

Reviews, 75 FR 66349 (October 28, 2010) and *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 75 FR 73036 (November 29, 2010).¹ See also *Initiation of Antidumping and Countervailing Duty Administrative Reviews; Correction*, 75 FR 69054 (November 10, 2010). In the October 28, 2010 notice, we initiated on five companies requested by Nashville Wire Products Inc. and SSW Holding Company, Inc. (collectively “Petitioners”); after receiving further information from Petitioners, we initiated on two additional companies requested by Petitioners on November 29, 2010.

The current deadline for the preliminary results of this administrative review is June 2, 2011.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and the final results of review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

The full initiation of this review was delayed by one month because we required additional information from Petitioners concerning their review requests for particular companies. After the case was fully initiated, we determined that we needed to obtain quantity and value information for respondent selection purposes because we could not rely on U.S. Customs and Border Protection data, as is our usual practice. In this instance, the Harmonized Tariff Schedule of the United States categories including subject merchandise are overly broad and contain other products. See Memorandum from Joseph Shuler, International Trade Compliance Analyst of AD/CVD Operations, Office 1, to Susan H. Kuhbach, Director of AD/CVD Operations, Office 1, “Selection of Respondents for the Countervailing

Duty Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China” dated January 25, 2011. Given these delays, we do not have sufficient time to adequately analyze all questionnaire responses by the mandatory respondents, in addition to a new subsidy allegation filed by Petitioners, before the preliminary results due date. Consequently, we have determined that it is not practicable to complete this review within the originally anticipated time limit (*i.e.*, by June 2, 2011). Therefore, the Department is extending the time limit for completion of the preliminary results by 120 days to not later than September 30, 2011, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: May 9, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

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

SUMMARY: On April 14, 2011, the United States Court of International Trade (“CIT”) sustained the Department of Commerce’s (“the Department”) results of redetermination pursuant to the CIT’s remand order in *Amanda Foods (Vietnam) Ltd., et al., v. United States*, Consol. Court No. 08–00301 (June 17, 2010).¹

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (“CAFC”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir.

1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, F.3d, Court No. 2010–1024, 1090 (Fed. Cir. December 9, 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the final judgment in this case is not in harmony with the Department’s final determination and is amending the final results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam covering the period of review (“POR”) of February 1, 2006 through January 31, 2007, with respect to the separate rate margins assigned to Amanda Foods (Vietnam) Ltd.; C.P. Vietnam Livestock Co. Ltd., Cadovimex Seafood Import-Export and Processing Joint Stock Company; Cafatex Fishery Joint Stock Corporation; Can Tho Agricultural and Animal Product Import Export Company; Coastal Fishery Development; Cuulong Seaproducts Company; Danang Seaproducts Import Export Corporation; Frozen Seafoods Factory No. 32, Investment Commerce Fisheries Corporation; Kim Anh Co., Ltd.; Minh Hai Export Frozen Seafood Processing Joint Stock Company; Minh Hai Export Frozen Seafood Processing Joint-Stock Company; Minh Hai Joint-Stock Seafoods Processing Company; Minh Hai Sea Products Import Export Company (Seaprimex Co); Ngoc Sinh Private Enterprise; Nha Trang Fisheries Joint Stock Company; Nha Trang Seaproduct Company; Phu Cuong Seafood Processing and Import-Export Co., Ltd.; Phuong Nam Co. Ltd., Sao Ta Foods Joint Stock Company; Soc Trang Aquatic Products and General Import Export Company; UTXI Aquatic Products Processing Company; and Viet Foods Co., Ltd. (collectively, the “23 Plaintiffs”). See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 52273 (September 9, 2008) and accompanying Issues and Decision Memorandum (“*Final Results*”).

DATES: Effective Date: (April 24, 2011)

FOR FURTHER INFORMATION CONTACT:

Irene Gorelik, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482–6905.

SUPPLEMENTARY INFORMATION:

Background

In the second administrative review of the antidumping duty order on shrimp from Vietnam, the Department reviewed

¹ The Department notes that only the period of review (“POR”) for the antidumping duty administrative review was included in the October 28, 2010 notice, see generally 75 FR 69059. All notices concerning the countervailing duty review of the order apply to the POR referenced in the initiation notices and this notice—January 7, 2009 through December 31, 2009.

¹ See Final Results Of Redetermination Pursuant To Court Remand, Court No. 08–00301, dated December 3, 2010, available at: <http://ia.ita.doc.gov/remands/index.html> (“*Amanda II* remand redetermination”); see also *Amanda Foods (Vietnam) Ltd., et al., v. United States*, Court No. 08–00301 (CIT April 14, 2011) Slip Op. 11–39 (judgment).

63 companies. *See Final Results*, 73 FR at 52275. Of those 63 companies, two companies were selected for individual examination, 26 cooperative, non-individually examined respondents demonstrated eligibility for, and received, a separate rate, and 35 companies were considered part of the Vietnam-Wide entity because they did not demonstrate eligibility for a separate rate. The Department explained in the *Final Results* that the statute and the Department's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where the Department has limited its examination in an administrative review pursuant to section 777(A)(c)(2) of the Act. The Department's practice in this regard, in cases involving limited selection based on exporters accounting for the largest volumes of trade, has been to weight-average the rates for the selected companies excluding zero and *de minimis* rates and rates based entirely on facts available. Because the Department calculated zero and *de minimis* rates, respectively, for the two mandatory respondents, the Department assigned to the non-individually examined respondents in this administrative review with no history of a calculated margin a separate rate of 4.57 percent,² as a reasonable method reflective of the range of commercial behavior demonstrated by exporters of the subject merchandise during a very recent period in time. *See Final Results*, 73 FR at 52275 and Comment 6. For those respondents that were not selected for individual examination and received a calculated rate in a more recent or contemporaneous prior segment, we assigned that calculated rate as the company's separate rate in this review. *See id.*

In *Amanda Foods (Vietnam) Ltd., et al. v. United States* Court No. 08–00301 Slip Op. 09–106 (CIT September 29, 2009) (“*Amanda I*”), the Court remanded the separate rate assignment methodology to the Department to either assign to Plaintiffs the weighted-average

rate of the mandatory respondents, or else provide justification, based on substantial evidence on the record, for using another rate. *See Amanda I* at 30. Consequently, in the Department's remand redetermination for *Amanda I*, we further explained the reasonableness of the methodology applied in the *Final Results*.

In *Amanda Foods (Vietnam) Ltd., et al., v. United States*, Consol. Court No. 08–00301 (June 17, 2010) (“*Amanda II*”), the Court disagreed with the Department's further justification for applying its separate rate methodology, and remanded the issue back to the Department a second time. On remand, the Court ordered the Department to employ a reasonable method {to assign a separate rate}, which may “‘include[e] averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated,’ 19 U.S.C. 1673d(c)(5)(B) and * * * assign to Plaintiffs dumping margins for the second POR which are reasonable considering the evidence on the record as a whole; to do so, Commerce may reopen the evidentiary record if need be.” *See Amanda II* remand opinion and order at 26.

In our *Amanda II* remand redetermination, under respectful protest, the Department determined that, in this instance, it was necessary to reopen the evidentiary record to gather additional information, specific to each of the 23 Plaintiffs, in order to comply with the Court's order. As detailed within footnote 22 of *Amanda II*, we reopened the record to gather the quantity and value of Plaintiffs' sales to the United States during the period of review (“POR”) on a count-size specific basis to analyze the data to determine whether a reasonable separate rate assignment methodology is supported by the supplemented evidentiary record. *See Amanda II* at footnote 22. The 23 Plaintiffs provided the necessary data which the Department evaluated to determine whether there was evidence of dumping by the 23 Plaintiffs on the

record. *See Amanda II* remand redetermination at 5.

After having conducted our analysis, the Department determined that the record, with the additional count-size specific quantity and value data, did not show evidence of dumping by the 23 Plaintiffs during this POR. *Id.*, at 5–6. Thus, because the Department has not found any evidence of dumping by Plaintiffs during this POR based on the information currently on the record, we determined to assign, under protest, a separate rate to these 23 Plaintiffs equal to the simple average of the dumping margins calculated for the individually-examined companies.³ *Id.*, at 6–7.

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC has held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT's April 14, 2011 judgment sustaining the Department's remand redetermination constitutes a final decision of that court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the company-specific rate established for the subsequent and most recent period during which the respondents were reviewed.

Amended Final Results

Because there is now a final court decision with respect to the 23 Plaintiffs named above, revised dumping margins are as follows:

Exporter name ⁴	Simple average separate rate margin (<i>de minimis</i>)
Amanda Foods (Vietnam) Ltd	0.01
C.P. Vietnam Livestock Co. Ltd., aka	0.01
C P Vietnam Livestock Co. Ltd., aka	
C P Livestock	

² The 4.57 percent margin is the rate calculated for cooperative separate rate respondents in the underlying investigation.

³ Minh Phu Seafood Export Import Corporation (and affiliated Minh Qui Seafood Co., Ltd. and

Minh Phat Seafood Co., Ltd.), Minh Phu Seafood Corporation; Minh Phu Seafood Corp., Minh Qui Seafood Co., Ltd., Minh Qui Seafood, Minh Phat Seafood Co., Ltd., Minh Phat Seafood, (collectively, “Minh Phu”) and Camau Frozen Seafood Processing Import Export Corporation (“Camimex”).

⁴ The separate rate margins for the 23 Plaintiffs are inclusive of the companies' names and trade names as they appeared in *Vietnam Shrimp AR2 Final*.

Exporter name ⁴	Simple average separate rate margin (<i>de minimis</i>)
Cadovimex Seafood Import-Export and Processing Joint Stock Company ("CADOVIMEX") aka	0.01
Cai Doi Vam Seafood Import-Export Company (Cadovimex)	
Cafatex Fishery Joint Stock Corporation ("Cafatex Corp.") aka	0.01
Cantho Animal Fisheries Product Processing Export Enterprise (Cafatex), aka Cafatex, aka Cafatex Vietnam, aka Xi Nghiep Che Bien Thuy Suc San Xuat Khau Can Tho, aka Cas, aka Cas Branch, aka Cafatex Saigon, aka Cafatex Fishery Joint Stock Corporation, aka Cafatex Corporation, aka Taydo Seafood Enterprise	
Can Tho Agricultural and Animal Product Import Export Company ("CATACO") aka	0.01
Can Tho Agricultural Products aka CATACO	
Coastal Fishery Development aka	0.01
Coastal Fisheries Development Corporation (Cofidec) aka Coastal Fisheries Development Corporation (Cofidec)	
Cuulong Seaproducts Company ("Cuu Long Seapro") aka	0.01
Cuu Long Seaproducts Limited (Cuulong Seapro)	
Danang Seaproducts Import Export Corporation ("Seaprodex Danang") aka	0.01
Tho Quang Seafood Processing & Export Company, aka Seaprodex Danang, aka Tho Quang Seafood Processing And Export Company, aka Tho Quang	
Frozen Seafoods Factory No. 32, aka	0.01
Frozen Seafoods Fty, aka Thuan Phuoc, aka Thuan Phuoc Seafoods and Trading Corporation, aka Frozen Seafoods Factory 32, aka Seafoods and Foodstuff Factory	
Investment Commerce Fisheries Corporation ("Incomfish")	0.01
Kim Anh Co., Ltd.	0.01
Minh Hai Export Frozen Seafood Processing Joint Stock Company, aka	0.01
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.	
Minh Hai Joint-Stock Seafoods Processing Company ("Seaprodex Minh Hai")	0.01
Minh Hai Sea Products Import Export Company (Seaprimex Co) , aka	0.01
Ca Mau Seafood Joint Stock Company ("SEAPRIMEXCO")	
Ngoc Sinh Private Enterprise, aka	0.01
Ngoc Sinh Seafoods	
Nha Trang Fisheries Joint Stock Company ("Nha Trang Fisco")	0.01
Nha Trang Seaproduct Company ("Nha Trang Seafoods")	0.01
Phu Cuong Seafood Processing and Import-Export Co., Ltd.	0.01
Phuong Nam Co. Ltd., aka	0.01
Phuong Nam Seafood Co. Ltd.	
Sao Ta Foods Joint Stock Company ("Fimex VN"), aka	0.01
Sao Ta Seafood Factory	
Soc Trang Aquatic Products and General Import Export Company ("Stapimex")	0.01
UTXI Aquatic Products Processing Company, aka	0.01
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 Viet Foods Co., Ltd. ("Viet Foods")	
	0.01

In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise during the POR

from the 23 Plaintiffs based on the revised assessment rates calculated by the Department.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 9, 2011.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

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