

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-552-801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012

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

SUMMARY: The Department of Commerce (the “Department”) published the *Preliminary Results* of the ninth administrative review, and aligned new shipper review, on certain frozen fish fillets from the Socialist Republic of Vietnam (“Vietnam”) on September 11, 2013.¹ We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the margin calculations for these final results. The final dumping margins are listed below in the “Final Results of the Administrative Reviews” section of this notice. The period of review (“POR”) is August 1, 2011, through July 31, 2012.

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Alex Montoro (Golden Quality), Paul Walker (HVG) or Julia Hancock (Vinh Hoan), AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-0238, 202-482-0413 or 202-482-1394, respectively.

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 78 FR 55676 (September 11, 2013) (“*Preliminary Results*”) and accompanying Decision Memorandum.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on September 11, 2013.² On January 7, 2014, the Department extended the final results to March 8, 2014.³ Between January 22 and February 10, 2014, interested parties submitted case and rebuttal briefs. On February 25, 2014, the Department extended the final results to March 28, 2014.⁴ On March 6, 2014, the Department held a hearing.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁵ Although the HTSUS

² *Id.*

³ See Memorandum to Gary Taverman, Senior Advisor, through James Doyle, Office Director, from Julia Hancock, Senior International Trade Compliance Analyst, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of Administrative Review, and Aligned New Shipper Review,” dated January 7, 2014.

⁴ See Memorandum to Gary Taverman, Senior Advisor, through James Doyle, Office Director, from Julia Hancock, Senior International Trade Compliance Analyst, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of Administrative Review, and Aligned New Shipper Review,” dated February 25, 2014.

⁵ Until July 1, 2004 these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007 these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra). On March 2, 2011 the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”): 1604.19.2000 and 1604.19.3000. On January 30, 2012 the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

subheadings are provided for convenience and customs purposes, our written description of the scope of the order, which is contained in the accompanying Issues and Decision Memorandum (“I&D Memo”) is dispositive.⁶

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these reviews are addressed in the I&D Memo. A list of the issues which parties raised is attached to this notice as an appendix. The I&D Memo is a public document and is on file in the Central Records Unit (“CRU”), Room 7046 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the CRU. In addition, a complete version of the I&D Memo can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Final Determination of No Shipments

In the *Preliminary Results*, the Department preliminarily found that An Giang Agriculture and Food Import-Export Joint Stock Company (“Afiex”), An Phu Seafood Corporation (“An Phu”), Bien Dong Seafood Co., Ltd. (“Bien Dong”), Dai Thanh Seafoods Company Limited (“Dai Thanh”), Fatifish Company Limited (“Fatifish”), Hoang Long Seafood Processing Co., Ltd. (“Hoang Long”), Nam Viet Corporation (“Navico”) and Thuan An Production Trading & Services Co., Ltd. (“Thuan An”) did not have any reviewable transactions.

⁶ See I&D Memo at 2-3.

Consistent with the Department's refinement to its assessment practice in non-market economy ("NME") cases, we completed the review with respect to the above named companies.⁷

Subsequent to the *Preliminary Results*, the Department received comments regarding GODACO Seafood Joint Stock Company ("GODACO") and Quang Minh Seafood Co., Ltd. ("Quang Minh"). Based on the certifications submitted by GODACO and Quang Minh, our analysis of the CBP information, and consistent with Comment XXIII of the I&D Memo, we determine that GODACO and Quang Minh did not have any reviewable transactions during the POR. As noted in the "Assessment Rates" section below, the Department will issue appropriate instructions to CBP for the above-named companies based on the final results of the review.

Changes since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the I&D Memo, we revised the margin calculations for Vinh Hoan⁸, HVG and Golden Quality Seafood Corporation ("Golden Quality").⁹ Additionally, the Surrogate Values Memo contains further explanation of our changes to the surrogate values.¹⁰

Rate for Non-Selected Companies

We selected Vinh Hoan and HVG as mandatory respondents in this administrative review.¹¹ The statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for individual examination where the

⁷ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

⁸ The Vinh Hoan Corporation and its affiliates Van Duc Food Export Joint Company and Van Duc Tien Giang, collectively, "Vinh Hoan."

⁹ See accompanying company-specific analysis memoranda, dated concurrently with this notice.

¹⁰ See Memorandum to the File, through Scot T. Fullerton, Program Manager, Office V, from Paul Walker, Case Analyst, "Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Surrogate Values for the Final Results," dated concurrently with this notice ("Surrogate Values Memo").

¹¹ *Id.*, at 2.

Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Tariff Act of 1930, as amended (“the Act”). Section 735(c)(5)(A) of the Act instructs that we do not calculate an all-others rate using any zero or *de minimis* weighted-average dumping margins or any weighted-average dumping margins based entirely on facts available. Accordingly, the Department’s usual practice is to average the rates for the selected companies excluding rates that are zero, *de minimis*, or based entirely on facts available.¹²

Therefore, consistent with section 735(c)(5)(A) of the Act and the Department’s practice, we assigned the average rate calculated for Vinh Hoan and HVG to the Separate Rate Respondents. Because the rates calculated for Vinh Hoan and HVG changed since the *Preliminary Results*, the margin assigned to the Separate Rate Respondents also changed accordingly.

Vietnam-Wide Rate and Vietnam-Wide Entity

In the *Preliminary Results*, we determined that several companies failed to demonstrate their eligibility for a separate rate.¹³ Therefore, we preliminarily assigned the entity a rate of 2.11 U.S. dollars (“USD”)/kilogram (“kg”), the current rate applied to the Vietnam-wide entity. As noted above in the “Final Determination of No Shipments” section, since the *Preliminary Results* we found that GODACO and Quang Minh had no reviewable entries. Consistent with Comment XXIII of the I&D Memo, we have not determined that GODACO and Quang Minh are part of the Vietnam-wide entity in this review. For the other companies, as there is no record information that provides a basis for reconsidering the determination in the *Preliminary Results*, we will continue to apply the Vietnam-wide entity rate of 2.11 USD/kg to these companies.

¹² See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

¹³ See *Preliminary Results*, and accompanying Decision Memorandum at 11.

Final Results of the Administrative Reviews

The weighted-average dumping margins for the administrative review are as follows:

Exporter	Weighted-Average Margin (Dollars/Kilogram) ¹⁴
Vinh Hoan Corporation ¹⁵	0.03
Hung Vuong Group ¹⁶	1.20
An My Fish Joint Stock Company	0.42
Anvifish Joint Stock Company ¹⁷	0.42
Asia Commerce Fisheries Joint Stock Company	0.42
Binh An Seafood Joint Stock Company	0.42
Cadovimex II Seafood Import-Export and Processing Joint Stock Company	0.42
Cantho Import-Export Seafood Joint Stock Company	0.42
Cuu Long Fish Import-Export Corporation ¹⁸	0.42
Cuu Long Fish Joint Stock Company	0.42
East Sea Seafoods Limited Liability Company ¹⁹	0.42
Green Farms Seafood Joint Stock Company	0.42
Hiep Thanh Seafood Joint Stock Company	0.42
Hoa Phat Seafood Import-Export and Processing JSC	0.42

¹⁴ In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

¹⁵ This rate is applicable to the Vinh Hoan Group which includes: Vinh Hoan, Van Duc, and VDTG. In the sixth administrative review of this order, the Department found Vinh Hoan, Van Duc, and VDTG to be a single entity and, because there have been no changes to this determination since that administrative review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review*, 75 FR 56061 (September 15, 2010).

¹⁶ This rate is applicable to the Hung Vuong Group, which includes: An Giang Fisheries Import and Export Joint Stock Company, Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd., and Hung Vuong – Sa Dec Co., Ltd.

¹⁷ Includes the trade name Anvifish Co., Ltd. and Anvifish JSC.

¹⁸ Includes the trade name CL Panga Fish.

¹⁹ Includes the trade names East Sea Seafoods LLC and ESS.

Exporter	Weighted-Average Margin (Dollars/Kilogram) ¹⁴
International Development & Investment Corporation	0.42
NTSF Seafoods Joint Stock Company	0.42
QVD Food Company Ltd. ²⁰	0.42
Saigon Mekong Fishery Co., Ltd.	0.42
Seafood Joint Stock Company No.4 Branch Dongtam Fisheries Processing Company	0.42
Southern Fishery Industries Company Ltd.	0.42
Sunrise Corporation	0.42
Thien Ma Seafood Co., Ltd.	0.42
To Chau Joint Stock Company	0.42
Viet Phu Food & Fish Corporation	0.42
Vinh Quang Fisheries Corporation	0.42
Vietnam-Wide Rate ²¹	2.11

The weighted-average dumping margin for the new shipper review is as follows:

Manufacturer	Exporter	Weighted-Average Margin (Dollars/Kilogram)
Golden Quality	Golden Quality	<i>de minimis</i>

²⁰ This rate is also applicable to QVD Dong Thap Food Co., Ltd and Thuan Hung Co., Ltd. (“THUFICO”). In the second review of this order, the Department found QVD, QVD Dong Thap Food Co., Ltd. and THUFICO to be a single entity and, because there have been no changes to this determination since that administrative review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53387 (September 11, 2006).

²¹ The Vietnam-wide rate includes the following companies which are under review, but which did not submit a separate rate application or certification: East Sea Seafood Co., Ltd., East Sea Seafoods Joint Venture Co., Ltd., Hung Vuong Seafood Joint Stock Company, Nam Viet Company Limited, and Vinh Hoan Company Ltd.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. We will continue to direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per-kg) rates by the weight in kgs of each entry of the subject merchandise during the POR. Specifically, we calculated importer-specific duty assessment rates on a per-unit rate basis by dividing the total dumping margins (calculated as the difference between normal value and export price, or constructed export price) for each importer by the total sales quantity of subject merchandise sold to that importer during the POR. If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

The Department determines that Afiex, An Phu, Bien Dong, GODACO, Navico, Thuan An and Quang Minh did not have any reviewable transactions during the POR. As a result, any suspended entries that entered under these exporters' case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate.²² Also, the Department determines that Dai Thanh, Fatifish and Hoang Long did not have any reviewable transactions during the period February 1,

²² See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011); see also *Preliminary Results*, and accompanying Decision Memorandum at 3.

2012 through July 31, 2012. As a result, any suspended entries that entered under these exporters' case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate for this period.²³

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed Vietnamese and non-Vietnamese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of 2.11 USD/kg; and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporters that supplied that non-Vietnamese exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

The following cash deposit requirements will be effective upon publication of the final results of these new shipper reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For subject merchandise produced and exported by Golden Quality the cash deposit rate will be the rate established in the final results of this new shipper

²³ *Id.*

review; (2) for subject merchandise exported, but not manufactured by Golden Quality, the cash deposit rate will continue to be the Vietnam-wide rate, *i.e.*, \$2.11/kg; and (3) for subject merchandise manufactured by Golden Quality and exported by any other party, the cash deposit rate will also be the Vietnam-wide rate. The cash deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these administrative reviews and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Date

Appendix – Issues and Decision Memorandum

Comment I:	Selection of the Surrogate Country
Comment II:	Surrogate Value for Whole, Live <i>Pangasius</i> Fish
Comment III:	Surrogate Value for Fingerlings
Comment IV:	Surrogate Value for Fish Feed
Comment V:	Surrogate Value for Rice Husk
Comment VI:	Surrogate Value for Labor
Comment VII:	Surrogate Financial Ratios
Comment VIII:	Surrogate Value for Lime
Comment IX:	Surrogate Value for Fish Meal By-Product
Comment X:	Surrogate Value for Fish Waste By-Products
Comment XI:	Surrogate Value for Fresh Broken Fillets By-Product
Comment XII:	Surrogate Value for Sawdust
Comment XIII:	Surrogate Values for Truck Freight and Boat Freight
Comment XIV:	Surrogate Value for Electricity
Comment XV:	Surrogate Value for Diesel
Comment XVI:	Surrogate Value for Containerization
Comment XVII:	Surrogate Value for Marine Insurance
Comment XVIII:	Surrogate Value for Water
Comment XIX:	Surrogate Value for Brokerage and Handling
Comment XX:	Surrogate Value for Salt
Comment XXI:	Surrogate Values for CO Gas and Coal
Comment XXII:	Vinh Hoan's Gross Weight vs. Net Weight for U.S. Sales and FOPs
Comment XXIII:	Surrogate Value for Vinh Hoan's Fish Oil By-Product
Comment XXIV:	Application of the Vietnam-Wide Rate to GODACO and Quang Minh