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DEPARTMENT OF COMMERCE

International Trade Administration

A-552-802

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that none of the mandatory respondents in this review qualify for a separate rate and are, therefore, considered part of the Vietnam-Wide Entity for their exports of subject merchandise to the United States during the period of review (POR) February 1, 2015, through January 31, 2016. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6905.

SUPPLEMENTARY INFORMATION:

On April 7, 2016, the Department initiated the eleventh administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of

Vietnam (*Order*).^{1,2} The Department initiated this administrative review for 218 producers and exporters of subject merchandise.³ Based on the timely requests for withdrawal of review requests, we rescinded the administrative review with respect to 22 companies pursuant to 19 CFR 351.213(d)(1) and (4).^{4,5}

Scope of the Order

The merchandise subject to the Order is certain frozen warmwater shrimp. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description, available in the Preliminary Decision Memorandum, remains dispositive.⁶

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 20324 (April 7, 2016) (“*Initiation Notice*”).

² See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) (*Order*)

³ See *Initiation Notice*. While there were 218 individual names upon which we initiated an administrative review, the number of *actual* companies initiated upon is significantly less when accounting for numerous duplicate names and minor name variations of the same companies requested by multiple interested parties, and the groupings of companies that have been collapsed and/or have been previously found affiliated.

⁴ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Partial Rescission of Antidumping Duty Administrative Review; 2015–2016*, 81 FR 46047 (July 15, 2016). While the petitioner and ASPA withdrew their respective review requests of Tan Phong Phu Seafood Co., Ltd., VASEP did not withdraw its review request on behalf of this company; thus, we did not rescind the review with respect to Tan Phong Phu Seafood Co., Ltd. because there remains an active review request for it on the record.

⁵ See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Partial Rescission of Antidumping Duty Administrative Reviews (2014–2015; 2015–2016) and Compromise of Outstanding Claims*, 81 FR 47758 (July 22, 2016).

⁶ For a complete description of the Scope of the Order, see Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, titled “Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam; 2015-2016,” dated concurrently with and adopted by this notice (“Preliminary Decision Memorandum”).

Preliminary Determination of No Shipments

Based on our analysis of CBP information and information provided by a number of companies, we preliminarily determine that 13 companies⁷ under review did not have any reviewable transactions during the POR. In addition, the Department finds that, consistent with its assessment practice in non-market economy (NME) cases, it is appropriate not to rescind the review in part in these circumstances, but to complete the review with respect to these 13 companies and issue appropriate instructions to CBP based on the final results of the review.⁸ For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (Act). Because the mandatory respondents in this administrative review have not responded to all portions of the NME questionnaire, we preliminarily determine that they are ineligible for a separate rate and are part of the Vietnam-Wide entity, subject to the Vietnam-Wide entity rate of 25.76 percent.

For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via the Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at

⁷ These 13 companies are: (1) BIM Seafood Joint Stock Company; (2) Bien Dong Seafood Co., Ltd.; (3) Cam Ranh Seafoods Processing Enterprise Company; (4) Ben Tre Forestry and Aquaproduct Import Export Joint Stock Company; (5) Fine Foods Company (FFC) (Ca Mau Foods & Fishery Export Joint Stock Company); (6) Gallant Dachan Seafood Co., Ltd.; (7) Green Farms Joint Stock Company; (8) Minh Cuong Seafood Import Export Frozen Processing Joint Stock Company; (9) Quang Minh Seafood Co., Ltd.; (10) Quang Ninh Export Aquatic Products Processing Factory; (11) Tacvan Frozen Seafood Processing Export Company; (12); Trong Nhan Seafood Company Limited; and (13) Vinh Hoan Corp.

⁸ *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) (“*Assessment Notice*”); *see also* “Assessment Rates” section below.

<http://access.trade.gov> and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department finds that the two mandatory respondents and 51 additional companies for which a review was requested have not established eligibility for a separate rate and are considered to be part of the Vietnam-Wide entity for these preliminary results.⁹ The Department's policy regarding conditional review of the Vietnam-Wide entity applies to this administrative review.¹⁰ Under this policy, the Vietnam-Wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-Wide entity, the entity is not under review and the entity's rate is not subject to change.

The statute and the Department's regulations do not address what rate to apply to respondents not selected for individual examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the

⁹ See Appendix II for a full list of all 53 companies; *see also* Preliminary Decision Memorandum.

¹⁰ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or based entirely on facts available, the Department may use “any reasonable method” for assigning a rate to non-examined respondents.

However, for these preliminary results, we have not calculated any individual rates or assigned a rate based on facts available. Therefore, consistent with our recent practice,¹¹ we preliminarily determine to assign to the non-individually examined separate rate respondents the most recently assigned separate rate in this proceeding, which is from the previous administrative review.¹² Using this method, we are preliminarily assigning a separate rate margin of 4.78 percent to the 12 non-individually examined companies that demonstrated their eligibility for a separate rate.

The Department preliminarily determines that the following dumping margins exist:

Exporter ¹³	Margin (percent)
Au Vung One Seafood Processing Import & Export Joint Stock Company	4.78
Cadovimex Seafood Import-Export and Processing Joint Stock Company	4.78
Cafatex Corporation, aka Taydo Seafood Enterprise	4.78
Gallant Ocean (Vietnam) Co., Ltd.	4.78
Investment Commerce Fisheries Corporation	4.78

¹¹ See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2014-2015*, 81 FR 64131 (September 19, 2016) and accompanying Preliminary Decision Memorandum.

¹² This margin is from the 2014-2015 administrative review. See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2014-2015*, 81 FR 62717 (September 12, 2016) (*ARI0 Final*).

¹³ Due to the issues we have had in the past with variations of exporter names related to this *Order*, we remind exporters that the names listed in the rate box are the exact names, including spelling and punctuation which the Department will provide to CBP and which CBP will use to assess POR entries and collect cash deposits.

Kim Anh Company Limited	4.78
Ngo Bros Seaproducts Import-Export One Member Company Limited, aka Ngo Bros	4.78
Nha Trang Fisheries Joint Stock Company	4.78
Phuong Nam Foodstuff Corp.	4.78
Taika Seafood Corporation	4.78
UTXI Aquatic Products Processing Corporation	4.78
Vietnam Fish One Co., Ltd., aka Viet Hai Seafood Co., Ltd.	4.78

Disclosure and Public Comment

Normally, The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of the notice of preliminary results in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, here the Department preliminarily applied a separate rate¹⁴ and the Vietnam-Wide rate¹⁵ which were established in prior segments of the proceeding. Thus, there are no calculations on this record to disclose.

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the publication of these preliminary results, and rebuttal comments within five days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of

¹⁴ See *AR10 Final*.

¹⁵ See *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005, 71008 (December 8, 2004) and accompanying Issues and Decision Memorandum at Comments 6 and 10C (“we have applied a rate of 25.76 percent, a rate calculated in the initiation stage of the investigation from information provided in the petition (as adjusted by the Department)”).

the argument; and (3) a table of authorities.¹⁶ Rebuttal briefs must be limited to issues raised in the case briefs.¹⁷

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.¹⁸ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. The Department intends to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the *Federal Register*.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁹ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For the companies receiving a separate rate, we intend to assign an assessment rate of 4.78 percent, consistent with the methodology described above. For the final results, if we continue to treat the mandatory respondents and the additional 51 companies identified in

¹⁶ See 19 CFR 351.309(c) and (d).

¹⁷ See 19 CFR 351.309(d)(2).

¹⁸ See 19 CFR 351.310(d).

¹⁹ See 19 CFR 351.212(b).

Appendix II as part of the Vietnam-Wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 25.76 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies. Finally, if we continue to make a no-shipment finding for the 13 companies that reported that they had no shipments of the subject merchandise during the POR, any suspended entries of subject merchandise from these 13 companies will be liquidated at the Vietnam-Wide rate.²⁰ The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.²¹

Cash Deposit Requirements

Should the final results of this administrative review remain unchanged from these preliminary results, the following cash deposit requirements will be effective upon publication of the final results for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for the companies listed above, which have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the Vietnam-Wide entity of 25.76 percent; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam

²⁰ See *Assessment Notice*.

²¹ See section 751(a)(2)(C) of the Act.

exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

____October 31, 2016_____
Date

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum:

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
 - a. Respondent Selection
 - b. Preliminary Determination of No Shipments
 - c. Non-Market Economy Country
 - d. Separate Rates
 - e. The Vietnam-Wide Entity
 - f. Separate Rate for Eligible, Non-Examined Respondents
- V. Recommendation

Appendix II

Companies Subject to Review Determined to Be Part of the Vietnam-Wide Entity

1. Amanda Foods (Vietnam) Ltd. Ngoc Tri Seafood Company (Amanda's affiliate)
2. Amanda Seafood Co., Ltd.
3. An Giang Coffee JSC
4. Anvifish Joint Stock Co.
5. Asia Food Stuffs Import Export Co., Ltd.
6. Binh Thuan Import – Export Joint Stock Company (THAIMEX)
7. Binh An Seafood Joint Stock Company
8. B.O.P. Limited Co.
9. C.P. Vietnam Corporation, aka
C.P. Vietnam Corporation (“C.P. Vietnam”), aka
C.P. Vietnam Livestock Company Limited, aka
C.P. Vietnam Livestock Corporation
10. Can Tho Agricultural and Animal Product Import Export Company (“CATACO”), aka
Can Tho Agricultural and Animal Products Import Export Company (“CATACO”), aka
Can Tho Agricultural and Animal Products Imex Company, aka
Can Tho Agricultural Products
11. Can Tho Import Export Seafood Joint Stock Company (CASEAMEX)
12. Cautre Export Goods Processing Joint Stock Company
13. Coastal Fisheries Development Corporation (“COFIDEC”)
14. Danang Seaproducts Import-Export Corporation (“Seaprodex Danang”) (and its affiliates),
aka
Danang Seaproducts Import Export Corporation (and its affiliate, Tho Quang Seafood
Processing and Export Company) (collectively, “Seaprodex Danang”), aka
Danang Seaproducts Import Export Corporation (“Seaprodex Danang”), aka
Seaprodex Danang, aka
Tho Quang Co, aka
Tho Quang Seafood Processing and Export Company, aka
Frozen Seafoods Factory No. 32 (Tho Quang Seafood Processing and Export Company)
15. Duy Dai Corporation
16. D & N Foods Processing (Danang Company Ltd.)
17. Gallant Ocean (Quang Ngai) Co., Ltd.
18. Gn Foods
19. Hai Thanh Food Company Ltd.
20. Hai Vuong Co., Ltd.
21. Han An Trading Service Co., Ltd.
22. Hoang Hai Company Ltd.
23. Hua Heong Food Industries Vietnam Co. Ltd.
24. Huynh Huong Seafood Processing (Huynh Houg Trading and Import Export Joint Stock
Company)
25. Kien Long Seafoods Co. Ltd.
26. Khanh Loi Seafood Factory
27. Long Toan Frozen Aquatic Products Joint Stock Company
28. Luan Vo Fishery Co., Ltd.

29. Minh Chau Imp. Exp. Seafood Processing Co., Ltd.
30. Mp Consol Co., Ltd.
31. New Wind Seafood Co., Ltd.
32. Ngoc Chau Co., Ltd. and/or Ngoc Chau Seafood Processing Company
33. Ngoc Sinh, aka
 Ngoc Sinh Fisheries, aka
 Ngoc Sinh Private Enterprises, aka
 Ngoc Sinh Seafoods, aka
 Ngoc Sinh Seafood Processing Company, aka
 Ngoc Sinh Seafood Trading & Processing Enterprise
34. Nhat Duc Co., Ltd. (“Nhat Duc”), aka
 Nhat Duc Co., Ltd., aka
 Nhat Duc Co. Ltd.
35. Phu Cuong Jostoco Seafood Corporation, aka
 Phu Cuong Jostoco Corp.
36. Quoc Ai Seafood Processing Import Export Co., Ltd.
37. S.R.V. Freight Services Co., Ltd.
38. Saigon Food Joint Stock Company
39. Sustainable Seafood
40. Tan Thanh Loi Frozen Food Co., Ltd.
41. Tan Phong Phu Seafood Co., Ltd., aka
 Tan Phong Phu Seafood Company Ltd. (“TPP Co., Ltd.”), aka
 Tan Phong Phu Seafood Co. Ltd. (“TPP Co., Ltd.”)
42. Thanh Doan Seaproducts Import & Export Processing Joint-Stock Company
 (THADIMEXCO)
43. Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.
44. Thanh Tri Seafood Processing Co. Ltd.
45. Thinh Hung Co., Ltd.
46. Trang Khan Seafood Co., Ltd.
47. Tien Tien Garment Joint Stock Company
48. Tithi Co., Ltd.
49. Viet Cuong Seafood Processing Import Export Joint-Stock Company
50. Vietnam Northern Viking Technologies Co. Ltd.
51. Vinatex Danang
52. Vinh Loi Import Export Company (“VIMEX”), aka
 Vinh Loi Import Export Company (“Vimexco”)
53. Xi Nghiep Che Bien Thuy Sue San Xuat Kau Cantho

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