

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-552-834]

Paper File Folders From the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less-Than-Fair-Value Investigation

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that paper file folders from the Socialist Republic of Vietnam (Vietnam) are being, or likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2022, through September 30, 2022.

DATES: Applicable October 5, 2023.

FOR FURTHER INFORMATION CONTACT: William Horn or Jinny Ahn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4868 or (202) 482-0339, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On May 17, 2023, Commerce published its preliminary affirmative determination in the LTFV investigation of paper file folders from Vietnam.¹ On June 20, 2023, Commerce published its *Amended Preliminary Determination* to correct a significant ministerial error.² For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.³

Scope of the Investigation

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

¹ See *Paper File Folders 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*, 88 FR 31488 (May 17, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See *Paper File Folders from the Socialist Republic of Vietnam: Amended Preliminary Determination of Less Than Fair Value Investigation*, 88 FR 39825 (June 20, 2023) (*Amended Preliminary Determination*).

³ See Memorandum, "Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Paper File Folders from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope 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.⁴ We did not receive comments from any interested parties on the Preliminary Scope Memorandum. We, therefore, did not make any changes to the scope of the investigation from the scope published in the *Preliminary Determination*, as noted in Appendix I.

Analysis of Comments Received

All issues raised by interested parties in briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is provided in Appendix II to this notice. 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>.

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

Consistent with the *Preliminary Determination*,⁵ Commerce continues to find, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Tariff Act of 1930, as amended (the Act), that the use of facts available is warranted in determining the rate of the Vietnam-wide entity, which includes mandatory respondents CRE8 Direct (HK) Co., Limited and Fairton Asia Limited and six companies not selected for individual examination⁶ that did not respond to our requests for information. Furthermore, we continue to find that an adverse inference is warranted in selecting from the facts otherwise available, pursuant to section 776(b) of the Act and 19 CFR 351.308(a), because the Vietnam-wide entity, including the eight companies referred to above, failed to cooperate by not acting to the best of their ability to comply with Commerce's requests for information. For the final

⁴ See Memorandum, "Preliminary Scope Decision Memorandum," dated May 10, 2023 (Preliminary Scope Memorandum).

⁵ See *Preliminary Determination* PDM at 13-17.

⁶ See the "Final Determination" section of this notice, *infra*, at footnote 13 for the names of these six companies.

determination, consistent with the *Amended Preliminary Determination*,⁷ as AFA, we are continuing to assign the Vietnam-wide entity, including the above-referenced companies, the rate of 233.93 percent, which is the highest margin alleged in the petition.⁸

Separate Rates

We preliminarily granted the mandatory respondent, Three-Color Stone Stationary (Viet Nam) Company, Limited (TCS), a separate rate in the *Preliminary Determination* based on its eligibility.⁹ No party commented on our preliminary separate rate determination with respect to TCS and we have no basis otherwise to reconsider this determination. Accordingly, we continue to find that TCS is eligible for a separate rate in the final determination.¹⁰

No party commented on our preliminary determination to deny separate rates to the eight companies that failed to establish their eligibility for a separate rate by not complying with our requests for information, and there is no basis otherwise to reconsider this determination. Accordingly, we have continued to treat these companies as a part of the Vietnam-wide entity.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from interested parties, we made one change to the margin calculations for TCS.¹¹ For a discussion of this change, see the Issues and Decision Memorandum.

Combination Rates

Consistent with the *Preliminary Determination* and Policy Bulletin 05.1,¹² Commerce calculated combination rates for the sole respondent that is eligible for a separate rate in this investigation.

Final Determination

Commerce determines that the following weighted-average dumping margins exist for the period April 1, 2022, through September 30, 2022:

⁷ See *Amended Preliminary Determination*, 88 FR at 39826.

⁸ See Issues and Decision Memorandum at the "Vietnam-Wide Rate" section for a full discussion.

⁹ See *Preliminary Determination* PDM at 12-13.

¹⁰ See Issues and Decision Memorandum at the "Separate Rates" section for further discussion.

¹¹ *Id.*

¹² 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 <https://enforcement.trade.gov/policy/bull05-1.pdf>.

Exporter	Producer	Estimated weighted-average dumping margin (percent)
Three-Color Stone Stationary (Viet Nam) Company Limited ..	Three-Color Stone Stationary (Viet Nam) Company Limited	97.52
Vietnam-Wide Entity ¹³		233.93

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of paper file folders from Vietnam, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after May 17, 2023, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds 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.

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 where appropriate. Because there is no companion CVD proceeding, we have not made any such adjustments for this final determination.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

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 subject merchandise from Vietnam no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order, in accordance with section 736(a) of the Act, directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Administrative Protective Order

This notice will serve as a reminder to the parties subject to an 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 is issued and published in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: September 29, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products within the scope of the investigation are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term "primarily" as used in the first sentence of this scope means 50 percent or more of the total product weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener folders, classification folders, expanding folders, pockets, jackets, and wallets.

Excluded from the scope are:

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;
- binders, with two or more rings to hold documents in place, made from paperboard or pressboard encased entirely in plastic;
- binders consisting of a front cover, back cover, and spine, with or without a flap; to be excluded, a mechanism with two or more metal rings must be included on or adjacent to the interior spine;
- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (e.g., boxes or cartons);

¹³ The Vietnam-wide entity includes the following companies: Vietnam Cailan Industry Co., Ltd.; Changyuan Vietnam Co., Ltd.; Deli Vietnam Co., Ltd.; Fuda Stationery (Vietnam) Factory; Guangbo Vietnam Company, Ltd.; Teamade Stationery Vietnam Co., Ltd.; CRE8 Direct (HK) Co., Limited; and Fairton Asia Limited.

- expanding folders that have (1) 13 or more pockets, (2) a flap covering the top, (3) a latching mechanism made of plastic and/or metal to close the flap, and (4) an affixed plastic or metal carry handle;

- folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms, if any) that is covered entirely with fabric, leather, and/or faux leather;

- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder, (2) printing, foil stamping, embossing (*i.e.*, raised relief patterns that are recessed on the opposite side), and/or debossing (*i.e.*, recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder, (3) at least two visible and printed or foil stamped colors (other than the color of the base paper), each of which separately covers no less than 10 percent of the entire exterior surface area, and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;

- portfolios, which are folders having (1) a width of at least 16 inches when open flat, (2) no tabs or dividers, and (3) one or more pockets that are suitable for holding letter size documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and

- report covers, which are folders having (1) no tabs, dividers, or pockets, and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Vietnam-Wide Rate
- IV. Separate Rates
- V. Changes from the *Preliminary Determination*
- VI. Discussion of the Issues
 - Comment 1: Surrogate Country Selection and Selection of Surrogate Financial Statements
 - Comment 2: Commerce's Application of the Cohen's *d* Test
 - Comment 3: Whether to Correct a Clerical Error in the Movement Expense Calculation
 - Comment 4: Whether to Apply Partial Adverse Facts Available (AFA) with Respect to Cutting Dies
- VII. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–839]

Mattresses From Indonesia: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: Applicable October 5, 2023.

FOR FURTHER INFORMATION CONTACT: Natasia Harrison and Harrison Tanchuck, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1240 and (202) 482–7421, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 2023, the U.S. Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of mattresses from Indonesia.¹ Currently, the preliminary determination is due no later than October 23, 2023.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

¹ See *Mattresses from Indonesia: Initiation of Countervailing Duty Investigation*, 88 FR 57412 (August 23, 2023).

On September 22, 2023, the petitioners² submitted a timely request that Commerce postpone the preliminary CVD determination.³ The petitioners stated that they request postponement so that the petitioners will have an adequate opportunity to submit rebuttal factual information and Commerce will have adequate time to review the data provided in the questionnaire responses and issue supplemental questionnaires prior to the issuance of the preliminary determination.⁴ In accordance with 19 CFR 351.205(e), the petitioners have stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.*, December 26, 2023.⁵ Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: September 27, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

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² The petitioners are Brooklyn Bedding; Carpenter Co.; Corsicana Mattress Company; Future Foam Inc.; FXI, Inc.; Kolcraft Enterprises Inc.; Leggett & Platt, Incorporated; Serta Simmons Bedding Inc.; Southerland, Inc.; Tempur Sealy International; the International Brotherhood of Teamsters; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International.

³ See Petitioners' Letter, "Request to Extend CVD Preliminary Determination," dated September 22, 2023.

⁴ *Id.*

⁵ Postponing the preliminary determination to 130 days after initiation would place the deadline on Monday, December 25, 2023. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).