

Phụ lục 1: Bình luận của VIFOREST



Dated: December, 2023

Via Federal eRulemaking Portal: <https://www.Regulations.gov> (Identification number: ITA-2023-0010)

To: Excellency Gina Raimondo
Secretary of Commerce
U.S. Department of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
1401 Constitution Avenue, N.W.
Washington, DC 20230

Re: Raw Honey from the Socialist Republic of Vietnam: Initiation of Antidumping Duty Changed Circumstances Review – Comments

Excellency,

With reference to the U.S. Department of Commerce's Notice of Initiation of Antidumping Duty Changed Circumstances Review for reviewing the non-market economy status of Vietnam (Fed Vol. 88, No. 208), Vietnam Timber and Forest Products Association (VIFOREST), on behalf of Vietnamese wood processing and trading companies, sincerely requests your consideration to recognize Vietnam having market economy as it fully meets requirements under the following 6 required legal factors:

(i) Conversion level of Vietnamese currency to currencies of other countries

VIFOREST reconfirms that Vietnamese currency (VND) is convertible to US\$ in international trade transactions. Vietnam has become a top supplier of wooden products to the US and, in return, is amongst the largest buyers of US logs and lumbers from the US, following China. In 2022, Vietnam's wood imports from the US accounted for 6.4% of the total US wood export value. All these trade transactions are done in US\$, and both Vietnamese and US operators have not experienced any single problem relating to the convertibility of Vietnamese currency. Our members do not face any obstacles or limitations in making or receiving payments in US Dollars. All payment appliances needed for international transactions are in place in Vietnam. VIFOREST's members are free to sell US\$ to get VND or perform any payment obligations in US dollars, including those of loan repayment. In addition, foreign exchange derivatives such as currency swaps between Vietnamese dong and US dollars are allowable in Vietnam.

(ii) Wage levels in Vietnam are determined through free negotiation between employees and employers

Vietnam has 7,120 enterprises¹ operating in the field of wood and non-wood forest product manufacturing. These entities are currently employing 150,839 workers². In 2021, the average salary of wood industry workers is 7,804,000 VND³ (equivalent to 322 US\$). Relations between wood enterprise owners and employees are regulated by the Labor Code.⁴ Accordingly, labor relations are established through dialogue, negotiation, and agreement in the principles of voluntariness, goodwill, equality, cooperation, and respect of each other's legitimate rights and interests. This means that employees are entirely voluntary and equal to negotiate and determine working conditions with their employers. In wood enterprises, employees and employers have the right to freely negotiate wages provided that wage levels used by both sides for wage negotiation are not below the minimum wage prescribed by the State (see attached in Appendix 1). Employees are entitled to be paid subject to their capacity and professional qualifications.

(iii) The extent to which joint ventures or other forms of investments by foreign companies in Vietnam are allowed

Vietnam has absolutely no restrictions applicable for foreign invested enterprises which are engaging in wood processing and trading business in Vietnam, including those of US investors. Similar to Vietnamese entities, FDI enterprises are free of raw wood material import and export of value-added products attributed to HS94 of customs code.

(iv) Degree of government ownership and/or control over means of production

The own and/or control of the means of production applied by Vietnamese wood enterprises are in compliance with the provisions of the Enterprise Law 2025⁶. According to this Law, businesses have the right to possess, use and dispose of assets. Common means of production possessed by wood operators are factory infrastructure, machinery and equipment as well as raw materials invested and owned by enterprises, and they have the right to dispose them. In particular, businesses have the right to sell, exchange, donate, lend, inherit, relinquish ownership rights, consume, destroy or perform other forms of disposal in accordance with the provisions of the legal framework regulating the possession of assets. The government does not own or control production means belonging to businesses. Enterprises are entitled to lease land for setting up factories in/outside industrial zones and they are eligible to claim for land-use right certificates to be granted by competent authorities. The term of land lease is subject to decision by local authorities where the factories are located, but must not exceed 50 years. For investment projects located in particularly difficult economic regions, the term of land lease can be extended but not exceeding 70 years. During the production process, businesses have the right to transfer or re-rent land-lease right.

(v) The degree of government control over resource allocation as well as enterprise pricing and output decisions

Wood businesses have complete autonomy in allocating resources and determining product prices. The government has no control over resource allocation and business output and price decisions.

¹ Yearbook report 2022, page 465: https://www.gso.gov.vn/wp-content/uploads/2023/06/Sach-Nien-giam-TK-2022-update-21.7_file-nen-Water.pdf

² Yearbook report 2022, page 413: https://www.gso.gov.vn/wp-content/uploads/2023/06/Sach-Nien-giam-TK-2022-update-21.7_file-nen-Water.pdf

³ Yearbook report 2022, page 511: https://www.gso.gov.vn/wp-content/uploads/2023/06/Sach-Nien-giam-TK-2022-update-21.7_file-nen-Water.pdf

⁴ http://boluatlaodong2019.molisa.gov.vn/lang_en/topic/viet_nam_labour_code/index

⁵ <https://www.tracuuphapluat.info/2011/10/luat-doanh-nghiep-2005-law-on-enterprises.html>

The 2020 Enterprise Law stipulates that enterprises have the following rights (see attached Appendix 2):

- Autonomy in business doing and choosing forms of business organizations; proactively choose preferable industries, occupations, locations, and forms of business; proactively adjust business scale and industries;
- Proactively apply science and technology advantages to improve business efficiency and competitiveness; have intellectual property rights protected according to the provisions of law on intellectual property;
- Free to choose forms and methods of mobilizing, allocating and using capital;
- Free to recruit, hire and use labor force according to labor laws.

The allocation of relevant resources, including skills, expertise as well as equipment required for production and business activities and capital are all self-controlled by businesses without any Government intervention.

(vi) Other factors that the management agency considers appropriate

Vietnamese wood operators have been complying with US Lacey Act and other legal provisions regulating wood and wood product trade in the US. The Government of Vietnam and the US Government have signed the Agreement on Controlling Illegal Timber Harvesting and Trade. This Agreement demonstrates the commitment of the Vietnamese Government and private sector to re-enforce control to assure legal and deforestation-free wood and wood product supply chains, improve forest governance and responsible forest product trade.

The Government of Vietnam has also made measures to combat origin fraud and circumvention/evasion of import duties on wood products imported into the US.

With above comments/judgements, VIFOREST trust that, in the context of dynamic changes and improvements in the business environ as mentioned earlier, Vietnam has completely transformed into a market economy. On behalf of Vietnamese wood processors and traders, VIFOREST respectfully requests the US Secretary of Commerce to review the circumstances and recognize Vietnam as a country of market economy. We look forward to having continued cooperation between Vietnam and the US in wood industries for mutual benefits of businesses and consumers of the two countries.

Yours sincerely,

Do Xuan Lap

Chairman of VIFOREST

Annex 1

Current monthly and hourly statutory minimum wages in Vietnam

According to Article 3 of [Decree 38/2022/ND-CP](#) stipulating the monthly minimum wage and the hourly minimum wage as follows:

The region-based statutory minimum wages per month and per hour paid to employees are provided for as follows:

Region	Statutory minimum wages per month (Unit: VND/month)	Statutory minimum wages per hour (Unit: VND/hour)
Region I	4.680.000	22.500
Region II	4.160.000	20.000
Region III	3.640.000	17.500
Region IV	3.250.000	15.600

- The list of region-I, region-II, region-III and region-IV subregions is provided in the Appendix enclosed with [Decree 38/2022/ND-CP](#).

- Determination of a subregion as the basis for application of the statutory minimum wages shall be conducted based on the employer's place of operation. To be specific:

+ An employer located in a specific subregion shall apply the respective statutory minimum wage applied thereto.

+ In the event that an employer has its affiliates and/or branches located in different subregions to which different statutory minimum wages apply, such affiliates and/or branches must apply the respective statutory minimum wages applied thereto.

+ If an employer is located in an industrial park or export processing zone located in the territory containing two or more subregions to which different statutory minimum wages apply, the highest statutory minimum wage shall apply.

+ If an employer is located in a subregion which is renamed or divided, the statutory minimum wage applied to that subregion before it is renamed or divided shall still apply until new regulations promulgated by the Government come into force.

+ If an employer is located in a subregion which is converted or established from a subregion or by consolidation of two or more subregions to which different statutory minimum wages apply, it shall apply the highest statutory minimum wage.

+ In case an employer is located in a provincial city which is established from one or more subregions in the region IV, it shall apply the statutory minimum wage applied to the remaining provincial cities as prescribed in Clause 3 of the Appendix enclosed with [Decree 38/2022/ND-CP](#).

Vietnam Minimum Wage 2023			
Region	2022 monthly minimum wage	Hike	2020 monthly minimum wage
I	VND 4,680,000 (US\$202)	VND 260,000	VND 4,420,000 (US\$190)
II	VND 4,160,000 (US\$179)	VND 240,000	VND 3,920,000 (US\$169)
III	VND 3,640,000 (US\$157)	VND 210,000	VND 3,430,000 (US\$148)
IV	VND 3,250,000 (US\$140)	VND 180,000	VND 3,070,000 (US\$132)

*Region I covers urban Hanoi and Ho Chi Minh City
 *Region II covers rural Hanoi and Ho Chi Minh City along with Da Nang
 *Region III includes provincial cities and districts of Bac Ninh, Bac Giang, Hai Duong, Phu Tho, Binh Phuc and other provinces not listed in Region I and Region II
 *Region IV covers remaining localities

Annex 2

Business Law on government ownership and control over the means of production

Article 7. Rights of enterprises

Every enterprise has the right to:

1. Freely engage in any business line that is not banned by law.
2. Freely run the business and choose a type of business organization; choose business lines, area of operation and type of operation; change the scale of business and business lines.
3. Choose the method of mobilizing, distributing and using capital.
4. Freely find markets, customers and enter into contracts.
5. Export and import.
6. Hire employees in accordance with employment laws.
7. Apply technological advances to improve business efficiency; have intellectual property rights protected in accordance with intellectual property laws.
8. Acquire, use, dispose of their assets.
9. Reject unlawful requests for provision of resources from other organizations and individuals.
10. File complaints and participate in proceedings as prescribed by law.
11. Other rights prescribed by law.

Phụ lục 2: Mẫu thư dành cho nhà nhập khẩu của Hoa Kỳ

Mẫu số 1:

**[Logo of customer's
company]**

[COMPANY'S NAME]

Address:.....

Tel:, Email:

[Place], Month Day, 2023

Via Federal eRulemaking Portal: <https://www.Regulations.gov>

H.E. Gina Raimondo
Secretary of Commerce
U.S. Department of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
1401 Constitution Avenue, N.W.
Washington, DC 20230

Re: Initiation of Antidumping Duty Changed Circumstances Review to examine Vietnam’s non-market economy status – [CUSTOMER’S NAME]’s comments

Dear Excellency,

We, , are[short introduction of your company]. We are one of the importers of..... from Vietnam in the period from..... to.....

Upon receipt of information about the US Department of Commerce's Change of Circumstance Review of the antidumping duty (AD) order on raw honey from the Socialist Republic of Vietnam (Vietnam) to examine whether Vietnam graduates from a non-market economy country for purposes of the application of the AD law, we have expressed our support in this regard to Our Exporters in Viet Nam.

We hereby submit our Comments to indicate our support for the initiation of the Change of Circumstances Review and our belief that Vietnam has successfully accomplished sufficient progress to ensure a favorable determination of their Market Economy status as follows:

First, throughout of conducting business with some of our importers in Vietnam such as:....., payments in US Dollars are processed smoothly and without any difficulties or delays related to the transaction currency.

Second, regarding the price of commodities, each time we purchase a specific product or shipment, the pricing of the goods is always agreed between us and the Vietnamese importers. We understand that during the negotiation, our importers always set the selling price on their own, without consulting any state agency. When it comes to making decisions, they are independent and steadfast. Additionally, we discover that the price offered by the Vietnamese Exporter is appropriate for the market and the quality of the goods that we purchase.

Third, we are aware that since 2018, 72 countries have recognized Vietnam as a market economy. While we do not claim to have conducted a review of each country’s methodology for reaching this determination, we do believe that our continuing to treat Vietnam as a Non-Market Economy could interfere with our efforts to expand our potential investment and exports to this growing market. At the same time, identifying Viet Nam as a market economy will not prevent U.S. trade remedies against the country, if necessary under U.S. laws. It basically means that Vietnamese manufacturers can defend themselves by using their own cost data. The trade remedies law of the U.S. can still manage the market distortion (if any).

Based on the foregoing, we believe that Vietnam satisfies the requirements to be acknowledged as a market economy. Recognizing Vietnam as a market economy will create a fair and equitable business environment while reserving the DOC’s right to introduce trade remedy mechanisms in the future. As an importer, the economic losses that damage us will also be reduced when Vietnam can use their own data in trade remedy investigations.

Thank you for your ongoing efforts to ensure US trade is treated fairly in terms of international commerce. Please let us know if we can be of assistance.

Your sincerely,

[Sign and stamp]

[Name of representative]

[Position]

Mẫu số 2:

[Logo of customer's
company]

[COMPANY'S NAME]

Address:.....

Tel:, Email:

[Place], Month Day, 2023

Via Federal eRulemaking Portal: <https://www.Regulations.gov>

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Secretary of Commerce
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Your sincerely,

[Sign and stamp]

[Name of representative]

[Position]

Phụ lục 3: Hướng dẫn cách nộp bình luận

Truy cập: <https://www.regulations.gov/document/ITA-2023-0010-0001>

Bước 1: Ấn vào phần Comment

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SUPPORT

Docket (ITA-2023-0010) / Document

NOTICE

Antidumping or Countervailing Duty Investigations, Orders, or Reviews: Raw Honey from the Socialist Republic of Vietnam

Posted by the International Trade Administration on Oct 30, 2023

Comment Period Ends: 30 Days

Comment Share

Document Details

Document ID
ITA-2023-0010-0001

Comments Received
1
More Details

Content

Summary

The U.S. Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) of the antidumping duty (AD) order on raw honey from the Socialist Republic of Vietnam (Vietnam) to examine whether Vietnam remains a non-market economy (NME) country for purposes of the application of the AD law.

Dates

Applicable October 30, 2023.

Bước 2: Nộp comment tại đây, làm theo hướng dẫn và đính kèm các file, chú thích liên quan tới bình luận của mình

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SUPPORT

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Antidumping or Countervailing Duty Investigations, Orders, or Reviews: Raw Honey from the Socialist Republic of Vietnam

Comment Period Ends: 30 Days

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Commenter's Checklist

Comment*

Start typing comment here...

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Drop files here or Browse...