

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

Scope of the Investigation

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

For purposes of this investigation, the product covered is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact ("regular" fillets), boneless fillets with the belly flap removed ("shank" fillets), boneless shank fillets cut into strips ("fillet strips/finger"), which include fillets cut into strips, chunks, blocks, skewers, or any other shape.

Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps.

The subject merchandise will be hereinafter referred to as frozen "basa" and "tra" fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the Harmonized Tariff Schedule of the United States ("HTSUS"). This investigation covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

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

Analysis of Comments Received

All issues raised in the case brief by parties to this investigation are addressed in detail in the *Memorandum*

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

Nonmarket Economy Country Status

On November 8, 2002, the Department determined under section 771(18)(A) of the Act, after analyzing comments from interested parties, that based on the preponderance of evidence on the record related to economic reforms in Vietnam to date, analyzed as required under section 771(18)(B) of the Act, that Vietnam should be treated as a non-market economy country under the U.S. antidumping law, effective July 1, 2001. See *Memorandum for Faryar Shirzad, Assistant Secretary, Import Administration from Shauna Lee-Alaia, George Smolik, Athanasios Mihalakas and Lawrence Norton, Office of Policy through Albert Hsu, Senior Economist, Office of Policy, Import Administration, Jeffrey May, Director, Office of Policy, Import Administration, Antidumping Duty Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Determination of Market Economy Status* ("Market Status Memo"), dated November 8, 2002.

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

Separate Rates

In our *Preliminary Determination*, we found that the Mandatory Respondents and all Voluntary Section A Respondents, including Vinh Long, met the criteria for the application of separate, company-specific antidumping duty rates. For purposes of the final determination, we continue to grant separate, company-specific rates to the

eleven exporters which sold certain frozen fish fillets to the United States during the POI. For a complete discussion of the Department's determination that the Respondents, including Vinh Long, are entitled to a separate rate, please see the *Final Decision Memorandum* at Comments 5 and 6.

Critical Circumstances

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

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

Vietnam-Wide Rate

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