

Picard Kentz & Rowe LLP
1750 K Street, NW
Washington, DC 20006

tel +1 202 331 5040
fax +1 202 331 4011
nrickard@pkrlp.com

PICARD KENTZ & ROWE

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Case No. A-552-833

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Changed Circumstances Review – NME Status CCR (§ 751(b))
AD/CVD Operations, Office IV

PUBLIC DOCUMENT

The Honorable Gina Raimondo
Secretary of Commerce
Attn: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, NW
Washington, DC 20230

**Re: Request for a Changed Circumstances Review Regarding Market Economy
Status of the Socialist Republic of Vietnam – Comments in Response to
Request for Market Economy Status**

Dear Secretary Raimondo:

On behalf of the Southern Shrimp Alliance, we respectfully submit the following comments in opposition to the government of the Socialist Republic of Vietnam's ("GOV") request that the U.S. Department of Commerce (the "Department") cease its practice of treating the country of Vietnam as a non-market economy ("NME") country.¹ Through its membership in the Ad Hoc Shrimp Trade Action Committee, the Southern Shrimp Alliance represents the interests of the U.S. shrimp industry in proceedings before the Department regarding the

¹ See Letter from Ministry of Industry and Trade for the Socialist Republic of Vietnam to the U.S. Department of Commerce, Case No. A-552-833 (Sept. 8, 2023).

antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam, Case No. A-552-802, in which the country of Vietnam is treated as an NME country. The Department is currently in the process of conducting its eighteenth administrative review of that antidumping duty order.

The Southern Shrimp Alliance agrees with the comments submitted on behalf of the American Honey Producers Association and Sioux Honey Association (collectively, the “Honey Petitioners”) in opposition to the GOV’s request.² The Honey Petitioners correctly observe that the GOV has failed to demonstrate good cause sufficient to warrant the initiation of a changed circumstances review “less than 24 months after the date of publication of notice of the final determination” consistent with the requirements of 19 C.F.R. § 351.216(c).³ The Southern Shrimp Alliance also agrees with the Honey Petitioners that even if the Department were to find that “good cause” exists, the GOV has failed to establish that the statutory factors required to grant Vietnam market economy status are satisfied.⁴

In rebuttal comments filed with the Department after the agency’s *ex parte* meeting with the GOV,⁵ the GOV asserts that the agency should find “good cause” to exist wherever a party contends that there is evidence of “significant development” by a country “across all six factors

² See Letter from Kelley Drye & Warren LLP to the U.S. Department of Commerce, Case No. A-552-833 (Oct. 6, 2023).

³ See id.

⁴ See id.

⁵ See U.S. Department of Commerce Internal Memorandum from S. Bailey to The File, *Changed Circumstances Review Regarding Market Economy Status Request of the Socialist Republic of Vietnam: Meeting Between Officials with the U.S. Department of Commerce and Officials with the Government of the Socialist Republic of Vietnam*, Case No. A-552-833 (Oct. 19, 2023) (describing October 16, 2023 meeting with GOV officials).

considered by the Department in assessing a country’s qualification for graduation to market economy status . . .”⁶ But this argument would negate the existence of the “good cause” provision of the Department’s regulations, as the GOV makes no effort to identify anything regarding these factors that could not have been raised during the investigation resulting in this antidumping duty order.

The GOV also objects to the Honey Petitioners request that, consistent with the agency’s approach with respect to the People’s Republic of China⁷ and the Russian Federation,⁸ the Department conduct any evaluation of the GOV’s request in the context of the recently initiated administrative review.⁹ The GOV asserts that conducting such an inquiry in the context of an administrative review is inconsistent with the Honey Petitioners’ request that the Department provide the public with an opportunity to comment, as members of the public “would not be deemed ‘interested parties’ within the context of the Raw Honey from Viet Nam administrative review, 19 U.S.C. § 1677(9), and questions regarding their standing to participate in the

⁶ Letter from Ministry of Industry and Trade for the Socialist Republic of Vietnam to the U.S. Department of Commerce, Case No. A-552-833 (Oct. 17, 2023).

⁷ See Certain Aluminum Foil from the People’s Republic of China, 82 Fed. Reg. 16,162 (Dep’t Commerce Apr. 3, 2017) (Notice of Initiation of Inquiry into the Status of the People’s Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws).

⁸ See Emulsion Styrene-Butadiene Rubber from the Russian Federation, 87 Fed. Reg. 58,061 (Dep’t Commerce Sept. 23, 2022) (Notification of Intent to Investigate Whether the Russian Federal Is a Market Economy).

⁹ Compare Letter from Kelley Drye & Warren LLP to the U.S. Department of Commerce, Case No. A-552-833 (Oct. 6, 2023) (citing Initiation of Antidumping and Countervailing Duty Administrative Reviews, 88 Fed. Reg. 51,271, 51,276 (Dep’t Commerce Aug. 3, 2023) with Letter from Ministry of Industry and Trade for the Socialist Republic of Vietnam to the U.S. Department of Commerce, Case No. A-552-833 (Oct. 17, 2023).

proceeding could add needless complexity.”¹⁰ But in the paragraphs following this contention, the GOV makes clear that its principal concern is expedited consideration of its request, as the GOV observes that the deadline for a changed circumstances review determination would be July 19, 2024 while the deadline for a fully-extended administrative review would be December 27, 2024.¹¹ The GOV’s interest in expedited consideration of its request is far more inconsistent with the need to invite broad public comment on the request and participation in any Department proceeding occurring with respect to the request than any “needless complexity” that might arise in the context of an administrative review.

As the agency is aware, the GOV’s request impacts a large number of U.S. industries that have lawfully obtained relief against imported goods sold at less-than-fair-value from Vietnam. The Department is currently administering another fifteen antidumping duty orders beyond the orders on raw honey and certain frozen warmwater shrimp: frozen fish fillets (A-552-801); uncovered innersprings (A-552-803); polyethylene retail carrier bags (A-552-806); steel wire garment hangers (A-552-812); utility scale wind towers (A-552-814); welded stainless steel pressure pipe (A-552-816); oil country tubular goods (A-552-817); steel nails (A-552-818); tool chests and cabinets (A-552-821); laminated woven sacks (A-552-823); utility scale wind towers (A-552-825); mattresses (A-552-827); certain walk-behind lawn mowers and parts thereof (A-552-830); seamless refined copper pipe and tube (A-552-831); and polyester textured yarn (A-552-832). There are an additional four antidumping investigations involving goods from Vietnam before the Department: gas powered pressure washers (A-552-008); paper file folders

¹⁰ Letter from Ministry of Industry and Trade for the Socialist Republic of Vietnam to the U.S. Department of Commerce, Case No. A-552-833 (Oct. 17, 2023).

¹¹ See id.

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(A-552-834); boltless steel shelving units prepackaged for sale (A-552-835); and paper shopping bags (A-552-836). For each of these antidumping duty orders and investigations, Vietnam's operations as an NME country are a central consideration in the trade relief. Indeed, in the current eighteenth administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam, no company subject to that administrative review has endeavored to demonstrate that it operates independently from the GOV.

Accordingly, even if the Department were to conduct an inquiry into the GOV's request despite the failure to meet the requirements of 19 C.F.R. § 351.216(c), the agency should decline to accommodate the GOV's request for administrative procedures that would expedite consideration of an issue of substantial importance to a large number of U.S. industries.

* * *

Thank you in advance for your consideration of these comments in opposition to the GOV's request for a changed circumstances review.

Respectfully submitted,

/s/ Nathaniel Maandig Rickard

Nathaniel Maandig Rickard

PICARD KENTZ & ROWE LLP

Counsel to the Southern Shrimp Alliance

**PUBLIC CERTIFICATE OF SERVICE
CHANGED CIRCUMSTANCES REVIEW – NME STATUS CCR
RAW HONEY FROM VIETNAM**

CASE NO. A-552-833

I, Nathaniel Maandig Rickard, hereby certify that a copy of the foregoing submission was served on this 19th day of October, 2023, by electronic mail on the following parties:

On behalf of American Honey Producers Association and Sioux Honey Association:

Melissa M. Brewer, Esq.
KELLEY DRYE & WARREN LLP
3050 K Street Ave., NW
Washington, DC 20007-5108
mbrewer@kelleydrye.com

On behalf of the Trade Remedies Authority of VietNam:

Phan Khanh An
TRADE REMEDIES AUTHORITY OF VIETNAM
23 Ngo Quyen, Hoan Kiem, Ha Noi
Vietnam
anpk@moit.gov.vn

Trang Nhung Nguyen
TRADE REMEDIES AUTHORITY OF VIETNAM
23 Ngo Quyen, Hoan Kiem, Ha Noi
Vietnam
nhungntr@moit.gov.vn

/s/ Nathaniel Maandig Rickard
Nathaniel Maandig Rickard
PICARD KENTZ & ROWE LLP
Counsel to the Southern Shrimp Alliance