



DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-836]

Certain Paper Shopping Bags from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Critical Circumstances Determination, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) 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, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2371.

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 in the *Federal Register* on June 27, 2023.¹ On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.²

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed 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 <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

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

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ in the *Initiation Notice*, Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, 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

¹ *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

² *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 88 FR 68097 (October 3, 2023).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Paper Shopping Bags 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 AD Initiation Notice*, 88 FR at 41590; *see also Certain Paper Shopping Bags from the People's Republic of China and India: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 88 FR 41380, 41381 (August 7, 2023).

comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice*. In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

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 (NME) country, within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act.

Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences (AFA), to assign a dumping margin for the Vietnam-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances exist with respect to imports of paper bags from Vietnam for Goldsun Packaging and Printing Joint Stock Company (Goldsun), the non-selected respondents eligible for a separate rate, and the Vietnam-wide entity. For a full description of the methodology and results of Commerce's analysis, *see* the Preliminary Decision Memorandum.

⁶ *See* Memorandum, "Preliminary Scope Decision Memorandum," dated concurrently with this notice (Preliminary Scope Decision Memorandum).

Vietnam-Wide Entity

Commerce preliminarily finds that several companies, including one mandatory respondent (Hi-Level, as discussed below), have not established their eligibility for a separate rate and are considered to be part of the Vietnam-wide entity.⁷

Combination Rates

In the *Initiation Notice*,⁸ Commerce 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

Separate Rates

In this investigation, in addition to Goldsun, we have preliminarily granted certain non-individually examined respondents a separate rate. However, because Hi-Level Enterprise Co., Ltd. (Hi-Level) requested a separate rate and did not fully respond to Commerce's questionnaire as a mandatory respondent, we have preliminarily denied a separate rate to Hi-Level and are treating it as part of the Vietnam-wide entity.

In calculating the rate for non-individually examined separate rate respondents in NME antidumping duty (AD) investigation, Commerce normally looks to section 735(c)(5)(A) of the Act, which pertains to the calculation of the all-others rate in a market economy AD investigation, for guidance. Pursuant to section 735(c)(5)(A) of the Act, normally this rate shall be an amount equal to the weighted average of the estimated AD rate established for those companies individually examined, excluding zero and *de minimis* and any rates based entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for Goldsun that is not zero, *de minimis*, or based entirely on facts otherwise

⁷ These companies are NamCuong Packaging, Pan Pacific Vietnam, SIC Paper Bag, Kien Nang, Co., Ltd., and TLC Packaging. Moreover, International Packaging Limited Company is ineligible for a separate rate because it did not have a sale during the POI. See Preliminary Decision Memorandum.

⁸ See *Initiation Notice*, 88 FR at 41593.

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," (April 5, 2005) (Policy Bulletin 05.1), available at <https://access.trade.gov/Resources/policy/bull05-1.pdf>.

available. Thus, the weighted average dumping margin calculated for Goldsun is the basis to determine the weighted-average dumping margin for the non-examined separate rate companies, using section 735(c)(5)(A) of the Act for guidance, which provides for the determination of the estimated weighted-average dumping for all other producers and exporters in a market economy investigation. *See* the below table in the “Preliminary Determination” section of this notice.

Preliminary Determination

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

Producer	Exporter	Weighted-Average Dumping Margin (percent)
Goldsun Packaging and Printing Joint Stock Company	Goldsun Packaging and Printing Joint Stock Company	51.25
Dong Sung Vina Printing Co., Ltd. ¹⁰	Dong Sung Printing Co., Ltd. ¹¹	51.25
Khang Thanh Manufacturing Company Limited	Khang Thanh Manufacturing Company Limited	51.25
Vietnam Red Star Industry Company Limited	Vietnam Red Star Industry Company Limited	51.25
Vietnam-Wide Entity		92.34*

*Rate based on AFA.

Disclosure

Commerce 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).

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 90 days

¹⁰ Dong Sung is sometimes translated as one word “Dongsung.”

¹¹ *Id.*

prior to 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 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 subject merchandise 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 subject merchandise 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.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise from Goldsun, the non-selected respondents eligible for a separate rate, and the Vietnam-wide entity.¹¹ In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from Goldsun, the non-selected respondents eligible for a separate rate, and the Vietnam-wide entity that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice in the *Federal Register*.

These suspension of liquidation instructions will remain in effect until further notice.

Verification

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

Public Comment

Case briefs or other written comments¹² may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this investigation.¹³ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁴ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁵

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁶ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁷

¹² See 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

¹³ Case briefs and rebuttal briefs submitted in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum.

¹⁴ See 19 CFR 351.309(d); *see also* *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁵ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁷ See *APO and Service Final Rule*.

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 the date and time of the hearing two days before the scheduled 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 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), Commerce requires that requests by exporters for postponement of a 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 duration.

On November 21, 2023, the Coalition for Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.¹⁸ On December 20, 2023, Goldsun timely requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months in the event of an affirmative preliminary determination.¹⁹ 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

¹⁸ See Petitioner's Letter, "Petitioner's Request for Postponement of the Final Determinations," dated November 21, 2023.

¹⁹ See Goldsun's Letter, "Request to Extend Final Determination," dated December 20, 2023.

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.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. 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.

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: December 27, 2023.

Abdelali Elouaradia,
Deputy Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.*, folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.*, 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric²⁰ and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.*, excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary

²⁰ Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

- II. Background
- III. Period of Investigation
- IV. Discussion of the Methodology
- V. Preliminary Affirmative Determination of Critical Circumstances
- VI. Currency Conversion
- VII. Recommendation

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