

68 FR 37116, June 23, 2003

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Notice of 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

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

ACTION: Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances.

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EFFECTIVE DATE: June 23, 2003.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva or James C. Doyle, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3208, or (202) 482-0159, respectively.

THE APPLICABLE STATUTE:

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR 351 (2001).

SUPPLEMENTARY INFORMATION:

FINAL DETERMINATION

We determine that certain frozen fish fillets from the Socialist Republic of Vietnam are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

## Case History

We published in the Federal Register the preliminary determination in this investigation on January 31, 2003. See Notice of Preliminary Determination of Sales at Less Than Fair Value,

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Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam ("Preliminary Determination"), 68 FR 4986 (January 31, 2003). Since the Preliminary Determination, the following events have occurred:

On January 29, 2003, An Giang Fisheries Import and Export Joint Stock Company ("Agifish"), Vinh Hoan Company Limited ("Vinh Hoan"), Nam Viet Company Limited ("Nam Viet") and Can Tho Agricultural and Animal Products Import Export Company ("CATACO"), hereinafter collectively referred to as "Mandatory Respondents," timely filed allegations that the Department made ministerial errors in the Preliminary Determination.

On January 29, 2003, for purposes of a preliminary critical circumstances determination, the Department requested monthly shipment data from An Giang Agriculture and Food Import Export Company ("Afiex"), Can Tho Animal Fishery Products Processing Export Enterprise ("Cafatex"), Da Nang Seaproducts Import-Export Corporation ("Da Nang"), Mekongfish Company ("Mekonimex"), QVD Food Company Limited ("QVD"), Viet Hai Seafood Company Limited ("Viet Hai"), and Vinh Long Import-Export Company ("Vinh Long"), hereinafter referred to collectively as the "Voluntary Section A Respondents".

On January 30, 2003, the Voluntary Section A Respondents, the Mandatory Respondents, and the Vietnam Association of Seafood Exporters and Producers ("VASEP"), hereinafter referred to collectively as the "Respondents," requested a one-week extension for the critical circumstances monthly shipment data. The Department granted this request on February 3, 2003. The Voluntary Section A Respondents requested a further two-day extension on February 7, 2003, which was granted by the Department on February 10, 2003. Also, on February 3, 2003, the Department granted to the Voluntary Section A Respondents and the Mandatory Respondents a one-week extension for submission of the Sales Reconciliation information.

On February 3, 2003, Catfish Farmers of America ("CFA") and the individual U.S. catfish processors America's Catch Inc.; Consolidated Catfish Co., L.L.C.; Delta Pride Catfish, Inc.; Harvest Select Catfish, Inc.; Heartland Catfish Company; Pride of the Pond; Simmons Farm Raised Catfish, Inc.; and Southern Pride Catfish Co., Inc., hereinafter

referred to collectively as "Petitioners," timely filed allegations that the Department made ministerial errors in the preliminary determination.

On February 6, 2003, the Ministry of Trade of the Socialist Republic of Vietnam ("MOT") requested a two-week extension of the deadline to submit a request for an agreement suspending the present antidumping duty investigation. On February 10, 2003, the Department granted that request, making the deadline February 25, 2003.

On February 7, 2003, Petitioners submitted comments outlining the information relevant to the Department for an additional supplemental questionnaire.

On February 10, 2003, CATACO, Agifish, and Vinh Hoan submitted sales reconciliation information. Nam Viet requested a three-day extension to submit its sales reconciliation, which was granted by the Department on February 11, 2003. Also on February 10, 2003, the Voluntary Section A Respondents submitted monthly shipment data pursuant to the Department's January 29, 2003 request.

On February 11, 2003, the Department issued a request for information and supplemental questionnaire in three sections, with a deadline of February 25, 2003. Section I contained a request for comments or information from all interested parties regarding the Department's methodology for calculating normal value in the Preliminary Determination; specifically, whether the Department should continue to value live fish using a surrogate value or use the Respondents' reported upstream factors for producing live fish. The second section contained a supplemental Section D questionnaire to further clarify the four Mandatory Respondent companies' factor of production information. Finally, Section III contained supplemental questions arising from other portions of the four Mandatory Respondents' questionnaire responses.

In a letter dated February 12, 2003, the MOT protested the surrogate values and methodologies the Department used in the Preliminary Determination and requested that the Department reconsider certain issues. Also on February 12, 2003, the Voluntary Section A Respondents submitted their sales reconciliation data.

On February 13, 2003, Nam Viet requested a one-day extension to file its sales reconciliation information, which was granted by the Department on February 14, 2003. On February 14, 2003 Nam Viet submitted its sales reconciliation.

On February 19, 2003, the Department requested a more detailed sales reconciliation from the Mandatory and Voluntary Section A Respondents, including monthly sales data to allow the Department to reconcile the companies' reported U.S. sales figures to their annual financial statements and sales ledgers.

On February 21, 2003, the Mandatory and Voluntary Section A Respondents requested one-week extensions of the deadlines to file the

more detailed Sales Reconciliation information and the February 11, 2003 request for comments and supplemental questionnaire. On February 21, 2003, Petitioners requested a one-month extension of the deadline to file comments related to Section I of the February 11, 2003 request for information.

On February 24, 2003, the Department granted the Petitioners and the Respondents a one-week extension of the deadline to file information related to the February 11, 2003 request for information and supplemental questionnaire, until March 4, 2003. Finally, the Department granted a one-week extension to the Respondents to file the more detailed sales reconciliation information, until March 5, 2003.

On February 25, 2003, the Department granted to the Government of Vietnam ("GOV") a second extension of the deadline to file a proposed agreement to suspend the present antidumping duty investigation, for ten days until March 7, 2003.

On February 28, 2003, the Respondents submitted a letter requesting a public hearing pursuant to section 351.310 of the Department's regulations.

On March 3, 2003, Sunnyvale Seafood Corporation, an importer, requested a scope clarification to determine whether Basa "cutlets" are included in the scope of this investigation.

On March 3, 2003, the Department granted the Petitioners' request of an extension of the deadline to submit comments on the Department's use of factor input valuations in the Preliminary Determination until March 21, 2003 and the Department granted the Petitioners' request for an extension to submit comments addressing the normal value methodology (referenced in Section I of the February 11, 2003 request for information) until March 7, 2003. Also, on March 3, 2003, the Department granted the Respondents' request for an extension of the deadline to submit all responses pertaining to the February 11, 2003 request for information until March 4, 2003, and the more detailed sales reconciliation until March 5, 2003.

On March 3, 2003, the Petitioners submitted a letter requesting a hearing

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pursuant to section 351.310 of the Department's regulations. The Petitioners requested to address the Department's LTFV margin calculations, choice of surrogate country, surrogate value data, and other issues pursuant to the Preliminary Determination.

On March 4, 2003, the Mandatory Respondents submitted their supplemental questionnaire responses related to Section II and Section III of the February 11, 2003 request for information.

On March 5, 2003, the Respondents submitted the more detailed sales reconciliation information for the four mandatory and seven voluntary

respondents, as requested by the Department on February 19, 2003.

On March 5, 2003, we published the amended preliminary determination in the Federal Register. See Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam ("Amended Preliminary Determination"), 68 FR 10440 (March 5, 2003).

On March 7, 2003, the Department issued the verification outlines to the Mandatory Respondents.

On March 7, 2003, the GOV submitted a proposal for an agreement to suspend the current antidumping duty investigation in accordance with section 734(1) of the Act and section 351.208 of the Department's regulations.

On March 7, 2003, the Respondents submitted a response to Section I of the Department's February 11, 2003 request for information, regarding the appropriate methodology for calculating the normal value in the final determination, in which the Respondents argue that the Department should value the subject merchandise using the upstream factors, as reported by Respondents.

On March 7, 2003, the Petitioners also submitted their response to the Department's request for comments regarding the normal value methodology. The Petitioners argued the Department should continue to apply a surrogate value to the live fish input, as in the Preliminary Determination.

On March 7, 2003, the Respondents submitted factors of production databases for the Mandatory Respondent companies, reflecting both the gross and net-weight factors of production, as requested by the Department.

On March 10, 2003, the Petitioners submitted a letter certifying that they omitted certain pages from their March 7, 2003 methodology comments. In a separate filing on March 10, 2003, the Petitioners filed the replacement pages for those comments.

On March 10, 2003, Nam Viet submitted additional factor consumption information. Nam Viet previously had overlooked its consumption of coal, and reported the total consumption of coal for the twelve-month period reported in the March 4, 2003 supplemental questionnaire response.

On March 10, 2003, Agifish submitted additional factor consumption information.

On March 12, 2003, the Petitioners submitted a request for a one-week extension of the deadline to submit publicly available factor value information. On March 13, 2003, the Department granted the request.

On March 13, 2003, the Petitioners submitted verification comments for the Mandatory Respondents.

On March 14, 2003, Sunnyvale Seafood Corporation, an importer, requested a scope clarification to determine whether certain Basa

``nuggets" are included in the scope of this investigation.

The Department conducted verification of the responses submitted to the record by the Mandatory Respondents from March 17 through March 28, 2003.

On March 19, 2003, in a memo to the file, the Department placed on the record information gathered in the course of this investigation, including information from Respondents' web sites, statistical and trade information, and other information relevant to this investigation. Also on March 19, 2003, in a separate memo to the file, the Department extended the due date for case briefs and rebuttal briefs to April 16, 2003, and April 23, 2003, respectively.

On March 27, 2003, the Respondents certified that they served the Petitioners copies of the verification exhibits for CATACO. On April 7, 2003, the Respondents served the verification exhibits for Agifish and Vinh Hoan, and on April 8, 2003, they served the verification exhibits for Nam Viet.

On March 28, 2003, the Petitioners and the Respondents submitted to the record additional comments on the valuation of factors of production for the final determination.

On April 10 and April 11, 2003, the Department released the verification reports for CATACO and Vinh Hoan, and Nam Viet and Agifish, respectively.

On April 11, 2003, the Petitioners requested extensions of the deadlines to submit case and rebuttal briefs. On April 14, 2003, the Department granted these extensions until April 30, 2003 and May 7, 2003, respectively.

On April 14, 2003, the Department requested that the Respondents submit missing information from Vinh Hoan's verification Exhibits. On April 15, 2003, the Department requested that the Respondents submit Nam Viet's missing verification exhibit 50.

On April 24, 2003, the Petitioners requested a one-week extension for the purposes of submitting their final case and rebuttal briefs.

On May 1, 2003, the Department placed information gathered during the course of this investigation on the record.

On May 5, 2003, the Petitioners, the Respondents, and the GOV filed their respective case briefs. On May 6, 2003, the Petitioners filed certain replacement pages for Petitioners' May 5, 2003 case brief. The Respondents and Petitioners submitted their respective rebuttal case briefs on May 12, 2003.

On May 12, 2003, the Department placed on the record letters from importers Picadilly Cafeterias, Inc. and Ryan Family Steakhouses, Inc. commenting on the present antidumping duty investigation.

On May 23, 2003, the Department held a public hearing in accordance with section 351.310(d)(1) of the Department's regulations. Representatives for the Respondents, the Petitioners, the GOV, and Piazza Seafood World, an importer, were present.

On May 28, 2003, we published the preliminary critical circumstances determination for the Section A Voluntary Respondents. See Notice of Affirmative Preliminary Critical Circumstances Determination for Voluntary Section A Respondents: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam ("Section A Voluntaries Critical Circumstances"), 68 FR 31681 (May 28, 2003). In addition, on June 12, 2003, the Department published a correction to the Voluntary Section A Respondents' Critical Circumstances. See Notice of Affirmative Preliminary Determination of Critical Circumstances for Voluntary Section A Respondents: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam; Correction 68 FR 35197 (June 12, 2003).

### Suspension Agreement

As discussed above under "Case History," on March 7, 2003, the GOV submitted a proposed suspension agreement in accordance with the Department's regulations at 19 CFR 351.208. The Department and the GOV engaged in lengthy, intensive discussions regarding a possible suspension agreement, and both sides

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made multiple settlement offers. However, we were unable to reach an agreement that fulfilled the Department's statutory requirements.

### Scope of the Investigation

The Department has clarified the scope for purposes of the final determination to read as follows:

For purposes of this investigation, the product covered 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 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 Harmonized Tariff Schedule of the United States ("HTSUS"). This investigation covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### Period of Investigation

The period of investigation ("POI") is October 1, 2001 through March 31, 2002. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition (June 28, 2001). See Section 351.204(b)(1) of the Department's regulations.

#### Analysis of Comments Received

All issues raised in the case brief by parties to this investigation are addressed in detail in the Memorandum to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Group III, Issues and Decision Memorandum for the Antidumping Duty Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, (June 16, 2003), ("Final Decision Memorandum"), which is hereby adopted by this notice. A list of the issues which parties raised, and to which we have responded, all of which are in the Final Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B-099. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Final Decision Memorandum are identical in content.

#### Nonmarket Economy Country Status

On November 8, 2002, the Department determined under section 771(18)(A) of the Act, after analyzing comments from interested parties, that based on the preponderance of evidence on the record related to economic reforms in Vietnam to date, analyzed as required under section 771(18)(B) of the Act, that Vietnam should be treated as a non-market economy country under the U.S. antidumping law, effective July 1, 2001. See Memorandum for Faryar Shirzad, Assistant Secretary,



Import Administration from Shauna Lee-Alaia, George Smolik, Athanasios Mihalakas and Lawrence Norton, Office of Policy through Albert Hsu, Senior Economist, Office of Policy, Import Administration, Jeffrey May, Director, Office of Policy, Import Administration, Antidumping Duty Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Determination of Market Economy Status ("Market Status Memo"), dated November 8, 2002.

A designation as a non-market economy remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act).

### Separate Rates

In our Preliminary Determination, we found that the Mandatory Respondents and all Voluntary Section A Respondents, including Vinh Long, met the criteria for the application of separate, company-specific antidumping duty rates. For purposes of the final determination, we continue to grant separate, company-specific rates to the eleven exporters which sold certain frozen fish fillets to the United States during the POI. For a complete discussion of the Department's determination that the Respondents, including Vinh Long, are entitled to a separate rate, please see the Final Decision Memorandum at Comments 5 and 6.

### Critical Circumstances

Based on new information on the record of this investigation and information provided in our preliminary affirmative critical circumstances determinations, we have determined for purposes of the final determination, that critical circumstances exist for Nam Viet, Afiex, Cafatex, QVD, Da Nang, and the Vietnam-wide entity. For further details, see the Notice of Affirmative Preliminary Determination of Critical Circumstances for Voluntary Section A Respondents: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam 68 FR 31681 (May 28, 2003), the Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam, 68 FR 4986, (January 31, 2003), and the Final Decision Memorandum at Comment 7.

Additionally, because we have determined that Vinh Long had sales of subject merchandise during the POI and merits a separate rate, we must therefore, conduct a critical circumstances analysis for Vinh Long. We have found that critical circumstances exist for Vinh Long. For a more detailed discussion, please see the Final Decision Memorandum at Comment 6.

### Vietnam-Wide Rate

All exporters and the GOV were given an opportunity to provide information showing they qualify for separate rates. Consequently, we are applying a single antidumping rate the Vietnam-wide rate to all producers/exporters that failed to respond to the Department's Q&V questionnaire and demonstrate entitlement to a separate rate. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China, 65 FR 25706, 25707 (May 3, 2000). The Vietnam-wide rate applies to all entries of the merchandise under investigation except for entries from Agifish, Vinh Hoan, Nam Viet, CATACO, Afiex, Cafatex, Da Nang, Mekonimex, QVD, Viet Hai and Vinh Long.

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For the reasons set forth in the Preliminary Determination and reaffirmed in the Final Decision Memorandum at Comment 8, we continue to find that the use of adverse facts available for the Vietnam-wide rate is appropriate. As adverse facts available, the Vietnam-wide rate is not intended to be a reflection of the antidumping duty margins applied as separate rates to the respondent companies. Consistent with our Preliminary Determination and with previous cases in which the respondent is considered uncooperative, as adverse facts available, we have applied a rate of 63.88 percent, the highest rate calculated in the initiation stage of the investigation from information provided in the petition (as adjusted by the Department). See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany, 63 FR 10847 (March 5, 1998). The information used to calculate this Vietnam-wide rate was corroborated independently with some small changes in accordance with Section 776(c) of the Act. See Memorandum to Edward C. Yang, Director, Office IX from Alex Villanueva, Case Analyst through James C. Doyle, Program Manager, Preliminary Determination in the Investigation of Certain Frozen Fish Fillets from Vietnam, Corroboration Memorandum ("Corroboration Memo"), dated January 24, 2003.

#### Surrogate Country

For purposes of the final determination, we continue to find that Bangladesh is the appropriate primary surrogate country. For further discussion and analysis regarding the surrogate country selection, see the Department's Preliminary Determination.

#### Verification

As provided in section 782(i) of the Act, we verified the

information submitted by each respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the Respondents. For company-specific changes from the Amended Preliminary Determination as a result of verification, see Memorandum to the File, from Alex Villanueva, Case Analyst, Final Analysis Memorandum for Agifish April 11, 2003 ("Final Analysis Memo for Agifish"), Memorandum to the File, from Joe Welton, Case Analyst, Final Analysis Memorandum for Nam Viet April 11, 2003 ("Final Analysis Memo for Nam Viet"), Memorandum to the File, from Lisa Shishido, Case Analyst, Final Analysis Memorandum for Vinh Hoan April 10, 2003 ("Final Analysis Memo for Vinh Hoan"), Memorandum to the File, from Paul Walker, Case Analyst, Final Analysis Memorandum for CATACO April 10, 2003 ("Final Analysis Memo for CATACO").

#### Facts Available

For purposes of this final determination, we have determined that the use of facts available is appropriate for certain elements of the Respondents' dumping margin calculations. 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. For a further discussion of the facts available applied to the Respondents, please see the Final Decision Memorandum at Comments 2 and 12.

#### Changes Since the Preliminary Determination

Based on our findings at verification, additional information placed on the record of this investigation, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. For discussions of the company-specific changes made since the preliminary determination to the final margin programs, see Final Analysis Memo for Agifish, Final Analysis Memo for Nam Viet, Final Analysis Memo for Vinh Hoan, and Final Analysis Memo for CATACO.

#### Margins for Cooperative Exporters Not Selected

For those exporters who responded to Section A of the Department's antidumping questionnaire and had sales of the merchandise under

investigation, but were not selected as Mandatory Respondents in this investigation, the Department has calculated a weighted-average margin based on the rates calculated for those exporters that were selected to respond in this investigation, excluding any rates that are zero, de minimis or based entirely on adverse facts available. Companies receiving this rate are identified by name in the "Suspension of Liquidation" section of this notice. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China, 64 FR 24101 (May 11, 2001). For further discussion, see the Preliminary Determination.

### Surrogate Values

The Department made changes to the surrogate values used to calculate the normal value from the Preliminary Determination. For a complete discussion of the surrogate values, see Memorandum to the File from Lisa Shishido, Case Analyst through James C. Doyle, Program Manager and Edward C. Yang, Office Director, regarding Factor Valuations for the Final Determination ("Final Factor Value Memo"), dated June 16, 2003.

### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Bureau of Customs and Border Protection ("Customs") to continue to suspend liquidation of all entries of subject merchandise from Vietnam, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the Preliminary Determination for Agifish, CATACO, Vinh Hoan, Mekonimex, and Viet Hai. With respect to Nam Viet, QVD, Da Nang, Afiex, Cafatex, Vinh Long and all other Vietnam exporters, the Department will direct Customs to suspend liquidation of all entries of certain frozen fish fillets from Vietnam that are entered, or withdrawn from warehouse, on or after 90 days before the date of publication of the Preliminary Determination. Customs shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension of liquidation instructions will remain in effect until further notice.

### Final Determination

We determine that the following weighted-average dumping margins exist for the period October 1, 2001 through March 30, 2002:

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Certain Frozen Fish Fillets from Vietnam

Producer/Manufacturer/Exporter	Weighted-Average Margin (Percent)
Agifish.....	44.76
Vinh Hoan.....	36.84
Nam Viet.....	52.90
CATACO.....	45.55
Afiex.....	44.66
Cafatex.....	44.66
Da Nang.....	44.66
Mekonimex.....	44.66
QVD.....	44.66
Viet Hai.....	44.66
Vinh Long.....	44.66
Vietnam Wide Rate.....	63.88

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the terms of an APO is a sanctionable violation. This determination is issued and published in accordance with sections 735 (d) and 777(i)(1) of the Act.

Dated: June 16, 2003.  
Joseph A Spetrini,  
Acting Assistant Secretary for Import Administration.

Appendix: Issues in the Final Decision Memorandum

Comment 1: Total Adverse Facts Available  
Comment 2: Partial Adverse Facts Available  
Comment 3: Valuation of Factors of Production  
Comment 4: Catfish Article  
Comment 5: Separate Rates for Respondents  
Comment 6: Vinh Long\1\'s Separate Rate

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\1\ Vinh Long Import-Export Company

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Comment 7: Critical Circumstances for Mandatory Respondents\2\

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\2\ The Mandatory Respondents in this case are Agifish, CATACO,  
Nam Viet and Vinh Hoan.

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Comment 8: Critical Circumstances for the Voluntary Section A  
Respondents\3\

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\3\ The Voluntary Section A Respondents in this case receiving a  
separate rate are Afiex, Cafatex, Da Nang, Mekonimex, QVD, Viet Hai,  
and Vinh Long (see Comment 6).

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Comment 9: Vietnam-Wide Rate  
Comment 10: Company Names for Customs\4\ Instructions

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\4\ U.S. Bureau of Customs and Border Protection.

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Comment 11: Scope Clarification  
Comment 12: By-Product Offsets  
Comment 13: Proper Reporting Periods  
Comment 14: Selection of Surrogate Values  
Comment 15: Valuation of River Water  
Comment 16: Containerization and Warehousing

Comment 17: Correction of Inadvertent Errors  
Comment 18: Species-Specific Information  
[FR Doc. 03-15794 Filed 6-20-03; 8:45 am]