

margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the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 established in these final results of review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC 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 PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 157.68 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. 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 also serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 12, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I

General Issues

Comment 1: Appropriate Source for Financial Ratios Surrogate Values
Comment 2: Classification of Labor in Financial Ratios
Comment 3: NME Wage Rate
Comment 4: Zeroing
Comment 5: Appropriate Surrogate Value for Hot-Rolled Steel

Company-Specific Issues

Since Hardware-Related Issues

Comment 6: Market Economy Purchases
Comment 7: By-Product Offset

Foshan Shunde-Related Issues

Comment 8: Rescission of Shunde Yongjian and Foshan Shunde
Comment 9: Calculating a Margin for Foshan Shunde
Comment 10: By-Product Clerical Error

Forever Holdings-Related Issues

Comment 11: Rescission of Forever Holdings

Comment 12: Clerical Errors in Surrogate Values

[FR Doc. E7-5170 Filed 3-20-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Second Administrative Review

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

SUMMARY: On September 11, 2006, the Department of Commerce (the "Department") published in the **Federal Register** the preliminary results of the second administrative review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam ("Vietnam"). See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53387 (September 11, 2006) ("*Preliminary Results*"). We gave

interested parties an opportunity to comment on the *Preliminary Results* and conducted verification of one respondent, QVD Food Company, Ltd. ("QVD"). Based upon our analysis of the comments and information received, we made changes to the dumping margin calculations for the final results. See *Memorandum to the File from Julia Hancock, Senior Case Analyst, through Alex Villanueva, Program Manager; Analysis for the Final Results of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: QVD Food Company*, (March 12, 2007) ("QVD Final Analysis Memo").

EFFECTIVE DATE: March 21, 2007.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, 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) 482-1394.

SUPPLEMENTARY INFORMATION:

Case History

The *Preliminary Results* for this administrative review were published on September 11, 2006. Since the *Preliminary Results*, the following events have occurred:

On September 18, 2006, QVD requested an extension to submit publicly available information to be used in valuing surrogate factors of production for the final results. On September 22, 2006, the Department extended the deadline for the submission of publicly available information for the final results to November 20, 2006.

On November 15, 2006, the Catfish Farmers of America and individual processors, ("Petitioners"), requested an extension to submit publicly available information to be used in valuing surrogate factors of production. On November 17, 2006, the Department extended the deadline for the submission of publicly available information for the final results to January 4, 2007.

On January 3, 2007, QVD requested an extension to submit publicly available information to be used in valuing surrogate factors of production for the final results. On January 3, 2007, the Department issued a letter to QVD rejecting its extension request. On January 4, 2007, QVD and Petitioners submitted publicly available information for the final results.

On January 16, 2007, Petitioners and QVD submitted rebuttal comments on the January 4, 2007, submissions on publicly available information for the final results. On January 19, 2007,

Petitioners submitted a letter requesting that the Department reject QVD's January 16, 2007, rebuttal comments because they contained new factual information. On January 22, 2007, QVD submitted a letter in response to Petitioners' January 19, 2007, letter.

On January 26, 2007, the Department rejected QVD's January 16, 2007, rebuttal comments as new factual information and requested that QVD resubmit its rebuttal comments without this information. On January 29, 2007, QVD resubmitted its January 16, 2007, rebuttal comments without the new factual information.

Verification

On November 1, 2006, the Department issued verification outlines for QVD and QVD Dong Thap Food Co., Ltd. ("Dong Thap"), for the on-site verifications scheduled for November 27 through 29, 2006, and December 7 and 8, 2006. Additionally, on November 7, 2006 the Department issued verification outlines for QVD Choi Moi Farming Cooperative ("Choi Moi") and Thuan An Seafood Co., Ltd. ("Thuan An"), for the on-site verifications scheduled for November 30, 2006 to December 6, 2006.

On November 21, 2006, Petitioners submitted pre-verification comments. On December 20, 2006, the Department issued verification outlines for QVD USA LLC ("QVD USA") and Beaver Street Fisheries, Inc. ("BSF"), for the on-site verifications scheduled for January 11 through 16, 2007.

On January 9, 2007, Petitioners submitted pre-verification comments on QVD USA and BSF. On January 29, 2007, the Department issued the verification report of QVD, Dong Thap, Choi Moi, and Thuan An. Additionally, on January 30, 2007, the Department issued the verification report of QVD USA and BSF. On February 6, 2007, QVD submitted comments on the Department's January 29, 2007, verification report.

On March 9, 2007, the Department placed copies of the QVD, Dong Thap, Choi Moi, Thuan An, QVD USA, and BSF verification exhibits on the record.

Case Briefs and Rebuttal Briefs

On September 22, 2006, the Department extended the deadline for the submission of case briefs and rebuttal briefs. On November 17, 2006, the Department further extended the deadline for case briefs and rebuttal briefs.

On February 1, 2007, Petitioners submitted a letter to the Department requesting an extension of the deadline for the submission of case briefs and rebuttal briefs. On February 1, 2007, the

Department again extended the deadline for case briefs and rebuttal briefs.

On February 2 and 6, 2007, Valley Fresh, Inc., QVD, and Petitioners submitted case briefs. On February 6, 2007, the Department requested comments on the revised FY 2004 non-market economy ("NME") wage rates, to be submitted with the rebuttal briefs. Additionally, on February 12, 2007, the Department extended the deadline for interested parties to submit rebuttal briefs.

On February 13, 2007, the Department confirmed that no interested party would be submitting comments regarding QVD's February 6, 2007, letter, regarding the attachment contained in the Department's January 29, 2007, verification report. On February 13, 2007, the Department again extended the deadline for interested parties to submit rebuttal briefs. On February 14, 2007, QVD and Petitioners submitted rebuttal briefs, which also contained comments on the Department's FY 2004 revised wage rates.

On March 9, 2007, the Department rejected Valley Fresh's March 5, 2007, submission as untimely, factual information.

Hearing

On October 11, 2006, Petitioners submitted a request for a public hearing. On February 6, 2007, Petitioners submitted a request for a portion of the hearing to be closed. On February 15, 2007, the Department issued a letter to interested parties regarding the schedule of the hearing. Additionally, on February 16, 2007, the Department issued two letters regarding the schedule and the logistics of the hearing.

On February 16, 2007, Petitioners withdrew their October 11, 2006, and February 6, 2007, requests for a public and closed hearing. On February 21, 2007, the Department issued a letter to interested parties cancelling the hearing.

Extension of the Final Results

On November 24, 2006, the Department extended the time limit for completion of the final results of the instant administrative review. *See Notice of Extension of Time Limit for the Final Results of the Second Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 71 FR 67849 (November 24, 2006).

QVD

On September 6, 2006, QVD submitted comments alleging that there were clerical errors in the *Preliminary*

Results. On September 8, 2006, Petitioners submitted rebuttal comments in response to QVD's September 6, 2006, letter. On September 11, 2006, QVD submitted rebuttal comments in response to Petitioners' September 8, 2006, rebuttal comments. Additionally, on September 11, 2006, the Department issued a letter to QVD regarding QVD's allegation of clerical errors in the *Preliminary Results*.

On September 18, 2006, the Department issued a supplemental questionnaire to QVD. On September 29, 2006, QVD requested an extension to respond to the Department's supplemental questionnaire. Additionally, on September 29, 2006, the Department extended the deadline for QVD to respond to the supplemental questionnaire to October 19, 2006.

On October 17, 2006, QVD submitted a second extension request to respond to the Department's supplemental questionnaire. On October 17, 2006, the Department extended the deadline for QVD to respond to its supplemental questionnaire to October 23, 2006. On October 23, 2006, the Department received QVD's supplemental questionnaire response.

On November 3, 2006, Petitioners submitted comments to the Department regarding QVD's October 23, 2006, supplemental questionnaire response. On November 8, 2006, the Department issued a supplemental questionnaire to QVD.

On November 14, 2006, the Department issued a letter to QVD requesting that QVD make certain information public information. On November 15, 2006, QVD submitted an extension request for responding to the Department's November 8, 2006, supplemental questionnaire. Additionally, on November 16, 2006, QVD submitted a letter stating that it does not consent to the public release of certain information. On November 17, 2006, the Department issued the verification outline to QVD. On November 21, 2006, QVD submitted a response to the Department's November 8, 2006, supplemental questionnaire.

On January 4, 2007, QVD submitted a letter to the Department supplementing its October 23, 2006, supplemental questionnaire response. On January 16, 2007, QVD submitted pre-verification corrections.

On February 1, 2007, the Department issued a letter to QVD requesting that QVD submit QVD's U.S. sales and factors of production ("FOPs") databases with the corrections from verification. On February 7, 2007, QVD submitted a revised version of its U.S. sales and FOPs databases.

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 codes 1604.19.4000¹, 1604.19.5000², 0305.59.4000³, 0304.29.6033⁴ (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States ("HTSUS").⁵ 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.

Analysis Of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum ("Final Decision Memo"), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this administrative review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit ("CRU"), room B-099 of the main Department building. In addition, a copy of the *Final Decision Memo* can be accessed directly on our Web site at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the *Final Decision Memo* are identical in content.

Verification

As provided in section 782(i) of the of the Tariff Act, as Amended ("the Act"), we conducted verification of the information submitted by QVD, its affiliated Vietnamese companies, Choi Moi and Dong Thap, its Vietnamese toller, Thuan An, and its affiliated U.S. importer, QVD USA and other U.S. importer, BSF, for use in our final results. See *Memorandum to the File, through, Alex Villanueva, Program Manager, AD/CVD Operations, Office 9, from, Julia Hancock, Senior Case Analyst, and Javier Barrientos, Financial Analyst, AD/CVD Operations, Office 9, Subject: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, RE: Verification of Sales and Factors of Production for Vietnam Companies*, (January 29, 2007) ("Vietnam Verification Report"); *Memorandum to the File, through, Alex Villanueva, AD/CVD Operations, Office 9, from, Julia Hancock, Senior Case Analyst, and Irene Gorelik, Case Analyst, AD/CVD Operations, Office 9, Subject: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, RE: Verification of Sales of U.S. Companies*, (January 30, 2007) ("U.S. Verification Report"). For all companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the Respondents.

Changes Since The Preliminary Results

Based on a review of the record as well as comments received from parties regarding our *Preliminary Results*, we have made revisions to the margin calculation for QVD for the final results.

The following changes are addressed in the *Final Decision Memo*: (1) a recalculation of QVD's weighted-average database addressed in Comment 13, (2) the use of Choi Moi and Company H's FOPs for calculation of NV addressed in Comment 1, (3) the use of only QVD USA's CEP sales to the first unaffiliated customer addressed in Comment 3, (4) the application of partial adverse facts available to Choi Moi's unreported harvest labor addressed in Comment 3, (5) the calculation of QVD's cash deposit and assessment rates on a per-unit basis in Comment 6, (6) changes to the following surrogate values: surrogate financial ratios, fish waste, labor, and ice addressed in Comments 9 and 10, and (7) changes to QVD's margin program language addressed in Comments 8 and 11. See *QVDFinal Analysis Memo. See also Memorandum from Julia Hancock, Senior Case Analyst, through Alex Villanueva, Program Manager, Office 9 and James C. Doyle, Office Director, Office 9, to The File, Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam ("Vietnam"): Surrogate Values for the Final Results*, dated March 12, 2006 ("Final Factors Memo").

Adverse 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 subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination 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 provides that, if the Department 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," the Department may use information that is adverse to the interests of that party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action ("SAA")* accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any

¹ See *Memorandum to the File, from Cindy Robinson, Senior Case Analyst, Office 9, Import Administration, Subject: Frozen Fish Fillets: Third Addition of Harmonized Tariff Number*, (March 1, 2007). This HTS went into effect on March 1, 2007.

² See *Memorandum to the File, from Cindy Robinson, Senior Case Analyst, Office 9, Import Administration, Subject: Frozen Fish Fillets: Third Addition of Harmonized Tariff Number*, (March 1, 2007). This HTS went into effect on March 1, 2007.

³ See *Memorandum to the File, from Cindy Robinson, Senior Case Analyst, Office 9, Import Administration, Subject: Frozen Fish Fillets: Second Addition of Harmonized Tariff Number*, (February 2, 2007). This HTS went into effect on February 1, 2007.

⁴ See *Memorandum to the File, from Cindy Robinson, Senior Case Analyst, Office 9, Import Administration, Subject: Frozen Fish Fillets: Addition of Harmonized Tariff Number*, (January 30, 2007). This HTS went into effect on February 1, 2007.

⁵ 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. Until February 1, 2007, these products were classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the HTSUS.

previous review, or any other information placed on the record. See section 776(b) of the Act.

Cataco

In the *Preliminary Results*, the Department assigned total AFA to Cataco. The Department did not receive any comments regarding the Department application of total AFA to Cataco. Therefore, for the final results, we continue to apply AFA to Cataco. However, the Department did receive comments on the calculation of Cataco's cash deposit and assessment rates addressed in Comment 5 of the *Final Decision Memo*, Cataco's cash deposit and assessment rates remain unchanged for these final results.

Vietnam-Wide Entity

In the *Preliminary Results*, the Department assigned total AFA to the Vietnam-Wide Entity, including Can Tho Animal Fishery Products Processing Export Enterprise ("Cafatex"), Mekong Fish Company ("Mekonimex"), Nam Viet Company, Ltd. ("Navico"), Phan Quan Trading Co., Ltd. ("Phan Quan"), An Giang Agriculture Technology Service Company ("ANTESCO"), Anhaco, Binh Dinh Import Export Company ("Binh Dinh"), Vinh Long Import-Export Company ("Vinh Long"), and An Giang Agriculture and Foods Import-Export Company ("Afiex"). The Department did not receive any comments regarding the Vietnam-Wide Entity. Therefore, for the final results, we continue to apply AFA to the Vietnam-Wide Entity and continue to treat Cafatex, Mekonimex, Navico, Phan Quan, Afiex, ANTESCO, Anhaco, Binh Ding, and Vinh Long as part of the Vietnam-Wide Entity.

Final Results Of Review

The weighted-average dumping margins for the POR are as follows:

CERTAIN FROZEN FISH FILLETS FROM VIETNAM

Manufacturer/Exporter	Weighted-Average Margin (Percent)
QVD	21.23
Cataco	80.88
Vietnam-Wide Entity ⁶ ...	63.88

⁶ The Vietnam-wide Entity includes Cafatex, Mekonimex, Navico, Phan Quan, Afiex, ANTESCO, Anhaco, Binh Ding, and Vinh Long.

Assessment

The Department will determine, and the U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). We have

calculated importer-specific duty assessment rates on a per-unit basis. Specifically, we divided the total dumping margins (calculated as the difference between normal value and export price or constructed export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. In this and future reviews, we will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (i.e., per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of the final results of this administrative review.

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 Cafatex, Mekonimex, Navico, Phan Quan or Afiex) will be the Vietnam-wide rate of 63.88 percent, as explained in the *Final Decision Memo*. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

⁷ In our *Preliminary Results*, for those respondents who reported an entered value, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales of each applicable importer to calculate an *ad valorem* assessment rate.

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 prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("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/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.

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

Dated: March 12, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I – Decision Memorandum

Issues For The Final Results:

Comment 1: Affiliation Issues

- A. Company H
- B. Choi Moi
- C. Company A2, Company B, and Company K
- D. QVD USA/BSF and Constructed Export Price ("CEP") Sales

Comment 2: Total Adverse Facts Available

- A. CEP Sales
- B. Choi Moi
- C. Thuan An
- D. Dong Thap
- E. CONNUM-Specific Factors of Production ("FOPS")

Comment 3: Partial AFA for FOPs

- A. Choi Moi's FOPs
- B. Thuan An's FOPs
- C. Company H's Fish Waste
- D. CONNUM-Specific FOPs
- E. Factor X

Comment 4: Valley Fresh

Comment 5: Reimbursement

Comment 6: Cash Deposit and Assessment

Comment 7: Corrections to U.S. Sales

- A. Entered Value
- B. International Freight
- C. U.S. Inland Freight from Warehouse

Comment 8: Surrogate Values

- A. Fish Waste
- B. Whole Fish
- C. Ice
- D. Wage Rates

Comment 9: Surrogate Financial Ratios

- A. Bionic Seafoods
- B. Calculation of Ratios

Comment 10: Clerical Errors in Margin Calculation

- A. Conversion of Water
- B. Assessment Rate: Importer of Record vs. Customer Code
- C. Exchange Rates
- D. Containerization

*Comment 11: CEP Verification Report**Comment 12: Denominator and Numerator of FOPs*

- A. Choi Moi's Denominator
- B. Thuan An and Dong Thap's Numerator

- C. Thuan An's Denominator
- D. Dong Thap's Numerator and Denominator

*Comment 13: Thuan An's Financial Statements**Comment 14: Gross Weight vs. Net Weight**Comment 15: New Factual Information**Comment 16: Clarification of Vietnam Verification Report*

[FR Doc. E7-5178 Filed 3-20-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration****Antidumping Methodologies in Proceedings Involving Non-Market Economy Countries: Surrogate Country Selection and Separate Rates**

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

ACTION: Request for Comment.

SUMMARY: The Department of Commerce ("the Department") requests public comment on two aspects of its non-market economy ("NME") methodology in antidumping proceedings. First, the Department seeks comment on certain aspects of the methodology by which it selects an economically comparable surrogate market economy country for the NME country under investigation or review. Second, the Department is requesting comment on the

methodology under which individual NME exporters can demonstrate independence from government control of their export activities and thereby qualify for separate rate status.

DATES: Comments must be submitted by thirty days from the publication of this notice.

ADDRESSES: Written comments (original and six copies) should be sent to David Spooner, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, Pennsylvania Avenue and 14th Street NW, Washington, DC, 20230.

FOR FURTHER INFORMATION CONTACT: Lawrence Norton, Economist, or Anthony Hill, Senior International Economist, Office of Policy, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC, 20230, 202-482-1579 or 202-482-1843, respectively.

Issue One: Surrogate Country Selection Background

In antidumping proceedings involving NME countries, the Department calculates normal value by valuing the NME producer's factors of production, to the extent possible, using prices from a market economy that is at a comparable level of economic development and that is also a significant producer of comparable merchandise. The Tariff Act of 1930, as amended ("the Act"), provides broad discretion in the selection of surrogate market economy countries to value NME factors of production. In particular, section 773(c)(1)(B) of the Act reads:

...the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

Section 773(c)(4) of the Act adds:

The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are

- A. at a level of economic development comparable to that of the nonmarket economy country, and
- B. a significant producer of comparable merchandise.

The Act does not provide a definition of "comparable level of economic development," "comparable merchandise," or "significant

producer." However, the Department's regulations do provide guidelines for comparing levels of economic development. 19 CFR 351.408(b) reads:

Economic Comparability. In determining whether a country is at a level of economic development comparable to the nonmarket economy country under section 773(c)(2)(B) or section 773(c)(4)(A) of the Act, the Secretary will place primary emphasis on per capita GDP as the measure of economic comparability.

Finally, the Department provided further guidance on economic comparability in a 2004 Policy Bulletin, establishing a sequential procedure for selecting a surrogate country, with economic comparability being the first factor considered. Import Administration Policy Bulletin 04.1 states¹:

First, early in a proceeding, the Operations team sends the Office of Policy ("OP") a written request for a list of potential surrogate countries. In response, OP provides a list of potential surrogate countries that are at a comparable level of economic development to the NME country. OP determines economic comparability on the basis of per capita gross national income, as reported in the most current annual issue of the World Development Report (The World Bank). The surrogate countries on the list are not ranked and should be considered equivalent in terms of economic comparability. Both the team's written request and OP's response should be made available to interested parties by being placed on the record of the proceeding.

As noted above, in each proceeding, the Department generates a list of potential surrogate countries. In constructing this list, the Department orders the per capita gross national income ("GNI") figures as reported in the latest available published edition of the World Bank's *World Development Report*, disregarding countries designated as NMEs during the period of review.² From among the remaining group of countries, the Department selects approximately five with similar levels of economic development to the NME that have offered, in the

¹ The full text of the policy bulletin can be found at <http://ia.ita.doc.gov/policy/bull04-1.html>.

² The Department now uses per capita GNI, rather than per capita GDP, because while the two measures are very similar, per capita GNI is reported across almost all countries by an authoritative source (the World Bank), and because the Department believes that the per capita GNI represents the single best measure of a country's level of total income and thus level of economic development.