



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-836]

### **Certain Paper Shopping Bags from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that certain paper shopping bags (paper bags) from the Socialist Republic of Vietnam (Vietnam) are being, or likely to be, sold in the United States at less-than-fair value (LTFV) for the period investigation October 1, 2022, through March 31, 2023.

**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

On January 3, 2024, Commerce published in the *Federal Register* its preliminary determination in the LTFV investigation of paper bags from Vietnam, in which we also

postponed the final determination until May 17, 2024.<sup>1</sup> We invited interested parties to comment on the *Preliminary Determination*.<sup>2</sup>

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>3</sup> The Issues and 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 Issues and 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

During the course of this investigation, Commerce received scope comments from parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope-specific case and rebuttal briefs.<sup>4</sup> We received comments from parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision Memorandum.<sup>5</sup> We made no

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<sup>1</sup> See *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*, 89 FR 321 (January 3, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See *Preliminary Determination*, 89 FR at 321.

<sup>3</sup> See Memorandum, "Decision Memorandum for the Final 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 (Issues and Decision Memorandum).

<sup>4</sup> See Memorandum, "Preliminary Scope Decision Memorandum," dated December 27, 2023 (Preliminary Scope Decision Memorandum).

<sup>5</sup> See Memorandum, "Less-Than-Fair-Value and Countervailing Duty Investigations of 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: Final Scope Decision Memorandum," dated March 11, 2024 (Final Scope Decision Memorandum).

changes to the scope of the investigation from the scope published in the *Preliminary Determination*, as noted in Appendix I to this notice.

#### Final Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.206, Commerce continues to find 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 discussion and analysis of comments regarding Commerce's critical circumstances analysis, *see* the Issues and Decision Memorandum.

#### Verification

As provided in section 782(i) of the Act, we conducted verifications of the sales and factors of production information submitted by Goldsun for use in our final determination. We used standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by Goldsun.<sup>6</sup>

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached as Appendix II to this notice.

#### Changes Since the *Preliminary Determination*

We have made certain changes to the margin calculation for Goldsun.<sup>7</sup> For a discussion of these changes, *see* the Issues and Decision Memorandum.

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<sup>6</sup> *See* Memorandum, "Verification of the Questionnaire Responses of Goldsun Packaging and Printing Joint Stock Company in the Antidumping Investigation of Certain Paper Shopping Bags from the Socialist Republic of Vietnam," dated March 27, 2024.

<sup>7</sup> *See* Issues and Decision Memorandum.

## Vietnam-Wide Entity and Use of Adverse Facts Available (AFA)

Consistent with the *Preliminary Determination*,<sup>8</sup> Commerce continues to find, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act, that the use of facts available is warranted in determining the rate of the Vietnam-wide entity, which includes mandatory respondent Hi-Level Enterprise Co., Ltd. (Hi-Level), who did not fully respond to Commerce's questionnaire, and for the following five non-responsive companies<sup>9</sup> that did not respond to our requests for information: NamCuong Packaging, Pan Pacific Vietnam, SIC Paper Bag, Kien Nang, Co., Ltd. and TLC Packaging. Furthermore, we continue to find that an adverse inference is warranted in selecting from among the facts otherwise available, pursuant to section 776(b) of the Act, because the Vietnam-wide entity, including the above-referenced companies, failed to cooperate by not acting to the best of their ability to comply with Commerce's requests for information. For the final determination, consistent with the *Preliminary Determination*,<sup>10</sup> as AFA, we are continuing to assign to the Vietnam-wide entity, including the above-referenced companies, the rate of 92.34 percent, which is the highest margin alleged in the petition.<sup>11</sup>

### Separate Rates

We preliminarily found the mandatory respondent Goldsun and certain non-selected separate rate applicants<sup>12</sup> to be eligible for a separate rate in the *Preliminary Determination*.<sup>13</sup> No party commented on our preliminary separate rate determination and we have no basis to otherwise reconsider this determination. Accordingly, we continue to find that Goldsun and the non-selected companies are eligible for a separate rate in the final determination.

Generally, Commerce looks to section 735(c)(5)(A) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating

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<sup>8</sup> See *Preliminary Determination* PDM at 6-8.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See Initiation Checklist, "Antidumping Duty Investigation Initiation Checklist: Certain Paper Shopping Bags from the Socialist Republic of Vietnam," dated June 20, 2023.

<sup>12</sup> The non-selected companies eligible for a separate rate are: 1) Khang Thanh Manufacturing Company Limited, 2) Vietnam Red Star Industry Company Limited, and 3) Dong Sung Printing Co., Ltd.

<sup>13</sup> See *Preliminary Determination* PDM at 13-14.

the rate for separate rate respondents which we did not individually examine. The statute further provides that, where all margins are zero, *de minimis*, or based entirely on facts available under section 776 of the Act, Commerce may use “any reasonable method” for assigning the rate to non-selected respondents.<sup>14</sup> In this final determination, the only participating mandatory respondent (*i.e.*, Goldsun) has received a weighted-average dumping margin which is not zero, *de minimis*, or based entirely on facts available. Therefore, in accordance with section 735(c)(5)(A) of the Act, we have assigned Goldsun’s calculated weighted-average dumping margin (*i.e.*, 36.51 percent) to the non-examined separate rate respondents.

### Combination Rates

Consistent with the *Preliminary Determination* and Policy Bulletin 05.1,<sup>15</sup> Commerce calculated combination rates for Goldsun and three other companies eligible for a separate rate.

### Final Determination

The final estimated weighted-average dumping margins are as follows:

| <b>Exporter</b>                                    | <b>Producer</b>                                    | <b>Weighted-Average Dumping Margin (percent)</b> |
|--|--|--|
| Goldsun Packaging and Printing Joint Stock Company | Goldsun Packaging and Printing Joint Stock Company | 36.51  |
| Dong Sung Printing Co., Ltd. <sup>16</sup>         | Dong Sung Vina Printing Co., Ltd. <sup>17</sup>    | 36.51  |
| Khang Thanh Manufacturing Company Limited          | Khang Thanh Manufacturing Company Limited          | 36.51  |
| Vietnam Red Star Industry Company Limited          | Vietnam Red Star Industry Company Limited          | 36.51  |
| Vietnam-Wide Entity                                |  | 92.34*   |

\* Based on AFA.

<sup>14</sup> See section 735(c)(5)(B) of the Act.

<sup>15</sup> 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 Commerce’s website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>16</sup> Dong Sung is sometimes translated as one word “Dongsung.”

<sup>17</sup> *Id.*

## Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice in the *Federal Register* in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

In accordance with section 735(c)(4) of the Act, because Commerce continues to find that critical circumstances exist, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption, on or after October 5, 2023, which is 90 days prior to the date of the date of publication of the affirmative *Preliminary Determination* in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the U.S. price as follows: (1) the cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified in the table; (2) for all combinations of Vietnamese exporters/producers of subject merchandise that have not received their own separate rate above, the cash deposit rate will be the cash deposit rate established for the Vietnam-wide entity; and (3) for all non-Vietnamese exporters of subject merchandise which have not received their own separate rate above, the cash deposit rate will be the cash deposit rate applicable to the Vietnamese exporter/producer combination that supplied that non-Vietnamese exporter. These suspension of liquidation instructions will remain in effect until further notice.

## U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic

industry in the United States is materially injured, or threatened with material injury, by reason of imports of paper bags from Vietnam no later than 45 days after this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded or canceled, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed in the “Continuation of Suspension of Liquidation” section.

#### Administrative Protective Order

This notice serves as the final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

#### Notification to Interested Parties

This determination and this notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: May 17, 2024.

**Ryan Majerus,**

*Deputy Assistant Secretary*

*for Policy and Negotiations,*

*performing the non-exclusive functions and duties*

*of the 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 fabric<sup>18</sup> 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.

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<sup>18</sup> Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes from the *Preliminary Determination*
- IV. Discussion of the Issues
  - Comment 1: Whether to Use the Philippines as the Surrogate Country
  - Comment 2: Whether to Recalculate the Financial Ratios
  - Comment 3: Whether to Adjust the Ocean Freight Surrogate Value
  - Comment 4: Whether to Use Brokerage and Handling for Export
  - Comment 5: Whether to Use Harmonized System Subheading 3919.20 for the Label Input
  - Comment 6: Whether to Correct Programming Errors Related to Units of Measure and Certain Expenses
  - Comment 7: Whether to Make a Negative Critical Circumstances Determination
  - Comment 8: Whether to Use Post-Verification Sales and Factors of Production (FOP) Databases
- V. Recommendation

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