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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C–552–840]

#### Certain Paper Plates From the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Determination of Critical Circumstances, in Part, and Alignment of Final Determination With Antidumping Duty Determination

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain paper plates (paper plates) from the Socialist Republic of Vietnam (Vietnam) during the period of investigation, January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable July 1, 2024.

**FOR FURTHER INFORMATION CONTACT:** Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1785.

#### SUPPLEMENTARY INFORMATION:

##### Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On February 21, 2024, Commerce published the notice of initiation of this countervailing duty (CVD) investigation.<sup>1</sup> On March 26, 2024, Commerce postponed the preliminary determination until June 24, 2024.<sup>2</sup>

For a complete description of the events that followed the initiation of

<sup>1</sup> See *Certain Paper Plates from the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations*, 89 FR 13043 (February 21, 2024) (*Initiation Notice*).

<sup>2</sup> See *Certain Paper Plates from the People's Republic of China and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 89 FR 20945 (March 26, 2024).

this investigation, see the Preliminary Decision Memorandum.<sup>3</sup> 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 plates 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> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*.

##### Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>6</sup> For a full description of the methodology underlying our preliminary determination, see the Preliminary Decision Memorandum.

Commerce notes that, in making these findings, it relied, in part, on facts available, and, because it finds that certain respondents and the Government of Vietnam did not act to the best of their ability to respond to Commerce's requests for information, it

<sup>3</sup> See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Certain Paper Plates 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 13044.

<sup>6</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

drew an adverse inference where appropriate in selecting from among the facts otherwise available.<sup>7</sup> For further information, see the "Use of Facts Otherwise Available and Adverse Inferences" section in the Preliminary Decision Memorandum.

##### Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 703(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect to imports of subject merchandise from Vietnam for Xie Li Vietnam International Company (Xie Li), all other producers and exporters, and companies that were not responsive to Commerce's quantity and value (Q&V) questionnaire,<sup>8</sup> but do not exist with respect to Go-Pak Paper Products Vietnam Co., Ltd. (Go-Pak). For a full discussion of our preliminary critical circumstances determination, see the "Preliminary Affirmative Determination of Critical Circumstances, in Part" section of the Preliminary Decision Memorandum.

##### Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the concurrent antidumping duty (AD) investigation of paper plates from Vietnam, based on a request made by the petitioner.<sup>9</sup> Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 5, 2024, unless postponed.<sup>10</sup>

##### All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any rates that are zero, *de minimis*, or based entirely under section 776 of the Act.

<sup>7</sup> See sections 776(a) and (b) of the Act.

<sup>8</sup> See Commerce's Letter, "Quantity and Value Questionnaire," dated February 15, 2024.

<sup>9</sup> See Petitioner's Letter, "Request for Alignment of Final Determination with Deadline in Concurrent AD Investigations," dated June 5, 2024.

<sup>10</sup> See *Certain Paper Plates from the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 89 FR 49833 (June 12, 2024).

In this investigation, Commerce calculated an individual estimated countervailable subsidy rate for Go-Pak that is not zero, *de minimis*, or based entirely under section 776 of the Act. As further discussed in the Preliminary Decision Memorandum, the individual estimated countervailable subsidy rate for Xie Li is based entirely upon section 776 of the Act. Therefore, Commerce is using the individual estimated subsidy rate calculated for Go-Pak as the all-others rate.

**Rate for Non-Responsive Companies**

Four potential exporters and/or producers of paper plates from Vietnam did not respond to Commerce’s Q&V questionnaire and Xie Li did not

provide information requested in the Initial Questionnaire (*i.e.*, the non-responsive companies).<sup>11</sup> We find that, by not responding to the Q&V questionnaire, these companies withheld requested information and significantly impeded this proceeding. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we are basing the CVD subsidy rate for the non-responsive companies on facts otherwise available.

We further preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit responses to Commerce’s Q&V questionnaire, the non-responsive companies did not

cooperate to the best of their ability in this investigation. Accordingly, we preliminarily find that an adverse inference is warranted to ensure that the non-responsive companies will not obtain a more favorable result than had they fully complied with our request for information. For more information on the application of adverse facts available to the non-responsive companies, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

**Preliminary Determination**

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i> )
Go-Pak Paper Products Vietnam Co., Ltd .....	5.48
Innovative Sonic Vietnam International .....	* 237.65
Ningbo Changya Plastic Vietnam Company .....	* 237.65
Ningbo Changya Plastic Vietnam .....	* 237.65
SCG Vietnam .....	* 237.65
Xie Li Vietnam International Company Limited .....	* 237.65
All Others .....	5.48

\* Rate based on facts available with adverse inferences.

**Disclosure**

Commerce intends to disclose its calculations and analysis 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.

**Suspension of Liquidation**

In accordance with sections 703(d)(1)(B) and (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 the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Section 703(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 produced and/or exported by the non-responsive companies and all other producers and/or exporters. In accordance with section 703(e)(2)(A) of the Act, for the non-responsive companies and all other producers and/or exporters, the suspension of liquidation shall apply to

unliquidated entries of merchandise from the exporters/producers identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

**Verification**

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

**Public Comment**

Case briefs or other written 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. 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>12</sup> 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.<sup>13</sup>

<sup>11</sup> The companies that failed to respond to Commerce’s Q&V questionnaire are: (1) Innovative Sonic Vietnam International; (2) Ningbo Changya Plastic Vietnam Company; (3) Ningbo Changya Plastic Vietnam; and (4) SCG Vietnam.

<sup>12</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>13</sup> See 19 351.309(c)(2) and (d)(2).

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>14</sup> Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public 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>15</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 the party's name, address, and telephone number, the number of participants and whether any participant is a foreign national, and a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. 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, time, and location of the hearing two days before the scheduled date.

#### **U.S. International Trade Commission Notification**

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC

<sup>14</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.

<sup>15</sup> See *APO and Service Final Rule*.

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 paper plates from Vietnam are materially injuring the U.S. industry.

#### **Notification to Interested Parties**

This determination is issued and published in accordance with sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: June 24, 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 merchandise subject to these investigations is certain paper plates. Paper plates subject to these investigations may be cut from rolls, sheets, or other pieces of paper and/or paper board. Paper plates subject to these investigations have a depth up to and including two (2.0) inches, as measured vertically from the base to the top of the lip, or the edge if the plate has no lip. Paper plates subject to these investigations may be uncolored, white, colored, or printed. Printed paper plates subject to these investigations may have any type of surface finish, and may be printed by any means with images, text and/or colors on one or both surfaces. Colored paper plates subject to this investigation may be colored by any method, including but not limited to printing, beater-dyeing, and dip-dyeing. Paper plates subject to these investigations may be produced from paper of any type (including, but not limited to, bamboo, straws, bagasse, hemp, kenaf, jute, sisal, abaca, cotton inters and reeds, or from non-plant sources, such as synthetic resin (petroleum)-based resins), may have any caliper or basis weight, may have any shape or size, may have one or more than one section, may be embossed, may have foil or other substances adhered to their surface, and/or may be uncoated or coated with any type of coating.

The paper plates subject to these investigations remain covered by the scope of these investigations whether imported alone, or in any combination of subject and non-subject merchandise. When paper plates subject to these investigations are imported in combination with non-subject merchandise, only the paper plates subject to these investigations are subject merchandise.

The paper plates subject to these investigations include paper plates matching the above description that have been finished, packaged, or otherwise processed in a third country by performing finishing,

packaging, or processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the paper plates. Examples of finishing, packaging, or other processing in a third country that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the paper plates include, but are not limited to, printing, application of other surface treatments such as coatings, repackaging, embossing, and application of foil surface treatments.

Excluded from the scope of these investigations are paper plates molded or pressed directly from paper pulp (including but not limited to unfelted pulp), which are currently classifiable under subheading 4823.70.0020 of the Harmonized Tariff Schedule of the United States (HTSUS).

Also excluded from the scope of these investigations are articles that otherwise would be covered but which exhibit the following two physical characteristics: (a) depth (measured vertically from the base to the top of the lip, or edge if no lip) equal to or greater than 1.25 inches but less than two (2.0) inches, and (b) a base not exceeding five (5.0) inches in diameter if round, or not exceeding 20 square inches in area if any other shape.

Also excluded from the scope of these investigations are paper bowls, paper buckets, and paper food containers with closeable lids.

Paper plates subject to these investigations are currently classifiable under HTSUS subheading 4823.69.0040. Paper plates subject to these investigations also may be classified under HTSUS subheading 4823.61.0040. If packaged with other articles, the paper plates subject to these investigations also may be classified under HTSUS subheadings 9505.90.4000 and 9505.90.6000. While the HTSUS subheading(s) are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

#### **Appendix II**

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

- I. Summary
- II. Background
- III. Injury Test
- IV. Preliminary Affirmative Determination of Critical Circumstances, in Part
- V. Use of Facts Available and Adverse Inferences
- VI. Subsidies Valuation Information
- VII. Analysis of Programs
- VIII. Recommendation

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