

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-552-801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Partial Rescission of Antidumping Duty Administrative Review; 2019-2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that NTSF Seafoods Joint Stock Company (NTSF), a producer and exporter of frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) did not make sales of subject merchandise at prices below normal value (NV) during the period of review (POR) August 1, 2019, through July 31, 2020. Commerce also preliminarily determines that it is appropriate to apply facts available, with adverse inferences (AFA) to East Sea Seafoods Joint Stock Company (ESS), an exporter of fish fillets from Vietnam. We also preliminarily determine that one additional company, Green Farms Seafood Joint Stock Company (Green Farms), is eligible for separate rate status, 32 companies did not establish eligibility for a separate rate and are part of the Vietnam-wide entity, and 15 companies had no shipments during the POR. Finally, we are rescinding this review with respect to 13 companies. We invite interested parties to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Javier Barrientos or Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-2243 and 202-482-0413, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 2020, Commerce published in the *Federal Register* the notice of initiation of an administrative review of the antidumping duty (AD) order on fish fillets from Vietnam with respect to 63 companies.<sup>1</sup> On January 8, 2021, we selected the two largest exporters, ESS and NTSF, as mandatory respondents.<sup>2</sup> On April 5, 2021, Commerce extended the deadline for these preliminary results by 120 days, to August 31, 2021.<sup>3</sup>

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.<sup>4</sup> A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

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<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 63081 (October 6, 2020).

<sup>2</sup> See Memorandum, "Respondent Selection," dated January 8, 2021. For purposes of this figure, we note that eight companies are part of a single entity known as the "Hung Vuong Group," three companies form part of a single entity known as "QVD Aquaculture Joint Stock Company," and three companies form part of a single entity known as "Vinh Hoan Corporation."

<sup>3</sup> See Memorandum, "Extension of Deadline for Preliminary Results of the 2019-2020 Antidumping Duty Administrative Review," dated April 5, 2021.

<sup>4</sup> See Memorandum, "Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam; 2019-2020," dated August 31, 2021 (Preliminary Decision Memorandum).

### Scope of the Order

The products covered by this order are fish fillets from Vietnam. For a full description of the scope of the order, *see* the Preliminary Decision Memorandum.

### Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation. **As noted above, all interested parties timely withdrew their requests for review for 13 companies.** Accordingly, Commerce is **rescinding** this review with respect to these 13 entities, in accordance with 19 CFR 351.213(d)(1).<sup>5</sup> The review will continue with respect to the other firms for which a review was requested and initiated.

### Preliminary Determination of No Shipments

Based on an analysis of information from U.S. Customs and Border Protection (CBP) and the letters filed by 15 companies certifying no shipments, Commerce preliminarily determines that these companies had no shipments during the POR.<sup>6</sup> For additional information regarding this finding, *see* the Preliminary Decision Memorandum.

Consistent with our assessment practice in non-market economy (NME) administrative reviews, Commerce is not rescinding this review for these 15 companies, but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.<sup>7</sup>

### Separate Rates

Commerce preliminarily determines that information placed on the record by mandatory respondents ESS and NTSF, and **the separate rate applicant Green Farms**, demonstrates that

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<sup>5</sup> *See* Appendix II for a list of companies for which we are rescinding this review.

<sup>6</sup> *See* Appendix III for a complete list of companies with no shipments during the POR.

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

these companies are entitled to separate rate status. The remaining 32 companies subject to this review have not established eligibility for a separate rate and are, therefore, considered to be part of the Vietnam-wide entity for these preliminary results.<sup>8</sup> For additional information, *see* the Preliminary Decision Memorandum.

### Vietnam-Wide Entity

The Vietnam-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity, the entity is not under review, and the entity's rate is not subject to change.<sup>9</sup>

Other than the companies discussed above – *i.e.*, those that received separate rate status, those with no shipments during the POR, or those for which this review has been rescinded – Commerce considers all other companies under review to be part of the Vietnam-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

### Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2) of the Act. We have calculated constructed export price in accordance with section 772 of the Act. Because Vietnam is an NME country within the meaning of section 771(18) of the Act, we have calculated NV in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

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<sup>8</sup> *See* Appendix IV for a complete list of companies not eligible for a separate rate.

<sup>9</sup> *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

Use of Adverse Facts Available

Pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily assigned ESS a dumping margin of \$3.87/kg based on AFA. ESS ceased participating in this review and did not provide information requested by Commerce; accordingly, we find that necessary information is not available on the record, ESS failed to provide the requested information in the form and manner requested and significantly impeded the proceeding, pursuant to section 776(a) of the Act. Additionally, we find that ESS had the necessary information in its possession and elected not to submit the information and, thus, ESS did not act to the best of its ability in responding to Commerce's information request by the applicable deadline, pursuant to section 776(b) of the Act. For further information, see "Application of Facts Available and Use of Adverse Inferences" in the Preliminary Decision Memorandum.

Preliminary Results of Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2019, through July 31, 2020:

<b>Exporter/Producer</b>	<b>Weighted-Average Dumping Margin (dollars per kilogram)</b>
NTSF Seafoods Joint Stock Company	\$0.00/kg
East Sea Seafoods Joint Stock Company	\$3.87/kg*
Review-Specific Rate Applicable to the Following Company: <sup>10</sup>	
Green Farms Seafood Joint Stock Company	\$1.94/kg

<sup>10</sup> This rate is based on an average of the rates assigned to ESS and NTSF, pursuant to section 735(c)(5)(B) of the Act.

\*This rate was determined wholly under section 776(d) of the Act.

### Disclosure and Public Comment

Commerce intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of these preliminary results, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.<sup>11</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Case and rebuttal briefs should be filed using ACCESS.<sup>12</sup> Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>13</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce will announce the date and time of the hearing. Parties should confirm by telephone the date and time of the hearing two

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<sup>11</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

<sup>12</sup> See 19 CFR 351.303.

<sup>13</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 41363 (July 10, 2021).

days before the scheduled date.

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon completion of this administrative review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries.<sup>14</sup>

If NTSF's weighted-average dumping margin is not zero or *de minimis* (*i.e.*, less than 0.50 percent) in the final results of this review, Commerce will calculate importer-specific (or customer-specific) assessment rates for NTSF, in accordance with 19 CFR 351.212(b)(1). Specifically, Commerce intends to calculate an importer-specific (or customer-specific) per-unit assessment rate by dividing the amount of dumping for reviewed sales to the importer or customer by the total sales quantity associated with those transactions. Where either NTSF's weighted-average dumping margin is zero or *de minimis*, or an importer-specific or customer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>15</sup> For any NTSF entries that were not reported in the U.S. sales databases submitted by NTSF, Commerce will instruct CBP to liquidate such entries at the Vietnam-wide rate.

If Commerce continues to determine ESS's margin on the basis of AFA in the final results of this review, Commerce will instruct, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise at the rate of \$3.87 per kilogram.

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<sup>14</sup> See 19 CFR 351.212(b).

<sup>15</sup> See 19 CFR 351.106(c)(2).

For any respondent that was not selected for individual examination in this administrative review, but which qualified for a separate rate, *i.e.*, Green Farms, we will instruct, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise at the rate of \$1.94 per kilogram.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for the companies listed above that have a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis*, then cash deposit rate will be zero); (2) for previously-examined Vietnamese and non-Vietnamese exporters not listed above that at the time of entry are eligible for a separate rate based on a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all Vietnamese exporters of subject merchandise that have not been found to be entitled to a separate rate at the time of entry, the cash deposit rate will be that for the Vietnam-wide entity (*i.e.*, \$2.39 per kilogram); and (4) for all non-Vietnamese exporters of subject merchandise which at the time of entry are not eligible for a separate rate, the cash deposit rate will be the rate



applicable to the Vietnamese exporter 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 the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing the preliminary results of this review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: August 31, 2021

*/S/ James Maeder*

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James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

## Appendix I

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Standing
- V. Partial Rescission of Review
- VI. Preliminary Determination of No Shipments
- VII. Application of Facts Available and Adverse Inferences
- VIII. Discussion of the Methodology
- IX. Recommendation

## Appendix II

### Companies for Which We are Rescinding the Review

1. Ben Tre Aquaproduct Import and Export Joint Stock Company (aka Bentre Aquaproduct)
2. Bien Dong Hau Giang Seafood Joint Stock Company (aka Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.)
3. Bien Dong Seafood Company Ltd. (aka Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., or Bien Dong Seafood Limited Liability Company)
4. Fatifish Company Limited (aka FATIFISH or FATIFISHCO)
5. GODACO Seafood Joint Stock Company (aka GODACO, GODACO Seafood, GODACO\_SEAFOOD, or GODACO Seafood J.S.C.)
6. Golden Quality Seafood Corporation (aka Golden Quality, GoldenQuality, or GoldenQuality Seafood Corporation)
7. Hung Vuong-Mien Tay Aquaculture Corporation (aka HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company)
8. Hung Vuong Seafood Joint Stock Company
9. International Development & Investment Corporation (aka IDI or International Development and Investment Corporation)
10. Nha Trang Seafoods, Inc. (aka Nha Trang Seafoods, Nha Trang Seafoods-F89, or Nha Trang Seaproduct Company)
11. Seavina Joint Stock Company (aka Seavina)
12. Thanh Binh Dong Thap One Member Company Limited (aka Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.)
13. Vinh Hoan Corporation (aka Vinh Hoan, Vinh Hoan Co., or Vinh Hoan Corp.)<sup>16</sup>

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<sup>16</sup> The Vinh Hoan Corporation is a single entity that also includes Van Duc Food Export Joint Stock Company and Van Duc Tien Giang Food Export Company.

### Appendix III

#### Companies with No Shipments During the POR

1. Ben Tre Forestry and Aquaproduct Import-Export Joint Stock Company (aka Faquimex, or Ben Tre)
2. C.P. Vietnam Corporation
3. Cafatex Corporation (aka Cafatex)
4. Cantho Import-Export Seafood Joint Stock Company (aka CASEAMEX, Cantho Import Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, Can Tho Import Export Seafood Joint Stock Company, Can Tho Import-Export Seafood Joint Stock Company, or Can Tho Import-Export Joint Stock Company)
5. Colorado Boxed Beef Company (aka CBBC)
6. Dai Thanh Seafoods Company Limited (aka DATHACO)
7. The Great Fish Company LLC
8. Hai Huong Seafood Joint Stock Company (aka HHFish, HH Fish, or Hai Huong Seafood)
9. Hung Vuong Group<sup>17</sup>
10. Nam Viet Corporation (aka NAVICO)
11. PREFCO Distribution LLC
12. QMC Foods, Inc.
13. Riptide Foods
14. QVD Food Company Ltd. (aka QVD, QVD Food Co., Ltd., or QVD Aquaculture)<sup>18</sup>
15. Vinh Quang Fisheries Corporation (aka Vinh Quang, Vinh Quang Fisheries Corp., Vinh Quang Fisheries Joint Stock Company, or Vinh Quang Fisheries Co., Ltd.)

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<sup>17</sup> Hung Vuong Group is a single entity comprised of the following individual companies: (1) An Giang Fisheries Import and Export Joint Stock Company; (2) Asia Pangasius Company Limited; (3) Hung Vuong Ben Tre Seafood Processing Company Limited; (4) Europe Joint Stock Company; (5) Hung Vuong-Sa Dec Co., Ltd.; (6) Hung Vuong-Vinh Long Co. Ltd.; (7) Hung Vuong Corporation; and (8) Hung Vuong Mascato Company Limited.

<sup>18</sup> QVD is a single entity that also includes QVD Dong Thap Food Co., Ltd. and Thuan Hung Co., Ltd.

## Appendix IV

### Companies Not Eligible for a Separate Rate

1. Anchor Seafood Corp.
2. An Phat Import-Export Seafood Co., Ltd. (aka An Phat Seafood Co. Ltd. or An Phat Seafood Co., Ltd.)
3. Anvifish Joint Stock Company (aka Anvifish, Anvifish JSC, or Anvifish Co., Ltd.)
4. Basa Joint Stock Company (aka BASACO)
5. Binh Dinh Import Export Company (aka Binh Dinh)
6. Cadovimex II Seafood Import-Export and Processing Joint Stock Company (aka Cadovimex II)
7. Can Tho Animal Fishery Products Processing Export Enterprise
8. Cuu Long Fish Import-Export Corporation (aka CL Panga Fish)
9. Cuu Long Fish Joint Stock Company (aka CL-Fish, CL-FISH CORP, or Cuu Long Fish Joint Stock Company)
10. GF Seafood Corp.
11. Go Dang An Hiep One Member Limited Company
12. Go Dang Ben Tre One Member Limited Liability Company
13. Hoa Phat Seafood Import-Export and Processing J.S.C. (aka HOPAFISH, Hoa Phat Seafood Import-Export and Processing Joint Stock Company, Hoa Phat Seafood Import-Export and Processing JSC)
14. Hoang Long Seafood Processing Company Limited (aka HLS)
15. Indian Ocean One Member Company Limited (aka Indian Ocean Co., Ltd.)
16. Lian Heng Investment Co., Ltd. (aka Lian Heng or Lian Heng Investment)
17. Lian Heng Trading Co., Ltd. (aka Lian Heng or Lian Heng Trading)
18. Nam Phuong Seafood Co., Ltd. (aka Nam Phuong, or NAFISHCO)
19. New Food Import, Inc.
20. NTACO Corporation (aka NTACO)
21. Seafood Joint Stock Company No. 4 (aka SEAPRIEXCO No. 4)
22. Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (aka DOTASEAFOODCO or Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company)
23. Southern Fishery Industries Company, Ltd. (aka South Vina)
24. Thanh Hung Co., Ltd. (aka Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.)
25. Thien Ma Seafood Co., Ltd (aka THIMACO)
26. Thuan An Production Trading and Service Co., Ltd. (aka TAFISHCO)
27. To Chau Joint Stock Company (aka TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company)
28. Viet Hai Seafood Company Limited (aka Viet Hai)
29. Viet Phu Foods and Fish Corporation (aka Vietphu)
30. Viet Phu Foods & Fish Co., Ltd.
31. Vietnam Seaproducts Joint Stock Company (aka Seaprodex or Vietnam Seafood Corporation—Joint Stock Company)
32. Vinh Long Import-Export Company (aka Vinh Long)