

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 Reviews; 2010-2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“the Department”) published the *Preliminary Results* of the eighth administrative review and aligned new shipper reviews on certain frozen fish fillets from the Socialist Republic of Vietnam (“Vietnam”) on September 12, 2012.¹ 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, 2010, through July 31, 2011.

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

FOR FURTHER INFORMATION CONTACT: Paul Walker (Anvifish), Susan Pulongbarit (Vinh Hoan), Alex Montoro (An Phu and Godaco) or Seth Isenberg (Docifish), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-0413, 202-482-4031, 202-482-0238, or 202-482-0588, respectively.

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Eighth Antidumping Duty Administrative Review and Ninth New Shipper Reviews, Partial Rescission of Review, and Intent to Revoke Order in Part*, 77 FR 56180 (September 12, 2012) (“*Preliminary Results*”).

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on September 12, 2012.² Between November 20, 2012 and December 4, 2012 interested parties submitted surrogate value data for consideration in the final results. On December 12, 2012, the Department released verification reports for its verification of Vinh Hoan Corporation (“Vinh Hoan”).³ On December 13, 2012, the Department extended the final results to March 13, 2013.⁴ Between December 21, 2012 and January 17, 2013, interested parties submitted case and rebuttal briefs. On February 21, 2013 the Department held both public and closed hearings.

Scope of the Order

The merchandise subject to 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*. The products are currently classifiable under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 1604.19.4000, 1604.19.5000, 0305.59.4000, 0304.29.6033 (Frozen Fish Fillets of the species *Pangasius* including basa and tra). Although

² *Id.*

³ See Memorandum to the File, from Susan Pulongbarit, through Scot T. Fullerton, “Verification of the Sales and Factors of Production Response of Vinh Hoan Corporation in the 2010-2011 Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,” dated December 14, 2012; see also Memorandum to the File, from Susan Pulongbarit and Kabir Archuletta, through Scot T. Fullerton, “Verification of the CEP Sales Response of Vinh Hoan Corporation in the 8th Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,” dated December 14, 2012.

⁴ See Memorandum to Gary Taverman, Senior Advisor, through James Doyle, Office Director, from Paul Walker, Case Analyst, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of the Eighth Antidumping Duty Administrative Review and Aligned New Shipper Reviews,” dated December 13, 2012.

the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.⁵

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these reviews are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised is attached to this notice as Appendix I. The Issues and Decision Memorandum 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 Import Administration’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 Issues and Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Final Partial Rescission

In the *Preliminary Results*, the Department preliminarily rescinded the administrative review with respect to seven companies: (1) Bien Dong Seafood Company Ltd.; (2) International Development & Investment Corporation; (3) Cuu Long Fish Joint Stock Company; (4) Thien Ma Seafood Co., Ltd.; (5) East Sea Seafoods Limited Liability Company;⁶ (6) Cantho Import-Export Seafood Joint Stock Company; and (7) Thuan An Production Trading & Services Co., Ltd. (collectively, the “No Shipment Companies”). These companies reported that they had no shipments of subject merchandise to the United States during the POR, and our examination of

⁵ See “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of the Eighth Administrative Review and Aligned New Shipper Reviews,” dated concurrently with this notice (“Issues and Decision Memorandum”) and incorporated herein by reference, for a complete description of the Scope of the Order.

⁶ Includes the trade name East Sea Seafoods LLC.

shipment data from U.S. Customs and Border Protection (“CBP”) confirmed that there were no entries of subject merchandise made by these companies during the POR.⁷ Subsequent to the *Preliminary Results*, the Department did not receive any comments or information indicating that the No Shipment Companies made sales of subject merchandise to the United States during the POR. Therefore, pursuant to 19 CFR 351.213(d)(3), we are rescinding the administrative review with respect to the No Shipment Companies.

In addition, we preliminarily rescinded the administrative review with respect to An Phu Seafood Corporation (“An Phu”), Docifish Corporation (“Docifish”), and Godaco Seafood Joint Stock Company (“Godaco”) (collectively, the “New Shipper Respondents”) because they notified the Department that they made no entries during the POR other than the entries under review in the aligned new shipper reviews. The Department’s examination of shipment data from CBP confirmed that there were no other entries of subject merchandise made by these companies during the POR, and no information to the contrary has been submitted since the *Preliminary Results*. Therefore, we are rescinding the administrative review with respect to the New Shipper Respondents.

Changes since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we have made certain revisions to the margin calculations for Anvifish Joint Stock Corporation (“Anvifish”) and Vinh Hoan.⁸ For the reasons explained in the Issues and Decision Memorandum at Comment I, we have now selected Indonesia as the primary surrogate country. We have also made other changes to the margin calculations of Anvifish and

⁷ See *Preliminary Results*, 77 FR at 56181.

⁸ Vinh Hoan includes Vinh Hoan Corporation and its affiliates Van Duc Food Export Joint Company (“Van Duc”) and Van Duc Tien Giang (“VDTG”).

Vinh Hoan.⁹ Finally, the surrogate values memorandum contains the further explanation of our changes to the surrogate values.¹⁰

Notice of Intent to Revoke the Order, in Part

A. *Vinh Hoan*

In the *Preliminary Results*, we preliminarily determined that Vinh Hoan qualifies for revocation from the antidumping duty order on certain frozen fish fillets from Vietnam, and invited parties to comment.

Pursuant to section 751(d) of the Tariff Act of 1930, as amended (“the Act”), the Department “may revoke, in whole or in part” an antidumping duty order upon completion of a review under section 751(a) of the Act. In determining whether to revoke an antidumping duty order in part, the Department considers (a) whether the company in question has sold subject merchandise at not less than normal value for a period of at least three consecutive years, (b) whether the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to revocation, sold the subject merchandise at less than normal value, and (c) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping.¹¹

⁹ See accompanying Issues and Decision Memorandum at Comments VIII and XVII and the company-specific analysis memoranda, dated concurrently with this notice.

¹⁰ See Memorandum to the File, through Scot T. Fullerton, Program Manager, Office 9, 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.

¹¹ See 19 CFR 351.222(b)(2)(i)(A)-(C).

For these final results, Vinh Hoan has not been assigned a zero or *de minimis* margin.¹²

As a consequence, the Department finds that Vinh Hoan has not met the criteria listed in 19 CFR 351.222(b)(2)(i) and is, therefore, not eligible for revocation.

B. *QVD Food Company Ltd. (“QVD”)*

In the *Preliminary Results*, we noted that QVD sold subject merchandise at less than normal value in the prior administrative review and that this was one of the factors which disqualified them from revocation.¹³ In fact, the Department’s policy is that a company which requests revocation must be selected as a mandatory respondent in order for the Department to consider the revocation request.¹⁴ As QVD was not selected as a mandatory respondent,¹⁵ it is not eligible for revocation.

Separate Rates

In our *Preliminary Results*, we determined that the following companies, in addition to Anvifish, Vinh Hoan, and the New Shipper Respondents, met the criteria for separate rate status: (1) An Giang Agriculture and Food Import-Export Joint Stock Company; (2) An Giang Fisheries Import & Export Joint Stock Company; (3) Asia Commerce Fisheries Joint Stock Company; (4) Binh An Seafood Joint Stock Company; (5) Cadovimex II Seafood Import-Export and Processing Joint Stock Company; (6) Hiep Thanh Seafood Joint Stock Company; (7) Hung Vuong Corporation; (7) Nam Viet Corporation; (8) NTSF Seafoods Joint Stock Company; (9) QVD; (10) Saigon Mekong Fishery Co., Ltd.; (11) Southern Fisheries Industries Company Ltd.;

¹² See Memorandum to the File, from Susan Pulongbarit, through Scot T. Fullerton, “Eighth Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results Analysis Memorandum for Vinh Hoan Corporation,” dated March 13, 2013, at 1.

¹³ See *Preliminary Results*, 77 FR at 56187.

¹⁴ See, e.g., *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results, Partial Rescission, and Request for Revocation, In Part, of the Fifth Administrative Review*, 76 FR 12054 (March 4, 2011) unchanged in *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 56158 (September 12, 2011).

¹⁵ See *Preliminary Results*, 77 FR at 56180.

and (12) Vinh Quang Fisheries Corporation (collectively, the “Separate Rate Respondents”).¹⁶

We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of these determinations. Therefore, the Department continues to find that the Separate Rate Respondents meet the criteria for a separate rate.

Rate for Non-Selected Companies

We selected Anvifish and Vinh Hoan as mandatory respondents in this administrative review.¹⁷ The statute and the Department’s regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department’s practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero rates, *de minimis* rates, or rates based entirely on facts available, we may use “any reasonable method” for assigning the rate to non-selected respondents. In the *Preliminary Results*, because we did not calculate margins for Anvifish and Vinh Hoan, and in accordance with *Bearings*,¹⁸ we assigned zero percent margins to the Separate Rate Companies. However, in the final results, we have calculated rates above *de minimis* for Anvifish and Vinh Hoan.

¹⁶ See *id.* at 56182.

¹⁷ *Id.* at 56180.

¹⁸ *Id.* at 56182 (citing *Ball Bearings and Parts Thereof From France, Germany, and Italy: Preliminary Results of Antidumping Duty Administrative Reviews and Rescission of Antidumping Duty Administrative Reviews in Part*, 77 FR 33159 (June 5, 2012) (“*Bearings*”).

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

Vietnam-Wide Rate and Vietnam-Wide Entity

In the *Preliminary Results*, we determined that three companies failed to demonstrate their eligibility for a separate rate.¹⁹ Therefore, we preliminarily assigned the entity a rate of 2.11 USD/kg, the current rate applied to the Vietnam-wide entity. We have not received any information since issuance of the *Preliminary Results* that provides a basis for reconsidering this determination, and will therefore continue to apply the entity rate of 2.11 USD/kg to these three companies.

Final Results of the Administrative Reviews

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

Exporter	Weighted-Average Margin (Dollars/ Kilogram)²⁰
Vinh Hoan Corporation ²¹	0.19
Anvifish Joint Stock Company ²²	1.34

¹⁹ *Id* at 56183.

²⁰ 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).

²¹ This rate is applicable to the Vinh Hoan Group which includes Vinh Hoan, Van Duc, and VDTG. In the sixth 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).

²² Includes the trade name Anvifish Co., Ltd.

Exporter	Weighted-Average Margin (Dollars/Kilogram)²⁰
An Giang Agriculture and Food Import-Export Joint Stock Company	0.77
Asia Commerce Fisheries Joint Stock Company	0.77
Binh An Seafood Joint Stock Company	0.77
Cadovimex II Seafood Import-Export and Processing Joint Stock Company	0.77
Hiep Thanh Seafood Joint Stock Company	0.77
Hung Vuong Corporation	0.77
Nam Viet Corporation	0.77
NTSF Seafoods Joint Stock Company	0.77
QVD Food Company Ltd. ²³	0.77
Saigon Mekong Fishery Co., Ltd.	0.77
Southern Fisheries Industries Company Ltd.	0.77
Vinh Quang Fisheries Corporation	0.77
Vietnam-Wide Rate ²⁴	2.11

²³ 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).

²⁴ The Vietnam-wide rate includes the following companies which are under review, but which did not submit a separate rate application or certification: Nam Viet Company Limited; East Sea Seafoods Joint Venture Co., Ltd.; and Vinh Hoan Company, Ltd.

The weighted-average dumping margins for the new shipper reviews are as follows:

Manufacturer	Exporter	Weighted-Average Margin (Dollars/ Kilogram)
An Phu Seafood Corporation	An Phu Seafood Corporation	1.37
Docifish Corporation	Docifish Corporation	3.87
An Phat Import-Export Seafood Co. Ltd.	Godaco Seafood Joint Stock Company	1.81

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-kilogram) rates by the weight in kilograms 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).

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 An Phu, Docifish and Godaco, the cash deposit rate will be the rate established in the final results of these new shipper reviews; (2) for subject merchandise exported by An Phu, Docifish and Godaco, but

not manufactured by An Phu, Docifish and Godaco, respectively, the cash deposit rate will continue to be the Vietnam-wide rate, *i.e.*, \$2.11/kg; and (3) for subject merchandise manufactured by An Phu, Docifish and Godaco, but 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 has 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 Import Administration

Date

Appendix I – Issues and Decision Memorandum

- Comment I: Selection of the Surrogate Country
 - A. Economic Comparability
 - B. Significant Producer of Comparable Merchandise
 - C. Data Considerations -- Whole Live Fish
- Comment II: Surrogate Financial Ratios
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Company-Specific Issues

- Comment VIII: Application of AFA to Vinh Hoan
- Comment IX: Vinh Hoan's Gross Weight vs. Net Weight
- Comment X: Vinh Hoan's Revocation
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- Comment XV: Vinh Hoan's Programming Changes
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