



DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results

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

SUMMARY: On June 29, 2017, the Court of International Trade (CIT) issued its final judgment, sustaining the Department of Commerce's (the Department's) remand results pertaining to the ninth administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam (Vietnam) covering the period of review (POR) of February 1, 2013, through January 31, 2014. The Department is notifying the public that the final judgment in this case is not in harmony with the final results of the ninth administrative review,¹ and that the Department is amending the final results with respect to the labor surrogate value applied in the administrative review. The effective date of this notice is July 9, 2017.

DATES: Applicable July 9, 2017

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.

¹ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2013–2014*, 80 FR 55328 (September 15, 2015) (*Final Results*).

SUPPLEMENTARY INFORMATION:

Background

On September 15, 2015, the Department published its *Final Results*. In the *Final Results*, we relied on data from the Bangladeshi Bureau of Statistics (BBS) to value the respondents' labor consumption. Subsequently, the CIT remanded this issue to the Department for further explanation or reconsideration.² In the Remand Redetermination, the Department reconsidered its determination and found that the BBS data are not the best available information with which to value respondents' labor.³ Consequently, the Department evaluated the alternative wage rates on the record and determined that India wage rate data are the best available information for valuing labor.

In the *Final Results*, we calculated a 0.00 percent weighted-average margin for Sao Ta Foods Joint Stock Company and a 1.16 percent weighted-average margin for Thuan Phuoc Seafoods and Trading Corporation.⁴ Based on our change of the labor surrogate value, we continued to calculate a 0.00 percent weighted-average margin for Sao Ta Foods Joint Stock Company and calculated a 1.42 percent weighted-average margin for Thuan Phuoc Seafoods and Trading Corporation.⁵

Timken Notice

In its decision in *Timken*,⁶ as clarified by *Diamond Sawblades*,⁷ the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the

² See *Ad Hoc Shrimp Trade Action Committee v. United States*, Court No. 15-00279, Slip Op. 17-27 (March 16, 2017) (*Remand Opinion and Order*) at 24.

³ See Final Results of Redetermination Pursuant to Court Remand, dated June 6, 2017, at 9 (Remand Redetermination); available at <http://enforcement.trade.gov/remands/17-27.pdf>

⁴ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2013–2014*, 80 FR 55328, 55329 (September 15, 2015) (*Final Results*).

⁵ See Memorandum to the File, from Irene Gorelik, Senior International Trade Compliance Analyst, Office VIII, re: “Remand Redetermination—Revised Final Results Calculations,” dated May 12, 2017 (Remand Recalculations) at Attachments 1-4.

⁶ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁷ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision.

This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise at issue in the Remand Redetermination pending expiration of the period to appeal or, if appealed, a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, the Department is amending the *Final Results*. Based on the Remand Redetermination, as affirmed by the Court on June 29, 2017, the revised weighted-average dumping margin for Thuan Phuoc Seafoods and Trading Corporation for the period February 1, 2013, through January 31, 2014, is 1.42 percent. As noted above, there was no change to Sao Ta Foods Joint Stock Company’s weighted-average margin from the *Final Results*; we continued to calculate a 0.00 percent weighted-average margin for Sao Ta Foods Joint Stock Company in the Remand Redetermination.

Further, for the purpose of recalculating the sample rate for the non-individually examined companies that received a separate rate and are parties to this litigation,⁸ we adjusted the Minh Phu Group’s final margin from 1.39 percent⁹ to 1.53 percent;¹⁰ however, there is no effect to the Minh Phu Group’s final margin of 1.39 percent in the *Final Results*.¹¹ In the Remand Redetermination, the Department recalculated the sample rate resulting in a weighted-

⁸ See Remand Recalculations at 4-6, for the list of the separate rate companies that are subject to this litigation; see also Memorandum to the File, from Irene Gorelik, Senior International Trade Compliance Analyst, Office VIII, re: “Final Remand Redetermination—Revised Final Remand Recalculations,” dated June 15, 2017 (Final Remand Recalculations) at 4 for the recalculation of the sample rate for the final remand redetermination.

⁹ See *Final Results*, 80 FR at 55329. See also Remand Recalculations at 4.

¹⁰ See Final Remand Recalculations at 3 and Attachments 1-4.

¹¹ Since the issuance of the *Final Results*, the Department has revoked the antidumping duty order with respect to the Minh Phu Group. See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order*, 81 FR 47756, 47757–47758 (July 22, 2016). Moreover, the Minh Phu Group is not subject to this litigation, the original injunction enjoining the lifting of suspension has been lifted, and the suspended entries have been liquidated. Accordingly, our recalculations pertain to the two remaining mandatory respondents, Sao Ta Foods Joint Stock Company and Thuan Phuoc Seafoods and Trading Corporation, and the non-individually examined companies that received a separate rate and are subject to this litigation.

average dumping margin of 1.05 percent¹² for the non-individually examined companies that qualified for a separate rate and are subject to this litigation.

In the event that the CIT's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise based on the importer-specific assessment rates recalculated in the Remand Redetermination for Sao Ta Foods Joint Stock Company and Thuan Phuoc Seafoods and Trading Corporation and the above-noted 1.05 percent recalculated sample rate for the non-individually examined respondents that received a separate rate in the *Final Results* and are subject to this litigation.

Cash Deposit Requirements

Mandatory Respondents

Because there have been subsequent administrative reviews for Sao Ta Foods Joint Stock Company¹³ and Thuan Phuoc Seafoods and Trading Corporation¹⁴, the cash deposit rate for these two companies will remain the rate established in the most recently-completed administrative review in which they received a cash deposit rate of 4.78 percent.¹⁵

Separate-Rate Companies

There have been subsequent administrative reviews completed for the below-listed non-individually examined companies that qualified for a separate rate and are subject to this

¹² See Final Remand Recalculations at 4.

¹³ Sao Ta Foods Joint Stock Company was granted the following "also-known-as" (aka) or "doing-business-as" (dba) names in the *Final Results* (which were included in the injunction enjoining liquidation of suspended entries): Sao Ta Foods Joint Stock Company, aka Fimex VN, aka Sao Ta Seafood Factory, aka Saota Seafood Factory. However, many of these names were not granted separate rate status in *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2014–2015*, 81 FR 62717, 62718-62719 (September 12, 2016) (*AR10 Final Results*). Thus, for liquidation purposes, we will continue to use Sao Ta Foods Joint Stock Company's aforementioned aka/dba names; but for cash deposit purposes, only the aka and/or dba names granted in *AR10 Final Results* are valid.

¹⁴ Thuan Phuoc Seafoods and Trading Corporation was granted the following aka or dba names in the *Final Results* (which were included in the injunction enjoining liquidation of suspended entries): Thuan Phuoc Seafoods and Trading Corporation, aka Thuan Phuoc Corp., aka Frozen Seafoods Factory No. 32, aka Seafoods and Foodstuff Factory, aka Seafoods and Foodstuff Factory Vietnam, aka My Son Seafoods Factory. However, many of these names were not granted separate rate status in *AR10 Final Results*. Thus, for liquidation purposes, we will continue to use Thuan Phuoc Seafoods and Trading Corporation's aforementioned aka/dba names; but for cash deposit purposes, only the aka and/or dba names granted in *AR10 Final Results* are valid.

¹⁵ See *AR10 Final Results*, 81 FR at 62718-62719.

litigation; thus, the cash deposit rate for these exporters will remain the rate established in the most recently-completed administrative review in which they received a cash deposit rate.

Exporter ¹⁶	Cash Deposit Rate in Effect	Federal Register Notice
Bac Lieu Fisheries Joint Stock Company, aka Bac Lieu Fisheries Company Limited, aka Bac Lieu Fisheries Co., Ltd., aka Bac Lieu Fisheries Limited Company, aka Bac Lieu Fis	4.78 percent	<i>AR10 Final Results</i>
Camau Frozen Seafood Processing Import Export Corporation, aka Camimex, aka Camau Seafood Factory No. 4, aka Camau Seafood Factory No. 5, aka Camau Frozen Seafood Processing Import Export Corp. (CAMIMEX-FAC 25), aka Frozen Factory No. 4	4.78 percent	<i>AR10 Final Results</i>
C.P. Vietnam Corporation, aka C.P. Vietnam Livestock Corporation, aka C.P. Vietnam Livestock Company Limited, aka C.P. Vietnam	25.76 percent	<i>AR11 Final Results¹⁷</i>
Cadovimex Seafood Import-Export and Processing Joint Stock Company, aka Cai Doi Vam Seafood Import-Export Company, aka Caidoivam Seafood Company (Cadovimex), aka Cadovimex-Vietnam	4.78 percent	<i>AR11 Final Results</i>
Can Tho Import Export Fishery Limited Company, aka CAFISH	4.78 percent	<i>AR10 Final Results</i>
Cuu Long Seaproducts Company, aka Cuulong Seaproducts Company, aka Cuu Long Seaproducts Limited, aka Cuulong Seapro, aka Cuu Long Seapro	4.78 percent	<i>AR10 Final Results</i>
Gallant Ocean (Vietnam) Co., Ltd.	4.78 percent	<i>AR11 Final Results</i>
Gallant Dachan Seafood Co., Ltd.	4.78 percent	<i>AR10 Final Results</i>
Hai Viet Corporation, aka HAVICO	4.78 percent	<i>AR10 Final Results</i>
Investment Commerce Fisheries Corporation, aka Investment Commerce Fisheries Corp., aka Investment Commerce Fisheries, aka Incomfish, aka Incomfish Corp., aka Incomfish Corporation	4.78 percent	<i>AR11 Final Results</i>
Kim Anh Company Limited, aka Kim Anh Co, Ltd	4.78 percent	<i>AR11 Final Results</i>
Minh Cuong Seafood Import Export Frozen Processing Joint Stock Co, aka Minh Cuong Seafood Import- Export	25.76 percent	<i>AR10 Final Results</i>

¹⁶ Many of the aka or dba names subject to the litigation were not included in subsequent reviews. Therefore, the aka and/or dba names granted separate rate status in subsequent reviews supersede those listed above. The names listed above are included here as they appear in the injunctions enjoining liquidation pending completion of this litigation. Therefore, for liquidation purposes, we will continue to use the names above; however, only the aka and/or dba names granted separate rate status in subsequent reviews are valid for cash deposit purposes.

¹⁷ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2015–2016*, 82 FR 11431, 11433 (February 23, 2017) (*AR11 Final Results*).

Processing, aka MC Seafood		
Minh Hai Export Frozen Seafood Processing Joint-Stock Company, aka Minh Hai Jostoco	4.78 percent	<i>AR10 Final Results</i>
Minh Hai Joint-Stock Seafoods Processing Company, aka Seaprodex Minh Hai, aka Sea Minh Hai, aka Seaprodex Minh Hai, aka Seaprodex Minh Hai-Factory No. 78, aka Seaprodex Minh Hai (Minh Hai Joint Stock Seafoods Processing Co.), aka Seaprodex Minh Hai Workshop 1, aka Seaprodex Minh Hai Factory No. 69	4.78 percent	<i>AR10 Final Results</i>
Minh Hai Sea Products Import Export Company, aka Ca Mau Seafood Joint Stock Company, aka Seaprimexco Vietnam, aka Seaprimexco	4.78 percent	<i>AR10 Final Results</i>
Nha Trang Fisheries Joint Stock Company, aka Nha Trang Fisco, aka Nhatrang Fisco, aka Nha Trang Fisheries, Joint Stock	4.78 percent	<i>AR11 Final Results</i>
Nha Trang Seafoods Group: Nha Trang Seaproduct Company, aka Nha Trang Seafoods, aka NT Seafoods Corporation, aka NT Seafoods, aka Nha Trang Seafoods – F89 Joint Stock Company, aka Nha Trang Seafoods – F89, aka NTSF Seafoods Joint Stock Company, aka NTSF Seafoods	4.78 percent	<i>AR10 Final Results</i>
Ngoc Tri Seafood Joint Stock Company, aka Ngoc Tri Seafood Company	4.78 percent	<i>AR10 Final Results</i>
Phuong Nam Foodstuff Corp. aka Phuong Nam Co., Ltd., aka Phuong Nam Foodstuff Product Processing Joint Stock Corporation, aka Phuong Namco-Ltd	4.78 percent	<i>AR11 Final Results</i>
Quoc Viet Seaproducts Processing Trading and Import-Export Co., Ltd.	4.78 percent	<i>AR10 Final Results</i>
Soc Trang Seafood Joint Stock Company, aka Stapimex, aka Soc Trang Aquatic Products and General Import Export Company, aka Soc Trang Aquatic Products and General Import Export Company (“Stapimex”), aka Stapmex	4.78 percent	<i>AR10 Final Results</i>
Tan Phong Phu Seafoods Co., Ltd.	25.76 percent	<i>AR11 Final Results</i>
Thong Thuan Company Limited, aka T&T Co., Ltd	4.78 percent	<i>AR10 Final Results</i>
UTXI Aquatic Products Processing Corporation, aka UT XI Aquatic Products Processing Corporation, aka UTXI Aquatic Products Processing Company, aka UT XI Aquatic Products Processing Company, aka UTXI Co. Ltd., aka UTXI, aka UTXICO, aka Hoang Phuong Seafood Factory, aka Hoang Phong Seafood Factory	4.78 percent	<i>AR11 Final Results</i>
Viet Foods Co., Ltd., aka Nam Hai Foodstuff and Export Company Ltd.	4.78 percent	<i>AR10 Final Results</i>
Vietnam Clean Seafood Corporation, aka Vina Cleanfood	4.78 percent	<i>AR10 Final Results</i>
Viet Hai Seafood Co., Ltd., aka Vietnam Fish One Co., Ltd.	4.78 percent	<i>AR11 Final Results</i>
Viet I-Mei Frozen Foods Co., Ltd.	4.78 percent	<i>AR10 Final</i>

		<i>Results</i>
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There have been no subsequent administrative reviews completed for the below-listed non-individually examined companies that qualified for a separate rate and are subject to this litigation; thus, the cash deposit rate of 1.05 percent, as recalculated in the Remand Redetermination, applies for these exporters.

Exporter	Cash Deposit Rate in Effect
Bentre Forestry and Aquaproduct Import-Export Joint Stock Company, aka FAQUIMEX	1.05 percent
Fine Foods Co., aka FFC	1.05 percent
Goldenquality Seafood Corporation	1.05 percent
Tacvan Frozen Seafood Processing Export Company, aka Tacvan Seafoods Co.	1.05 percent

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: August 15, 2017.

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

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