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**PETITION FOR THE IMPOSITION OF ANTIDUMPING
AND COUNTERVAILING DUTIES ON IMPORTS OF
THERMOFORMED MOLDED FIBER PRODUCTS
FROM THE PEOPLE'S REPUBLIC OF CHINA AND
SOCIALIST REPUBLIC OF VIETNAM**

On Behalf of the
American Molded Fiber Coalition

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VOLUME V: VIETNAM COUNTERVAILING DUTY

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VOLUME V: VIETNAM COUNTERVAILING DUTY

I. INTRODUCTION

Volume V of the captioned petition is filed on behalf of Genera Inc./Vonore Fiber Products, LLC and Tellus Products, LLC (“Petitioners”). Volume V sets forth the evidence establishing that the Government of Vietnam (“GOV”) is providing, directly or indirectly, countervailable subsidies with respect to the manufacture, production, and export of thermoformed molded fiber products imported into the United States within the meaning of section 701(a)(1) of the Tariff Act of 1930, as amended (the “Act”), 19 U.S.C. § 1671(a)(1). Volume I of this petition establishes that the domestic industry producing thermoformed molded fiber products is materially injured or threatened with injury by reason of such imports within the meaning of section 701(a)(2) of the Act, 19 U.S.C. § 1671(a)(2). Taken together, Volumes I and V provide the basis for initiation of a countervailing duty investigation covering such imports pursuant 19 C.F.R. § 351.202. For these reasons, Petitioners respectfully request that the U.S. Department of Commerce (“Commerce”) initiate a countervailing duty investigation concerning imports of thermoformed molded fiber products from the Socialist Republic of Vietnam (“Vietnam”).

II. COMMERCE SHOULD IMPOSE COUNTERVAILING DUTIES ON THERMOFORMED MOLDED FIBER PRODUCTS FROM VIETNAM

This volume presents information reasonably available to Petitioners that the production of thermoformed molded fiber products in Vietnam is benefiting from countervailable subsidies within the meaning of section 771(5) of the Act, 19 U.S.C. § 1677(5). Pursuant to sections 701(a)(1) and (2) of the Act, 19 U.S.C. §§ 1671(a)(1) and (2), Commerce shall impose a countervailing duty on merchandise imported from a “Subsidies Agreement” country¹ where the imported merchandise: (1) is produced or exported by manufacturers that benefit from countervailable subsidies, and (2) materially injures or threatens material injury to a domestic industry.

The following allegations identify subsidies that Petitioners have identified through research of reasonably available public information, including many programs that Commerce has found countervailable in previous countervailing duty investigations involving Vietnam. For each subsidy allegation, the petition alleges the elements necessary for the imposition of a CVD order and provides the information reasonably available to Petitioners supporting the allegation. The petition therefore complies with the requirements of 19 U.S.C. § 1671a(b)(1) and 19 C.F.R. § 351.202(b)(7)(ii)(B). Additional information required by the statute and regulations regarding general issues and material injury, or threat thereof, is provided in Volume I of this petition. Petitioners reserve the right to make further allegations of subsidies with respect to specific producers once Commerce selects one or more Vietnamese producers/exporters of molded fiber products as mandatory respondents.

¹ Vietnam, as a member of the World Trade Organization (“WTO”), is a “Subsidies Agreement” country pursuant to section 701(b) of the Act, 19 U.S.C. § 1671(b).

Commerce consistently has determined that the countervailing duty law may be applied to imports of merchandise produced in Vietnam.² Furthermore, Congress enacted legislation specifically authorizing the application of the countervailing duty law to non-market economy countries, including Vietnam.³ Accordingly, Petitioners request that Commerce apply U.S. CVD law to the policies and programs outlined in this Petition. Based on the information reasonably available to Petitioners and contained herein, Commerce should initiate a countervailing duty investigation on imports of thermoformed molded fiber products from Vietnam and impose duties.

III. NAME OF THE COUNTRY IN WHICH THE SUBJECT MERCHANDISE IS MANUFACTURED OR PRODUCED

The name of the country in which the subject merchandise is manufactured or produced is the Socialist Republic of Vietnam (“Vietnam”).

² See 19 U.S.C. §§ 1671(a)–(b), (f); see also, e.g., *Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 Fed. Reg. 71,607 (Nov. 10, 2020) (“*PVLT Tires from Vietnam Prelim*”), PDM at 5 (citing *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 75 Fed. Reg. 16,428 (Apr. 1, 2010)) unchanged in *Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 86 Fed. Reg. 28,566 (May 27, 2021) (“*PVLT Tires from Vietnam*”); *Raw Honey from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Changed Circumstances Review*, 89 Fed. Reg. 64,411 (Aug. 7, 2024) (finding that Vietnam remains an NME country for purposes of the U.S. antidumping duty law “due to the sustained and pervasive government influence over its country’s economic activities.”).

³ See “An Act to Apply the Countervailing Duty Provisions of the Tariff Act of 1930 to Nonmarket Economy Countries, and for Other Purposes,” enacted on Mar. 13, 2012, Pub. L. No. 112-99, 126 Stat. 265 (2012) (codified at 19 U.S.C. §§ 1671, 1677f-1).

IV. THE PRODUCT COVERED BY THE PETITION

As described in Volume I of this petition, the merchandise covered by the petition are molded fiber products from Vietnam.

V. NAMES AND ADDRESSES OF VIETNAMESE MOLDED FIBER PRODUCT PRODUCERS AND EXPORTERS BELIEVED TO BENEFIT FROM COUNTERAVAILABLE SUBSIDIES

As required by 19 C.F.R. § 351.202(b)(7)(ii)(A), the names, addresses, and other contact information for the known Vietnamese producers and exporters of molded fiber products are contained in Volume I of this petition, at **Exhibit I-15**. Petitioners believe that these companies have benefited from one or more of the countervailable subsidies alleged below and whose products are believed to have been exported to the United States. The information provided in **Exhibit I-15** represents the best information reasonably available to Petitioners. Information about the proportion of total exports to the United States accounted for by each company on the list during the most recent 12-month period is not reasonably available to Petitioners. Additionally, notwithstanding the extensive amount of material reviewed in preparing this petition, information sufficient to calculate an *ad valorem* subsidy margin is not reasonably available to Petitioners at this time.

VI. THE DATE FROM WHICH COMMERCE SHOULD MEASURE SUBSIDIES

The most recently completed calendar year as of the filing of this petition is 2023, and 2023 is thus the appropriate period of investigation (“POI”) for this proceeding.⁴ Information regarding subsidies granted during the POI that is reasonably available to Petitioners is set forth

⁴ See 19 C.F.R. § 351.204(b)(2).

below. Where data from 2023 are not reasonably available to Petitioners, the most recent data available have been used.

In addition to investigating any recurring subsidies granted during the POI and any subsidized loans outstanding during the POI, Commerce is also required to investigate any non-recurring subsidies conferring a benefit that is allocable to the POI.⁵ Consistent with its practice, Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (“AUL”) of renewable physical assets used in the production of subject merchandise as listed in the U.S. Internal Revenue Service’s 1977 Class Life Assets Depreciation Range System.⁶ Pursuant to 19 C.F.R. § 351.524(d)(2), Commerce should find that the AUL of renewable physical assets employed in the manufacture of converted paper, paperboard, and pulp products, which includes molded fiber manufacturing is 10 years (*i.e.*, 2014-2023).⁷

VII. EFFORTS TO OBTAIN INFORMATION

In accordance with statutory and regulatory provisions setting forth requirements for countervailing duty petitions, this petition presents all information “reasonably available” to Petitioners concerning possible countervailable subsidies available to and bestowed on producers

⁵ See 19 C.F.R. §§ 351.524(a)–(b).

⁶ See, e.g., *Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 89 Fed. Reg. 22,374 (Apr. 1, 2024) (“*Shrimp from Vietnam 2024*”), PDM at 15.

⁷ Internal Revenue Service, Pub. 946, “How To Depreciate Property” (Feb. 14, 2024) at Table B-2 (p. 100 – “Asset class 26.2 Manufacture of Converted Paper, Paperboard, and Pulp Products”), excerpts attached as **Exhibit V-1**.

of the subject merchandise in Vietnam.⁸ Notably, Petitioners do not have to prove at the outset that a countervailable subsidy has been bestowed. That is the function of the investigation. Further, Commerce has authority to investigate new subsidy allegations not included in the petition or initiated by Commerce, based on evidence discovered during the investigation.⁹

The subsidy allegations set forth below are supported by ample documentary evidence compiled by the Petitioners and attached. Petitioners examined all information reasonably available from public sources and have conducted extensive research concerning possible subsidies provided by the GOV to producers and exporters of thermoformed molded fiber products in Vietnam. This information includes:

- (1) Past Commerce countervailing duty determinations (*i.e.*, Federal Register notices and available information from case dockets) covering the country, subject merchandise, and or/producers included in this petition;
- (2) Articles and news reports regarding the producers, industries, and country in question available through the World Wide Web and online data services;
- (3) Where available, publicly available financial information for the producers, industries, and country at issue in this petition;
- (4) Previous countervailing duty petitions concerning similar merchandise produced in Vietnam and any supplemental questions raised by Commerce concerning those petitions; and

⁸ See section 701(b)(1) of the Act, 19 U.S.C. § 1671a(b)(1), and 19 C.F.R. § 351.202 (setting forth “reasonably available” standard).

⁹ *Cf. Forged Steel Fittings from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 83 Fed. Reg. 50,342 (Oct. 5, 2018), IDM at Comment 2 (explaining “{a}s an initial matter, the Act requires Commerce to include in its analysis not only potential subsidy programs that are properly alleged, but also potential subsidy programs that Commerce discovers during the course of a proceeding. Therefore, regardless of whether the input used by Both-Well was alleged by the Petitioner, it was reported as used by Both-Well.”) (Citations omitted.).

(5) Where available, documents from government agencies concerning producers of the subject merchandise, industries in Vietnam, and the alleged subsidy programs.

Much of the information that would provide greater certainty regarding the specific beneficiaries and amounts of subsidies received by producers or exporters of thermoformed molded fiber products in Vietnam exists in GOV and company records that not publicly available and are difficult or impossible to obtain. Indeed, Commerce has recognized that “there are typically no independent sources for data on company-specific benefits resulting from countervailable subsidy programs,” and that the most thorough manner in which the type and number of subsidies may be determined is through administrative investigations.¹⁰ Despite these obstacles, Petitioners have investigated and are providing information demonstrating that the GOV has granted, and continues to grant, various forms of assistance to producers and exporters of thermoformed molded fiber products in Vietnam that constitute countervailable subsidies pursuant to section 771 of the Act, 19 U.S.C. § 1677.

VIII. COUNTERAVAILABLE SUBSIDY ALLEGATIONS AND DESCRIPTION OF SUBSIDY PROGRAMS

The GOV provides various forms of assistance to producers and exporters of molded fiber products, including preferential lending and directed credit and guarantees, export financing, income tax exemptions and reductions, import duty exemptions, reductions, and rebates, exemptions or reductions of rent and land use fees and taxes, and various grants. The available evidence indicates that these forms of assistance constitute countervailable subsidies

¹⁰ *Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Carbazole Violate Pigment 23 from India*, 69 Fed. Reg. 22,763, 22,767 (Apr. 27, 2004).

under section 771 of the Act, 19 U.S.C. § 1677, because they each constitute a financial contribution, provide a benefit, and are specific.

Petitioners provide descriptions of the various countervailable subsidies available to Vietnamese producers and exporters of thermoformed molded fiber products below.

A. Lending Programs and Guarantees

Commerce recently observed, “{t}hrough state ownership, the GOV{} continues to exercise significant control over the banking sector. State-owned banks lend disproportionately to SOEs despite SOEs often being less efficient than their private counterparts, which results in a misallocation of resources.”¹¹ Commerce has closely analyzed the banking sector in Vietnam and reported that:

Vietnam’s two most recent Constitutions have called for a strong role for the state in managing the economy. Specifically, the 1992 Constitution mandated that the state sector shall “play the leading role in the national economy” and that the government should “manage the national economy by means of laws, plans and policies.” Article 51 of the 2013 Constitution, the most recent version, further confirms the predominant role the state is expected to have in the economy: “the Vietnamese economy is a socialist oriented market economy” in which the “{s}tate economic sector plays the leading role.”¹²

Pursuant to the 2010 Law on the State Bank of Vietnam, the State Bank of Vietnam (“SBV”) operates as a ““ministerial-level agency of the government’ whose governor is a cabinet

¹¹ Commerce Memorandum, “Review of Vietnam’s Status as a Non-market Economy Country” (Aug. 1, 2024) at 145, attached as **Exhibit V-2**.

¹² Commerce Memorandum, “Analysis of Vietnam’s Financial System” (Oct. 12, 2022) at Attachment 1 (“Review of Vietnam’s Financial Sector for Countervailing Duty (CVD) Benchmarking Purposes” (May 12, 2020) (“Financial Sector Memorandum”) at 13), attached at **Exhibit V-3** (footnotes omitted).

member and part of the ruling administration.”¹³ The SBV is under the direct control of the Prime Minister and is legally part of the GOV.¹⁴ As an executive body agency, it is charged with prudential oversight and regulation of the financial sector and is required to implement and promote official GOV policy and economic planning initiatives.¹⁵

In addition to direct activities in the economy, the SBV maintains a controlling interest in the “big four” banks of Vietnam: the Vietnam Bank for Agriculture and Rural Development (“Agribank”), the Vietnam Joint Stock Commercial Bank of Industry and Trade (“VietinBank”), the Joint Stock Commercial Bank for Foreign Trade of Vietnam (“Vietcombank”), and the Bank for Industry and Development of Vietnam (“BIDV”).¹⁶ While the banks other than Agribank are not 100 percent owned by the SBV and, therefore, are not considered “state-owned” under Vietnamese law, all four banks are still considered state-owned commercial banks (“SOCBs”) for statistical purposes.¹⁷ In fact, as of 2018, the SBV held 64 percent of VietinBank, 77.11 percent of Vietcombank, and 95.28 percent of BIDV.¹⁸ Vietcombank also advertises that it “is the leading bank in implementing the undertaking of the Government’s policies and the State Bank of Vietnam’s policies.”¹⁹ Commerce has found that:

¹³ *Id.* at 13-14.

¹⁴ *See id.* at 14.

¹⁵ *Id.*

¹⁶ *Id.* at 10.

¹⁷ *Id.* at 9–10.

¹⁸ *Id.* at 10.

¹⁹ Vietcombank News, “JBIC loans 200 Million USD to Vietcombank to Support Renewable Energy Projects in Vietnam” (July 29, 2019), attached at **Exhibit V-4**.

State control is apparent at the highest levels of the corporate hierarchy at Vietnam's SOCBs, where many high-ranking government or Communist Party of Vietnam (CPV) officials serve on the board of directors in an official government capacity and actively manage the banks in compliance with CPV and GOVN policies and objectives. In the latest annual reports, board members, including, in some cases, the Chairman, are often listed as Party members, as well as members of various national CPV committees, such as the Central Businesses Bloc Party Committee, a committee within the CPV Central Committee, which itself is under the leadership and direction of the Politburo, Vietnam's highest decision-making body. According to the annual report of Vietcombank, these officials are "armed with the confidence and expectations of the Central Party" and together with the leaders of Agribank and Vietinbank work under the guidance and direction of the GOVN and the SBV as principal managers of all aspects of the banks' operations, in accordance with the banking system's two-tier corporate structure.²⁰

Commerce has determined that "domestic interest rates in Vietnam are distorted due to the predominant role of the GOV in the banking sector through its direct and indirect ownership, as well as through other means such as interest rate controls, policy, plans, and administrative guidance."²¹ Given the distortion in the banking sector, Petitioners allege that loans from SOCBs are provided at preferential rates below the rates that would be offered in normal commercial transactions.

1. Preferential Lending to Exporters by SOCBs

Various SOCBs in Vietnam lend to exporters at preferential rates. In *Hangers from Vietnam*, Commerce described this program as follows:

According to the GOV, under this program, the lending institutions offered "supported" interest rates to exporters, provided that they use the proceeds of the loan in the manner specified in the contract, follow the payment schedule specified in the contract, conduct

²⁰ **Exhibit V-3** (Financial Sector Memorandum) at 11.

²¹ *PVLT Tires from Vietnam Prelim*, PDM at 7, unchanged in *PVLT Tires from Vietnam*.

payment for exporting through the lending institution, and sell the foreign exchange earned from the export sale through the lending institution.²²

Commerce has identified VietinBank as an SOCB that participates in this program.²³ In addition, Commerce has indicated that another state-owned bank participates in this program but could not release the name of the bank because that information was proprietary.²⁴ Commerce has found this program to be a countervailable subsidy.²⁵

a. *Financial Contribution*

SOCBs such as VietinBank are state-owned and constitute government authorities.²⁶ Preferential loans from SOCBs provide a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, 19 U.S.C. § 1677(5)(D)(i).²⁷

b. *Benefit*

Pursuant to section 771(5)(E)(ii) of the Act, 19 U.S.C. § 1677(5)(E)(ii), export loans under this program confer a benefit equal to the difference between what the recipients paid on the loans from the SOCBs and the amount they would have paid on comparable, commercial

²² *Certain Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 Fed. Reg. 75,973 (Dec. 26, 2012) (“*Hangers from Vietnam*”), IDM at 16.

²³ *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 78 Fed. Reg. 50,387 (Aug. 19, 2013) (“*Shrimp from Vietnam 2013*”), IDM at 14; *Hangers from Vietnam*, IDM at 16.

²⁴ *See Hangers from Vietnam*, IDM at 16, n.73.

²⁵ *See Shrimp from Vietnam 2013*, IDM at 14–15; *Hangers from Vietnam*, IDM at 16–17.

²⁶ *See Shrimp from Vietnam 2013*, IDM at 14–15; *Hangers from Vietnam*, IDM at 17.

²⁷ *See Shrimp from Vietnam 2013*, IDM at 14–15; *Hangers from Vietnam*, IDM at 17.

loans.²⁸ Commerce has previously found that loans under this program were provided at interest rates below commercial benchmark rates, and therefore the recipient received a benefit.²⁹

c. *Specificity*

The program makes preferential loans available specifically for exports of Vietnamese products. The program is therefore “contingent upon export performance” and specific under sections 771(5A)(A) and (B) of the Act, 19 U.S.C. § 1677(5A)(A) and (B).³⁰

2. Export Factoring by SOCBs

SOCBs such as VietinBank and Vietcombank provide export factoring, a form of trade finance under which they provide short-term discounted loan advances against the trade receivables of Vietnamese exporters.³¹ The GOV has stated that “{SOCBs} or joint-stock commercial banks can provide export factoring activities if they meet the conditions defined in Article 7 of the Regulation on Factoring.”³² The current regulation on factoring in Vietnam is provided by Circular No. 02/2017/TT-NHNN, *Factoring Services Provided by Credit Institutions and Branches of Foreign Banks*. This regulation authorizes commercial banks, including SOCBs, to engage in factoring.³³

²⁸ *Hangers from Vietnam*, IDM at 17.

²⁹ *See Shrimp from Vietnam 2013*, IDM at 14-15; *Hangers from Vietnam*, IDM at 17.

³⁰ *See Hangers from Vietnam*, IDM at 17.

³¹ *See* VietinBank, “Single/Bilateral Export Factoring,” website excerpt attached at **Exhibit V-5**; Vietcombank, “Factoring,” website excerpt attached at **Exhibit V-6**.

³² *Certain Steel Nails From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 80 Fed. Reg. 28,962 (May 20, 2015) (“*Nails from Vietnam*”), IDM at 19.

³³ *See* Circular No. 02/2017/TT-NHNN, *Factoring Services Provided by Credit Institutions and Branches of Foreign Banks*, at art. 2.1, attached at **Exhibit V-7**.

To the extent that SOCBs provide interest rates for export factoring that are below commercially available rates, a countervailable subsidy exists.³⁴ A countervailable subsidy also exists to the extent that the terms on export factoring loans offered by the SOCBs are more favorable than those from commercially available sources.³⁵ Commerce has previously determined that export factoring by SOCBs in Vietnam provides a countervailable subsidy.³⁶ Commerce should accordingly investigate whether SOCBs have provided export factoring to Vietnamese producers and exporters of molded fiber products.

a. *Financial Contribution*

SOCBs such as VietinBank and Vietcombank constitute government authorities.³⁷ Therefore, the provision of export factoring by SOCBs represents a financial contribution in the form of a transfer of funds pursuant to section 771(5)(D)(i) of the Act, 19 U.S.C. § 1677(5)(D)(i).³⁸

b. *Benefit*

Pursuant to section 771(5)(E)(ii) of the Act, 19 U.S.C. § 1677(5)(E)(ii), a benefit is conferred to the extent that the recipient pays a lower rate of interest on the loan as compared to what it would pay on a comparable short-term commercial loan.

³⁴ See 19 U.S.C. § 1677(5)(E)(ii).

³⁵ See *id.*

³⁶ See *Laminated Woven Sacks From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 84 Fed. Reg. 14,647 (Apr. 11, 2019) (“*Woven Sacks from Vietnam*”), IDM at 20 (relying in part on adverse facts available (“AFA”)).

³⁷ See *Shrimp from Vietnam 2013*, IDM at 14-15; *Hangers from Vietnam*, IDM at 17.

³⁸ See *Woven Sacks from Vietnam*, IDM at 20; *Nails from Vietnam*, IDM at 19-20.

c. *Specificity*

Because the receipt of benefits under this program is by definition contingent on exportation, this program is specific pursuant to sections 771(5A)(A) and (B), 19 U.S.C. § 1677(5A)(A) and (B).

3. Guarantees for Export Activities from SOCBs

Vietnamese SOCBs, including VietinBank and Vietcombank, provide guarantees for export activities to Vietnamese companies.³⁹ In *Nails From Vietnam*, the GOV reported that “{c}redit institutions can perform guarantees if they meet the conditions stipulated in Circular 28/2012/TT-NHNN.”⁴⁰ Circular 28/2012/TT-NHNN states that “{t}he credit institutions, branches of foreign bank perform guarantee in foreign currency for organizations, individuals being resident with respect to the guarantee obligation arising from legal transaction in foreign currency.”⁴¹

Because guarantees from SOCBs under this program are related to export shipments in foreign currencies, Commerce has found this program to be countervailable.⁴²

a. *Financial Contribution*

As government authorities, export guarantees by SOCBs constitute a financial contribution within the meaning of section 771(5)(B) of the Act, 19 U.S.C. § 1677(5)(B), as a

³⁹ See *Nails from Vietnam*, IDM at 20-21; see also **Exhibit V5** (VietinBank website excerpts); Vietcombank, “Guarantee issuance,” website excerpt attached at **Exhibit V-8**.

⁴⁰ *Nails from Vietnam*, IDM at 20 (internal quotation marks and citation omitted).

⁴¹ *Id.* (quoting Circular No. 28/2012/TT-NHNN, *Providing on Bank Guarantee*, at art. 4.2, attached at **Exhibit V-9** (errors in original)).

⁴² See *Woven Sacks from Vietnam*, IDM at 20; *Nails from Vietnam*, IDM at 20-21 (relying on AFA because the GOV failed to cooperate).

transfer of funds or potential transfer of funds under section 771(5)(D)(i) of the Act, 19 U.S.C. § 1677(5)(D)(i).⁴³

b. *Benefit*

Pursuant to section 771(5)(E)(iii) of the Act, 19 U.S.C. § 1677(5)(E)(iii), the benefit from a guarantee is equal to the “difference, after adjusting for any difference in guarantee fees, between the amount the recipient of the guarantee pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no guarantee by the authority.”

c. *Specificity*

Because the benefits from export guarantees issued by SOCBs are necessarily limited to exporters, this program is specific under section 771(5A)(A) and (B) of the Act, 19 U.S.C. § 1677(5A)(A) and (B).

4. Investment Credits from the Vietnam Development Bank

Pursuant to Decision No. 108/2006/QD-TTg, *Establishing the Vietnam Development Bank* (“Decision No. 108/2006”),⁴⁴ the Vietnam Development Bank (“VDB”) was established on May 19, 2006, “to carry out policies on development investment credit and export credit of the State.”⁴⁵ The VDB’s most recent annual report states that it “is policy bank operating . . . with 100% state-owned charter capital,” “{t}he State owns VDB and manages in a unified way its rights and duties arising from its state-ownership of VDB,” and “VDB’s Board of Directors are

⁴³ See *Nails from Vietnam*, IDM at 20-21.

⁴⁴ GOV, *Establishing the Vietnam Development Bank*, Decision No. 108/2006 (May 19, 2006) (“Decision No. 108/2006”), attached at **Exhibit V-10**.

⁴⁵ Vietnam Development Bank, “History,” website excerpt attached at **Exhibit V-11**.

the direct representative of the State {sic} owner{.}”⁴⁶ Thus, the VDB is a policy bank directly implementing the GOV’s development goals.

Article 4 of Decision No. 108/2006 states that functions of the bank include mobilizing and receiving funds from domestic and foreign organizations to provide state investment credits under GOV regulations and “{i}mplementing policies on development investment credit.”⁴⁷ Under Decree No. 32/2017/ND-CP, *State Investment Credit* (“Decree No. 32/2017”), the VDB provides investment loans to eligible enterprises.⁴⁸ The Appendix to Decree No. 32/2017 identifies investments in industrial parks, industrial zones, export processing zones, or hi-tech parks, or in areas with particularly difficult socio-economic conditions as being eligible for investment credits.⁴⁹

Although Decree No. 32/2017 does not specify the geographical areas with “difficult socio-economic conditions,” other GOV decrees have designated such areas, which include Tay Ninh province.⁵⁰ Molded fiber product producer Changya Newmaterial Technology Co., Ltd. (“Changya”) is located in Tay Ninh province, and is therefore eligible for these investment credits.⁵¹

⁴⁶ “Vietnam Development Bank Annual Report 2022” at 42, attached at **Exhibit V-12**.

⁴⁷ See **Exhibit V-10** (Decision No. 108/2006) at art. 4.

⁴⁸ See Vietnam Development Bank, “Investment Credit,” website excerpt attached at **Exhibit V-13**; Decree No. 32/2017, attached at **Exhibit V-14**.

⁴⁹ **Exhibit V-14** (Decree No. 32/2017) at App’x.

⁵⁰ See Decree No. 124/2008 at App’x, attached at **Exhibit V-15**; Decree No. 108/2006 at App’x II, attached at **Exhibit V-16**; Decree No. 218/2013 at Annex, attached at **Exhibit V-17**.

⁵¹ See **Exhibit I-15**.

Commerce recently found this program to provide countervailable benefits in its preliminary determination in *Shrimp*.⁵²

a. *Financial Contribution*

As noted above, the VDB is a state-owned policy bank that carries out the GOV's investment credit policies. It is therefore an authority as described in section 771(5)(B) of the Act, 19 U.S.C. § 1677(5)(B), and its investment credit loans provide a financial contribution in the form a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act, 19 U.S.C. § 1677(5)(D)(i).

b. *Benefit*

Preferential investment credits from the VDB provide a benefit if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market pursuant to section 771(5)(E)(ii) of the Act, 19 U.S.C. § 1677(5)(E)(ii).

c. *Specificity*

As the VDB investment credits are limited to investment projects in designated geographical areas, benefits under this program are regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv). Benefits under this program are also *de jure* specific pursuant to section 771(5A)(D)(i) of the Act, 19 U.S.C. § 1677(5A)(D)(i), because it is available to a limited set of industries.⁵³

⁵² *Shrimp from Vietnam 2024*, PDM at 23 (relying on AFA because the GOV failed to cooperate).

⁵³ *Id.*

5. Interest Rate Support Program from the State Bank of Vietnam

The SBV, Vietnam’s central bank, provides interest rate support on certain loans.⁵⁴ Pursuant to Decision No. 131/QD-TTg, *Interest Rate Supports for Organizations and Individuals That Take Bank Loans for Production and Business* (“Decision No. 131”),⁵⁵ the SBV provides capital support to organizations and individuals carrying out business projects.⁵⁶ Initially, the program provided four percent interest rate support on short-term loans for qualifying businesses, but the SBV subsequently expanded it to include medium- and long-term loans of up to 24 months.⁵⁷ Subsequent implementing measures specified eligibility criteria for the interest rate support and added a list of ineligible projects, including “Loans in Vietnamese Dong for purchasing foreign currency to make payment to foreign countries for the import of consumer commodities or to make payment to domestic suppliers for the purchase of consumer commodities, imported from foreign countries, as materials, raw materials and assets for performing project of production, business investment and development{.}”⁵⁸ With respect to this program, Commerce has verified that recipients are prohibited from using interest-supported loans to purchase foreign exchange to pay for imports and that only Vietnamese dong-

⁵⁴ See *Shrimp from Vietnam 2013*, IDM at 15.

⁵⁵ Decision No. 131, attached at **Exhibit V-18**.

⁵⁶ See *id.*

⁵⁷ *Shrimp from Vietnam 2013*, IDM at 15; see also Circular No. 21/2009/TT-NHNN, *Amendment, Supplement of Several Articles of the Circular No. 05/2009/TT-NHNN Dated 07 April 2009 of the State Bank of Vietnam, Providing in Details for the Implementation of Giving Interest Rate Support to Organizations, Individuals that Borrow Medium, Long Term Loans from Banks to Make New Investments for Production and Business Development* (“Circular No. 21/2009”), attached at **Exhibit V-19**.

⁵⁸ *Shrimp from Vietnam 2013*, IDM at 15–16 (internal quotation marks and citation omitted); **Exhibit V-19** (Circular No. 21/2009) at art. 1.1(b).

denominated loans are eligible for support.⁵⁹ As a result, Commerce found that this program is a countervailable import substitution subsidy.⁶⁰

a. *Financial Contribution*

The SBV is a government authority within the meaning of section 771(5)(B) of the Act, 19 U.S.C. § 1677(5)(B), and the reduction in interest payments from this program provides a financial contribution in the form of a transfer of funds pursuant to section 771(5)(D)(i) of the Act, 19 U.S.C. § 1677(5)(D)(i).⁶¹

b. *Benefit*

The program reduces the interest recipients pay on loans. Pursuant to section 771(5)(E)(ii) of the Act, 19 U.S.C. § 1677(5)(E)(ii), and 19 C.F.R. § 351.505(a)(1), this program confers a benefit equal to the reduction in interest payments provided to recipients.⁶²

c. *Specificity*

Commerce has found that this program is specific pursuant to sections 771(5A)(A) and (C) of the Act, 19 U.S.C. §§ 1677(5A)(A) and (C), because it is contingent upon the use of domestic rather than imported goods.⁶³

⁵⁹ *Shrimp from Vietnam 2013*, IDM at 16.

⁶⁰ *See id.* at 15-16, 34.

⁶¹ *See id.* at 16.

⁶² *See id.*

⁶³ *See id.* at 16, 34.

B. Import Duty Exemptions

1. Import Duty Exemptions for Imports Used to Produce Exported Goods

Law No. 107/2016/QH13, *Export and Import Duties* (“Law No. 107/2016”), provides import duty exemptions for imports used to produce exported goods. Specifically, Article 16.7 exempts imported goods that are incorporated into products for export, and Article 16.6 provides a similar exemption to goods imported for processing and export.⁶⁴ Significantly, this law eliminated the previous requirement that the export of the finished good occur within 275 days of importation.⁶⁵ Article 12 of Decree No. 134/2016/ND-CP, *Guidelines for the Law on Export and Import Duties* (“Decree No. 134/2016”), provides detailed guidance on these exemptions, which apply to “{r}aw materials, supplies, components, semi-finished products and finished products import for manufacture of domestic exports.”⁶⁶

A system that exempts imports from import charges ordinarily provides a benefit equal to “the import charges that otherwise would have been paid on the input not consumed in the production of the exported product, making normal allowances for waste, and the amount of charges other than import charges covered by the exemption.”⁶⁷ To avoid this result, the regulations require the foreign government to ensure that the value of the exemption does not exceed the value of the import charges that would be levied on the goods used to produce the

⁶⁴ See Law No. 107/2016 at arts. 16.6–16.7, attached at **Exhibit V-20**.

⁶⁵ See “New Regulations on Import and Export Duties of Vietnam,” Vietnamese Attorney (July 2016), attached at **Exhibit V-21**.

⁶⁶ Decree No. 134/2016 at art 12.1, attached at **Exhibit V-22**.

⁶⁷ See 19 C.F.R. § 351.519(a)(3)(ii).

exported merchandise.⁶⁸ Recently, in *PVLT Tires From Vietnam*, Commerce determined that the Duty Exemption provided by Law No. 107/2016 and Decree No. 134/2016 is countervailable and does not meet the requirements for an exception pursuant to 19 C.F.R. § 351.519(a)(4):

We have not applied the exception {in 19 C.F.R. § 351.519(a)(4)} to the GOV's program because we do not find the GOV's system to be reasonable. The GOV's system allows scrap to be sold on the domestic market without the encumbrance of the import duties normally associated with entering goods into the market for scrap created during the production of products bound for export markets.
...

The GOV argues that its system is reasonable because it makes an acceptable "allowance for waste" in accordance with 19 CFR 351.519(a)(1)(ii). Both KTV and the GOV conflate "waste" and "scrap" with respect to what we consider a "normal allowance for waste." Contrary to the GOV's arguments, we do not consider its norms to be inaccurate, and they appear to do what they intend to; however, its norms are overly inclusive....

In this investigation, the GOV's system is not reasonable because producers may sell recovered forms of "waste and rejects" that were created during the production of exported products, from imported inputs, without customs procedures (*i.e.*, paying duties) on that scrap even after making allowances for unrecoverable waste.⁶⁹

There is no indication that the GOV's administration of this program has changed since *PVLT Tires from Vietnam*.

⁶⁸ 19 C.F.R. § 351.519(a)(4). A government may qualify for this exemption if it maintains a "reasonable, effective" system consistent with generally accepted commercial principles, or if it examines the "actual inputs involved" and can confirm that the import charge exemption does not exceed the amount of import charges that would have otherwise been imposed on the imported inputs.

⁶⁹ *PVLT Tires from Vietnam*, IDM at 34-35 (footnotes omitted).

a. *Financial Contribution*

The exemption of import duties constitutes a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone by the GOV.

b. *Benefit*

Pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.519(a)(4), the benefit under this program is equal to the amount of import duties not collected.⁷⁰

c. *Specificity*

Because benefits under this program are only available to exporters, this program is an export subsidy and is specific pursuant to sections 771(5A)(A) and (B) of the Act, 19 U.S.C. §§ 1677(5A)(A) and (B).

2. Refund for Import Duties on Raw Materials Used to Produce Exports

Under Article 19.1(d) of Law No. 107/2016, companies that have already paid import duties on goods imported for use in the manufacture of exports are eligible to receive refunds of those duties.⁷¹ Article 36 of Decree No. 134/2016 discusses the implementation of this law. In particular, it states that “{p}aid import duties on goods that are initially imported for business operation but eventually used for manufacture of goods that have been exported into a foreign country or a free trade zone shall be refunded,”⁷² and that eligible refunds include duties paid for

⁷⁰ *Id.* at 36.

⁷¹ **Exhibit V-20** (Law No. 107/2016) at art. 19.1(d).

⁷² **Exhibit V-22** (Decree No. 134/2016) at Art. 36.1.

raw materials, supplies, components, and semi-finished products incorporated into or used in the manufacture of goods for export.⁷³

Commerce examined an earlier version of this program in *Hangers from Vietnam* and found it to be a countervailable subsidy because “the GOV does not have in place a system to confirm which inputs are consumed in the production of the exported products and in what amounts, including a normal allowance for waste.”⁷⁴ Based on this finding, Commerce determined that the exemptions or reimbursements under the program constituted a benefit in the amount of the duties exempted or reimbursed.⁷⁵

a. *Financial Contribution*

The exemption or reimbursement of import duties constitutes a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone by the GOV. Refunds may also constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act, 19 U.S.C. § 1677(5)(D)(i), in the form of the direct transfer of funds.

b. *Benefit*

Pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.519(a)(4), the benefit under this program is equal to the amount of import duties refunded.

c. *Specificity*

Because benefits under this program are only available to exporters, this program is an export subsidy and is specific pursuant to sections 771(5A)(A) and (B) of the Act, 19 U.S.C. § 1677(5A)(A) and (B).

⁷³ *See id.* at Art. 36.2

⁷⁴ *Hangers from Vietnam*, IDM at 16.

⁷⁵ *See id.*

3. Exemption of Import Duties for Imports into Industrial Zones

Article 16.11 of Law No. 107/2016 provides an exemption from import duties on fixed assets — including machinery and equipment, raw materials for the manufacture of machinery and equipment, and components, parts, spare parts, and accessories for companies for machinery and equipment — for investment projects subject to investment preferences.⁷⁶ The eligible investment projects subject to investment preferences are provided in Appendices I and II to Decree No. 118/2015/ND-CP, *Detailing and guiding the implementation of a number of articles of the Investment Law* (“Decree No. 118/2015”).⁷⁷ Appendix II to Decree No. 118/2015 includes Tay Ninh province, “{e}conomic zones and hi-tech parks (including centralized information technology zones established under the Government’s regulations),” and “{i}ndustrial parks and export-processing zones established under the Government’s regulations.”⁷⁸

Molded fiber paper producers Vietnam Yuzhan Packaging Technology Co., Ltd. (“Yuzhan Packaging”), Vietnam Yuhua Packaging Technology Co., Ltd. (“Yuhua Packaging”), Zhong Xin Ya Tai Vietnam Co., Ltd. (“Zhong Xin Ya Tai”), and Changya appear to qualify for this program because they are located in industrial zones or parks.⁷⁹ Changya also appears to

⁷⁶ See **Exhibit V-20** (Law No. 107/2016) at art. 16.11. Additional guidance on the application of this program is provided by Article 14 of Decree No. 134/2016. See **Exhibit V-22** (Decree No. 134/2016) at Art. 14.

⁷⁷ See *PVLT Tires from Vietnam*, PDM at 16; *Woven Sacks from Vietnam*, PDM at 20-21.

⁷⁸ Decree No. 118/2015 at 69-70, attached at **Exhibit V-23**.

⁷⁹ See **Exhibit I-15**; see also YUTO website, “Contact Us” page, attached as **Exhibit V-24**; Panjiva ship manifest information for Zhong Xin Ya Tai, attached as **Exhibit V-25**; Zhong Xin Ya Tai, “Quantity and Value Questionnaire Response,” C-552-840 (Feb. 26, 2024), attached as **Exhibit V-26**; CYNMT website, “Factory” page, attached as **Exhibit V-27**.

qualify for this program because it is located in Tay Ninh province.⁸⁰ Commerce has found this program to be a countervailable subsidy.⁸¹

a. *Financial Contribution*

The exemption of import duties constitutes a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone by the GOV.

b. *Benefit*

Pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.510(a)(1), the benefit under this program is equal to the amount of import duties not collected. Because this program applies to fixed assets, any exemptions received under this program from 2013 through 2023 should be countervailed as non-recurring subsidies, with the benefit allocated over the average useful life for the industry.⁸²

c. *Specificity*

Because benefits under this program are only available to companies located in designated geographical areas, this program is regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv).

4. Exemption of Import Duties for Foreign-Invested Enterprises

Vietnamese law also provides import duty exemptions for foreign-invested enterprises under some circumstances. Article 57 of Decree No. 24/2000/ND-CP, *Detailing the*

⁸⁰ See **Exhibit I-15; Exhibit V-27** (CYNMT website).

⁸¹ See, e.g., *PVLT Tires from Vietnam*, IDM at 4.

⁸² See *PVLT Tires from Vietnam*, PDM at 17. As discussed in Section VI above, the AUL for the molded fiber product industry is 10 years.

Implementation of the Law on Foreign Investment in Vietnam, (“Decree No. 24/2000”) exempts foreign-invested enterprises from the payment of import duties on imports of equipment, machinery, parts, spare parts, components, and other materials for the creation of fixed assets.⁸³ Article 57.7 of Decree No. 24/2000 also exempts imports of raw materials, spare parts, accessories, and materials used by foreign-invested enterprises to produce goods for export.⁸⁴

Several Vietnamese molded fiber product producers appear to be foreign-owned and thus qualify for these import duty exemptions.⁸⁵ Commerce has found this program to be countervailable based on AFA.⁸⁶

a. *Financial Contribution*

The exemption of import duties constitutes a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone by the GOV.

b. *Benefit*

Pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. §§ 351.510(a)(1) and 351.519(a)(4), the benefit under this program is equal to the amount of import duties not collected. Any exemptions relating to fixed assets received under this program from

⁸³ See Decree No. 24/2000 at art 57.1, attached at **Exhibit V-28**.

⁸⁴ See *id.* at art 57.7.

⁸⁵ See **Exhibit V-24** (YUTO website) (showing that Yuzhan Packaging and Yuhua Packaging are owned by Shenzhen YUTO Packaging Technology Co., Ltd. located in Guangdong, China); **Exhibit V-27** (CYNMT website) (showing that Changya’s parent company is headquartered in Ningbo, China); Martin Vietnam Co., Ltd. (“Martin Pulp”) website “About Us” page, attached as **Exhibit V-29** (showing Martin Pulp is headquartered in Shanghai, China).

⁸⁶ See *Woven Sacks from Vietnam*, IDM at 27-28.

2013 through 2023 should be countervailed as non-recurring subsidies, with the benefit allocated over the average useful life for the industry.⁸⁷

c. *Specificity*

Because benefits under this program are expressly limited by law to foreign-invested enterprises, it is *de jure* specific pursuant to section 771(5A)(D)(i) of the Act, 19 U.S.C. § 1677(5A)(D)(i).

5. Import Duty Exemptions on Imported Raw Materials for Export Processing Enterprises and Export Processing Zones

Under Article 2.4 of Decree No. 134/2016, “goods imported from foreign countries to non-tariff zones (i.e., free trade zones) and used within the non-tariff zones do not incur import duties.”⁸⁸ Pursuant to Article 1.2 of Decree 87/2010/ND-CP, *Detailing a Number of Articles of the Law on Import Duty and Export Duty* (“Decree No. 87/2010”), “{g}oods brought from the domestic market into non-tariff zones or vice versa” are dutiable, and “{n}on-tariff zones include export processing zones, export processing enterprises, warehouses, and storing zones of goods pending duty payment, bonded warehouses, special economic-trade zones, trade-industrial zones, and other economic zones which are established under Prime Minister decisions”⁸⁹

Additionally, Article 2.3 of Decree No. 87/2010 states that “{g}oods exported from non-tariff zones to foreign countries; goods imported from foreign countries into non-tariff zones for use in

⁸⁷ See 19 C.F.R. §§ 351.524(b)(1), (c)(2)(iii). As discussed in Section V above, the AUL for the molded fiber products industry is 10 years.

⁸⁸ *Woven Sacks from Vietnam*, PDM at 17.

⁸⁹ Decree No. 87/2010 at art. 1.2, attached at **Exhibit V-30**; see also *Woven Sacks from Vietnam*, PDM at 17.

non-tariff zones only; {and} goods transported from one non-tariff zone to another” are non-dutiable.⁹⁰

As Commerce explained in *Laminated Woven Sacks from Vietnam*, designated non-tariff areas, such as export processing zones, are generally not subject to duties and therefore provide no financial contribution in the form of revenue foregone.⁹¹ However, the foreign government must ensure that “such companies or free trade areas must be subject to rigorous customs enforcement measures that ensure goods entering the free trade area are accounted for through exportation or entry into the country’s customs territory and, in the latter case, appropriate duties are collected.”⁹² Commerce determined that such a system of enforcement was not in place in Vietnam and that the program was countervailable.⁹³

Commerce should continue to examine this program in this investigation to determine whether benefits are being provided to producers and exporters of paper plates. As noted above, molded fiber product producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya are located in industrial zones or parks,⁹⁴ and thus appear to qualify for the import duty exemptions under this program.

⁹⁰ **Exhibit V-30** (Decree No. 87/2010) at art. 2.3.

⁹¹ See *Woven Sacks from Vietnam*, PDM at 18.

⁹² *Id.*

⁹³ See *id.* at 18-20; see also *Woven Sacks from Vietnam*, IDM at 28 (applying AFA to this program).

⁹⁴ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

a. *Financial Contribution*

The exemption of import duties constitutes a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii) in the form of revenue foregone by the GOV.

b. *Benefit*

Pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.519(a)(4), the benefit under this program is equal to the amount of import duties not collected.

c. *Specificity*

Because the import duty exemptions on raw materials are contingent upon export performance, they are specific as export subsidies pursuant to sections 771(5A)(A) and (B) of the Act, 19 U.S.C. §§ 1677(5A)(A) and (B).

C. Income Tax Programs

The GOV has provided numerous income tax preferences pursuant to various laws and decrees. In prior CVD proceedings, the GOV has explained that when a new income tax law or decree is passed, there is always a clause that specifies that enterprises may maintain the tax preferences granted under the previous decree(s) but if the preferences are higher under the new law, enterprises may opt for the preferences under the new decree.⁹⁵ Molded fiber product producers and exporters in Vietnam thus may be eligible to benefit from any of the measures detailed below or succeeding measures, even though some of the older measures may have been nominally repealed or superseded.

⁹⁵ See, e.g., *Shrimp from Vietnam 2013*, IDM at 16-17; *PVLT Tires from Vietnam*, PDM at 27-28.

1. Income Tax Preferences for Exporters

Under Decree No. 164/2003/ND-CP, *Detailing the Implementation of the Law on Enterprise Income Tax* (“Decree No. 164/2003”), companies engaged in exporting goods are eligible for income tax preferences.⁹⁶ In particular, Article 39 states that the GOV will provide:

1. 50% reduction of the payable tax on the turnover earned in the following cases:
 - a/Export in the first year is conducted by mode of direct export;
 - b/Export of new commodities with economic-technical and utility properties different from those of the commodities already exported by the enterprises;
 - c/Export to a new country or new territories other than the former markets.
2. 50% reduction of the payable income tax on the additional income arising from export in the fiscal year, for investors whose export turnover of the current year is higher than that of the previous year.
3. 20% reduction of the payable income tax on the income earned from export in a fiscal year in the following cases:
 - a/The export turnover accounts for more than 50% of the total turnover; the tax reduction shall be considered annually.
 - b/The export markets are maintained in a stable manner with regard to volume or export value for previous three consecutive years.⁹⁷

Pursuant to Article 39, benefits under this program are limited to businesses dealing in export goods as defined in Section III, List A of the Appendix to Decree No. 164/2003.⁹⁸ Section III,

⁹⁶ See Decree No. 164/2003 at art. 39, attached at **Exhibit V-31**.

⁹⁷ *Id.*

⁹⁸ *See id.*

List A covers “{p}rojects for production of, and trading in, export goods with the export value of the goods exceeding 50% of the total value of goods produced and/or traded in a fiscal year.”⁹⁹

Commerce has previously found this program to be a countervailable export subsidy.¹⁰⁰

a. *Financial Contribution*

Reduced income tax rates under this program provide a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone.

b. *Benefit*

The benefit for this program is equal to the difference between the income tax the recipient would have paid absent the program and the income tax it actually paid pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.509(a)(1).

c. *Specificity*

Because this program is only available to companies exporting goods from Vietnam, it is specific as an export subsidy pursuant to sections 771(5A)(A) and (B) of the Act, 19 U.S.C. §§ 1677(5A)(A) and (B).

2. Income Tax Preferences for Enterprises in Special Zones

The GOV provides income tax exemptions to companies that are located in industrial zones or other designated economic zones. Commerce has found that the GOV provided income tax exemptions to investment projects located in industrial zones under Article 1.4 of Decree No.

⁹⁹ *Id.* at App’x List A § III.

¹⁰⁰ *See Shrimp from Vietnam 2013*, IDM at 17-18.

152/2004/ND-CP, which was an amendment to Decree No. 164/2003.¹⁰¹ Article 1.4 of Decree No. 152/2004 provides that:

Business establishments newly set up under investment projects executed in industrial parks or export processing zones shall:

a/ Enjoy tax exemption for 2 years as from the date their taxable incomes are generated and the 50% reduction of payable tax amounts for 6 subsequent years for service establishments newly set up under investment projects executed in industrial parks;

b/ Enjoy tax exemption for 3 years as from the date their taxable incomes are generated and the 50% reduction of payable tax amounts for 7 subsequent years for service establishments newly set up under investment projects executed in export processing zones, production establishments newly set up under investment projects executed in industrial parks;

c/ Enjoy tax exemption for 4 years as from the date their taxable incomes are generated and the 50% reduction of payable tax amounts for 7 subsequent years for establishments dealing in infrastructure development, which are newly set up under investment projects for development of infrastructures of industrial parks and export processing zones; export processing enterprises in production fields regardless of whether they are located inside or outside export processing zones.¹⁰²

As eligibility for benefits under this program is dependent upon the date of the investment license, and may continue for up to seven years after a taxable income is first generated, Vietnamese companies are still eligible to benefit from this program during the proposed POI of calendar year 2023.

¹⁰¹ See *PVLT Tires from Vietnam*, PDM at 27-28; see also Decree No. 152/2004/ND-CP, *Amending and Supplementing a Number of Articles of the Government's Decree No. 164/2003/ND-CP of December 22, 2003 Detailing the Implementation of the Law on Enterprise Income Tax* ("Decree No. 152/2004"), attached as **Exhibit V-32**.

¹⁰² *Id.* at art. 1.4.

Additionally, under Article 15 of the more recent Decree No. 124/2008/ND-CP, *Detailing and Guiding the Implementation of a Number of Articles of the Law on Enterprise Income Tax* (“Decree No. 124/2008”), companies are entitled to reduced income tax rates if they are located in specified areas, including in “economic zones or hi-tech parks established under the Prime Minister’s decisions.”¹⁰³ In *Nails From Vietnam*, Commerce explained that:

Article 15 {of Decree 124} provides a tax incentive rate of 10 percent for 15 years for new enterprises located in the areas with extreme socioeconomic difficulties as enumerated in the Appendix to Decree 124, as well as in economic zones and high-tech parks; additionally, an incentive tax rate of 20 percent for 10 years is available for new enterprises located in the areas with socio-economic difficulties as enumerated in the Appendix of Decree 124.¹⁰⁴

Under Article 16 of Decree No. 124/2008, income tax exemptions are also available for four years, with an additional 50 percent reduction of payable tax amounts for a subsequent nine years. These benefits are applicable to companies located in areas with socio-economic difficulties or extreme socio-economic difficulties, as well as economic zones and high-tech parks.

Molded fiber products producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya appear to qualify for such income tax exemptions and reductions because they are located in industrial zones or parks.¹⁰⁵ Changya also appears to qualify for such income tax

¹⁰³ **Exhibit V-15** (Decree No. 124/2008) at art. 15(1)(a).

¹⁰⁴ *Nails from Vietnam*, IDM at 26.

¹⁰⁵ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

exemptions and reductions because it is located in Tay Ninh province,¹⁰⁶ which is designated as a geographical area with socio-economic difficulties in the Appendix to Decree No. 124/2008.

Commerce has found these income tax exemptions and reductions to be countervailable subsidies.¹⁰⁷

a. *Financial Contribution*

Income tax exemptions and reductions under this program provide a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone.

b. *Benefit*

The benefit for this program is equal to the difference between the income tax the recipient would have paid absent the program and the income tax it actually paid pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.509(a)(1).

c. *Specificity*

Because this program is only available to companies located in designated geographical areas, it is regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv).

3. Income Tax Preferences Under Decree No. 24/2007

Under Decree No. 24/2007/ND-CP, *Detailing the implementation of the Law on enterprise income tax*, (“Decree No. 24/2007”) of February 14, 2007, the GOV provides income tax preferences to enterprises in certain designated sectors of the economy and enterprises

¹⁰⁶ See **Exhibit I-15; Exhibit V-27** (CYNMT website).

¹⁰⁷ See *PVLT Tires from Vietnam*, IDM at 4; *Woven Sacks from Vietnam*, IDM at 24.

located in geographical areas with “difficult socio-economic conditions.”¹⁰⁸ Article 34 of Decree No. 24/2007 sets reduced maximum income tax rates for projects undertaken by companies in the designated sectors and/or located in regions of difficult socioeconomic conditions. Benefits for such companies include reduced tax rates ranging from 10–20 percent over a period of 10–15 years, rather than the normal enterprise income tax rate of 28 percent.¹⁰⁹ Additional income tax exemptions and reductions apply to new investment projects, relocated business establishments, and investments in new production chains, production and capacity expansions, renewable technologies, and ecological environmental improvements in the designated sectors and/or geographical areas under Articles 35–36 of Decree No. 24/2007.

Article 18 of Decree No.108/2006/ND-CP, *Detailing and Guiding the Implementation of a Number of Articles of the Investment Law* (“Decree No. 108/2006”), explains that investors in permissible industrial projects in Vietnam have the right to “enjoy investment preferences in accordance with the investment law and relevant laws.”¹¹⁰

In *Wind Towers from Vietnam*, Commerce explained that the list of sectors entitled to special investment incentives under Decree No. 24/2007 is found in Appendix I to Decree No. 108/2006.¹¹¹ Included in Appendix I is a “list of domains entitled to special investment

¹⁰⁸ Decree No. 24/2007 at arts. 33–36, attached at **Exhibit V-33**.

¹⁰⁹ *See id.* at art. 34.

¹¹⁰ **Exhibit V-16** (Decree No. 108/2006) at art. 18.

¹¹¹ *See Utility Scale Wind Towers From the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 Fed. Reg. 68,104 (Dec. 13, 2019) (“*Wind Towers from Vietnam Prelim.*”), PDM at 7, unchanged in *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination and Negative Determination of Critical Circumstances*, 85 Fed. Reg. 40,229 (July 6, 2020) (“*Wind Towers from Vietnam*”).

preferences,” which includes “{p}roduction of paper, cartons, artificial planks from domestic agricultural and forest materials; production of pulp”; and “{i}nvestment projects on production activities in industrial parks established under decisions of the Prime Minister.”¹¹²

The list of geographical areas entitled to special investment incentives is found in Appendix II to Decree No. 108/2006.¹¹³ Appendix II lists Tay Ninh province, “{h}i-tech parks and economic zones entitled to preferences under establishment decisions of the Prime Minister,” and “{i}ndustrial parks established under decisions of the Prime Minister” among the geographical areas entitled to investment preferences.¹¹⁴ As noted above, molded fiber products producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya are located in industrial zones or parks, and Changya is located in Tay Ninh province.¹¹⁵

Commerce has found the income tax exemptions and reductions under Decree No. 24/2007 to be countervailable subsidies.¹¹⁶

a. *Financial Contribution*

Income tax exemptions and reductions under this program provide a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone.

¹¹² **Exhibit V-16** (Decree No. 108/2006) at App’x I(B)(VIII)(51), (53)

¹¹³ *See Wind Towers from Vietnam*, PDM at 7.

¹¹⁴ **Exhibit V-16** (Decree No. 108/2006) at App’x II.

¹¹⁵ *See Exhibit I-15*; *see also Exhibit V-24* (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

¹¹⁶ *See Wind Towers from Vietnam*, IDM at 35–37; *Wind Towers from Vietnam* PDM at 6–7; *Shrimp from Vietnam 2013*, IDM at 18– 19.

b. *Benefit*

The benefit for this program is equal to the difference between the income tax the recipient would have paid absent the program and the income tax it actually paid pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.509(a)(1).

c. *Specificity*

This program is specific as a matter of law pursuant to section 771(5A)(D)(i) of the Act, 19 U.S.C. § 1677(5A)(D)(i), because it is expressly provided to companies in certain designated sectors, including molded fiber product production. In addition, it is regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv), because it is limited to companies in designated geographical areas.

4. Tax Benefits for New Investments

In 2013, the GOV promulgated additional tax incentives pursuant to Decree No. 218/2013, *Detailing and Guiding the Implementation of Law on Corporate Income Tax* (“Decree No. 218/2013”). Under Article 15 of Decree No. 218/2013, an incentive income tax rate of 10 percent is available to new investment projects located in economic zones or high technology zones, and enterprises performing new investment projects in designated areas with difficult socio-economic conditions are taxed at the incentive rate of 17 percent.¹¹⁷ Under Article 16 of Decree No. 218/2013, new investment projects in economic or high technology zones receive an additional tax exemption for 4 years and reduction of 50% of tax payable for the next 9 years, and “new investment projects in industrial parks (except for industrial parks located in the areas with advantageous socio-economic conditions)” in specified areas with difficult socio-economic

¹¹⁷ See **Exhibit V-17** (Decree No. 218/2013) at art. 15.1(a), 15.3.

conditions receive an additional tax exemption for 2 years and reduction of 50% of tax payable for the next 4 years.¹¹⁸ The Annex to Decree No. 218/2013 lists Tay Ninh province among the areas with difficult socio-economic conditions.

Molded fiber product producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya appear to qualify for such income tax exemptions and reductions because they are located in industrial zones or parks.¹¹⁹ Changya also appears to qualify for such income tax exemptions and reductions because it is located in Tay Ninh province.¹²⁰

Commerce has found the Tax Benefits for New Investments under Decree No. 218/2013 to be countervailable subsidies.¹²¹

a. *Financial Contribution*

Income tax exemptions and reductions under this program provide a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone.

b. *Benefit*

The benefit for this program is equal to the difference between the income tax the recipient would have paid absent the program and the income tax it actually paid pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.509(a)(1).

¹¹⁸ *Id.* at art. 16.1(a), 16.3.

¹¹⁹ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

¹²⁰ See **Exhibit I-15**; CYNMT website, “Factory” page, attached as **Exhibit V-27**.

¹²¹ See *PVLT Tires from Vietnam*, IDM at 3; *PVLT Tires from Vietnam*, PDM at 13.

c. *Specificity*

This program is regionally specific pursuant to section 771(5A)(D)(i) of the Act, 19 U.S.C. § 1677(5A)(D)(i), because the subsidy is limited to an enterprise or group of enterprises (*i.e.*, those sectors entitled to special investment incentives in Articles 15 and 16 of Decree 218).¹²²

5. Accelerated Depreciation and Increases of Deductible Expenses

In June of 2020, the GOV promulgated the Law on Investment, Law No. 61/2020/QH14 (“Law No. 61/2020/QH14”), Chapter III of which covers “Investment Incentives and Supports.”¹²³ One such investment incentive is “{a}ccelerated depreciation, or increase of deductible expenses when calculating taxable incomes.”¹²⁴ This incentive available to a limited range of investment projects, which include investment projects located in designated geographical areas.¹²⁵ The geographical areas eligible for this investment incentive are “{g}eographical areas meeting with difficult socio-economic conditions and geographical areas meeting with extremely difficult socio-economic conditions” and “{i}ndustrial parks, export processing zones, hi-tech parks and economic zones.”¹²⁶

Molded fiber products producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya appear to qualify for this investment incentive because they are located in

¹²² See *PVLT Tires from Vietnam*, PDM at 13, unchanged in *PVLT Tires from Vietnam*, IDM at 3.

¹²³ Law No. 61/2020/QH14 at ch. III, attached at **Exhibit V-34**.

¹²⁴ *Id.* at art. 15.1(d).

¹²⁵ See *id.* at art. 15.2(b).

¹²⁶ *Id.* at art. 16.2.

industrial zones or parks.¹²⁷ Although Law No. 61/2020/QH14 does not specify the geographical areas with difficult socio-economic conditions, it likely applies to the same geographical areas with difficult socio-economic conditions that have been designated in other GOV decrees, which include Tay Ninh province.¹²⁸ Changya thus also appears to qualify for this investment incentive because it is located in Tay Ninh province.¹²⁹

The accelerated depreciation and increase of deductible expenses on income taxes investment incentive is a countervailable subsidy.

a. *Financial Contribution*

Investment support in the form of accelerated depreciation and increases in deductible expenses provide a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone.

b. *Benefit*

The benefit for this program is equal to the difference between the income tax the recipient would have paid absent the program and the income tax it actually paid pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.509(a)(1).

¹²⁷ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

¹²⁸ See **Exhibit V-15** (Decree No. 124/2008) at App'x; **Exhibit V-16** (Decree No. 108/2006) at App'x II; **Exhibit V-17** (Decree No. 218/2013) at Annex.

¹²⁹ See **Exhibit I-15**; **Exhibit V-27** (CYNMT website)

c. *Specificity*

Because this program is limited to companies located in designated geographical areas, it is regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv).

D. Land Programs

1. Exemption or Reduction from Land and Water Rents for Encouraged Industries or Industrial Zones

All land and water in Vietnam is owned by the state, with their distribution controlled by the GOV.¹³⁰ Under Decree No. 142/2005/ND-CP, *Collection of Land Rents and Water Surface Rents* (“Decree No. 142/2005”), the GOV offers rent exemptions and reductions when land is used for, *inter alia*, “projects in the domains entitled to investment encouragement or special investment encouragement,”¹³¹ with land rents and water surface rents exempted for “{i}nvestment projects in the domains where investment is specially encouraged, which are executed in geographical areas facing exceptional socio-economic difficulties.”¹³²

Article 18 of Decree No. 108/2006 explains that investors in permissible industrial projects in Vietnam have the right to “enjoy investment preferences in accordance with the investment law and relevant laws.”¹³³ Article 26 of the same decree continues:

¹³⁰ See “Constitution of the Socialist Republic of Vietnam (2013),” at art. 53, excerpt attached at **Exhibit V-35**.

¹³¹ Decree No. 142/2005 at art. 4.3, attached at **Exhibit V-36**.

¹³² *Id.* at art. 14.1.

¹³³ **Exhibit V-16** (Decree No. 108/2006) at art. 18.1.

Investors to whom the State assigns land without collection of land use levies, assigns land with collection of land use levies or the State leases land and who have investment projects in domains or geographical areas entitled to investment preferences defined in this Decree are entitled to exemption from or reduction of land use tax, land use levy, land rent or water surface rent in accordance with the land law and the taxation law.¹³⁴

Appendix I to Decree No. 108/2006 identifies industrial sectors entitled to special investment incentives, including “{p}roduction of paper, cartons, artificial planks from domestic agricultural and forest materials; production of pulp”; and “{i}nvestment projects on production activities in industrial parks established under decisions of the Prime Minister.”¹³⁵ In addition, Appendix II identifies a list of geographical areas entitled to preferences, including Tay Ninh province, “{h}i-tech parks and economic zones entitled to preferences under establishment decisions of the Prime Minister,” and “{i}ndustrial parks established under decisions of the Prime Minister.”¹³⁶

Molded fiber products producers are eligible for land rent reductions because they are engaged in the production of pulp, which is used in the production of molded fiber products. Molded fiber products producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya are also eligible for land and water rent exemptions or reductions because they are located in industrial zones, and Changya is located in Tay Ninh province.¹³⁷

¹³⁴ *Id.* at art. 26.

¹³⁵ *Id.* at App’x I(B)(VIII)(51), (53).

¹³⁶ *Id.* at App’x II.

¹³⁷ *See Exhibit I-15; see also Exhibit V-24* (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

Commerce has found this program to be a countervailable subsidy.¹³⁸

a. *Financial Contribution*

Exemptions from or reductions of rent constitute a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone. Alternatively, the provision of land and water for reduced or exempted rent constitutes the provision of goods for less than adequate remuneration pursuant to section 771(5)(D)(iii) of the Act, 19 U.S.C. § 1677(5)(D)(iii).

b. *Benefit*

In accordance with 19 C.F.R. § 351.509(a)(1), the benefit from this program is equal to the rent reduced or exempted under the program. Alternatively, pursuant to section 771(5)(E)(iv) of the Act, 19 U.S.C. § 1677(5)(E)(iv), and 19 C.F.R. § 351.511(a)(1), the benefit from this program is equal to the difference between the market rate for rent in the locality and the actual rent paid.

c. *Specificity*

This program is *de jure* specific pursuant to section 771(5A)(D)(i) of the Act, 19 U.S.C. § 1677(5A)(D)(i), because it is limited to only those industries and enterprises designated as eligible for the incentive in the decree, including molded fiber product production. Additionally, the benefits provided by this program are regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv).

¹³⁸ See, e.g., *Shrimp from Vietnam 2013*, IDM at 23; *Hangers from Vietnam*, IDM at 12-14.

2. Exemptions of Land-Use Taxes and Levies for Encouraged Industries or Industrial Zones

Article 26 of Decree No. 108/2006 indicates that investors with projects that qualify as “investment projects in domains or geographical areas entitled to investment preferences” are also exempt from land use taxes and land use levies.¹³⁹ Appendix I to Decree No. 108/2006 identifies industrial sectors entitled to special investment incentives, including “{p}roduction of paper, cartons, artificial planks from domestic agricultural and forest materials; production of pulp;” and “{i}nvestment projects on production activities in industrial parks established under decisions of the Prime Minister.”¹⁴⁰ In addition, Appendix II identifies a list of geographical areas entitled to preferences, including Tay Ninh province, “{h}i-tech parks and economic zones entitled to preferences under establishment decisions of the Prime Minister,” and “{i}ndustrial parks established under decisions of the Prime Minister.”¹⁴¹

Molded fiber product producers are eligible for land use tax and levy exemptions because they are engaged in paper production. Molded fiber products producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya are also eligible for land use tax and levy exemptions because they are located in industrial zones or parks, and Changya is located in Tay Ninh province.¹⁴²

Commerce has found this subsidy to be countervailable based on AFA.¹⁴³

¹³⁹ **Exhibit V-16** (Decree No. 108/2006) at art. 26.

¹⁴⁰ *Id.* at App’x I(B)(VIII)(51), (53).

¹⁴¹ *Id.* at App’x II.

¹⁴² *See* **Exhibit I-15**; *see also* **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

¹⁴³ *See Nails from Vietnam*, IDM at 27.

a. *Financial Contribution*

Exemptions from land use taxes and land use levies constitute a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone.

b. *Benefit*

In accordance with 19 C.F.R. § 351.509(a)(1), the benefit from this program is equal to the rent reduced or exempted under the program. Alternatively, pursuant to section 771(5)(E)(iv) of the Act, 19 U.S.C. § 1677(5)(E)(iv), and 19 C.F.R. § 351.511(a)(1), the benefit from this program is equal to the difference between the market rate for rent in the locality and the actual rent paid.

c. *Specificity*

This program is *de jure* specific pursuant to section 771(5A)(D)(i) of the Act, 19 U.S.C. § 1677(5A)(D)(i), because it is limited to only those industries and enterprises designated as eligible for the incentive in the decree. Additionally, the benefits provided by this program are regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv).

3. Land Rent Exemptions and Reductions for Enterprises Located in Special Zones Under Decree No. 35/2022

More recently, in May 2022, the Vietnamese government issued Decree No. 35/2022/ND-CP, *Regulations on Management of Industrial Parks and Economic Zones* (“Decree No. 35/2022”).¹⁴⁴ Section 2 of that decree deals with government support to encourage development of such areas. Articles 32(a) and 33(b) set forth policies to promote the

¹⁴⁴ Decree No. 35/2022, attached at **Exhibit V-37**.

development of industrial parks through land rent exemptions and reductions.¹⁴⁵ Companies located in the eligible areas can qualify for preferential grants and exemption from land rental fees.¹⁴⁶ The GOV provides rent exemptions ranging from 11 to 15 years, and includes a full exemption for the whole operation period for encouraged sectors.¹⁴⁷

Molded fiber products producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya are located in industrial zones or parks,¹⁴⁸ and therefore are eligible for this program.

Land rent exemptions and reductions under Decree No. 35/2022 constitute a countervailable subsidy.

a. *Financial Contribution*

Rent exemptions and reductions constitute a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone.

b. *Benefit*

In accordance with 19 C.F.R. § 351.509(a)(1), the benefit from this program is equal to the rent reduced or exempted under the program. Alternatively, pursuant to section 771(5)(E)(iv) of the Act, 19 U.S.C. § 1677(5)(E)(iv), and 19 C.F.R. § 351.511(a)(1), the benefit from this

¹⁴⁵ See *id.* at arts. 32(a), 33(b).

¹⁴⁶ See *id.*; see also Justin Le, “Vietnam’s Industrial Zones Ready to See Significant FDI Inflow” (Dec. 8, 2019) (describing the benefits provided by operating in a special economic zone as including exemptions “from land rental fees”), attached at **Exhibit V-38**.

¹⁴⁷ See Vietnam Briefing, *Incentives for Doing Business in Vietnam*, attached at **Exhibit V-39**.

¹⁴⁸ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

program is equal to the difference between the market rate for rent in the locality and the actual rent paid.

c. *Specificity*

The land rent exemptions and reductions provided under this program are regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv), because they are limited to the enterprises located in special zones as identified in Decree No. 35/2022.

4. Exemptions or Reductions of Rent for Foreign-Invested Enterprises

Decision No. 189/2000/QD-BTC, *Regulations on Rent of Land, Water, and Sea Surfaces Applicable to Forms of Foreign Investment in Vietnam* (“Decision No. 189/2000”), creates a framework for establishing rates for property rented to foreign-invested enterprises.¹⁴⁹ According to Article 1 of Decision No. 189/2000, joint ventures and enterprises with 100 percent foreign capital that lease land in Vietnam are permitted access to favorable rent policies, including rent reductions and exemptions.¹⁵⁰ According to Article 8.7 of Decision No. 189/2000:

¹⁴⁹ Decision No. 189/2000, attached at **Exhibit V-40**.

¹⁵⁰ *See id.* at art. 1.

Exemptions from and reductions of land rent provided for in this Decision shall be applicable to all foreign invested projects in Vietnam.

With respect to projects to which investment licenses have been issued, which are currently in the capital construction period and which are entitled to a reduction of land rent pursuant to the provisions in Decision 179-1998-QD-BTC dated 24 February 1998, they shall now be entitled to preferential exemption from land rent pursuant to the provisions in clause 2 of this article for the remaining capital construction period.

With respect to projects which commenced operation between the date of completion of capital construction and the date of effectiveness of this Decision and there remains a period for which they are entitled to exemption from land rent pursuant to the provisions in clause 3 of this article, they shall be entitled to exemption from land rent for the remainder of the exemption period.¹⁵¹

The regulation under Decision No. 189/2000 provides the actual formula for setting rental rates at Article 3, with separate calculations for urban and non-urban land,¹⁵² while Article 5 guarantees that rents are not to increase during 5-year lease periods and are not to increase more than 15 percent from one lease period to the next.¹⁵³ Article 8.3 of the regulation also exempts foreign-invested enterprises from having to pay rent for a set period, depending upon the location, with exemptions of up to 11 years being available to investors.¹⁵⁴ To the extent that foreign-invested enterprises are located in industrial zones, export processing zones, or high-tech

¹⁵¹ *Id.* at art. 8.7.

¹⁵² *See id.* at art. 3.1–3.2.

¹⁵³ *See id.* at art. 5.

¹⁵⁴ *See id.* at art. 8.3.

zones, Article 3.4 of Decision No. 189/2000 states that the land rents calculated under Article 3.1–3.2 are reduced to 80 percent of what they would otherwise be.¹⁵⁵

Appendix 1b of Decision No. 189/2000 specifically identifies companies “{p}roducing, processing for export at least eighty (80) per cent of products” as “Specially Encouraged Investment Projects” and companies “{p}roducing, processing for export at least fifty (50) per cent of products” or “{p}roducing, processing for export at least thirty (30) per cent of products and using many domestic raw materials and materials (with a value of at least thirty (30) per cent of total production costs” as “Encouraged Investment Projects.”¹⁵⁶

Several Vietnamese molded fiber products producers, including Yuzhan Packaging, Yuhua Packaging, Changya, and Martin Pulp, appear to be foreign-owned and thus qualify for these rent exemptions and reductions.¹⁵⁷ Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya are also eligible for the 80 percent rent reduction because they are located in industrial zones or parks.¹⁵⁸

Commerce has found this program to be a countervailable subsidy.¹⁵⁹

¹⁵⁵ See *id.* at art. 3.4.

¹⁵⁶ *Id.* at App’x 1b.

¹⁵⁷ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website) (showing that Yuzhan Packaging and Yuhua Packaging are owned by Shenzhen YUTO Packaging Technology Co., Ltd. located in Guangdong, China); **Exhibit V-27** (CYNMT website) (showing that Changya’s parent company is headquartered in Ningbo, China); **Exhibit V-29** (Martin Pulp) (showing Martin Pulp is headquartered in Shanghai, China).

¹⁵⁸ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

¹⁵⁹ See *Woven Sacks from Vietnam*, IDM at 22–23 (countervailing this program based on AFA).

a. *Financial Contribution*

Exemptions from or reductions of rent constitute a financial contribution pursuant to section 771(5)(D)(ii) of the Act, 19 U.S.C. § 1677(5)(D)(ii), in the form of revenue foregone. Alternatively, the provision of land for reduced or exempted rent constitutes the provision of a good for less than adequate remuneration pursuant to section 771(5)(D)(iii) of the Act, 19 U.S.C. § 1677(5)(D)(iii).

b. *Benefit*

In accordance with 19 C.F.R. § 351.509(a)(1), the benefit from this program is equal to the rent reduced or exempted under the program. Alternatively, pursuant to section 771(5)(E)(iv) of the Act, 19 U.S.C. § 1677(5)(E)(iv), and 19 C.F.R. § 351.511(a)(1), the benefit from this program is equal to the difference between the market rate for rent in the locality and the actual rent paid.

c. *Specificity*

This program is *de jure* specific pursuant to section 771(5A)(D)(i) of the Act, 19 U.S.C. § 1677(5A)(D)(i), because it is expressly limited by law to companies that are foreign-invested enterprises. Additionally, the benefits are regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv). The benefits based on export production and processing are specific pursuant to sections 771(5A)(A) and (B) of the Act, 19 U.S.C. §§ 1677(5A)(A) and (B), respectively.

E. Grant Programs

1. Export Promotion Grants

The GOV provides direct support to exporters through its export promotion program, which is designed to enhance trade promotion activities and develop export markets.¹⁶⁰ The program is administered by the Evaluation Council, which is led by the Ministry of Industry and Trade, but also includes the Ministry of Finance and other relevant ministries and agencies.¹⁶¹

Specifically, Decision No. 72/2010/QD-TTg, *Promulgating the Regulation on elaboration, management and implementation of national trade promotion program* (“Decision No. 72/2010”), dated November 15, 2010, describes as its objective a national trade promotion program built on the basis of export-oriented development consistent with the government’s economic and social development strategies, as well as an intent to develop export markets.¹⁶² Article 9 of Decision No. 72/2010 provides direct funding to industries with export promotion programs to cover various costs, including:

- Trade information, market research, and database construction of key export markets for each sector;
- Export advocacy in the form of industry promotion;
- Hiring domestic and foreign experts to advise on product development, improving product quality, export development, and foreign market entry;
- Training in Vietnam and abroad to improve trade promotion operations;
- Organizing and participating in trade fairs;

¹⁶⁰ See GOV Letter, “Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: GOV’s Initial Questionnaire Response,” (Aug. 25, 2020) (Public Version) at 19, excerpts attached at **Exhibit V-41**.

¹⁶¹ See *id.*

¹⁶² See Decision No. 72/2010 art. 2, attached at **Exhibit V-42**.

- Organizing trade delegations abroad (including the cost of airfare, the cost of seminars and meetings, and the cost of communication, promotion, and invited guests);
- Organizing mixed promotion activities combining trade investment and tourism in order to boost exports of goods and services of Vietnam and attract investment and foreign tourists to Vietnam;
- Promoting the organization of foreign enterprises to come to Vietnam to purchase goods, including the cost of holding events and travel and accommodation expenses;
- Organizing international conferences of export sectors in Vietnam (including the cost of renting and decorating halls, facilities, interpretation, translation, printing documents, and advocacy); and
- Providing support for overseas market access to the brands of goods and services designated as featured national brands.¹⁶³

Commerce has previously determined, based on AFA, that Export Promotion Grants constitute a countervailable subsidy.¹⁶⁴

a. *Financial Contribution*

The export promotion program provides a financial contribution pursuant to section 771(5)(D)(i) of the Act, 19 U.S.C. § 1677(5)(D)(i), because it constitutes a direct transfer of funds from the GOV to the recipients.

b. *Benefit*

Pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.504(a), the benefit under this program is equal to the amount of funds received.

¹⁶³ See *id.* at art. 9.

¹⁶⁴ See *Woven Sacks from Vietnam*, IDM at 28–29; *Nails from Vietnam*, IDM at 22.

c. *Specificity*

The benefits received under this program are specific pursuant to sections 771(5A)(A) and (B) of the Act, 19 U.S.C. § 1677(5A)(A) and (B), because they are only available to exporters.

2. Investment Support Grants

In June of 2020, the GOV promulgated the Law on Investment, Law No. 61/2020/QH14, Chapter III of which covers “Investment Incentives and Supports.” Under Chapter III, Article 18 provides for “{f}orms of investment support,” which include:

- Support for development of technical and social infrastructure systems;
- Support for human resources training and development;
- Credit support;
- Support for access to production and business grounds and relocating production;
- Support for science, technique, and technology transfer;
- Support for market development and information; and
- Support for research and development.¹⁶⁵

Pursuant to Law No. 61/2020/QH14, investment incentives are limited to designated geographical areas, which include “{g}eographical areas meeting with difficult socio-economic conditions and geographical areas meeting with extremely difficult socio-economic conditions” and “{i}ndustrial parks, export processing zones, hi-tech parks and economic zones.”¹⁶⁶

¹⁶⁵ **Exhibit V-34** (Law No. 61/2020/QH14) at Art. 18.

¹⁶⁶ *Id.* at art. 16.2.

Molded fiber products producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya are located in industrial zones or parks.¹⁶⁷ Although Law No. 61/2020/QH14 does not specify the geographical areas with difficult socio-economic conditions, it likely applies to the same geographical areas with difficult socio-economic conditions that have been designated in other GOV decrees, which include Tay Ninh province.¹⁶⁸ Changya thus also appears to qualify for this investment incentive because it is located in Tay Ninh province.¹⁶⁹ Investment Support Grants constitute a countervailable subsidy. Commerce recently initiated an investigation on this subsidy.¹⁷⁰

a. *Financial Contribution*

Investment support grants provide a financial contribution pursuant to section 771(5)(D)(i) of the Act, 19 U.S.C. § 1677(5)(D)(i), because they constitute a direct transfer of funds from the GOV to the recipients.

b. *Benefit*

Pursuant to section 771(5)(E) of the Act, 19 U.S.C. § 1677(5)(E), and 19 C.F.R. § 351.504(a), the benefit under this program is equal to the amount of funds received.

¹⁶⁷ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

¹⁶⁸ See **Exhibit V-15** (Decree No. 124/2008) at App'x; **Exhibit V-16** (Decree No. 108/2006) at App'x II; **Exhibit V-17** (Decree No. 218/2013) at Annex.

¹⁶⁹ See **Exhibit I-15**; **Exhibit V-27** (CYNMT website).

¹⁷⁰ See Initiation Checklist, *Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, Case No. C-552-838 (Nov. 14, 2023) at 21, 24, attached at **Exhibit V-43**.

c. *Specificity*

Because these grants are only available to companies located in designated geographical areas, they are regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv).

F. Provision of Utilities for Less Than Adequate Remuneration in Industrial and Export Processing Zones

Vietnam provides electricity, water, and other utilities in industrial and export processing zones at subsidized rates. The WTO Working Party on the accession of Vietnam to the WTO noted in its report that the GOV had explained that, following its accession to the WTO, Vietnam would limit its subsidies to enterprises in industrial zones to, *inter alia*, “facilitation in the supply and training of labour, and supply of water, power and other utilities.”¹⁷¹ Vietnam further stated that enterprises in industrial zones receive such preferential utility rates in order to attract investment.¹⁷²

Molded fiber products producers Yuzhan Packaging, Yuhua Packaging, Zhong Xin Ya Tai, and Changya are located in industrial zones or parks,¹⁷³ and thus may receive utilities for less than adequate remuneration. Commerce has found this program to be a countervailable subsidy based on AFA.¹⁷⁴

¹⁷¹ See World Trade Organization, *Report of the Working Party on the Accession of Viet Nam*, WT/ACC/VNM/48 (Oct. 27, 2006), at ¶ 338, excerpts attached at **Exhibit V-44**.

¹⁷² See *id.*

¹⁷³ See **Exhibit I-15**; see also **Exhibit V-24** (YUTO website); **Exhibit V-25** (Panjiva ship manifest information for Zhong Xin Ya Tai); **Exhibit V-26** (Zhong Xin Ya Tai Q&V); **Exhibit V-27** (CYNMT website).

¹⁷⁴ See *Woven Sacks from Vietnam*, IDM at 23-24.

a. *Financial Contribution*

The provision of utilities at reduced rates constitutes the provision of a good or service for less than adequate remuneration pursuant to section 771(5)(D)(iii) of the Act, 19 U.S.C. § 1677(5)(D)(iii).

b. *Benefit*

The provision of utilities at reduced rates confers a benefit equal to the difference between the market rate for utilities in the locality and the actual utilities paid pursuant to section 771(5)(E)(iv) of the Act, 19 U.S.C. § 1677(5)(E)(iv), and 19 C.F.R. § 351.511(a)(1).

c. *Specificity*

This program is regionally specific pursuant to section 771(5A)(D)(iv) of the Act, 19 U.S.C. § 1677(5A)(D)(iv), because it is limited to companies located in designated areas, namely industrial and export processing zones.

IX. CONCLUSION AND REQUEST FOR INVESTIGATION

For the reasons stated in Volume I of this petition, the U.S. industry producing molded fiber products has been materially injured and threatened with material injury by the substantial volume of unfairly traded imports of molded fiber products from Vietnam. As shown in Volume V, *supra*, the GOV has bestowed countervailable subsidies on imports of molded fiber products within the meaning of 19 U.S.C. § 1671(a). On this basis, Petitioners request that the U.S. Department of Commerce initiate a countervailing duty investigation of thermoformed molded fiber products from the Socialist Republic of Vietnam.

TABLE OF EXHIBITS

V-1	“Publication 946 (2023) : How to Depreciate Property,” <i>Department of the Treasury, Internal Revenue Service</i> (excerpt)	Public
V-2	Commerce Memorandum, “Review of Vietnam’s Status as a Non-market Economy Country” (Aug. 1, 2024)	Public
V-3	Commerce Memorandum, “Analysis of Vietnam’s Financial System,” (Oct. 12, 2022)	Public
V-4	Vietcombank News, “JBIC loans 200 Million USD to Vietcombank to Support Renewable Energy Projects in Vietnam” (July 29, 2019)	Public
V-5	VietinBank, “Single/Bilateral Export Factoring,” website excerpt	Public
V-6	Vietcombank, “Factoring,” website excerpt	Public
V-7	Circular No. 02/2017/TT-NHNN	Public
V-8	Vietcombank, “Guarantee issuance,” website excerpt	Public
V-9	Circular No. 28/2012/TT-NHNN	Public
V-10	Decision No. 108/2006/QD-TTg	Public
V-11	Vietnam Development Bank, “History,” website excerpt	Public
V-12	Vietnam Development Bank 2022 Annual Report	Public
V-13	Vietnam Development Bank, “Investment Credit,” website excerpt	Public
V-14	Decree No. 32/2017/ND-CP	Public
V-15	Decree No. 124/2008/ND-CP	Public
V-16	Decree No.108/2006/ND-CP	Public
V-17	Decree No. 218/2013/ND-CP	Public
V-18	Decision No. 131/QD-TTg	Public
V-19	Circular No. 21/2009/TT-NHNN	Public
V-20	Law No. 107/2016/QH13	Public
V-21	Vietnamese Attorney, “New Regulations on Import and Export Duties of Vietnam” (July 2016)	Public
V-22	Decree No. 134/2016/ND-CP	Public
V-23	Decree No. 118/2015/ND-CP	Public
V-24	YUTO, “Contact Us,” website excerpt	Public
V-25	Panjiva ship manifest information for Zhong Xin Ya Tai	Public
V-26	Zhong Xin Ya Tai Letter, “Certain Paper Plates from Socialist Republic of Vietnam: Quantity and Value Questionnaire Response” Case No. C-552-840 (Feb. 26, 2024)	Public
V-27	CYNMT, “About Us” and “Factory,” website excerpts	Public
V-28	Decree No. 24/2000/ND-CP	Public
V-29	Martin Vietnam Co., Ltd. “About Us,” website excerpt	Public
V-30	Decree No. 87/2010/ND-CP	Public
V-31	Decree No. 164/2003/ND-CP	Public
V-32	Decree No. 152/2004/ND-CP	Public
V-33	Decree No. 24/2007/ND-CP	Public
V-34	Law No. 61/2020/QH14	Public
V-35	“Constitution of the Socialist Republic of Vietnam (2013),” excerpt	Public

V-36	Decree No. 142/2005/ND-CP	Public
V-37	Decree No. 35/2022/ND-CP	Public
V-38	Justin Le, "Vietnam's Industrial Zones Ready to See Significant FDI Inflow" (Dec. 8, 2019)	Public
V-39	Vietnam Briefing, "Incentives for Doing Business in Vietnam" (last accessed Sept. 27, 2024)	Public
V-40	Decision No. 189-2000-QD-BTC	Public
V-41	GOV Letter, "Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: GOV's Initial Questionnaire Response" (Aug. 25, 2020) (Public Version)	Public
V-42	Decision No. 72/2010/QD-TTg	Public
V-43	Initiation Checklist, <i>Frozen Warmwater Shrimp from the Socialist Republic of Vietnam</i> , Case No. C-552-838 (Nov. 14, 2023)	Public
V-44	World Trade Organization, <i>Report of the Working Party on the Accession of Viet Nam</i> , WT/ACC/VNM/48 (Oct. 27, 2006)	Public