

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-552-801]

**Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016-2017**

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

**SUMMARY:** The Department of Commerce (Commerce) determines that certain frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than normal value during the period of review (POR) August 1, 2016, through July 31, 2017.

**DATES:** Applicable April 29, 2019.

**FOR FURTHER INFORMATION CONTACT:** Javier Barrientos, 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.

**SUPPLEMENTARY INFORMATION:****Background**

Commerce published the *Preliminary Results* on September 13, 2018.<sup>1</sup> On January 28, 2019, Commerce tolled the deadlines in this case and the final results by 40 days.<sup>2</sup> On February 14, 2019, Commerce extended the deadline for the final results to April 19, 2019.<sup>3</sup> Commerce conducted verification of the Hung Vuong Group<sup>4</sup> (HVG) from March

<sup>1</sup> See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review, Preliminary Determination of No Shipments and Partial Rescission of the Antidumping Duty Administrative Review; 2016-2017*, 83 FR 46479 (September 13, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>3</sup> See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of 2016-2017 Antidumping Duty Administrative Review*, dated February 14, 2019.

<sup>4</sup> The Hung Vuong Group, or "HVG," includes: An Giang Fisheries Import & Export Joint Stock Company (Agifish), 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. See *Certain Frozen Fish Fillets from the Socialist Republic of*

11, 2019 through March 20, 2019. Between March 13, 2019, and April 9, 2019, interested parties submitted case and rebuttal briefs.

**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 code 0304.62.0020 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra), and may enter under tariff article codes 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100 of the Harmonized Tariff Schedule of the United States (HTSUS).<sup>5</sup> Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.<sup>6</sup>

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised is attached as the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

*Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 79 FR 19053 (April 7, 2014) and accompanying Issues and Decision Memorandum (IDM) at 3.

<sup>5</sup> Until June 30, 2004, these products were classifiable under HTSUS 0304.20.6030, 0304.20.6096, 0304.20.6043 and 0304.20.6057. From July 1, 2004, until December 31, 2006, these products were classifiable under HTSUS 0304.20.6033. From January 1, 2007, until December 31, 2011, these products were classifiable under HTSUS 0304.29.6033. On March 2, 2011, Commerce added two HTSUS numbers at the request of U.S. Customs and Border Protection (CBP) that the subject merchandise may enter under: 1604.19.2000 and 1604.19.3000, which were changed to 1604.19.2100 and 1604.19.3100 on January 1, 2012. On January 1, 2012, Commerce added the following HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

<sup>6</sup> For a complete description of the scope of the order, see *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of the Thirteenth Antidumping Duty Administrative Review; 2016-2017* (Issues and Decision Memorandum) at 2-3, dated concurrently with and hereby adopted by this notice.

(ACCESS). ACCESS is available to registered users at <http://access.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://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

**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 Issues and Decision Memorandum, we have determined to apply facts available with an adverse inference in determining the rate for HVG.

**Final Determination of No Shipments**

In the *Preliminary Results*, Commerce preliminarily determined that Cadovimex II Seafood Import Export and Processing Joint Stock Company (Cadovimex II), Cantho Import-Export Seafood Joint Stock Company (CASEAMEX), and Godaco Seafood Joint Stock Company (GODACO) (collectively, No Shipment Companies), had no shipments during the POR. Consistent with Commerce's refinement to its assessment practice in non-market economy (NME) cases, we completed the review with respect to the above-named companies.<sup>7</sup> Based on the certifications submitted by these companies, we continue to find that they did not have any shipments during the POR. As noted in the "Assessment Rates" section below, Commerce intends to issue appropriate instructions to CBP for the above-named companies based on the final results of the review.

**Vietnam-Wide Entity**

A review was requested, but not rescinded, for Golden Quality Seafood Corporation (Golden Quality). Golden Quality failed to answer Commerce's antidumping duty questionnaire and is not eligible for separate rate status; thus, we find Golden Quality to be part of the Vietnam-wide entity, which is not under review in this POR.<sup>8</sup> As Golden Quality is part of the Vietnam-wide entity, it will receive the Vietnam-wide entity's antidumping duty margin of \$2.39 per-kilogram (kg).

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

<sup>8</sup> See Issues and Decision Memorandum at Comment 9.

**Final Results of the Review**

The weighted-average dumping margins for the final results of this administrative review are as follows:

Exporter	Weighted-average margin (\$/kg) <sup>9</sup>
Hung Vuong Group .....	3.87
NTSF Seafoods Joint Stock Company .....	1.37
C.P. Vietnam Corporation* .....	1.37
Cuu Long Fish Joint Stock Company* .....	1.37
Green Farms Seafood Joint Stock Company* .....	1.37
Vinh Quang Fisheries Corporation* .....	1.37

\* These companies are separate rate respondents not individually examined.

**Assessment Rates**

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce 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 kg 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), Commerce 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).

Commerce determines that the No Shipment Companies did not have any reviewable transactions during the POR. As a result, any suspended entries that entered under these exporters' case

<sup>9</sup> 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).

numbers (*i.e.*, at each exporter's rate) will be liquidated at the Vietnam-wide rate.<sup>10</sup>

**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 0.50 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 \$2.39 per-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.

**Notification to Importers Regarding the 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

<sup>10</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011); see also *Preliminary Results*, and accompanying PDM at 4–5.

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 doubled antidumping duties.

**Administrative Protective Order**

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.

**Notification to Interested Parties**

We are issuing and publishing these administrative reviews and notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: April 19, 2019.  
**Jeffrey I. Kessler,**  
*Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**List of Topics Discussed in the Final Decision Memorandum**

- I. Summary
- II. Case Issues
- III. Background
- IV. Scope of the Order
- V. Application of Adverse Facts Available
- VI. Separate Rates
- VII. Discussion of the Issues
  - Comment 1: Assignment of AFA Rate to HVG
  - Comment 2: Whether to Apply AFA

to NTSF

Comment 3: NTSF's Plastic Bags Packing Factor

Comment 4: Fingerling Surrogate Value Conversion Factor

Comment 5: Fingerling Inflator

Comment 6: Surrogate Financial Ratios

Comment 7: Rate To Apply to Companies Not Selected for Individual Review

Comment 8: Green Farms' Separate Rate Certification

Comment 9: Golden Quality's Separate Rate Status

Comment 10: Surrogate Values to Value HVG's FOPs

Comment 11: Treatment of Fish Oil and Fish Meal

#### VIII. Recommendation

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## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### Proposals by Non-Federal Interests, for Feasibility Studies and for Modifications to an Authorized Water Resources Development Project or Feasibility Study, for Inclusion in the Annual Report to Congress on Future Water Resources Development

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice.

**SUMMARY:** Section 7001 of Water Resources Reform and Development Act (WRRDA) 2014, as amended, requires that the Secretary of the Army annually submit to the Congress a report (Annual Report) that identifies feasibility reports, proposed feasibility studies submitted by non-Federal interests, proposed modifications to authorized water resources development projects or feasibility studies, and proposed modifications to environmental infrastructure program authorities that meet certain criteria. The Annual Report is to be based, in part, upon requests for proposals submitted by non-Federal interests.

**DATES:** Proposals must be submitted online by August 27, 2019.

**ADDRESSES:** Submit proposals online at: <http://www.usace.army.mil/Missions/CivilWorks/ProjectPlanning/WRRDA7001Proposals.aspx>. If a different method of submission is required, use the further information below to arrange an alternative submission process.

#### FOR FURTHER INFORMATION CONTACT:

Send an email to the help desk at [WRRDA7001Proposal@usace.army.mil](mailto:WRRDA7001Proposal@usace.army.mil) or call Lisa Kiefel, Planning and Policy Division, Headquarters, USACE, Washington, DC at 202-761-0626.

**SUPPLEMENTARY INFORMATION:** Section 7001 of WRRDA 2014 (33 U.S.C. 2282d), as amended, requires the publication of a notice in the **Federal Register** to request proposals by non-Federal interests for feasibility studies, modifications to authorized USACE water resources development projects or feasibility studies, and modifications to environmental infrastructure program authorities. Project feasibility reports that have successfully completed Executive Branch review, but have not been authorized will be included in the Annual Report table by the Secretary of the Army and these proposals do not need to be submitted in response to this notice.

Proposals by non-Federal interests must be entered online and require the following information:

1. The name of the non-Federal sponsor, or all non-Federal interests in the case of a modification to an environmental infrastructure program authority, including any non-Federal interest that has contributed to or is expected to contribute toward the non-Federal share of the proposed feasibility study or modification.

2. State if this proposal is for a feasibility study, a modification to an authorized USACE water resources development project, a modification to an authorized USACE water resources feasibility study, or a modification to a USACE environmental infrastructure program authority. If a modification, specify the authorized water resources development project, study, or environmental infrastructure program authority that is proposed for modification.

3. State the specific project purpose(s) of the proposed study or modification.

4. Provide an estimate, to the extent practicable, of the total cost, and the Federal and non-Federal share of those costs, of the proposed study and, separately, an estimate of the cost of construction or modification.

5. Describe, to the extent applicable and practicable, an estimate of the anticipated monetary and non-monetary benefits of the proposal with regard to benefits to the protection of human life and property; improvement to transportation; the national economy; the environment; or the national security interests of the United States.

6. Proposals for modifications to environmental infrastructure program authorities must also include a description of assistance provided to date and the total Federal cost of assistance provided to date.

7. State if the non-Federal interest has the financial ability to provide the required cost share, reference ER 1105-2-100.

8. Describe if local support exists for the proposal.

9. Upload a letter or statement of support for the proposal from each associated non-Federal interest.

All provided information may be included in the Annual Report to Congress on Future Water Resources Development. Therefore, information that is Confidential Business Information, information that should not be disclosed because of statutory restrictions, or other information that a non-Federal interest would not want to appear in the Annual Report should not be included.

*Process:* Proposals received within the time frame set forth in this notice will be reviewed by the Army and will be presented in one of two tables. The first table will be in the Annual Report itself, and the second table will be in an appendix. To be included in the first table within the Annual Report table, the proposals must meet the following criteria:

1. Are related to the missions and authorities of the USACE; involve a proposed or existing USACE water resources project or effort whose primary purpose is flood and storm damage reduction, commercial navigation, or aquatic ecosystem restoration. Following long-standing USACE practice, related proposals such as for recreation, hydropower, or water supply, are eligible for inclusion if undertaken in conjunction with such a project or effort.

2. Require specific congressional authorization, including by an Act of Congress;

#### Comprise the Following Cases

##### a. Requires Construction Authorization

- Signed Chief's Reports;
- Non-Federal feasibility reports submitted to the Secretary of the Army under Section 203 of WRDA 1986, as amended, under Administration review;
- Ongoing feasibility studies that are expected to result in a Chief's Report; and,
- Proposed modifications to authorized water resources development projects requested by non-Federal interests.

##### b. Seeking Study Authorization

- New feasibility studies proposed by non-Federal interests through the Section 7001 of WRRDA 2014 process will be evaluated by the USACE to determine whether or not there is existing study authority, and
- Proposed modifications to studies requested by non-Federal interests through the Section 7001 of WRRDA 2014 process will be evaluated by the USACE to determine whether or not there is existing study authority.