinets from the People’s Republic of China and the Socialist Republic of Vietnam: Scope Comments Decision Memorandum for the Preliminary Determinations” (Preliminary Scope Decision Memorandum), dated September 8, 2017.

⁷ The scope case briefs were due 30 days after the publication of *Certain Tool Chests and Cabinets from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 43331 (September 15, 2017), which was Sunday, October 15, 2017. *See* the Preliminary Scope Decision Memorandum at 6. Therefore, the actual deadline for the scope case briefs was Monday, October 16, 2017. *See* 19 CFR 351.303(b)(1) (“For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.”). The deadline for scope rebuttal briefs was Monday, October 23, 2017.

Combination Rates

In the *Initiation Notice*,⁸ the Department stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.⁹ In this investigation, we calculated producer/exporter combination rates for respondents eligible for separate rates.

Preliminary Determination

The Department preliminarily determines that the following estimated weighted-average dumping margins exist:¹⁰

Exporter	Producer	Estimated Weighted-Average Dumping Margin (percent)
Clearwater Metal Single Entity	Clearwater Metal Single Entity	230.31
Vietnam-wide Entity		230.31

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct

⁸ See *Initiation Notice*, 82 FR at 21528.

⁹ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," dated April 5, 2005 (Policy Bulletin 05.1), available on the Department's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

¹⁰ The Department preliminarily determines that Clearwater Metal VN JSC, Rabat Corporation, and CSPA Co., Ltd., are a single entity (hereinafter, Clearwater Metal Single Entity). See Preliminary Decision Memorandum; see also Memorandum, "Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Collapsing and Single Entity Treatment," dated concurrently with this notice.

CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) For the producer/exporter combination listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnam producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Vietnam-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Vietnam producer/exporter combination (or the Vietnam-wide entity) that supplied that third-country exporter.

Disclosure

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments, with the exception of scope case briefs or scope comments,¹¹ may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this

¹¹ As explained above, the actual deadline for the scope case briefs was Monday, October 16, 2017.

investigation, unless the Department alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹² Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS no later than 5:00 p.m. Eastern Time on the established due date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in

¹² See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Pursuant to 19 CFR 351.210(e)(2), the Department requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 19, 2017, pursuant to 19 CFR 351.210(e), the Clearwater Metal Single Entity requested that the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹³ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, the Department is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, the Department's final determination will be published no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, the Department will notify the International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

¹³ See Letter from the Clearwater Metal Single Entity, "Antidumping Duty Investigation of Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Extension Request for Final Determination," dated September 19, 2017.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: November 7, 2017

Appendix I

Scope of the Investigation

The scope of this investigation covers certain metal tool chests and tool cabinets, with drawers, (tool chests and cabinets), from the Socialist Republic of Vietnam (Vietnam). The scope covers all metal tool chests and cabinets, including top chests, intermediate chests, tool cabinets and side cabinets, storage units, mobile work benches, and work stations and that have the following physical characteristics:

- (1) a body made of carbon, alloy, or stainless steel and/or other metals;
- (2) two or more drawers for storage in each individual unit;
- (3) a width (side to side) exceeding 15 inches for side cabinets and exceeding 21 inches for all other individual units but not exceeding 60 inches;
- (4) a body depth (front to back) exceeding 10 inches but not exceeding 24 inches; and
- (5) prepackaged for retail sale.

For purposes of this scope, the width parameter applies to each individual unit, *i.e.*, each individual top chest, intermediate top chest, tool cabinet, side cabinet, storage unit, mobile work bench, and work station.

Prepackaged for retail sale means the units may, for example, be packaged in a cardboard box, other type of container or packaging, and may bear a Universal Product Code, along with photographs, pictures, images, features, artwork, and/or product specifications. Subject tool chests and cabinets are covered whether imported in assembled or unassembled form. Subject merchandise includes tool chests and cabinets produced in Vietnam but assembled, prepackaged for retail sale, or subject to other minor processing in a third country prior to importation into the United States. Similarly, it would include tool chests and cabinets produced in Vietnam that are later found to be assembled, prepackaged for retail sale, or subject to other minor processing after importation into the United States.

Subject tool chests and cabinets may also have doors and shelves in addition to drawers, may have handles (typically mounted on the sides), and may have a work surface on the top. Subject tool chests and cabinets may be uncoated (*e.g.*, stainless steel), painted, powder coated, galvanized, or otherwise coated for corrosion protection or aesthetic appearance.

Subject tool chests and cabinets may be packaged as individual units or in sets. When packaged in sets, they typically include a cabinet with one or more chests that stack on top of the cabinet. Tool cabinets act as a base tool storage unit and typically have rollers, casters, or wheels to permit them to be moved more easily when loaded with tools. Work

stations and mobile work benches are tool cabinets with a work surface on the top that may be made of rubber, plastic, metal, wood, or other materials.

Top chests are designed to be used with a tool cabinet to form a tool storage unit. The top chests may be mounted on top of the base tool cabinet or onto an intermediate chest. They are often packaged as a set with tool cabinets or intermediate chests, but may also be packaged separately. They may be packaged with mounting hardware (*e.g.*, bolts) and instructions for assembling them onto the base tool cabinet or onto an intermediate tool chest which rests on the base tool cabinet. Smaller top chests typically have handles on the sides, while the larger top chests typically lack handles. Intermediate tool chests are designed to fit on top of the floor standing tool cabinet and to be used underneath the top tool chest. Although they may be packaged or used separately from the tool cabinet, intermediate chests are designed to be used in conjunction with tool cabinets. The intermediate chests typically do not have handles. The intermediate and top chests may have the capability of being bolted together.

Side cabinets are designed to be bolted or otherwise attached to the side of the base storage cabinet to expand the storage capacity of the base tool cabinet.

Subject tool chests and cabinets also may be packaged with a tool set included. Packaging a subject tool chest and cabinet with a tool set does not remove an otherwise covered subject tool chest and cabinet from the scope. When this occurs, the tools are not part of the subject merchandise.

All tool chests and cabinets that meet the above definition are included in the scope unless otherwise specifically excluded.

Excluded from the scope of the investigation are tool boxes, chests, and cabinets with bodies made of plastic, carbon fiber, wood, or other non-metallic substances.

Also excluded from the scope of the investigation are industrial grade steel tool chests and cabinets. The excluded industrial grade steel tool chests and cabinets are those:

- (1) having a body that is over 60 inches in width; or
- (2) having each of the following physical characteristics:
 - (a) a body made of steel that is 0.047 inches or more in thickness;
 - (b) a body depth (front to back) exceeding 21 inches; and
 - (c) a unit weight that exceeds the maximum unit weight shown below for each width range:

Weight to Width Ratio Tool Chests	
Inches	Maximum Pounds
21 > ≤ 25	90
25 > ≤ 28	115
28 > ≤ 30	120
30 > ≤ 32	130
32 > ≤ 34	140
34 > ≤ 36	150
36 > ≤ 38	160
38 > ≤ 40	170
40 > ≤ 42	180
42 > ≤ 44	190
44 > ≤ 46	200
46 > ≤ 48	210
48 > ≤ 50	220
50 > ≤ 52	230
52 > ≤ 54	240
54 > ≤ 56	250
56 > ≤ 58	260
58 > ≤ 60	270

Weight to Width Ratio Tool Cabinets	
Inches	Maximum Pounds
21 > ≤ 25	155
25 > ≤ 28	170
28 > ≤ 30	185
30 > ≤ 32	200
32 > ≤ 34	215
34 > ≤ 36	230
36 > ≤ 38	245
38 > ≤ 40	260
40 > ≤ 42	280
42 > ≤ 44	290
44 > ≤ 46	300
46 > ≤ 48	310
48 > ≤ 50	320
50 > ≤ 52	330
52 > ≤ 54	340
54 > ≤ 56	350
56 > ≤ 58	360
58 > ≤ 60	370

Also excluded from the scope of the investigation are service carts. The excluded service carts have all of the following characteristics:

- (1) casters, wheels, or other similar devices which allow the service cart to be rolled from place to place;
- (2) a flat top or flat lid on top of the unit that opens;
- (3) a space or gap between the casters, wheels, or other similar devices, and the bottom of the enclosed storage space (e.g., drawers) of at least 10 inches; and
- (4) a total unit height, including casters, of less than 48 inches.

Also excluded from the scope of the investigation are non-mobile work benches. The excluded non-mobile work benches have all of the following characteristics:

- (1) a solid top working surface;
- (2) no drawers, one drawer, or two drawers in a side-by-side configuration; and

(3) the unit is supported by legs and has no solid front, side, or back panels enclosing the body of the unit.

Also excluded from the scope of this investigation are metal filing cabinets that are configured to hold hanging file folders and are classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 9403.10.0020.

Merchandise subject to this investigation is classified under HTSUS categories 9403.20.0021, 9403.20.0026, 9403.20.0030 and 7326.90.8688, but may also be classified under HTSUS category 7326.90.3500. While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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- VI. Selection of Respondents
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 - 1. Direct and Packing Materials
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 - M. Use of Facts Available for Certain Factors of Production
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IX. Conclusion

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