

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-552-847]

**Hard Empty Capsules 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 U.S. Department of Commerce (Commerce) preliminarily determines that hard empty capsules (capsules) 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 April 1, 2024, through September 30, 2024. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable May 29, 2025.

**FOR FURTHER INFORMATION CONTACT:** Jinny Ahn or Harrison Tanchuck, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0339 or (202) 482-7421, 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 November 20, 2024.<sup>1</sup> On March 5, 2025, Commerce postponed the preliminary determination of this investigation until May 22, 2025.<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 <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

**Scope of the Investigation**

The merchandise covered by this investigation is capsules 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,<sup>4</sup> in the *Initiation Notice*, Commerce 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 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 timely received, *see* the Preliminary Scope Decision Memorandum.<sup>6</sup> Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice. In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.<sup>7</sup>

**Methodology**

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated constructed export prices in accordance with section 772(b) of the Act. Because Vietnam is a non-market economy (NME), within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act. For a full description of the methodology underlying Commerce's

preliminary determination, *see* the Preliminary Decision Memorandum.

**Combination Rates**

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

**Separate Rate Companies and the Vietnam-Wide Entity**

In this investigation, Commerce received one separate rate application, from Suheung Vietnam Co., Ltd. (SHVN), and we are preliminarily granting a separate rate to SHVN. In calculating the rate for non-individually examined separate rate respondents in an NME LTFV 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 LTFV 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 weighted-average dumping margins established for those companies individually examined, excluding zero and *de minimis* estimated weighted-average dumping margins and any estimated weighted-average dumping margins based entirely under section 776 of the Act.

SHVN is the only respondent that Commerce individually examined in this investigation and Commerce preliminarily calculated an estimated weighted-average dumping margin for SHVN that is not zero, *de minimis*, or based entirely on facts available. Accordingly, while there are no separate rate respondents in this investigation, because we preliminarily do not find that the Vietnam-wide entity failed to cooperate in this investigation, we preliminarily assigned the estimated weighted-average dumping margin calculated for SHVN to the Vietnam-wide entity.<sup>10</sup>

<sup>1</sup> *See Hard Empty Capsules from Brazil, the People's Republic of China, India, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 89 FR 91684 (November 20, 2024) (*Initiation Notice*).

<sup>2</sup> *See Hard Empty Capsules from Brazil, the People's Republic of China, India, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair Value Investigations*, 90 FR 11257 (March 5, 2025).

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Hard Empty Capsules 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) (*Preamble*).

<sup>5</sup> *See Initiation Notice*, 89 FR at 91685.

<sup>6</sup> *See* Memorandum, "Less-Than-Fair-Value and Countervailing Duty Investigations of Hard Empty Capsules from Brazil, the People's Republic of China, India, and the Socialist Republic of Vietnam: Scope Comments Decision Memorandum for the Preliminary Determination," dated March 24, 2025 (Preliminary Scope Decision Memorandum).

<sup>7</sup> *Id.* at 10.

<sup>8</sup> *See Initiation Notice*, 89 FR at 80202.

<sup>9</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," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>10</sup> *See* Preliminary Decision Memorandum at the section, "Separate Rate Determinations," for further discussion.

### Preliminary Determination

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

Producer	Exporter	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent) <sup>11</sup>
Suheung Vietnam Co., Ltd .....	Suheung Vietnam Co., Ltd .....	9.99	8.35
Vietnam-Wide Entity .....		9.99	8.35

### 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 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 normal value exceeds U.S. price, as indicated in the chart 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.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce

has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the “Preliminary Determination” chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for the passed-through domestic subsidies or for export subsidies at the time the CVD provisional measures expire.

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

### 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).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the

preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

### 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 comments, excluding scope comments, may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation.<sup>12</sup> A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. 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.<sup>13</sup> Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.<sup>14</sup>

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.<sup>15</sup> Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We

<sup>11</sup> We are applying an export subsidy offset to the mandatory respondent. See *Hard Empty Capsules from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 90 FR 14240 (March 31, 2025) (*CVD Preliminary Determination*), and accompanying Preliminary Decision

Memorandum. For the Vietnam-wide entity, we have determined the amount of the offset based on the *CVD Preliminary Determination*.

<sup>12</sup> See 19 CFR 351.309(c)(1)(i); see also 19 CFR 351.303 (for general filing requirements).

<sup>13</sup> 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*).

<sup>14</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>15</sup> We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

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).<sup>16</sup>

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: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location 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 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 duration.

In May 2025, pursuant to 19 CFR 351.210(e)(2), the petitioner<sup>17</sup> and SHVN requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>18</sup>

Additionally, pursuant to 19 CFR 351.210(b)(2)(i) and (e)(1), the petitioner and SHVN requested that Commerce postpone the final determination and that provisional measures be extended up to 135 days contingent upon negative preliminary determinations in these investigations.<sup>19</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 exporter accounts 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.

#### U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the 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 date of this preliminary 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: May 22, 2025.

**Christopher Abbott,**

*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 merchandise subject to the scope of the investigation is hard empty capsules, which are comprised of two prefabricated, hollowed cylindrical sections (cap and body). The cap and body pieces each have one closed and rounded end and one open end, and are constructed with different or equal diameters at their open ends.

Hard empty capsules are unfilled cylindrical shells composed of at least 80

percent by weight of a water soluble polymer that is considered non-toxic and appropriate for human or animal consumption by the United States Pharmacopeia—National Formulary (USP–NF), Food Chemical Codex (FCC), or equivalent standards. The most common polymer materials in hard empty capsules are gelatin derived from animal collagen (including, but not limited to, pig, cow, or fish collagen), hydroxypropyl methylcellulose (HPMC), and pullulan.

Hard empty capsules may also contain water and additives, such as opacifiers, colorants, processing aids, controlled release agents, plasticizers, and preservatives. Hard empty capsules may also be imprinted or otherwise decorated with markings.

Hard empty capsules are covered by the scope of the investigation regardless of polymer material, additives, transparency, opacity, color, imprinting, or other markings.

Hard empty capsules are also covered by the scope of the investigation regardless of their size, weight, length, diameter, thickness, and filling capacity.

Cap and body pieces of hard empty capsules are covered by the scope of the investigation regardless of whether they are imported together or separately, and regardless of whether they are imported in attached or detached form.

Hard empty capsules covered by the scope of the investigation are those that disintegrate in water within 2 hours under tests specified in Chapter 701 of the USP–NF, or equivalent disintegration tests.

Hard empty capsules are classifiable under subheadings 9602.00.1040 and 9602.00.5010 of the Harmonized Tariff Schedule of the United States (HTSUS). In addition, hard empty capsules may be imported under HTSUS subheading 1905.90.9090; gelatin hard empty capsules may be imported under HTSUS subheading 3503.00.5510; HPMC hard empty capsules may be imported under HTSUS subheading 3923.90.0080; and pullulan hard empty capsules may be imported under HTSUS subheading 2106.90.9998. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the investigation is dispositive.

#### Appendix II

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

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Selection of Respondents
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Adjustment Under Section 777A(f) of the Act
- VIII. Adjustments to the Cash Deposit Rates for Export Subsidies in the Companion Countervailing Duty Investigation
- IX. Recommendation

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<sup>16</sup> See *APO and Service Final Rule*.

<sup>17</sup> The petitioner in this proceeding is Lonza Greenwood LLC.

<sup>18</sup> See Petitioner's Letter, "Hard Empty Capsules from Brazil, the People's Republic of China, India, and the Socialist Republic of Vietnam: Lonza's Request for Postponement of the Department's

Antidumping Duty Final Determinations" dated May 9, 2025; see also SHVN's Letter, "Hard Empty Capsules from Vietnam," dated May 13, 2025.

<sup>19</sup> *Id.*