DEPARTMENT OF COMMERCE

International Trade Administration

A–552–801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the ''Department'') is conducting an administrative review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam''). This review covers imports of subject merchandise from three manufacturers/exporters, Vinh Hoan Company, Ltd. (Vinh Hoan), Can Tho Agricultural and Animal Products Import Export Company (''CATACO''), and Phan Quan Company, Ltd. (''Phan Quan''). We are preliminarily rescinding the review with respect to Phu Thanh Company (''Phu Thanh''). For the three remaining companies, we preliminarily find that certain manufacturers/exporters sold subject merchandise at less than normal value (''NV'') during the period of review (''POR''). If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. We invite interested parties to comment on these preliminary review results. We will issue the final review results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: September 13, 2005.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik (Vinh Hoan), Javier Barrientos (CATACO), and Matthew Renkey (Phan Quan), 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) 482–6905, (202) 482–2243 and (202) 482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Case History

General

On August 12, 2003, the Department published in the **Federal Register** the antidumping duty order on certain frozen fish fillets from Vietnam. *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003). *See* the ''Scope of the Order'' section below for a complete description of the subject merchandise.

On August 3, 2004, the Department published a notice of an opportunity to request an administrative review on the antidumping duty order on certain frozen fish fillets from Vietnam. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 46496 (August 3, 2004). On August 27, 2004, we received requests for review from An Giang Fisheries Import and Export Joint Stock Company (''Agifish'') and CATACO. On August 31, 2004, we received requests for review from An Giang Agriculture and Foods Import–Export Company (''AFIEX''), QVD Food Co., Ltd. (''QVD''), and Vinh Hoan. Also on August 31, 2004, we received requests from Amland Corporation and Amland Foods Corporation, U.S. importers of subject merchandise, to conduct an administrative review of the following Vietnamese exporters and/or producers: (1) Phan Quan, an exporter; (2) Phu Thanh, a producer; and (3) Mekong Fisheries Joint Stock Company (''Mekonimex''), a producer and exporter. On September 22, 2004, the Department initiated this administrative review, covering the aforementioned eight companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part (''Initiation Notice'')*, 69 FR 56745 (September 22, 2004). Subsequently, on January 28, 2005, due to the withdrawal of their review requests, the Department rescinded the review with respect to Agifish, AFIEX, QVD, and Mekonimex. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Rescission, in Part, of Antidumping Duty Administrative Review*, 70 FR 4092 (January 28, 2005). On April 5, 2005, the Department extended the deadline for the preliminary results of this review by 120 days, to August 31, 2005. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time Limit for Preliminary Results of the First Antidumping Duty Administrative Review*, 70 FR 17231 (April 5, 2005).

Questionnaires and Responses

On October 6, 2004, the Department issued its Section A, C and D antidumping duty questionnaires to the companies listed in the Initiation Notice.[1] The four companies for which the Department rescinded the review withdrew their requests for review before responding to the Department's questionnaires. Phu Thanh reported that it was the producer for Phan Quan, and submitted Section D data as part of Phan Quan's response. A list of the responses submitted by each company, as well as a list of Petitioners' comments on those responses, follows.

On November 4, 2004, we received Vinh Hoan's Section A questionnaire response. On November 29, 2004, we received Vinh Hoan's Sections C and D questionnaire responses. We issued supplemental questionnaires on: (1) January 11, 2005 (response received on January 25, 2005); (2) March 7, 2005, and March 15, 2005 (aligned responses received on April 5, 2005); (3) April 15, 2005 and May 11, 2005 (responses received on May 25, 2005, and June 3, 2005); and (4) August 8, 2005 (response received on August 12, 2005). Also on June 3, 2005, Vinh Hoan submitted its sales and cost reconciliations.

On October 27, 2004, we received CATACO's Section A questionnaire response. On November 29, 2004, we received CATACO's Sections C and D questionnaire responses. We issued supplemental questionnaires on: (1) December 13, 2004 (response received on January 10, 2005); (2) March 7, 2005, and March 15, 2005 (aligned responses received on April 6, 2005); April 15, 2005 (response received April 22, 2005); (3) May 11, 2005 (responses received on June 8, 2005, and June 17, 2005); (4) June 22, 2005 (response received July 1, 2005); and (5) July 22, 2005 and July 26, 2005 (aligned responses received on August 9, 2005). On June 8, 2005, CATACO submitted its sales and cost reconciliations.

On November 3, 2004, we received Phan Quan's Section A questionnaire response. On November 29, 2004, we received Phan Quan's Sections C and D questionnaire responses. On January 3, 2005, Phan Quan submitted a letter stating that it should have reported a constructed export price (''CEP'') rather than an export price (''EP'') sales database, and that it would do so in its next supplemental response. On January 24, 2005, the Department issued a Section A supplemental questionnaire to Phan Quan, and received Phan Quan's response on February 15, 2005. On February 23 and 25, 2004, the Department sent letters to Phan Quan

[1] Section A of the antidumping duty questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation, and the manner in which it sells that merchandise in all of its markets. Section C requests a complete listing of the company's U.S. sales of subject merchandise. Section D requests information on the factors of production of the merchandise under review.

explaining that its Section A supplemental response was deficient, including the fact that it had not submitted a revised Section C response, as it had indicated it would do on January 3, 2005. Phan Quan submitted responses to the Department's deficiency letters on February 23, 2005, March 4, 2005, and March 7, 2005. On April 4, 2005, the Department issued Phan Quan a Section A, C and D supplemental questionnaire, and Phan Quan submitted its responses on May 2 and 18, 2005. On June 2, 2005, Phan Quan submitted a letter stating that it would no longer participate in this review.

Petitioner submitted comments on respondents' questionnaire responses on December 1, 23 and 27, 2004, April 27, 2005 and May 16, 2005. On December 30, 2004, Petitioners requested that the Department conduct verification of the responses submitted during the course of this review.

Surrogate Country and Surrogate Values

On November 9, 2004, we issued a letter to the interested parties requesting comments on surrogate country selection. Petitioners submitted comments on surrogate country selection on December 15, 2004; no other party submitted comments on this issue.

On July 13, 2005, in response to the Department's request, the parties submitted surrogate value information for the Department to consider for these preliminary results. On July 27, 2005, Petitioners submitted rebuttal comments on the surrogate value information submitted by respondents, and CATACO submitted rebuttal comments on Petitioners' surrogate value filing.

Period of Review

The POR is January 1, 2003, through July 31, 2004.

Scope of the Order

The product covered by this 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*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact (''regular'' fillets), boneless fillets with the belly flap removed (''shank'' fillets), boneless shank fillets cut into strips (''fillet strips/finger''), which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly–flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone–in, cross–section cuts of dressed fish. Nuggets are the belly–flaps.

The subject merchandise will be hereinafter referred to as frozen ''basa'' and ''tra'' fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (''HTSUS'').[2] This order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Verification

Following the publication of these preliminary results, we intend to verify, as provided in section 782(i)(3) of the Act, sales and cost information submitted by respondents, as appropriate. At that verification, we will use standard verification procedures, including on–site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information. We will prepare verification reports outlining our verification results and place these reports on file in the Central Records Unit, room B099 of the main Commerce building.

Partial Rescission of Review

As noted in the *Initiation Notice*, Phu Thanh was among the companies for which we initiated this administrative review. However, based upon the information described below, we are now rescinding this review with respect to Phu Thanh. Although Amland Corporation and Amland Foods Corporation requested a review of Phu Thanh, their request identified Phu Thanh only as a producer, while noting that the other companies in their request were exporters or producers/exporters. Phan Quan identified Phu Thanh only as its contract processor for the subject merchandise. At no point during the course of this review did Phu Thanh report that it exported subject merchandise during the POR. To confirm that Phu Thanh did not export subject merchandise during the POR, we examined shipment data furnished by CBP and found no entries from Phu Thanh. Accordingly, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the review of Phu Thanh.

Separate Rates Determination

The Department has treated Vietnam as a non–market economy (''NME'') country in all previous antidumping cases. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, 69 FR 70997 (December 8, 2004). It is the Department's policy to assign all exporters of the merchandise subject to review that are located in NME countries a single antidumping duty rate unless an exporter can demonstrate an absence of governmental control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of governmental control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''Sparklers''), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). Under the separate rates criteria established in these cases, the Department assigns separate rates to NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* governmental control over their export activities.

Absence of De Jure Control

Evidence supporting, though not requiring, a finding of the absence of *de jure* governmental control over export activities includes: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

In the less–than-fair–value (''LTFV'') investigation for this case, the Department granted separate rates to Vinh Hoan and CATACO. *See Notice of*

[2] Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS.

Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 37116 (June 23, 2003) and accompanying Issues and Decision Memorandum at Comments 5 and 6. However, it is the Department's policy to evaluate separate rates questionnaire responses each time a respondent makes a separate rates claim, regardless of whether the respondent received a separate rate in the past. *See Manganese Metal From the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998). In the instant review Vinh Hoan and CATACO submitted complete responses to the separate rates section of the Department's questionnaire. The evidence submitted in the instant review by these respondents includes government laws and regulations on corporate ownership, business licences, and narrative information regarding the companies' operations and selection of management. The evidence provided by Vinh Hoan and CATACO supports a finding of a *de jure* absence of governmental control over their export activities because: (1) there are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; and (2) the subject merchandise does not appear on any government list regarding export provisions or export licensing.

Absence of De Facto Control

The absence of *de facto* governmental control over exports is based on whether the Respondent: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587; *Sparklers*, 56 FR at 20589; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

In their questionnaire responses, Vinh Hoan and CATACO submitted evidence indicating an absence of *de facto* governmental control over their export activities. Specifically, this evidence indicates that: (1) Each company sets its own export prices independent of the government and without the approval of a government authority; (2) each company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each company has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department; and (5) foreign currency does not need to be sold to the government. Therefore, the Department has preliminarily found that Vinh Hoan and CATACO have established *primae facie* that they qualify for separate rates under the criteria established by *Silicon Carbide* and *Sparklers*. As discussed below, the Department is not granting Phan Quan a separate rate because we are unable to verify the separate rate information it submitted in its questionnaire responses.

Use of Facts Available

Section 776(a)(2) of the Act, provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that ''if the administrating authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act (''URAA''), H.R. Rep. No. 103–316 at 870 (1994).

Phan Quan/Vietnam–Wide Entity

Phan Quan submitted a letter on June 2, 2005 stating that it would no longer participate in this review. By stating it would no longer participate, Phan Quan is explicitly impeding this proceeding. As evidenced by Petitioners' May 16, 2005, comments and by the CBP entry packages placed on the record by the Department also on May 16, 2005, there were a number of outstanding issues that Phan Quan needed to address before the Department could fulfill its statutory duty to calculate a dumping margin as accurately as possible. Because Phan Quan stated that it would no longer participate in this review, the Department is precluded from asking additional questions to clarify certain information it had placed on the record and from obtaining new information from Phan Quan. In addition, the Department intended on verifying Phan Quan's information because Phan Quan did not participate in the original LTFV investigation. Therefore, the Department had good cause to verify Phan Quan's information in this proceeding. See 19 CFR 351.307(b)(v)(B). Given Phan Quan's withdrawal from the proceedings, the Department will not be able to verify any of the information Phan Quan has submitted throughout the review, including its eligibility for a separate rate.

Because we were unable to ask Phan Quan any follow–up questions regarding its claim for a separate rate, we find that it is appropriately considered to be part of the Vietnam–wide entity. Furthermore, we note that the Vietnam–wide entity did not provide information necessary to the instant proceeding. Section 776(a)(1) of the Act mandates that the Department use the facts available if necessary information is not available on the record of an antidumping proceeding. In selecting from among the facts available, pursuant to section 776(b) of the Act, an adverse inference is warranted when the Department has determined that a respondent has failed to cooperate by not acting to the best of its ability to comply with our request for information. Since Phan Quan significantly impeded the proceeding, the application of AFA is appropriate. Thus, because the Vietnam–wide entity (including Phan Quan) has failed to cooperate to the best of its ability in providing the requested information, we find it appropriate to use an inference that is adverse to the interests of the Vietnam–wide entity in selecting from among the facts otherwise available. By doing so, we ensure that the companies that are part of the Vietnam–wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

Section 776(b) of the Act indicates that an adverse inference may include reliance on information derived from

the petition, the final determination in the less–than-fair–value (''LTFV'') investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning the Vietnam–wide entity (which includes Phan Quan) the 63.88 percent Vietnam–wide rate from the LTFV investigation.

CATACO

On November 29, 2004, we received CATACO's Section C questionnaire response, including the total quantity and value of U.S. sales. On April 6, 2005, in response to a supplemental questionnaire, CATACO submitted revised quantity and value data, explaining in part that it had inadvertently omitted a large percentage of its U.S. sales in its original Section C response. On April 27, 2005, Petitioners submitted comments regarding how certain merchandise was sold to the United States by CATACO. In subsequent supplemental questionnaires, due in part to the comments received from Petitioners, we asked CATACO for more information regarding its U.S. sales of certain subject and non–subject merchandise. In its June 8, 2005 supplemental questionnaire response, CATACO stated that the differences in its original and revised sales database were due to the way in which certain sales to the United States were described in its records. On July 1, 2005, in response to another supplemental questionnaire, CATACO submitted additional information about product descriptions for these sales. We also requested entry data from CBP, which included entries of merchandise exported by CATACO during the POR.

Based on the information pertaining to certain sales submitted by CATACO, as well as the analysis of the CBP entry data, we have determined that CATACO undermined the Department's statutory obligation under Section 736 of the Act to ensure assessment of the correct antidumping duty amount and has also submitted contradictory information on the record of this review with respect to its sales of subject merchandise to the United States. In so doing, CATACO has significantly impeded this review under Section 776(a)(2)(C) of the Act. We further find that, pursuant to Section 776(b) of the Act, an adverse inference is warranted because CATACO failed to cooperate to the best of its ability. The Department is unable to calculate an accurate assessment rate for entries of subject merchandise from CATACO based upon the information CATACO submitted. Therefore, as partial AFA, we are assigning the Vietnam–wide rate of 63.88 percent for certain sales by CATACO. Because of the proprietary nature of the information relevant to this issue, the Department's detailed analysis of the basis for application of AFA is set forth in the *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Can Tho Agricultural and Animal Products Import Export Company (''CATACO'') Analysis for the Preliminary Results of the Administrative Review*, dated August 31, 2005 (''*CATACO Analysis Memo*'').

Corroboration

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA accompanying the URAA, H.R. Doc. No. 103–316 at 870 (1994); *see also* 19 CFR 351.308(d).

The SAA further provides that the term ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as total AFA a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin. *See e.g., Heavy Forged Hand Tools From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, 67 FR 57789, 57791 (September 12, 2002).

The AFA rate selected above was calculated using information provided during the LTFV investigation. As this rate has not been judicially invalidated, we consider it to be reliable. When circumstances warrant, the Department may diverge from its standard practice of selecting as the AFA rate the highest rate in any segment of the proceeding. For example, in *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996) (''*Flowers from Mexico*''), the Department did not use the highest margin in the proceeding as best information available (the predecessor to facts available) because that margin was based on another company's aberrational business expenses and was unusually high. *See Flowers from Mexico*, 61 FR at 6814. In other cases, the Department has not used the highest rate in any segment of the proceeding as the AFA rate because the highest rate was subsequently discredited, or the facts did not support its use. *See D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present with respect to the rate being used here. Accordingly, we have corroborated the AFA rate identified above, as required in accordance with the requirement of section 776(c) of the Act that secondary information be corroborated (*i.e.*, that it have probative value).

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market–economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market–economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the ''Normal Value'' Section below.

As discussed in the ''Separate Rates'' section, the Department considers Vietnam to be an NME country. The Department has treated Vietnam as an NME country in all previous antidumping proceedings. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. We have no evidence suggesting that this determination should be changed. Therefore, we treated Vietnam as an NME country for purposes of this review and calculated NV by valuing the FOP in a surrogate country.

The Department determined that Bangladesh, Pakistan, India, Indonesia, and Sri Lanka are countries comparable to the Vietnam in terms of economic

development. *See Memorandum from Ron Lorentzen, Office of Policy, Acting Director, to James C. Doyle, Program Manager: Antidumping Duty Administrative Review of Certain Frozen Fish Fillets (''Frozen Fish'') from the Socialist Republic of Vietnam: Request for a List of Surrogate Countries*, dated November 9, 2004. We select an appropriate surrogate country based on the availability and reliability of data from the countries. *See Department Policy Bulletin No. 04.1: Non–Market Economy Surrogate Country Selection Process* (''*Policy Bulletin*''), dated March 1, 2004. In this case, we have found that Bangladesh is a significant producer of comparable merchandise, is at a similar level of economic development pursuant to 773(c)(4) of the Act, and has publically available and reliable data. *See* the memorandum entitled ''Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Selection of a Surrogate Country,'' dated August 31, 2005 (''*Surrogate Country Memo*''). Thus, we have selected Bangladesh as the primary surrogate country for this administrative review. However, in certain instances where Bangladeshi data was not available, we used data from Indian or Indonesian sources.

U.S. Price

In accordance with section 772(a) of the Act, the Department calculated EP for sales to the United States for the participating respondents receiving calculated rates because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, brokerage and handling, warehousing, containerization, and international freight. For the respondents receiving calculated rates, each of these services was either provided by an NME vendor or paid for using an NME currency, with one exception. For international freight provided by a market economy provider and paid in U.S. dollars, we used the actual cost per kilogram of the freight. *See Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Surrogate Values for the Preliminary Results*, dated August 31, 2005 (''*Surrogate Values Memo*'') for details regarding the surrogate values for other movement expenses.

Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by the Respondents for the POR. We have decided to calculate NV based upon the whole fish input. Respondents initially reported their FOPs on a whole fish basis. In subsequent questionnaires, based on comments from Petitioners, the Department also requested that Respondents provide FOPs for their integrated stages of production. However, in reporting the FOPs from their integrated stages, Respondents Vinh Hoan and CATACO stated that they encountered significant difficulties providing the Department with comprehensive data since they were integrated producers for only a small portion of the POR. Therefore, for these preliminary results and consistent with the LTFV investigation, we are calculating NV beginning with the whole fish input at the processing stage. *See Surrogate Values Memo*. Additionally, for these preliminary results, because Vinh Hoan's reported by–products offsets and fish fillet production exceeded the direct materials input amounts, we capped Vinh Hoan's reported by–products to a level that would reconcile to the total amount of the direct raw material inputs (whole fish and MTR–79). *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Vinh Hoan Company Ltd. (''Vinh Hoan'') Analysis for the Preliminary Results of the Administrative Review*, dated August 31, 2005.

To calculate NV, we multiplied the reported FOP usage ratios by publicly available Bangladeshi, Indian, and Indonesian surrogate values. In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the available values. As appropriate, we adjusted the value of material inputs to account for delivery costs. We calculated these inland freight costs using the reported distances from the Vietnam port to the Vietnam factory, or from the domestic supplier to the factory. This adjustment is in accordance with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997). For those values not contemporaneous with the POR, we adjusted for inflation or deflation using data published in the IMF's *International Financial Statistics*. We excluded from the surrogate country import data used in our calculations imports from Korea, Thailand, Indonesia and India due to generally available export subsidies. *See China Nat'l Mach. Import & Export Corp. v. United States*, CIT 01–1114, 293 F. Supp. 2d 1334 (CIT 2003), aff'd 104 Fed. Appx. 183 (Fed. Cir. 2004) and *Certain Cut–to–Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005) and accompanying Issues and Decision Memorandum at Comment 4. We converted the surrogate values to U.S. dollars as appropriate, using the official exchange rate recorded on the dates of sale of subject merchandise in this case, obtained from Import Administration's website at http://www.ia.ita.doc.gov/exchange/index.html. For further detail, *see* the *Surrogate Values Memo*.

Preliminary Results of the Review

As a result of our review, we preliminarily find that the following margins exist for the period January 31, 2003, through July 31, 2004:

CERTAIN FROZEN FISH FILLETS FROM VIETNAM

Manufacturer/Exporter	Weighted–Average Margin (Percent)
Vinh Hoan	7.23
CATACO	38.08
Vietnam–wide Rate[1]	63.88

[3] The Vietnam-wide rate includes Phan Quan.

Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Since the verifications for Respondents are being conducted subsequent to these preliminary results, interested parties may submit written comments (case briefs) within seven days of release of the verification reports and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those

comments. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

Assessment Rates

Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. We will calculate importer–specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total volume of the examined sales for that importer. However, to ensure proper assessment, the Department has adjusted the total volume of the examined sales for CATACO as outlined in the *CATACO Analysis Memo*. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. We will instruct CBP to take into account the ''provisional measures cap'' in accordance with 19 CFR 351.212(d).

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) The cash deposit rate for each of the reviewed companies that received a separate rate in this review will be the rate listed in the final results of review (except that if the rate for a particular company is *de minimis, i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters (including Phan Quan) will continue to be the ''Vietnam–wide'' rate of 63.88 percent, which was established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

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 the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2005.

Barbara E. Tillman,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–4973 Filed 9–12–05; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (''the Department'') is amending the final results of the administrative review of the antidumping duty order on glycine from the People's Republic of China (''PRC'') to reflect the correction of a ministerial error in the final results. The period of review (''POR'') is March 1, 2003, through February 29, 2004.

EFFECTIVE DATE: September 13, 2005.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy at (202) 482–5403; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 2005, the Department published the final results of its administrative review of the antidumping duty order on glycine from PRC. *See Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 47176 (August 12, 2005) *(Final Results)*. On August 12, 2005, the respondent, Baoding Mantong Fine Chemistry Co., Ltd. (Baoding Mantong), timely submitted comments alleging that the Department made a certain ministerial error in the *Final Results* by using an incorrect U.S. price. No rebuttal comments were filed.

Amended Final Results

After reviewing the ministerial error allegation, we have determined that the Department did make a clerical error in completing the *Final Results* by making an improper adjustment to U.S. price, and we have amended the *Final Results* accordingly. For a detailed discussion of the Department's analysis of the ministerial error allegation, *see* Ministerial Error Allegation Memorandum, dated concurrently with this notice.

Pursuant to section 751(h) of the Tariff Act of 1930, as amended (''the Act''), we have amended the *Final Results* by correcting the ministerial error regarding U.S. price. We will issue amended cash-deposit instructions to U.S. Customs and Border Protection to reflect the amendment of the final results of this review. Pursuant to these amended results, we revised the dumping margin as follows:

Manufacturer/exporter	Margin (percent)
Baoding Mantong Fine Chemistry Co., Ltd.	2.95

The amended final results of this administrative review and notice are in accordance with sections 751(a)(1), 751(h), and 777(i)(1) of the Act.

Dated: September 6, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–5001 Filed 9–12–05; 8:45 am]

BILLING CODE 3510–DS–P