

Vietnam's Nonmarket Economy (NME) Status

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Shortly after [extending normal trade relations \(NTR\) status](#) to Vietnam in 2001, the United States designated Vietnam as a “[nonmarket economy](#)” (NME) for the purposes of antidumping and countervailing duty (AD/CVD) cases. The government of Vietnam has [long sought to remove](#) the designation, [arguing](#) it may hinder closer ties. Vietnam officially submitted a removal request on the eve of President Joseph Biden’s September 2023 visit to Hanoi, where he and Communist Party of Vietnam (CPV) Secretary-General Nguyen Phu Trong elevated the U.S.-Vietnam relationship to a “[comprehensive strategic partnership](#).” In a [joint statement](#), Biden said the United States would review the request “as expeditiously as possible, in accordance with U.S. law.” On October 30, 2023, the Department of Commerce [initiated a review](#) of Vietnam’s NME status. Since then, some Members of Congress [have raised concerns](#) over whether Vietnam meets the conditions to be designated as a market economy.

Nonmarket Economy Status under U.S. Trade Laws

The Department of Commerce has the authority to designate countries as NMEs for the purpose of U.S. [antidumping and countervailing duty \(AD/CVD\) laws](#). An [NME](#) is a country that Commerce determines “does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of merchandise.” In designating a country as an NME, Commerce considers the extent to which (1) the country’s currency is convertible; (2) its wage rates result from free bargaining between labor and management; (3) joint ventures or other foreign investment are permitted; (4) the government owns or controls the means of production; and (5) the government controls the allocation of resources and price and output decisions. Commerce may also consider other factors that it considers appropriate. An NME designation remains in effect until revoked by Commerce. There are currently [12 countries](#), including Vietnam, designated as NMEs. [Commerce designated Vietnam](#) as an NME in 2002 during its antidumping investigation into Vietnamese catfish exports.

Commerce’s [usual practice](#) of applying alternative methods when calculating dumping margins in antidumping investigations involving NMEs generally leads to higher tariffs in affirmative determinations. These methods have raised concerns at the WTO that a subsidy may be offset twice when [both antidumping and countervailing duties](#) are applied to NME products.

After Commerce published the notice initiating [the changed circumstances review](#) of Vietnam’s NME status, interested parties were able to submit comments to [Regulations.gov](#). U.S. [manufacturing](#) groups have expressed [opposition](#) to removal of Vietnam’s NME status. On the other hand, the [National Retail](#)

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[Federation](#) supports designating Vietnam as a market economy, citing the country's [overall reforms](#), including openness to foreign investment, free bargaining of wages, and currency convertibility. Per regulations, Commerce is to issue a final decision by July 26, 2024, [270 days](#) after initiating the review.

U.S.-Vietnam Relations

Since 2010, the United States and Vietnam have forged a strategic partnership on many regional security and economic issues, prompted in part by shared concerns about China's increased assertiveness in the region, and by burgeoning economic links. Over the last decade, Vietnam has become a major manufacturing center and one of the United States' top 10 trading partners. Vietnam is a major source of imported consumer electronics, furniture, semiconductors and parts, apparel, and footwear. It is the second-largest source of U.S. apparel imports, after China. The September 2023 upgrade in relations was accompanied by several initiatives, including U.S. [pledges](#) to support Vietnam's development of its semiconductor industry (including with \$2 million in U.S. government funds) and digital infrastructure (\$12 million). Additionally, agreements under the U.S.-led, 14-country [Indo-Pacific Economic Framework for Prosperity \(IPEF\)](#) negotiations, which includes Vietnam, may further deepen U.S.-Vietnam economic ties.

Under the *doi moi* (renovation) economic reforms that began in 1986, the Vietnamese government abandoned many aspects of central state planning, cut subsidies to state enterprises, reformed the price system, and opened the country to foreign direct investment (FDI). In a [2022 report](#), the Organization for Economic Cooperation and Development (OECD) noted that the number of state-owned enterprises (SOEs) has decreased significantly, but SOEs still account for roughly 30% of the GDP. The U.S. government also actively monitors [Vietnam's currency practices](#), which were subject to U.S. investigations before the countries reached a [bilateral agreement](#) in July 2021. Vietnamese authorities limit daily fluctuations in the Vietnamese *dong* to [5% against the dollar](#), adjusted from 3% in 2022.

Considerations for Congress

Congress may conduct oversight of Commerce's review of Vietnam's NME status through consultations, letters, and hearings to address concerns that the process has been [rushed](#) and to ensure Vietnam meets the conditions of a market economy under U.S. statute. In conducting oversight, Congress may consider the potential implications of the decision on U.S.-Vietnam trade, and overall bilateral relations. Other options for Congress might include linking the decision to other policy areas, such human rights and/or foreign assistance.

Under the terms of [its World Trade Organization \(WTO\) accession agreement](#) with the United States in 2007, Vietnam was to retain its NME designation "until such time as Vietnam is no longer treated as a nonmarket economy or for 12 years after Vietnam becomes a WTO member." The U.S. Trade Representative indicated during a 2019 WTO [dispute settlement proceeding](#) that Vietnam's NME status remained because Vietnam had not challenged Commerce's designation. Since the September 2023 upgrade to the relationship, Vietnamese [leaders](#) have indicated that retaining the NME designation might [negatively affect bilateral relations](#).

Congress may consider whether Vietnam's economic reforms have been sufficient to satisfy the statutory conditions. Some of Members of Congress have argued that Vietnam does not meet the conditions, including the prominence of [state-owned enterprises \(SOE\)](#) in Vietnam's economy, "[severe deficiencies](#)" [in Vietnam's labor laws](#), and potential [harm to U.S. industries and workers](#).

Congress also may consider Vietnam's human rights record, which some [observers say](#), is poor and worsening. The Vietnam Human Rights Act (H.R. 3172), which would prohibit U.S. assistance to

Vietnam's Ministry of Public Security and require the executive branch to put more emphasis on ensuring internet freedom in Vietnam, could be a potential vehicle for Members of Congress.

Author Information

Liana Wong
Analyst in International Trade and Finance

Mark E. Manyin
Specialist in Asian Affairs

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