



BILLING CODE: 3510-DS-P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A-552-827]**

**Mattresses 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 (Commerce) preliminarily determines that mattresses 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 July 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

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

**FOR FURTHER INFORMATION CONTACT:** Stephen Bailey or Dakota Potts, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0193 or (202) 482-0223, respectively.

**SUPPLEMENTARY INFORMATION:**

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on April 24, 2020.<sup>1</sup> On August 11, 2020, Commerce postponed the preliminary determination of this investigation and the revised deadline is now October 27, 2020.<sup>2</sup> For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> 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>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

### Scope of the Investigation

The product covered by this investigation is mattresses from Vietnam. For a full description of the scope of this investigation, *see* Appendix I.

### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation*

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<sup>1</sup> *See Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 23002 (April 24, 2020) (*Initiation Notice*).

<sup>2</sup> *See Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 48505 (August 11, 2020).

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Mattresses from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

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

<sup>5</sup> *See Initiation Notice*.

*Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>6</sup> In the Preliminary Scope Decision Memorandum, Commerce determined that it is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice.

The Preliminary Scope Decision Memorandum establishes a deadline to submit scope case briefs and indicates that there will be no further opportunity for comments on scope-related issues.<sup>7</sup>

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Because Vietnam is a non-market economy, within the meaning of section 771(18) of the Act, Commerce has calculated normal value (NV) in accordance with section 773 of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available with adverse inferences to determine the estimated weighted-average dumping margin for Vietnam Glory Home Furnishings Co., Ltd./Glory (Viet Nam) Industry Co., Ltd. (collectively, Vietnam Glory)<sup>8</sup> and the Vietnam-wide entity. For a full description of the

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<sup>6</sup> *See* Memorandum, “Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, the Republic of Turkey, the Socialist Republic of Vietnam, and the People’s Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination,” (Preliminary Scope Decision Memorandum), dated concurrently with this preliminary determination.

<sup>7</sup> Case briefs, other written comments, and rebuttal briefs submitted in response to this preliminary determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum; and “Public Comment” section of this notice.

<sup>8</sup> Commerce has preliminarily determined to collapse the following companies: Vietnam Glory Home Furnishings Co., Ltd. and Glory (Viet Nam) Industry Co., Ltd. (collectively, Vietnam Glory). *See* Memorandum, “Vietnam Glory Preliminary Collapsing Memorandum,” dated concurrently with this notice.

methodology underlying the preliminary determination, *see* the Preliminary Decision

Memorandum.

### Combination Rates

In the *Initiation Notice*,<sup>9</sup> Commerce explained 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.<sup>10</sup>

### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

<b>Producer</b>	<b>Exporter</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
Vietnam Glory Home Furnishings Co., Ltd./ Glory (Viet Nam) Industry Co., Ltd.	Vietnam Glory Home Furnishings Co., Ltd./Glory (Viet Nam) Industry Co., Ltd.	989.90
Wanek Furniture Co., Ltd./ Millennium Furniture Co., Ltd./Comfort Bedding Company Limited	Wanek Furniture Co., Ltd./ Millennium Furniture Co., Ltd./Comfort Bedding Company Limited	190.79
Cong Ty Tnhm Nem Thien Kim (a.k.a. Better Zs, Ltd.)	Dockter China Limited	190.79
Cong Ty Tnhm Nem Thien Kim (a.k.a. Better Zs, Ltd.)	Healthcare Sleep Products Limited	190.79
Hava's Co., Ltd.	Hava's Co., Ltd.	190.79
Gesin Vietnam Co., Ltd	Hong Kong Gesin Technology Limited	190.79

<sup>9</sup> *See Initiation Notice*, 85 FR 23007.

<sup>10</sup> *See* Policy Bulletin No. 05.1, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Taimei Company Limited (a.k.a. Taimei Co., Ltd)	Taimei Company Limited (a.k.a. Taimei Co., Ltd)	190.79
Tong Li Vietnam Industrial Co., LTD	Tong Li Vietnam Industrial Co., LTD	190.79
Super Foam Vietnam Ltd.	Super Foam Vietnam Ltd.	190.79
Sinomax (Vietnam) Household Products Limited	Sinomax International Trading Limited	190.79
Sinomax (Vietnam) Household Products Limited	Sinomax Macao Commercial Offshore Limited	190.79
Vietnam-wide Entity	Vietnam-wide Entity	989.90

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, 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), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which NV exceeds U.S. price, as indicated in the table above as follows: (1) for the producer/exporter combinations 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. These suspension of liquidation instructions will remain in effect until further notice.

### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any 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). Because Commerce preliminarily applied adverse facts available to determine the estimated weighted-average dumping margin for Vietnam Glory, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the highest margin alleged on the Petition, there are no calculations to disclose for Vietnam Glory.

### Verification

Commerce is currently unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. Accordingly, we intend to take additional steps in lieu of on-site verification. Commerce will notify interested parties of any additional documentation or information required.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments on non-scope issues will be announced at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.<sup>11</sup> Note that Commerce has temporarily modified certain of its requirements for serving

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<sup>11</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

documents containing business proprietary information, until further notice.<sup>12</sup> 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, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date and time of the hearing two days before the scheduled date of the hearing.

#### 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 the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final 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

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<sup>12</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

duration.

On October 13, 2020, pursuant to 19 CFR 351.210(e), Vietnam Glory and the Ashley Group<sup>13</sup> requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>14</sup> 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 exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination 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, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. 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 these imports materially injure, or threaten material injury to, the U.S. industry.

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<sup>13</sup> Commerce has preliminarily determined to collapse the following companies: Wanek Furniture Co., Ltd.; Millennium Furniture Co., Ltd.; and Comfort Bedding Company Limited (collectively, the Ashley Group). *See* Memorandum, “Ashley Group Preliminary Collapsing Memorandum,” dated concurrently with this notice.

<sup>14</sup> *See* Ashley Group’s Letter, “Mattresses from the Socialist Republic of Vietnam: Request to Postpone Final Determination,” dated October 13, 2020; *see also* Vietnam Glory’s Letter, “Mattresses from the Socialist Republic of Vietnam: Request for Extension of Time of Final Determination,” dated October 13, 2020.

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).

Dated: October 27, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary*

*for Enforcement and Compliance.*

## Appendix I

### Scope of the Investigation

The products covered by this investigation are all types of youth and adult mattresses. The term “mattress” denotes an assembly of materials that at a minimum includes a “core,” which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain: (1) “upholstery,” the material between the core and the top panel of the ticking on a single-sided mattress; or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) “ticking,” the outermost layer of fabric or other material (*e.g.*, vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of this investigation is restricted to only “adult mattresses” and “youth mattresses.” “Adult mattresses” are frequently described as “twin,” “extra-long twin,” “full,” “queen,” “king,” or “California king” mattresses. “Youth mattresses” are typically described as “crib,” “toddler,” or “youth” mattresses. All adult and youth mattresses are included regardless of size and size description.

The scope encompasses all types of “innerspring mattresses,” “non-innerspring mattresses,” and “hybrid mattresses.” “Innerspring mattresses” contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as “innerspring mattresses” or “hybrid mattresses.” “Hybrid mattresses” contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

“Non-innerspring mattresses” are those that do not contain any innerspring units. They are generally produced from foams (*e.g.*, polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of this investigation may be imported independently, as part of furniture or furniture mechanisms (*e.g.*, convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a “mattress foundation.” “Mattress foundations” are any base or support for a mattress. Mattress foundations are commonly referred to as “foundations,” “boxsprings,” “platforms,” and/or “bases.” Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set in combination with a mattress foundation.

Excluded from the scope of this investigation are “futon” mattresses. A “futon” is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A “futon mattress” is a tufted mattress, where the top covering is secured to the bottom with thread that goes completely

through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Also excluded is certain multifunctional furniture that is convertible from seating to sleeping, regardless of filler material or components, where that filler material or components are upholstered, integrated into the design and construction of, and inseparable from, the furniture framing, and the outermost layer of the multifunctional furniture converts into the sleeping surface. Such furniture may, and without limitation, be commonly referred to as “convertible sofas,” “sofabeds,” “sofa chaise sleepers,” “futons,” “ottoman sleepers” or a like description.

Also excluded from the scope of this investigation are any products covered by the existing antidumping duty orders on uncovered innerspring units from China or Vietnam. *See Uncovered Innerspring Units from the People’s Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009); *Uncovered Innerspring Units from the Socialist Republic of Vietnam*, 73 FR 75391 (December 11, 2008).

Also excluded from the scope of this investigation are bassinet pads with a nominal length of less than 39 inches, a nominal width less than 25 inches, and a nominal depth of less than 2 inches.

Additionally, also excluded from the scope of this investigation are “mattress toppers.” A “mattress topper” is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. Excluded mattress toppers have a height of four inches or less.

The products subject to this investigation are currently properly classifiable under HTSUS subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this investigation may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Postponement of the Final Determination
- V. Single Entity Treatment
- VI. Application of Facts Available and Use of Adverse Facts Available
- VII. Discussion of the Methodology
- VIII. Currency Conversion
- IX. Recommendation

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