




UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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October 5, 2012

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Sixth Antidumping Administrative Review of Frozen
Warmwater Shrimp from the Socialist Republic of Vietnam:
Ministerial Error and Correction Memorandum

SUMMARY

On September 11, 2012, the Department of Commerce ("Department") published in the *Federal Register* the final results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp ("shrimp") from the Socialist Republic of Vietnam ("Vietnam").¹ On September 17, 2012, the Minh Phu Group, Phu Cuong Jostoco Seafood Corporation, Thuan Phuoc Seafoods and Trading Corporation, and UTXI Aquatic Products Processing Corporation, (collectively referred to here as "Vietnamese Respondents"), filed timely allegations that the Department made various ministerial errors in the *Final Results* and requested, pursuant to 19 CFR 351.224, that the Department correct the alleged ministerial errors. No other party in this proceeding submitted comments on the Department's final margin calculations.

The Department has analyzed the allegations submitted by Vietnamese Respondents, and as a result of our analysis, the Department has determined that we made certain ministerial errors pursuant to section 751(h) of the Tariff Act of 1930, as amended ("the Act"). Therefore, we recommend amending our *Final Results* to correct certain ministerial errors

¹ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 55800 (September 11, 2012) ("*Final Results*").



with respect to the antidumping duty margin calculations for the Minh Phu Group², correcting certain exporter company names, as well as clarifying the rescission of the administrative review with respect to BIM Seafood Joint Stock Company (“BIM Seafoods”). Furthermore, as a result of correcting the errors in the margin calculations for the Minh Phu Group, the margin for the companies granted separate rate status must also be revised because the margin for those companies were derived from the Nha Trang Group’s³ and the Minh Phu Group’s margins.⁴

Accordingly, we recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

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, 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.

² Minh Phu Seafood Corporation (“Minh Phu”), Minh Qui Seafood Co., Ltd. and Minh Phat Seafood Co., Ltd.

³ Nha Trang Seaproduct Company, NT Seafoods Corporation, Nhatrang Seafoods - F89 Joint Stock Company, and NTSF Seafoods Joint Stock Company.

⁴ See Memorandum to the File, through Scot T. Fullerton, from Paul Walker, regarding Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Amended Final Calculation of the Margin for Respondents Not Selected for Individual Examination, dated concurrently with this memorandum.

Excluded from the scope are: 1) breaded shrimp and prawns (Harmonized Tariff System of the United States (“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 HTS 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 HTS 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.

LEGAL AUTHORITY

Pursuant to section 751(h) of the Act, the Department has established procedures for the correction of ministerial errors in the final results of a review within a reasonable period of time after the final results are issued. Specifically, the Department’s regulations stipulate that the agency will disclose its calculations to parties to the proceeding and that a party to the proceeding to whom the Department has disclosed its calculations may submit comments concerning any ministerial errors in such calculations within five days after disclosure.⁵ A party’s comments must explain the alleged ministerial error through reference to the applicable evidence in the official record and must present what, in the party’s view, is the appropriate correction.⁶ After analyzing these comments, the Department will, if appropriate, correct any ministerial errors by amending the final results.⁷ Ministerial errors are defined as “errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.”⁸

⁵ See 19 CFR 351.224(b) and (c).

⁶ See 19 CFR 351.224(d).

⁷ See 19 CFR 351.224(e).

⁸ See 19 CFR 351.224(f).

DISCUSSION OF THE ISSUES

Issue 1: Calculation of Minh Phu's Freight

The Vietnamese Respondents argue that the Department failed to convert the surrogate value for boat freight from metric tons to kilograms for Minh Phu Group's margin calculation. Additionally, the Vietnam Respondents argue that the Department double-counted shrimp freight by assuming shrimp was transported by both boat and truck freight for Minh Phu Group. However, Minh Phu's responses show that only some shrimp was transported by boat freight.⁹

Department's Position:

We agree with Vietnamese Respondents. Because the Department intended to convert the surrogate value for boat freight from metric tons to kilograms but did not do so, this constitutes a ministerial error pursuant to the definition of ministerial errors provided by section 751(h) of the Act. Additionally, because the Department intended to value shrimp freight based on boat or truck freight, as reported by Minh Phu Group, but did not do so, this constitutes a ministerial error pursuant to the definition of ministerial errors provided by section 751(h) of the Act.

Issue 2: Typographical Errors and Omission in Certain Exporter Company Names

The Vietnamese Respondents argue that the Department made typographical errors and an omission in the *Final Results*, regarding certain Vietnamese exporter company names. Specifically, the Vietnamese Respondents state: (1) "Phu Cuong Jostco Seafood Corporation" should have been spelled as "Phu Cuong Jostoco Seafood Corporation"; (2) "Thuan Phoc Corp" should have been spelled as "Thuan Phuoc Corp"; (3) "Seafoods and Foodstuff Factory Vietnam" should have been spelled as "Seafoods and Foodstuff Factory"; and (4) "Hoang Phong Seafood Factory" should have been listed as one of the company names for UTXI Aquatic Products Processing Corporation.

Department's Position:

We agree with the Vietnamese Respondents. The Department has identified that these exporter names listed in the *Final Results* were typographical errors when compared to the correctly spelled names in the *Initiation Notice*.¹⁰ Additionally, the Department has identified that it made a typographical error by not listing all exporter company names, such as Hoang Phong Seafood Factory, as identified by UTXI Aquatic Products Processing Corporation in its separate rate certification. These typographical errors represent ministerial errors, pursuant to the definition of ministerial errors provided by section 751(h) of the Act.

⁹ See Minh Phu's Section D Questionnaire Response, (August 19, 2011) at Exhibit D-14.

¹⁰ See *Initiation of Antidumping Duty Administrative Reviews, Requests for Revocations in Part, and Deferral of Administrative Review*, 76 FR 17825 (March 31, 2011) ("*Initiation Notice*").

Issue 3: Rescission of BIM Seafood Joint Stock Company

In the *Preliminary Results*, the Department preliminarily rescinded this review with respect to BIM Seafood because Domestic Producers withdrew their request for review of BIM Seafood.¹¹ Subsequent to the *Final Results*, the Department discovered that we had inadvertently failed to include the final rescission for BIM Seafood in the *Final Results*.

Department’s Position:

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Therefore, as the withdrawal of the request for review of BIM Seafood was timely, we are rescinding this review with respect to BIM Seafood.

RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting all of the above positions and adjusting the related margin calculations accordingly, including those for separate rate respondents. Following are the amended final margins:

Exporter	Margin
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 Minh Phu Hau Giang Seafood Co., Ltd.	0.53%

¹¹ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 77 FR 13547, 13548 (March 7, 2012).

<p>Nha Trang Seafoods Group: Nha Trang Seaproduct Company (“Nha Trang Seafoods”) aka Nha Trang Seafoods aka Nha Trang Seafood Product Company aka Nha Trang Seaproduct Company Nha Trang Seafoods aka NT Seafoods Corporation (“NT Seafoods”) aka Nha Trang Seafoods – F.89 Joint Stock Company (“Nha Trang Seafoods – F.89”) aka NTSF Seafoods Joint Stock Company (“NTSF Seafoods”)</p>	1.23%
<p>Amanda Foods (Vietnam) Limited (“Amanda Foods”)</p>	0.88%
<p>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</p>	0.88%
<p>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 aka Camau Frozen Seafood Processing Import Export Corporation (“CAMIMEX”) aka Camimex aka Camau Frozen Seafood Processing Import Export Corporation</p>	0.88%
<p>C.P. Vietnam Livestock Company Limited aka C.P. Vietnam Livestock Corporation (“C.P. Vietnam”) aka C.P. Vietnam Livestock Corporation aka C.P. Vietnam Livestock Co. Ltd.</p>	0.88%

<p>Cadovimex Seafood Import-Export and Processing Joint Stock Company (“CADOVIMEX-VIETNAM”) aka Cadovimex Seafood Import- Export and Processing Joint Stock Company aka Cadovimex-Vietnam aka Cadovimex aka Cai Doi Vam Seafood Import-Export Company 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.</p>	0.88%
<p>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</p>	0.88%
<p>Cam Ranh Seafoods Processing Enterprise Company (“Camranh Seafoods”) aka Camranh Seafoods</p>	0.88%

<p>Can Tho Agricultural and Animal Products Import Export Company (“CATACO”) aka CATACO Sole Member Limited Liability Company aka Can Tho Agricultural and Animal Product Import Export Company (“CATACO”) aka Can Tho Agricultural Products aka CATACO aka Can Tho Agricultural and Animal Products Imex Company</p>	0.88%
<p>Can Tho Import Export Fishery Limited Company (“CAFISH”)</p>	0.88%
<p>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.</p>	0.88%
<p>Cuulong Seaproducts Company (“Cuu Long Seapro”) aka Cuu Long Seaproducts Limited (“Cuulong Seapro”) aka Cuulong Seapro aka Cuulong Seaproducts Company 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</p>	0.88%

<p>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 Danang Sea Products Import Export Corporation 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.</p>	0.88%
<p>Gallant Ocean (Vietnam) Co., Ltd. aka Gallant Ocean (Quang Ngai) Co. Ltd.</p>	0.88%
<p>Viet I-Mei Frozen Foods Co., Ltd. aka Viet I-Mei Frozen Foods Co. Ltd. aka Viet I-Mei aka Grobest & I-Mei Industrial (Vietnam) Co., Ltd. aka Grobest & I-Mei Industry (Vietnam) Co., Ltd. aka Grobest</p>	0.88%
<p>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</p>	0.88%
<p>Kim Anh Company Limited (“Kim Anh”)</p>	0.88%

<p>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</p>	<p>0.88%</p>
<p>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</p>	<p>0.88%</p>
<p>Minh Hai Sea Products Import Export Company (“Seaprimex Co”) aka Ca Mau Seafood Joint Stock Company (“SEAPRIMEXCO”) aka Seaprimexco Vietnam aka Seaprimexco aka Seaprimex Co 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”)</p>	<p>0.88%</p>

<p>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)</p>	0.88%
<p>Ngoc Tri Seafood Joint Stock Company</p>	0.88%
<p>Nhat Duc Co., Ltd. aka Nhat Duc Co., Ltd. (“Nhat Duc”)</p>	0.88%
<p>Nha Trang Fisheries Joint Stock Company (“Nha Trang Fisco”) aka Nha Trang Fisheries Joint Stock Company aka Nhatrang Fisheries Joint Stock Company aka 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)</p>	0.88%
<p>Phu Cuong Seafood Processing and Import-Export Co., Ltd. aka Phu Cuong Seafood Processing and Import Export Company Limited aka Phu Cuong Jostoco Corp. aka Phu Cuong Jostoco Seafood Corporation</p>	0.88%
<p>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.</p>	0.88%
<p>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</p>	0.88%

<p>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</p>	0.88%
<p>Thuan Phuoc Seafoods and Trading Corporation aka Thuan Phuoc Corp. aka Frozen Seafoods Factory No. 32 aka Seafoods and Foodstuff Factory aka My Son Seafoods Factory aka Seafoods and Foodstuff Factory</p>	0.88%
<p>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 Hoang Phong Seafood Factory aka UTXI Aquatic Products Processing Corporation (“UTXICO”) aka UTXI Aquatic Products Processing Corporation aka UTXICO</p>	0.88%
<p>Viet Foods Co., Ltd. aka Nam Hai Foodstuff and Export Company Ltd.</p>	0.88%
<p>Viet Hai Seafood Co., Ltd. aka Vietnam Fish One Co., Ltd. (“Fish One”) aka Viet Hai Seafoods Company Ltd. (“Vietnam Fish One Co. Ltd.”)</p>	0.88%
<p>Vietnam Clean Seafood Corporation aka VINA Cleanfood</p>	0.88%

Vietnam-wide Entity	25.76%
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✓

Agree

Disagree

Paul Piquado

Paul Piquado
Assistant Secretary
for Import Administration

5 OCTOBER 2012

Date