

merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales.

To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), the Department calculated importer-specific *ad valorem* ratios based on the entered value or the estimated entered value, when entered value was not reported.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent).

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) ("Assessment Policy Notice"). This clarification will apply to entries of subject merchandise during the POR produced by Venus and Facor for which these companies did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate involved in the transaction. For a full discussion of this clarification, see *Assessment Policy Notice*.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of SS Bar from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate established in the final results of this administrative review, except if the rate is less than 0.5 percent and is, therefore, *de minimis*, the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less than fair value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and

(4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 12.45 percent, the "all others" rate established in the LTFV investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915 (December 28, 1994). These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also 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 review period. 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.

#### Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protection order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 28, 2011.

**Paul Piquado,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011-4981 Filed 3-3-11; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-802]

#### Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results, Partial Rescission, and Request for Revocation, In Part, of the Fifth Administrative Review

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

**SUMMARY:** The Department of Commerce ("Department") is conducting the fifth administrative review of the antidumping duty order on certain frozen warmwater shrimp ("shrimp") from the Socialist Republic of Vietnam ("Vietnam") for the period of review ("POR") February 1, 2009, through January 31, 2010. As discussed below, we preliminarily determine that sales have been made below normal value ("NV"). 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 entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

**DATES: Effective Date:** Insert date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Susan Pulongbarit, Paul Walker, or Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4031, (202) 482-0413, or (202) 482-4047, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On February 1, 2005, the Department published in the **Federal Register** the antidumping duty order on frozen warmwater shrimp from Vietnam. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) ("Order"). On February 1, 2010, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order* for the period February 1, 2009, through January 31, 2010. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 75 FR 5037 (February 1, 2010).

From February 26, 2010, through March 1, 2010, we received requests to conduct administrative reviews from the American Shrimp Processors Association ("ASPA"), the Louisiana Shrimp Association ("LSA"), the Domestic Producers,<sup>1</sup> and certain Vietnamese companies. The Department also received three requests for revocation. See "Requests for

<sup>1</sup> The Domestic Producers are the Ad Hoc Shrimp Trade Action Committee members: Nancy Edens; Papa Inc., Carolina Seafoods; Bosarge Boats, Inc.; Knights Seafood Inc.; Big Grapes, Inc.; Versaggi Shrimp Co.; and Craig Wallis.

Revocation, In Part” section, below. On April 9, 2010, the Department published in the **Federal Register** the notice of initiation of this administrative review. *See Notice of Initiation of Administrative Reviews and Requests for Revocation in Part of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam and the People’s Republic of China*, 75 FR 18154 (April 9, 2010).

On September 14, 2010, the Department published in the **Federal Register** a notice extending the time period for issuing the preliminary results by 120 days. *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Extension of Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 55740 (September 14, 2010).

On April 27, 2010, the Department received a letter from Vinh Hoan Corporation indicating that it made no shipments of subject merchandise during the POR. On May 7, 2010, the Department received letters from Gallant Ocean (Vietnam) Co., Ltd., Kien Cuong Seafood Processing Import Export Joint-Stock Company, Quoc Viet Seaproducts Processing Trading Import and Export Co., Ltd., Viet Hai Foods Co., Ltd. and its branch Nam Hai Foodstuff and Export Company Ltd., and Vinh Loi Import Export Company, indicating that they made no shipments of subject merchandise during the POR.

Of the 146 companies/groups upon which we initiated an administrative review, 23 companies submitted separate-rate certifications, seven companies submitted separate-rate applications, and six companies stated that they did not export subject merchandise to the United States during the POR. The Department addresses the review status of each grouping of companies below.

#### **Preliminary Partial Rescission of Administrative Review**

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that Gallant Ocean (Vietnam) Co., Ltd., Kien Cuong Seafood Processing Import Export Joint-Stock Company, Quoc Viet Seaproducts Processing Trading Import and Export Co., Ltd., Viet Hai Foods Co., Ltd. and its branch Nam Hai Foodstuff and Export Company Ltd., Vinh Loi Import Export Company, and Vinh Hoan Corporation made no shipments of subject merchandise during the POR of this administrative review. The Department received a no-shipment certification from the Vinh Hoan Corporation on April 27, 2010, and no-shipment certifications from Gallant

Ocean (Vietnam) Co., Ltd., Kien Cuong Seafood Processing Import Export Joint-Stock Company, Quoc Viet Seaproducts Processing Trading Import and Export Co., Ltd., Viet Hai Foods Co., Ltd. and its branch Nam Hai Foodstuff and Export Company Ltd., and Vinh Loi Import Export Company on May 7, 2010. The Department issued no-shipment inquiries to U.S. Customs and Border Protection (“CBP”) in January 2011, informing CBP of the no-shipment certifications from Gallant Ocean (Vietnam) Co., Ltd., Kien Cuong Seafood Processing Import Export Joint-Stock Company, Quoc Viet Seaproducts Processing Trading Import and Export Co., Ltd., Viet Hai Foods Co., Ltd. and its branch Nam Hai Foodstuff and Export Company Ltd., Vinh Loi Import Export Company, and Vinh Hoan Corporation during the POR, and asking CBP to provide any information that contradicted these certifications. We did not receive any response from CBP, thus indicating that there were no entries of subject merchandise into the United States exported by these companies. Additionally, the Department did not find any entries of subject merchandise into the United States in the CBP data on the record. Consequently, as none of these companies made exports of subject merchandise to the United States during the POR, we are preliminarily rescinding this administrative review with respect to these six companies. *See* 19 CFR 351.213(d)(3).

The Department initiated administrative reviews on Camau Seafood Fty., Grobest & I-Mei Industry Vietnam, and Seafoods and Foodstuff Factory Vietnam. Camau Frozen Seafood Processing Import Export Corporation (“Camimex”), Grobest & I-Mei Industrial Vietnam Co., Ltd., aka Grobest, and Thuan Phuoc Seafoods and Trading Corporation (“Thuan Phuoc Corp.”), respectively, submitted separate rate certifications stating these are incorrect deviations of their names which were not used during the POR, and upon which the Department should rescind. Because there is no record evidence that these names are not valid names for other companies, we are preliminarily denying the rescission requests for these company names.

The Department initiated administrative reviews on Can Tho Animal Fisheries Product Processing Export Enterprise, Cuu Long Seaproducts Limited and Coastal Fisheries Development. Subsequently, Cafatex Fishery Joint Stock Corporation (aka “Cafatex”), Cuulong Seaproducts Company (aka “Cuulong Seapro”) and Coastal Fisheries Development

Corporation (aka “COFIDEC”) submitted separate rate certifications. We note that COFIDEC, Cafatex and Cuulong Seapro have stated that Can Tho Animal Fisheries Product Processing Export Enterprise, Cuu Long Seaproducts Limited and Coastal Fisheries Development are derivations of names that they have used in the past. Because COFIDEC, Cafatex and Cuulong Seapro are exporters upon which we are conducting a review, we are including all names under which they have operated, regardless of whether a particular name was used during the POR. As a consequence, the Department finds it inappropriate to rescind on these previously used names.

#### **Respondent Selection**

Section 777A(c)(1) of the Tariff Act of 1930, as amended (“the Act”) directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to examine all exporters or producers involved in the review.

On April 14, 2010, the Department placed on the record data obtained from CBP with respect to the selection of respondents, inviting comments from interested parties. *See* Letter from the Department to Interested Parties, Regarding: 2009–2010 Administrative Review of the antidumping Duty Order of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: CBP Data for Respondent Selection. On April 22, 2010, Domestic Producers, ASPA/LSA, and certain respondents provided comments on the Department’s respondent selection methodology.

Because of the large number of exporters involved in this review, the Department determined to limit the number of respondents individually examined. On July 30, 2010, the Department issued its respondent selection memorandum. Based upon section 777A(c)(2)(B) of the Act, the Department selected Camimex, Minh Phu Seafood Corporation (and its affiliates Minh Qui Seafood Co., Ltd., and Minh Phat Seafood Co., Ltd.) (collectively “the Minh Phu Group”), and Nha Trang Seaproduct Company (“Nha Trang Seafoods”) for individual examination (hereinafter collectively “mandatory respondents”) because they were the largest exporters, by volume, of subject merchandise during the POR. *See* July 30, 2010, Memorandum to James C. Doyle, through Scot T.

Fullerton, from Susan Pulongbarit, regarding: Selection of Respondents for the 2009–2010 Antidumping Duty Administrative Review of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam (“Respondent Selection Memo”). The Department sent antidumping duty questionnaires to Camimex, the Minh Phu Group, and Nha Trang Seafoods on August 3, 2010.

Camimex, the Minh Phu Group, and Nha Trang Seafoods submitted Section A Questionnaire Responses (“AQR”) on August 24, 2010. Camimex submitted its Section C and Section D Questionnaire Responses on September 9, and September 10, 2010, respectively. The Minh Phu Group submitted its Section C and Section D Questionnaire Responses on September 23, and September 27, 2010, respectively. Nha Trang Seafoods submitted its Section C and Section D Questionnaire Responses on September 10, and September 21, 2010, respectively. The Department issued supplemental questionnaires to Camimex, the Minh Phu Group, and Nha Trang Seafoods between September 2010 and January 2011 to which all companies responded.

### Collapsing

As indicated above, the Department selected Nha Trang Seafoods as one of the mandatory respondents in this investigation. In responding to the Department’s antidumping questionnaire, Nha Trang Seafoods treated itself and its affiliates, NT Seafoods Corporation (“NT Seafoods”), Nha Trang Seafoods—F.89 Joint Stock Company (“Nha Trang Seafoods—F.89”), and NTSF Seafoods Joint Stock Company (“NTSF Seafoods”), as a single entity, *i.e.*, collapsed NT Seafoods, Nha Trang Seafoods—F.89, and NTSF Seafoods with itself. Nha Trang Seafoods based its decision to collapse NT Seafoods, Nha Trang Seafoods—F.89, and NTSF Seafoods with itself primarily on the fact that Nha Trang Seafoods is a significant shareholder of each of its affiliates and each of these companies produced subject merchandise and exported it to the United States through Nha Trang Seafoods.

Pursuant to 19 CFR 351.401(f), the Department will collapse producers and treat them as a single entity where (1) Those producers are affiliated, (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production.

To the extent that this provision does not conflict with the Department’s application of separate rates and enforcement of the non-market economy (“NME”) provision, section 773(c) of the Act, the Department will collapse two or more affiliated entities in a case involving an NME country if the facts of the case warrant such treatment. Furthermore, we note the factors listed in 19 CFR 351.401(f)(2) are not exhaustive, and in the context of an NME investigation or administrative review, other factors unique to the relationship of business entities within the NME country may lead the Department to determine that collapsing is either warranted or unwarranted, depending on the facts of the case. *See Hontex Enterprises, Inc. v. United States*, 248 F. Supp. 2d 1323, 1342 (CIT 2003) (noting that the application of collapsing in the NME context may differ from the standard factors listed in the regulation).

In summary, if there is evidence of significant potential for manipulation between or among affiliates which produce and/or export similar or identical merchandise, whether or not all such merchandise is exported to the United States, the Department may find such evidence sufficient to apply the collapsing criteria in an NME context in order to determine whether all or some of those affiliates should be treated as one entity. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People’s Republic of China*, 66 FR 22183 (May 3, 2001); *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People’s Republic of China*, 66 FR 49632 (September 28, 2001); and *Anshan Iron & Steel Co., Ltd. v. United States*, 27 C.I.T. 1234, 1246–47 (CIT 2003).

The decision of whether to collapse two or more affiliated companies is specific to the facts presented in the proceeding and is based on several considerations, including the structure of the collapsed entity, the level of control between and among affiliates, and the level of participation by each affiliate in the proceeding. Given the unique relationships which arise in NMEs between individual companies and the government, the same separate rate will be assigned to each individual company that is part of the collapsed entity only if the facts, taken as a whole, support such a finding (*see* “Separate Rates” section below for further discussion).

Based on the reasons explained in the Collapsing Memo, and pursuant to 19

CFR 351.401(f), we have preliminarily collapsed NT Seafoods, Nha Trang Seafoods—F.89, NTSF Seafoods, and Nha Trang Seafoods because they are affiliated producers of the merchandise under consideration, and because there is a significant potential for manipulation of prices and production decisions between these parties. *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James Doyle, Director, Office 9, AD/CVD Operations, from Susan Pulongbarit, International Trade Analyst, Office 9, AD/CVD Operations, Regarding Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Whether to Collapse NT Seafoods Corporation, Nha Trang Seafoods—F.89 Joint Stock Company, and NTSF Seafoods Joint Stock Company with Nha Trang Seaproduct Company, dated February 28, 2011 (“Collapsing Memo”). For all relevant purposes, all subsequent references in this notice to the Nha Trang Seafoods Group will be to the collapsed entity that includes NT Seafoods, Nha Trang Seafoods—F.89, and NTSF Seafoods.

### Surrogate Country and Surrogate Value Data

On August 20, 2010, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value data.<sup>2</sup> On September 14, 2010, the Department extended the comment period for surrogate country selection from September 20, 2010, to October 4, 2010, and for surrogate value comments from October 20, 2010, to November 3, 2010. On October 4, 2010, the Department received comments on surrogate country selection from Domestic Producers. On November 3, 2010, the Department received information to value factors of production (“FOP”) from ASPA/LSA, Domestic Producers and the mandatory respondents, Camimex, the Minh Phu Group, and Nha Trang Group. On November 12, 2010, the Department received a rebuttal response to Domestic Producers’ surrogate value (“SV”) submission from the mandatory respondents. The SVs placed on the record from ASPA/LSA and the mandatory respondents were obtained from sources in Bangladesh, whereas the SVs placed on the record by

<sup>2</sup> See the Department’s Letter to All Interested Parties; Antidumping Duty Order on Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, dated August 20, 2010.

Domestic Producers were obtained from sources in the Philippines.

### Scope of the Order

The scope of the order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>3</sup> deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States ("HTSUS"), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the order. In addition, food preparations, which are not "prepared meals," that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp

and prawns (HTS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a "dusting" layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by the order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10 and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of the order is dispositive.

### Requests for Revocation, In Part

During the request for review period in this review, three respondents<sup>4</sup> requested that the *Order* be partially revoked with respect to them. Of the revocation companies, Camimex is a mandatory respondent, and the remaining two are separate rate respondents in this proceeding.

In their request for revocation, the revocation companies argued that each has maintained three consecutive years of sales at not less than NV, and that, as a result, they are eligible for revocation under section 751(d) of the Act and 19 CFR 351.222(b)(2).

We preliminarily determine not to revoke the *Order* with respect to the revocation companies that were not selected for individual review. The Act affords the Department broad discretion to limit the number of respondents selected for individual review when the large number of review requests makes the individual calculation of dumping

margins for all companies under review impracticable. Specifically, section 777A(c)(2) of the Act provides that, if it is not practicable for the Department to make individual dumping margin determinations because of the large number of exporters or producers involved, the Department may determine margins for a reasonable number of exporters or producers. Although the Department's regulations set out rules and procedures for possible revocation of a dumping order, in whole or in part, based on an absence of dumping, it is silent on the applicability of this regulation when the Department has limited its examination under section 777A(c)(2) of the Act. The Department does not interpret the regulation as requiring it to conduct an individual examination of the non-selected revocation companies, or a verification of the companies' data, where, as here, the Department determined to limit its examination to a reasonable number of exporters in accordance with section 777A(c)(2)(B), and the non-selected revocation companies were not selected under this provision. Nothing in the regulation requires the Department to conduct an individual examination and verification when the Department has limited its review, under section 777A(c)(2). As explained above, the non-selected revocation companies were not selected for individual review because, pursuant to 777A(c)(2)(B) of the Act, the Department selected the three largest exporters, by volume. See Respondent Selection Memo. Thus, because we have not selected the non-selected revocation companies for individual examination, we preliminarily determine not to revoke the *Order* with respect to these companies.

However, the non-selected revocation companies filed timely separate-rate certifications, as evidence of each company's continued eligibility for a separate rate. Thus, the Department considers the non-selected revocation companies to be cooperative respondents eligible for a separate rate.

Furthermore, with respect to Camimex's request for revocation, as a mandatory respondent in this review, we preliminarily determine not to revoke the *Order*. In its request for revocation, Camimex argued that, with the completion of this review, it would have maintained three consecutive years of sales at not less than NV. Camimex argued that, as a result of three consecutive years of sales at not less than NV, it is eligible for revocation under section 751(d)(1) of the Act and 19 CFR 351.222(b)(2). However, for these preliminary results, based on sales

<sup>3</sup> "Tails" in this context means the tail fan, which includes the telson and the uropods.

<sup>4</sup> Camimex, Grobest & I-Mei Industrial (Vietnam) Co., Ltd. ("Grobest") and Phuong Nam Foodstuff Corp. ("Phuong Nam") (collectively, the "revocation companies").

and production data provided by Camimex for the fifth administrative review, the Department has calculated a (non-*de minimis*) positive margin for Camimex. Therefore, under 751(d)(1) of the Act and 19 CFR 351.222(b)(2), we have preliminarily determined not to revoke the *Order* with respect to Camimex.

#### Verification

Pursuant to 19 CFR 351.307(b)(iv), between December 13, and December 18, 2010, the Department conducted a verification of Cam Ranh Seafoods Processing Enterprise Pte.'s ("Cam Ranh") separate rate status and Camimex's sales and FOPs. See Memorandum to the File through Paul Walker, Acting Program Manager, Office 9, from Jerry Huang, International Trade Analyst, "Verification of the Cam Ranh Seafoods Processing Enterprise Pte. Separate Rate Response in the 2009–10 Administrative Review of Certain Warmwater Shrimp from the Socialist Republic of Vietnam", dated March 8, 2010; Memorandum to the File through Paul Walker, Acting Program Manager, Office 9, from Jerry Huang, International Trade Analyst, "Verification of the Sales and Factors of Production Response Camimex in the 2009–10 Administrative Review of Certain Warmwater Shrimp from the Socialist Republic of Vietnam", dated March 8, 2010.

#### Non-Market Economy Country Status

In every case conducted by the Department involving Vietnam, Vietnam has been treated as an NME country. 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. See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results, Partial Rescission and Request for Revocation, in Part, of the Fourth Administrative Review*, 75 FR 12206 (March 15, 2010) (unchanged in final results). None of the parties to this proceeding have contested such treatment. Accordingly, we calculated the NV in accordance with section 773(c) of the Act, which applies to NME countries.

#### Separate Rates

In proceedings involving NME countries, it is the Department's practice to begin with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. See, e.g., *Separate Rates and Combination Rates in Antidumping Investigations Involving*

*Non-Market Economy Countries*. 70 FR 17233 (April 5, 2005); see also *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006) ("*Diamond Sawblades*"). It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can affirmatively demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See, e.g., *Diamond Sawblades*, 71 FR at 29307. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. *Id.* The Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control. See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

In addition to the three mandatory respondents, Camimex, the Minh Phu Group, and Nha Trang Seafoods Group, the Department received separate rate applications or certifications from the following 20 companies ("Separate-Rate Applicants"): Amanda Foods (Vietnam) Limited; Bac Lieu Fisheries Joint Stock Company; C.P. Vietnam Livestock Corporation; Cafatex Fishery Joint Stock Corporation, aka Cafatex Corp.; Cadovimex Seafood Import-Export and Processing Joint Stock Company, aka CADOVIMEX-VIETNAM; Ca Mau Seafood Joint Stock Company, aka Seaprimexco Vietnam; Camranh Seafoods and Branch of Cam Ranh; Can

Tho Import Export Fishery Limited Company, aka CAFISH; CATACO Sole Member Limited Liability Company, aka CATACO; Coastal Fisheries Development Corporation, aka COFIDEX; Cuulong Seaproducts Company, aka Cuulong Seapro; Danang Seaproducts Import Export Corporation, aka Seaprodex Danang and its branch Tho Quang Seafood Processing and Export Company; Grobest & I-Mei Industrial Vietnam Co., Ltd., aka Grobest; Investment Commerce Fisheries Corporation, aka INCOMFISH; Kim Anh Company, Limited; Minh Hai Export Frozen Seafood Processing Joint Stock Company, aka Minh Hai Jostoco; Minh Hai Joint-Stock Seafoods Processing Company, aka Seaprodex Minh Hai; Ngoc Sinh Private Enterprise and its branch, Ngoc Sinh Seafoods Processing and Trading Enterprise, aka Ngoc Sinh Seafoods; Nhat Dhuc Co., Ltd.; Nha Trang Fisheries Joint Stock Company, aka Nha Trang Fisco; Phu Cuong Jostoco Seafood Corporation; Phuong Nam Foodstuff Corp., aka Phuong Nam Co., Ltd.; Sao Ta Foods Joint Stock Company, aka FIMEX VN; Soc Trang Seafood Joint Stock Company, aka STAPIMEX; Thuan Phuoc Seafoods and Trading Corporation; UTXI Aquatic Products Corporation, aka UTXICO; and Viet Hai Seafood Co., Ltd., a/k/a Vietnam Fish One Co., Ltd. However, 90 companies did not submit either a separate-rate application or certification.<sup>5</sup> Therefore, because these companies did not demonstrate their eligibility for separate rate status, they remain preliminarily included as part of the Vietnam-wide entity.

Additionally, we note that some of the Separate-Rate Applicants requested separate rate status for various names which were not included on their business license.<sup>6</sup> Because these names (1) have not been granted separate-rate status in a previous granting period, and (2) do not appear on the business license submitted to the Department, and therefore are not recognized as representing the same entity, we are preliminarily not including these names on the lists of those which separate rate status applies.<sup>7</sup>

#### a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining

<sup>5</sup> See Appendix 1.

<sup>6</sup> See Appendix II.

<sup>7</sup> See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47191 (September 15, 2009) ("*3rd AR Final*") and accompanying Issues and Decision Memorandum at Comment 17.

whether an individual company may be granted a separate rate: (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. The evidence provided by Camimex, the Minh Phu Group, Nha Trang Seafoods Group, and the Separate-Rate Applicants supports a preliminary finding of *de jure* absence of government control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies. See, e.g., Camimex's AQR at Exhibit A-1, the Minh Phu Group's AQR at Exhibit 1, Nha Trang Seafoods Group's AQR at Exhibit A-1.

#### b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586-87; 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). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The evidence provided by Camimex, the Minh Phu Group, Nha Trang Seafoods Group, and the Separate-Rate Applicants supports a preliminary finding of *de facto* absence of government control based on the following: (1) The companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate

and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue. See, e.g., Camimex's AQR at 2-15 and Exhibit A-1, the Minh Phu Group's AQR at 3-26 and Exhibit A-1, Nha Trang Seafoods Group's AQR at 3-16 and Exhibit A-1. Therefore, the Department preliminarily finds that Camimex, the Minh Phu Group, Nha Trang Seafoods Group, and the Separate-Rate Applicants have established that they qualify for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

#### Separate Rate Calculation

For exporters subject to administrative review that were determined to be eligible for separate rate status, but were not selected as mandatory respondents, the Department generally weight-averages the rates calculated for the mandatory respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available.<sup>8</sup> Consequently, consistent with our practice, we have preliminarily established a margin for the separate rate respondents based on the rates we calculated for the two mandatory respondents that received a calculated margin. We note that it is the Department's practice to calculate the rate based on the average of the margins calculated for those companies selected for individual review, weighted by each company's publicly-ranged quantity of reported U.S. transactions. See *Ball Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (Sept. 1, 2010) ("*Ball Bearings*"). Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we have calculated the separate rate based on a simple average of Camimex and the Minh Phu Group's margins. Following these preliminary results, the Department intends to request that the mandatory respondents provide the Department with publicly-

<sup>8</sup> See, e.g., *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review*, 73 FR 8273, 8279 (February 13, 2008) (unchanged in final results).

ranged quantities of their reported U.S. transactions.

#### Vietnam-Wide Entity

Upon initiation of the administrative review, we provided the opportunity for all companies upon which the review was initiated to complete either the separate-rates application or certification. The separate-rate certification and separate-rate applications were available at: <http://ia.ita.doc.gov/nme/nme-sep-rate.html>.

We have preliminarily determined that 90 companies did not demonstrate their eligibility for a separate rate and are properly considered part of the Vietnam-wide entity. In NME proceedings, "rates" may consist of a single dumping margin applicable to all exporters and producers." See 19 CFR 351.107(d). As explained above in the "Separate Rates" section, all companies within Vietnam are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are thus assigned a single antidumping duty rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities. We consider the influence that the government has been found to have over the economy to warrant determining a rate for the entity that is distinct from the rates found for companies that have provided sufficient evidence to establish that they operate freely with respect to their export activities. See *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*, 68 FR 37116 (June 23, 2003). In this regard, we note that no party has submitted evidence of the proceeding to demonstrate that such government influence is no longer present or that our treatment of the NME entity is otherwise incorrect. Therefore, we are assigning the entity's current rate of 25.76%, the only rate ever determined for the Vietnam-wide entity in this proceeding.

#### Surrogate Country

When the Department conducts an antidumping administrative review of 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 FOPs, valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the

Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. Further, pursuant to 19 CFR 351.408(c)(2), the Department will normally value FOP in a single country, except for labor. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in Memorandum to the File through Paul Walker, Acting Program Manager, Office 9 from Jerry Huang, International Trade Analyst, Office 9; 2009–2010 Antidumping Duty Administrative Reviews of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Results, dated February 28, 2011 ("Surrogate Value Memorandum").

On August 20, 2010, the Department sent interested parties a letter requesting comments on surrogate country selection and information pertaining to valuing FOPs. On October 4, 2010, the Department received comments from the Domestic Producers and mandatory respondents regarding surrogate country. The Domestic Producers submitted surrogate country comments suggesting that the Department select the Philippines as the surrogate country and the mandatory respondents submitted surrogate country comments suggesting that the Department select Bangladesh as the surrogate country.

On November 3, 2010, ASPA/LSA, Domestic Producers, and the mandatory respondents submitted SV data. On November 12, 2010, the Department received a rebuttal response to the Domestic Producers' SV submission from the mandatory respondents.

Pursuant to its practice, the Department received a list of potential surrogate countries from Import Administration's Office of Policy ("OP").<sup>9</sup> The OP determined that Bangladesh, Pakistan, India, Sri Lanka, the Philippines, and Indonesia were at a comparable level of economic development to Vietnam. See Surrogate Country List. The Department considers the six countries identified by the OP in its Surrogate Country List as "equally comparable in terms of economic development." *Id.* Thus, we find that

<sup>9</sup> See Memorandum from Kelly Parkhill, Acting Director, Office of Policy, to Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9: Request for a List of Surrogate Countries for an Antidumping Duty Administrative Review of the Antidumping Duty Order on Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, dated May 15, 2009 ("Surrogate Country List").

Bangladesh, Pakistan, India, Sri Lanka, the Philippines, and Indonesia are all at an economic level of development equally comparable to that of Vietnam. We note that the Surrogate Country List is a non-exhaustive list of economically comparable countries. Moreover, we find that Egypt, Indonesia, and the Philippines are both economically comparable to Vietnam and significant producers of the subject merchandise. We also note that the record does not contain publicly available SV factor information Pakistan, India, or Sri Lanka.

With regard to Indonesia, the record contains publicly available surrogate factor value information for some factors. The Minh Phu Group, Nha Trang Seafoods Group, and Camimex provided data for both Indonesia and Bangladesh from a study conducted by the Network of Aquaculture Centres in Asia-Pacific ("NACA"), an intergovernmental organization affiliated with the United Nation's ("UN") Food and Agricultural Organization ("FAO"). However, unlike the Bangladeshi data within the NACA study, the Indonesian shrimp data is limited and does not satisfy as many factors of the Department's data selection criteria (e.g., broad-market average). Thus, Indonesia is not the most appropriate surrogate country for purposes of this review.

With regard to the Philippines, the record contains publicly available surrogate factor value information for all FOPs. Domestic Producers provided shrimp data for the Philippines from the 2009 *Fisheries Situationer*, published by the Philippines Bureau of Agricultural Statistics ("BAS"). Dissimilar to the Bangladeshi data within the NACA study, the Philippine shrimp data is limited and does not satisfy as many factors of the Department's data selection criteria. Specifically, we note that the 2009 *Fisheries Situationer* contains no count-size specific data. In prior administrative reviews, the Department found that count-size specific data is important in calculating accurate dumping margins, and rejected shrimp SVs with limited count sizes. See 3rd AR Final at Comment 6. Thus, the Philippines is not the most appropriate surrogate country for purposes of this review.

The Department's practice when selecting the best available information for valuing FOPs, in accordance with section 773(c)(1) of the Act, is to select, to the extent practicable, SVs which are product-specific, representative of a broad-market average, publicly available, contemporaneous with the

POR and exclusive of taxes and duties.<sup>10</sup> As a general matter, the Department prefers to use publicly available data representing a broad-market average to value SVs. *Id.* The Department notes that the value of the main input, head-on, shell-on shrimp, is a critical FOP in the dumping calculation as it accounts for a significant percentage of NV. Moreover, the ability to value shrimp on a count-size basis is a significant consideration with respect to the data available on the record, as the subject merchandise and the raw shrimp input are both sold on a count-size specific basis.

The Bangladeshi shrimp values within the NACA study are compiled by the UN's FAO from actual pricing records kept by Bangladeshi farmers, traders, depots, agents, and processors. See Surrogate Value Memorandum. The Bangladeshi shrimp values within the NACA study are publicly available, represent a broad-market average, are product-specific, count-size-specific, contemporaneous and represent actual transaction prices. Regarding the Philippine data, BAS is unclear in the methodology it used to gather the average price for black tiger shrimp, whether the price is calculated from actual transaction prices, and the timeframe for data collection. Therefore, with respect to the data considerations, because the record contains shrimp values for Bangladesh that better meet our selection criteria than the Philippine source, we are selecting Bangladesh as the surrogate country.

In this regard, given the above-cited facts, we find that the information on the record shows that Bangladesh is an appropriate surrogate country because Bangladesh is at a similar level of economic development pursuant to section 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has reliable, publicly available data for surrogate valuation purposes.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results.<sup>11</sup>

<sup>10</sup> See *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the Eleventh Administrative Review and New Shipper Reviews*, 72 FR 34438 (June 22, 2007) and accompanying Issues and Decision Memorandum at Comment 2A.

<sup>11</sup> In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information

### Date of Sale

Camimex, the Minh Phu Group, and Nha Trang Seafoods Group reported the invoice date as the date of sale because they claim that, for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the invoice date. The Department preliminarily determines that the invoice date is the most appropriate date to use as Camimex, the Minh Phu Group, and Nha Trang Seafoods Group's date of sale, in accordance with 19 CFR 351.401(i).<sup>12</sup>

### Fair Value Comparisons

To determine whether sales of certain frozen warmwater shrimp to the United States by Camimex, the Minh Phu Group, and Nha Trang Seafoods Group were made at less-than-fair-value, the Department compared the export price ("EP") to NV, as described in the "U.S. Price," and "Normal Value" sections below.

### U.S. Price

#### A. Export Price

##### Export Price

In accordance with section 772(a) of the Act, the Department calculated the EP for sales to the United States from Camimex, Nha Trang Seafoods Group, and some of the Minh Phu Group's sales, because the first sale to an unaffiliated party was made before the date of importation. The Department 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 and brokerage and handling. Each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, we based the deduction of these movement charges on SVs. Additionally, for international freight provided by an ME provider and paid in an ME currency,

submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission*, in Part, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>12</sup> See also *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004) and accompanying Issues and Decision Memorandum at Comment 10.

we used the actual cost per kilogram of the freight. See Surrogate Value Memorandum for details regarding the SVs for movement expenses.

#### B. Constructed Export Price

For the majority of the Minh Phu Group's sales, we based U.S. price on constructed export price ("CEP") in accordance with section 772(b) of the Act, because sales were made on behalf of the Vietnam-based company by its U.S. affiliate to unaffiliated purchasers in the United States. For these sales, we based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States. We deducted, where appropriate, commissions, inventory carrying costs, credit expenses, and indirect selling expenses. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by Vietnam service providers or paid for in Vietnamese Dong, we valued these services using SVs (see "Factors of Production" section below for further discussion). For those expenses that were provided by an ME provider and paid for in ME currency, we used the reported expense. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for all of the mandatory respondents, see Memorandum to the File, from Paul Walker, Acting Program Manager, Office 9, 2009–2010 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: MPG Program Analysis for the Preliminary Determination, dated February 28, 2011.

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOPs methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and

the calculation of production costs invalid under the Department's normal methodologies.

### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by respondents for the POR, except as noted above. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available Bangladeshi SVs. In selecting the SVs, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Bangladeshi import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory of production or the distance from the nearest seaport to the factory of production where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's ("CAFC") decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). Where we did not use Bangladeshi Import Statistics, we calculated freight based on the reported distance from the supplier to the factory.

In accordance with the *OTCA 1988* legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.<sup>13</sup> In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.<sup>14</sup> Based on the existence of these subsidy programs that were generally available

<sup>13</sup> See *Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) ("OTCA 1988")* at 590.

<sup>14</sup> See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4–5; *Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; see *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at 17, 19–20; see *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at 23.



to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies.

Additionally, we disregarded prices from NME countries.<sup>15</sup> Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies. For further detail, see Surrogate Value Memorandum.

Therefore, based on the information currently available, we have not used prices from these countries either in calculating the Bangladeshi import-based SVs or in calculating ME input values. In instances where an ME input was obtained solely from suppliers located in these countries, we used Bangladeshi import-based SVs to value the input.

The Department notes that Domestic Producers submitted Philippine shrimp values and the mandatory respondents submitted Bangladeshi shrimp values with which to value the main input, raw shrimp. Domestic Producers submitted Philippine shrimp values obtained from the January–December 2009 *Fisheries Situationer* published by the Philippines Department of Agriculture Bureau of Agricultural Statistics. As stated above, the Minh Phu Group, Nha Trang Seafoods Group, Grobest, and Camimex submitted data contained in the NACA study compiled by the UN’s FAO.

As stated above, the Department’s practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR and exclusive of taxes and duties. Domestic Producers’ submitted shrimp value from the *Fisheries Situationer*, although publicly available, is not count-size specific. As noted above, the shrimp values within the NACA study are compiled from actual pricing records kept by Bangladeshi farmers, traders, depots, agents, and processors, are count-specific, and publicly available.

Therefore, to value the main input, head-on, shell-on shrimp, the Department used data contained in the NACA study.<sup>16</sup>

The Department used United Nations ComTrade Statistics, provided by the UN Department of Economic and Social Affairs’ Statistics Division, as its primary source of Bangladeshi SV data.<sup>17</sup> The data represents cumulative values for the calendar year 2007, for inputs classified by the Harmonized Commodity Description and Coding System number. For each input value, we used the average value per unit for that input imported into Bangladesh from all countries that the Department has not previously determined to be NME countries. Import statistics from countries that the Department has determined to be countries which subsidized exports (*i.e.*, Indonesia, South Korea, Thailand, and India) and imports from unspecified countries also were excluded in the calculation of the average value. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People’s Republic of China*, 69 FR 20594 (April 16, 2004). Lastly, the Department has also excluded imports from Bangladesh into Bangladesh because there is no evidence on the record regarding what these data represent (*e.g.*, re-importations, another category of unspecified imports, or the result of an error in reporting). Thus, these data do not represent the best available information upon which to rely for valuation purposes. See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 47771 (August 9, 2010) and accompanying Issues and Decision Memorandum at Comment 6.

It is the Department’s practice to calculate price index adjusters to inflate or deflate, as appropriate, SVs that are not contemporaneous with the POR using the wholesale price index (“WPI”) for the subject country. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Hand Trucks and Certain Parts Thereof From the People’s Republic of China*, 69 FR 29509 (May 24, 2004). However, in this case, a WPI was not available for Bangladesh. Therefore, where publicly available

information contemporaneous with the POR with which to value factors could not be obtained, SVs were adjusted using the Consumer Price Index (“CPI”) rate for Bangladesh, or the WPI for India or Indonesia (for certain SVs where Bangladeshi data could not be obtained), as published in the International Financial Statistics of the International Monetary Fund. We made currency conversions, where necessary, pursuant to 19 CFR 351.415, to U.S. dollars using the daily exchange rate corresponding to the reported date of each sale. We relied on the daily exchange rates posted on the Import Administration Web site (<http://www.trade.gov/ia/>). See Surrogate Value Memorandum.

The Department used UN ComTrade to value the raw material and packing material inputs that Camimex, the Minh Phu Group, and Nha Trang Seafoods Group used to produce the merchandise under review during the POR, except where listed below. For a detailed description of all SVs for respondents, see Surrogate Value Memorandum.

On May 14, 2010, the CAFC in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (CAFC 2010), found that the “{regression-based} method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (*i.e.*, 19 U.S.C. 1677b(c))}.” The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. However, for these preliminary results, we have calculated an hourly wage rate to use in valuing the respondents’ reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to Vietnam and that are significant producers of comparable merchandise.

For the preliminary results of this administrative review, the Department is valuing labor using a simple average industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization (“ILO”). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to Vietnam, and significant producers of comparable merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Surrogate Value Memorandum. The Department calculated a simple average industry-specific wage rate of \$1.09 for these preliminary results. Specifically, for this review, the Department has

<sup>15</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China; Final Results of 1998–1999 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part*, 66 FR 1953 (January 10, 2001), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>16</sup> For a detailed explanation of the Department’s valuation of shrimp, see Surrogate Value Memorandum.

<sup>17</sup> This can be accessed online at: <http://www.unstats.un.org/unsd/comtrade/>.

calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 15 of the ISIC–Revision 3 standard by countries determined to be both economically comparable to Vietnam and significant producers of comparable merchandise. The Department finds the two-digit description under ISIC–Revision 3 (“Manufacture of Food Products and Beverages”) to be the best available wage rate SV on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage rate data or earnings data available from the following countries found to be economically comparable to Vietnam and are significant producers of comparable merchandise: Egypt, Indonesia, and the Philippines. For further information on the calculation of the wage rate, *see* Surrogate Value Memorandum.

We valued electricity using data from the Bangladesh Ministry of Power, Energy, & Mineral Resources. This information was published on their Power Division’s website. *See* Surrogate Value Memorandum.

We valued water using 2007 data from the Asian Development Bank. We inflated the value using the POR average CPI rate. *Id.*

We valued diesel using data published by the World Bank in “Bangladesh: Transport at a Glance,” published in June 2006. We inflated the value using the POR average CPI rate. *Id.*

To value truck freight and river freight, we used data published in *2008 Statistical Yearbook of Bangladesh* published by the Bangladesh Bureau of Statistics. We inflated the value using the POR average CPI rate. *Id.*

To value marine insurance, the Department used rates from RJG Consultants. These rates are for sea freight from the Far East Region. *Id.*

We valued warehouse/cold storage rates published in an article on tropical-seeds.com in July 1997. We inflated the value using the POR average CPI rate. *Id.*

We valued containerization using information previously available on the Import Administration website. We inflated the value using the POR average WPI rate. *Id.*

The Department valued terminal lift charges using data from the Web sites <http://www.oocl.com/bangladesh/eng/localinformation/localsurcharges/?site=bangladesh&lang=eng> and [http://www.srinternational.com/standard\\_containers.htm](http://www.srinternational.com/standard_containers.htm). We inflated the value using the POR average WPI rate. *See* Surrogate Value Memorandum.

We valued the by-product using shell scrap values from the Memorandum to

Barbara E. Tillman, Director, Office of AD/CVD Enforcement VII, through Maureen Flannery, Program Manager, Office of AD/CVD Enforcement VII, from Christian Hughes and Adina Teodorescu, Case Analysts, subject: Surrogate Valuation of Shell Scrap: Freshwater Crawfish Tail Meat from the People’s Republic of China (PRC), Administrative Review 9/1/00–8/31/00 and New Shipper Reviews 9/1/00–8/31/01 and 9/1/00–10/15/01. We inflated the value using the POR average WPI rate. *Id.*

To value factory overhead, selling, general, and administrative expenses, and profit, we used the simple average of the 2009–2010 financial statement of Apex Foods Limited and the 2008–2009 financial statement of Gemini Seafood Limited, both of which are Bangladeshi shrimp processors. *See* Surrogate Value Memorandum, at Exhibit 8.

#### Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

#### Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter	Simple average margin (percent)
Camau Frozen Seafood Processing Import Export Corporation (“CAMIMEX”) aka. Camimex aka. Camau Seafood Factory No. 4 aka. Camau Seafood Factory No. 5 aka. Camau Frozen Seafood Processing Import & Export aka. Camau Frozen Seafood Processing Import Export Corp. (CAMIMEX–FAC 25) aka. Frozen Factory No. 4. Camau Frozen Seafood Processing Import Export Corporation (“CAMIMEX”) aka. Camimex aka. Camau Seafood Factory No. 4 aka. Camau Seafood Factory No. 5.	1.36
Minh Phu Group: Minh Phat Seafood Co., Ltd., aka. Minh Phat Seafood aka. Minh Phu Seafood Export Import Corporation (and affiliates Minh Qui Seafood Co., Ltd. and Minh Phat Seafood Co., Ltd.) aka. Minh Phu Seafood Corp. aka. Minh Phu Seafood Corporation aka. Minh Qui Seafood aka. Minh Qui Seafood Co., Ltd. Minh Phu Seafood Pte aka. Minh Phat aka. Minh Qui.	1.67
Nha Trang Seafoods Group: Nha Trang Seaproduct Company (“Nha Trang Seafoods”) aka. Nha Trang Seafoods aka. Nha Trang Seaproduct Company Nha Trang Seafoods aka. NT Seafoods Corporation (“NT Seafoods”).	<i>de minimis</i>

Exporter	Simple average margin (percent)
Nha Trang Seafoods—F.89 Joint Stock Company (“Nha Trang Seafoods—F.89”). aka. NTSF Seafoods Joint Stock Company (“NTSF Seafoods”).	
Amanda Foods (Vietnam) Limited (“Amanda Foods”)	1.52
Bac Lieu Fisheries Company Limited, aka. Bac Lieu Fisheries Company Limited (“Bac Lieu”) aka. Bac Lieu Fisheries Joint Stock Company aka. Bac Lieu Fisheries Limited Company aka. Bac Lieu Fisheries Company Limited aka. Bac Lieu Fis.	1.52
C.P. Vietnam Livestock Company Limited aka. C.P. Vietnam Livestock Corporation (“C.P. Vietnam”) aka. C.P. Vietnam Livestock Corporation.	1.52
Cadovimex Seafood Import-Export and Processing Joint Stock Company (“CADOVIMEX–VIETNAM”) aka. Cadovimex-Vietnam aka. Cai Doi Vam Seafood Import-Export Company (“Cadovimex”) aka. Cai Doi Vam Seafood Import-Export Company (Cadovimex) aka. Cai Doi Vam Seafood aka. Cai Doi Vam Seafood Im-Ex Company (Cadovimex) aka. Cai Doi Vam Seafood Processing Factory aka. Caidoivam Seafood Company (Cadovimex) aka. Caidoivam Seafood Im-Ex Co.	1.52
Cafatex Fishery Joint Stock Corporation (“Cafatex Corp.”) aka. Cafatex Fishery Joint Stock Corporation (“CAFATEX CORP.”) aka. Cantho Animal Fisheries Product Processing Export Enterprise (Cafatex), aka. Cafatex, aka. Cafatex Vietnam, aka. Xi Nghiep Che Bien Thuy Suc San Xuat Kau Cantho, aka. Cas, aka. Cas Branch, aka. Cafatex Saigon, aka. Cafatex Fishery Joint Stock Corporation, aka. Cafatex Corporation, aka. Taydo Seafood Enterprise aka. Cafatex Corp. aka. Cafatex Corporation.	1.52
Cam Ranh Seafoods Processing Enterprise Company (“Camranh Seafoods”) aka. Camranh Seafoods.	1.52
Can Tho Agricultural and Animal Products Import Export Company (“CATACO”) aka. Can Tho Agricultural Products aka. CATACO aka. Can Tho Agricultural and Animal Products Imex Company.	1.52
Can Tho Import Export Fishery Limited Company (“CAFISH”).	1.52
Coastal Fishery Development aka. Coastal Fisheries Development Corporation (“Cofidec”) aka. Coastal Fisheries Development Corporation (Cofidec) aka. COFIDEC aka. Coastal Fisheries Development Corporation aka. Coastal Fisheries Development Co. aka. Coastal Fisheries Development Corp.	1.52
Cuulong Seaproducts Company (“Cuu Long Seapro”) aka. Cuu Long Seaproducts Limited (“Cuulong Seapro”) aka. Cuulong Seapro aka. Cuulong Seaproducts Company (“Cuulong Seapro”) aka. Cuu Long Seaproducts Company (“Cuu Long Seapro”) aka. Cuu Long Seaproducts Company aka. Cuu Long Seapro aka. Cuulong Seaproducts Company (“Cuu Long Seapro”) aka. Cuu Long Seaproducts Limited (Cuulong Seapro) aka. Cuulong Seapro aka. Cuulong Seaproduct Company.	1.52

Exporter	Simple average margin (percent)
Danang Seaproducts Import Export Corporation (“Seaprodex Danang”) aka. Danang Seaproducts Import Export Corporation aka. Danang Seaproduct Import-Export Corporation aka. Danang Seaproducts Import Export aka. Tho Quang Seafood Processing & Export Company aka. Seaprodex Danang aka. Tho Quang Seafood Processing and Export Company aka. Tho Quang aka. Tho Quang Co.	1.52
Grobest & I–Mei Industrial Vietnam, aka. Grobest, aka. Grobest & I–Mei Industrial (Vietnam) Co., Ltd. Grobest & I–Mei Industrial (Vietnam) Co., Ltd. (“Grobest”).	1.52
Investment Commerce Fisheries Corporation (“Incomfish”) aka. Incomfish aka. Investment Commerce Fisheries Corp., aka. Incomfish Corp., aka. Incomfish Corporation aka. Investment Commerce Fisheries aka. Investment Commerce Fisheries Corporation aka. Incomfish Corporation.	1.52
Kim Anh Company Limited (“Kim Anh”).	1.52
Minh Hai Export Frozen Seafood Processing Joint Stock Company aka ..... Minh Hai Jostoco aka. Minh Hai Export Frozen Seafood Processing Joint-Stock Company (“Minh Hai Jostoco”) aka. Minh Hai Export Frozen Seafood Processing Joint Stock Company (“Minh Hai Jostoco”) aka. Minh Hai Export Frozen Seafood Processing Joint-Stock Company aka. Minh Hai Joint Stock Seafood Processing Joint-Stock Company aka. Minh Hai Export Frozen Seafood Processing Joint-Stock Co., aka. Minh-Hai Export Frozen Seafood Processing Joint-Stock Company. Minh Hai Joint-Stock Seafoods Processing Company (“Seaprodex Minh Hai”) aka. Sea Minh Hai aka. Minh Hai Joint-Stock Seafoods Processing Company aka. Seaprodex Minh Hai aka. Seaprodex Min Hai aka. Seaprodex Minh Hai (Minh Hai Joint Stock Seafoods Processing Co.) aka. Seaprodex Minh Hai Factory aka. Seaprodex Minh Hai Factory No. 69 aka. Seaprodex Minh Hai Workshop 1 aka. Seaprodex Minh Hai-Factory No. 78 aka. Workshop I Seaprodex Minh Hai.	1.52
Minh Hai Sea Products Import Export Company (“Seaprimex Co”) aka. Ca Mau Seafood Joint Stock Company (“SEAPRIMEXCO”) aka. Seaprimexco Vietnam aka. Seaprimexco aka. Ca Mau Seafood Joint Stock Company (“Seaprimexco”) aka. Minh Hai Seaproducts Import Export Corporation aka. Seaprimexco aka. Minh Hai Seaproducts Co Ltd. (Seaprimexco) aka. Ca Mau Seafood Joint Stock Company (“Seaprimexco Vietnam”).	1.52
Ngoc Sinh Private Enterprise aka. Ngoc Sinh Seafoods aka. Ngoc Sinh Seafoods Processing and Trading Enterprise aka. Ngoc Sinh Fisheries aka. Ngoc Sinh Private Enterprises aka. Ngoc Sinh Seafoods Processing and Trading Enterprises aka. Ngoc Sinh aka. Ngoc Sinh Seafood Processing Company aka. Ngoc Sinh Seafoods (Private Enterprise).	1.52
Nhat Duc Co., Ltd. Nhat Duc Co., Ltd. (“Nhat Duc”).	1.52
Nha Trang Fisheries Joint Stock Company (“Nha Trang Fisco”) aka. Nha Trang Fisheries Joint Stock Company aka. Nhattrang Fisheries Joint Stock Company aka.	

Exporter	Simple average margin (percent)
Nha Trang Fisco aka. Nhatrang Fisco aka. Nha Trang Fisheries Joint Stock Company (“Nha Trang Fisco”) aka. Nha Trang Fisheries, Joint Stock aka. Nha Trang Fishereies Joint Stock Company (Nha Trang Fisco).	1.52
Phu Cuong Seafood Processing and Import-Export Co., Ltd. aka. Phu Cuong Seafood Processing and Import Export Company Limited aka. Phu Cuong Jostoco Corp.	1.52
Phuong Nam Co., Ltd. (“Phuong Nam”) aka. Western Seafood Processing and Exporting Factory (“Western Seafood”) aka. Phuong Nam Foodstuff Corp. aka. Phuong Nam Co. Ltd.	1.52
Sao Ta Foods Joint Stock Company (“Fimex VN”) aka. Sao Ta Foods Joint Stock Company aka. Fimex VN aka. Sao Ta Seafood Factory aka. Saota Seafood Factory.	1.52
Soc Trang Aquatic Products and General Import Export Company (“Stapimex”) aka. Soc Trang Seafood Joint Stock Company (“Stapimex”) aka. Soc Trang Seafood Joint Stock Company aka. Soc Trang Aquatic Products and General Import Export Company aka. Stapimex aka. Soc Trang Aquatic Products and General Import Export Company-(Stapimex) aka. Stapimex Soc Trans Aquatic Products and General Import Export Company aka. Stapmex.	1.52
Thuan Phuoc Seafoods and Trading Corporation aka. Frozen Seafoods Factory No. 32 aka. Seafoods and Foodstuff Factory aka. My Son Seafoods Factory aka. Seafoods and Foodstuff Factory Vietnam.	1.52
UTXI Aquatic Products Processing Company aka. UT XI Aquatic Products Processing Company aka. UT–XI Aquatic Products Processing Company aka. UTXI aka. UTXI Co. Ltd., aka. Khanh Loi Seafood Factory aka. Hoang Phuong Seafood Factory aka. UTXI Aquatic Products Processing Corporation (“UTXICO”) aka. UTXI Aquatic Products Processing Corporation aka. UTXICO.	1.52
Viet Foods Co., Ltd. aka. Nam Hai Foodstuff and Export Company Ltd.	1.52
Viet Hai Seafood Co., Ltd. aka. Vietnam Fish One Co., Ltd. (“Fish One”) aka. Viet Hai Seafoods Company Ltd. (“Vietnam Fish One Co. Ltd.”).	1.52
Vietnam-wide Entity.	25.76

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). As noted above, in accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available information to value the FOPs within 20 days after the date of publication of

these preliminary results. Interested parties must provide the Department with supporting documentation for the publicly available information to value each FOP. Additionally, in accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable

deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative SV information pursuant to 19 CFR 351.301(c)(1). See *Glycine From the People's Republic of China: Final*

*Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room 1117, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. See 19 CFR 351.309(c) and (d).

The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer (or customer)-specific assessment rates for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). See 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries

during the POR. See 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). See 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. See 19 CFR 351.106(c)(2).

As noted above, consistent with *Ball Bearings*, for the final results, for the companies receiving a separate rate that were not selected for individual review, average of the margins calculated for those companies selected for individual review, weighted by each company's publicly-ranged quantity of reported U.S. transactions, excluding any zero and *de minimis* rates, and rates based entirely upon facts available, pursuant to section 735(c)(5)(B) of the Act.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be established in the final results of this 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 Vietnamese and non-Vietnamese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of 25.76 percent; and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporters that supplied that non-Vietnamese exporter. These deposit

requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also 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 review period. 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.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: February 28, 2011.

**Paul Piquado,**

*Acting Deputy Assistant Secretary for Import Administration.*

#### Appendix I

- Agrex Saigon
- APL Logistics
- Aquatic Products Trading Company
- CP Livestock
- C.P. Vietnam Livestock Co., Ltd.
- C.P. Vietnam Livestock Co. Ltd
- Camau Seafood Fty.
- Ca Mau Frozen Seafood Processing Import Export Corporation, or Camau Seafood Factory No. 4 ("CAMIMEX") and/or Camau Frozen Seafood Processing Import Export Corporation ("CAMIMEX")
  - Ca Mau Seaproducts Exploitation and Service Corporation ("SES")
  - Cadovimex Seafood Import-Export and Process Joint Stock Company ("CADOVIMEX")
  - Cadovimex Seafood Import-Export and Process Joint Stock Company ("Cadovimex-Vietnam")
  - Cadovimex Seafood Import-Export and Process Joint Stock Company ("CADOVIMEX") and/or Cadovimex Seafood Import-Export and Process Joint Stock Company ("Cadovimex-Vietnam")
  - Cam Ranh Seafoods Processing Enterprise Company ("Camranh Seafoods")
  - Cam Ranh Seafoods Processing Enterprise Company ("Camranh Seafoods") and/or Camranh Seafoods
  - Camranh Seafoods Processing Enterprise Pte. (also known as Cam Ranh Seafoods Processing Enterprise Pte., Cam Ranh Seafoods Processing Enterprise Company, Cam Ranh Seafoods, and Camranh Seafoods) and its branch factory, Branch of Camranh Seafoods Processing Enterprise Pte.—Quang Ninh Export Aquatic Products

