



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

### **Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Notice of Intent to Rescind, in Part; 2021-2022**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on certain frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam). The period of review (POR) is August 1, 2021, through July 31, 2022. Commerce preliminarily determines that certain exporters made sales of subject merchandise at prices below NV during the POR, and that 10 exporters did not have shipments during the POR. We invite interested parties to comment on these preliminary results.

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

**FOR FURTHER INFORMATION CONTACT:** Javier Barrientos or Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2243 or (202) 482-0413, respectively.

### **SUPPLEMENTARY INFORMATION:**

#### Background

On October 11, 2022, Commerce initiated an administrative review of the antidumping duty order on fish fillets from Vietnam in accordance with 19 CFR 351.221(c)(1)(i) and section

751(a) of the Tariff Act of 1930, as amended (the Act).<sup>1</sup> This review covers 25 exporters, including the Vietnam-wide entity.<sup>2</sup> We selected two exporters, Vinh Hoan Corporation (Vinh Hoan) and Can Tho Import Export Seafood Joint Stock Company (CASEAMEX), for individual examination as mandatory respondents.<sup>3</sup> On April 19, 2023, Commerce extended the deadline for these preliminary results to August 31, 2023.<sup>4</sup>

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.<sup>5</sup> A list of the topics discussed in the Preliminary Decision Memorandum is included in Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Scope of the Order

The products covered by this order are fish fillets from Vietnam. For a full description of the scope of the order, *see* the Preliminary Decision Memorandum.

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<sup>1</sup> *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 61278 (October 11, 2022) (*Initiation Notice*).

<sup>2</sup> *See* Memorandum, "Respondent Selection," dated January 8, 2021 (Respondent Selection Memorandum). The *Initiation Notice* listed 134 company/entity names. *See Initiation Notice*, 87 FR at 61281-84. We treated all companies (*i.e.*, 109 companies) without a preliminary separate rate (or an existing separate rate and a no shipment claim) as part of the Vietnam-wide entity.

<sup>3</sup> *See* Respondent Selection Memorandum. *See also* Memorandum, "Selection of Replacement Respondent for Individual Review," dated February 3, 2023.

<sup>4</sup> *See* Memorandum, "Extension of Deadline for Preliminary Results of the 2021-2022 Antidumping Duty Administrative Review," dated April 19, 2023.

<sup>5</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam; 2021-2022," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

## Preliminary Determination of No Shipments

Based on an analysis of information from U.S. Customs and Border Protection (CBP) and letters filed by 10 companies certifying no shipments, Commerce preliminarily determines that the companies listed in Appendix III had no shipments during the POR.<sup>6</sup> For additional information regarding this finding, *see* the Preliminary Decision Memorandum.

Consistent with our assessment practice in non-market economy (NME) administrative reviews, Commerce is not rescinding this review for these 10 companies but, instead, intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.<sup>7</sup>

## Separate Rates

Commerce preliminarily determines that information placed on the record by mandatory respondents CASEAMEX, Vinh Hoan, and four separate rate applicants (Cafatex Corporation, International Development and Investment Corporation, Loc Kim Chi Seafood Joint Stock Company, and the Hung Vuong Corporation) demonstrates that these companies are entitled to separate rate status. For additional information, *see* the Preliminary Decision Memorandum.

## Vietnam-Wide Entity

The Vietnam-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. In this administrative review, the petitioners<sup>8</sup> requested a review of the Vietnam-wide entity,<sup>9</sup> and, therefore, the entity is under review in this segment of the proceeding. With the exception of the six companies which established their

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<sup>6</sup> Three additional exporters also certified that they had no shipments during the POR. However, because these exporters have not established their eligibility for a separate rate, we consider them to be part of the Vietnam-wide entity. Thus, we preliminarily find that it would be inappropriate to make an individual no-shipment determination with respect to these exporters. Additionally, certain other companies that filed no shipment statements are among the companies for which we have announced our intent to rescind this review. *See* Appendix II.

<sup>7</sup> *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011), and the “Assessment Rates” section, below.

<sup>8</sup> The petitioners are the Catfish Farmers of America and individual U.S. catfish processors America’s Catch, Inc., Alabama Catfish, LLC d/b/a Harvest Select Catfish, Inc., Consolidated Catfish Companies, LLC d/b/a Country Select Catfish, Delta Pride Catfish, Inc., Guidry’s Catfish, Inc., Heartland Catfish Company, Magnolia Processing, Inc. d/b/a Pride of the Pond, and Simmons Farm Raised Catfish, Inc.

<sup>9</sup> *See* Petitioners’ Letter, “Request for Administrative Review,” dated August 31, 2022.

eligibility for a separate rate, and the companies listed in Appendices II and III, Commerce considers all companies under review to be part of the Vietnam-wide entity. For additional information, *see* the Preliminary Decision Memorandum and the “Dumping Margin for Exporters Not Selected for Individual Review” section below.

#### Notice of Intent to Rescind the Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation. Commerce has preliminarily declined to find that one of the requestors had standing to request review during the POR.<sup>10</sup> If this determination is unchanged when Commerce issues its final results in this review, it will rescind this review with respect to all companies for which there are no remaining review requests. These companies are listed in Appendix II. Commerce is not implementing a final rescission at this time, because its decision regarding the validity of certain requests is not final.

#### Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) of the Act. We have calculated export price and constructed export price in accordance with section 772 of the Act. Because Vietnam is an NME country within the meaning of section 771(18) of the Act, we have calculated NV in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

#### Dumping Margins for Exporters Not Selected for Individual Review

The Act and Commerce’s regulations do not address the establishment of a rate to apply to exporters not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce 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 respondents that are not individually

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<sup>10</sup> For additional information, *see* “Standing” section in the PDM.

examined in an administrative review. Section 735(c)(5)(A) of the Act provides that the all-others rate should be calculated by averaging the weighted-average dumping margins calculated for individually-examined respondents, excluding dumping margins that are zero, *de minimis*, or based entirely on facts available. Because we calculated a dumping margin of zero or *de minimis* for Vinh Hoan, and a dumping margin that is not zero, *de minimis*, or based on entirely on facts available for CASEAMEX, we assigned exporters that we did not individually examine (including the Vietnam-wide entity) a dumping margin equal to CASEAMEX’s dumping margin, consistent with Commerce’s practice and section 735(c)(5)(A) of the Act.

### Preliminary Results of Review

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period August 1, 2021, through July 31, 2022:

<b>Exporter</b>	<b>Weighted-Average Dumping Margin (dollars per kilogram)</b>
Vinh Hoan Corporation	\$0.00
Can Tho Import Export Seafood Joint Stock Company	\$0.14
Loc Kim Chi Seafood Joint Stock Company	\$0.14*
International Development and Investment Corporation	\$0.14*
Hung Vuong Corporation	\$0.14*
Cafatex Corporation	\$0.14*
Vietnam-wide Entity	\$0.14*

\* This rate is based on the rate calculated for Can Tho Import Export Seafood Joint Stock Company.

### Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information submitted by Vinh Hoan in advance of the final results of this review.

### Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days of the date of publication of this notice.<sup>11</sup> Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than seven days after the date on which the final verification report is issued in this review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later

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<sup>11</sup> See 19 CFR 351.224(b).

than seven days after the date for filing case briefs.<sup>12</sup> Parties who submit case or rebuttal briefs in this review are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>13</sup> Case and rebuttal briefs should be filed using ACCESS and must be served on interested parties.<sup>14</sup> Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>15</sup>

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS.<sup>16</sup> Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in case and rebuttal briefs.<sup>17</sup> If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. A hearing request must be filed electronically using ACCESS and received in its entirety by 5:00 p.m. Eastern Time within 30 days after the publication of this notice.

### Assessment Rates

Upon completion of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Pursuant to 19 CFR 351.212(b)(1), if the weighted-average dumping margin for CASEAMEX or Vinh Hoan is not zero or *de minimis* (*i.e.*, less than 0.50 percent) in the final results of this review, we will calculate importer-specific (or customer-specific) per-unit assessment rates by dividing the amount of dumping for reviewed sales to the importer or customer by the total sales quantity associated with those transactions. If

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<sup>12</sup> See 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>13</sup> See 19 CFR 351.309(c)(2) and (d)(2); *see also* 19 CFR 351.303 (for general filing requirements).

<sup>14</sup> See 19 CFR 351.303(f).

<sup>15</sup> See *Temporary Rule*, 85 FR at 41363-64.

<sup>16</sup> See 19 CFR 351.310(c).

<sup>17</sup> See 19 CFR 351.310.

either respondent's weighted-average dumping margin is zero or *de minimis* in the final results of review, or if an importer-specific or customer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. 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.<sup>18</sup>

For any respondent that was not selected for individual examination in this administrative review, including the Vietnam-wide entity, Commerce will instruct, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise at the rate of \$0.14 per kilogram.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margins established in the final results of this review, except if the rate is *de minimis*, in which case the cash deposit rate will be zero; (2) for previously-examined Vietnamese and non-Vietnamese exporters not listed above that at the time of entry are eligible for a separate rate base on a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all non-Vietnamese

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<sup>18</sup> See section 751(a)(2)(C) of the Act.

exporters of subject merchandise which at the time of entry do not have a separate rate, the cash deposit rate will be the rate applicable to the Vietnamese exporter that supplied the non-Vietnamese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Notification to Importers

This notice 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 POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification to Interested Parties

We are issuing and publishing the preliminary results of this review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(4).

**Dated:** August 31, 2023.

**Lisa W. Wang,**  
*Assistant Secretary for Enforcement and Compliance.*

## **Appendix I**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Standing
- V. Intent to Rescind the Review, In Part
- VI. Preliminary Determination of No Shipments
- VII. Discussion of the Methodology
- VIII. Recommendation

## **Appendix II**

### **Companies for Which Commerce Intends to Rescind the Review**

Bien Dong Seafood Company Ltd. (also known as Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., Bien Dong Seafood Limited Liability Company or Bien Dong Seafoods Co., Ltd.)

C.P. Vietnam Corporation (also known as C.P. Vietnam Corp.)

Dai Thanh Seafoods Company Limited (also known as DATHACO, Dai Thanh Seafoods or Dai Thanh Seafoods Co., Ltd.)

East Sea Seafoods LLC (also known as East Sea Seafoods Limited Liability Company, ESS LLC, ESS, ESS JVC, or East Sea Seafoods Joint Venture Co., Ltd.)

Hai Huong Seafood Joint Stock Company (also known as HHFish, HH Fish, or Hai Huong Seafood)

NTSF Seafoods Joint Stock Company (also known as NTSF, NTSF Seafoods or Ntsf Seafoods Jsc)

PREFCO Distribution, LLC.

Vinh Quang Fisheries Corporation (also known as Vinh Quang, Vinh Quang Fisheries Corp., Vinh Quang Fisheries Joint Stock Company, or Vinh Quang Fisheries Co., Ltd.)

### **Appendix III**

#### **Companies With No Shipments During the POR**

Fatfish Company Limited (also known as FATIFISH or FATIFISHCO or Fatfish Co., Ltd.)  
GF Seafood Corp.

Green Farms Seafood JSC

GODACO Seafood Joint Stock Company (also known as GODACO, GODACO Seafood,  
GODACO SEAFOOD, GODACO\_SEAFOOD, or GODACO Seafood J.S.C.)

Golden Quality Seafood Corporation (also known as Golden Quality, GoldenQuality,  
GOLDENQUALITY, or GoldenQuality Seafood Corporation)

Green Farms Seafood Joint Stock Company (also known as Green Farms, Green Farms Seafood  
JSC, GreenFarm SeaFoods Joint Stock Company, or Green Farms Seafoods Joint Stock  
Company)

Nam Viet Corporation (also known as NAVICO)

Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods-F89, Nha Trang Seafoods, or Nha  
Trang Seaproduct Company)

QMC Foods, Inc.

QVD Food Co., Ltd.\*

\*This is a collapsed entity comprised of QVD Food Co., Ltd, QVD Dong Thap Food Co., Ltd.  
(also known as Dong Thap or QVD DT), and Thuan Hung Co., Ltd. (also known as THUFICO).  
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