DATE: September 7, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results

I. SUMMARY

The Department of Commerce (Commerce) published the preliminary results of the administrative review of certain frozen warmwater shrimp from the Socialist Republic of Vietnam (Vietnam) on March 12, 2018. The period of review (POR) is February 1, 2016, through January 31, 2017. We analyzed the case and rebuttal briefs that interested parties submitted on the record. As a result of our analysis, we made changes from the Preliminary Results. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is a list of the issues in this administrative review for which we received comments from interested parties.

Comment 1: Fresh Shrimp Surrogate Value
Comment 2: Fimex VN Shrimp Input Conversion
Comment 3: Separate Rate Status for Trade Names

II. BACKGROUND

On April 11, 2018, several Vietnamese companies collectively filed a request for a public hearing, which was later withdrawn. On June 8, 2018, we extended the time limit for these final results by 60 days. Between July 16, 2018, and July 23, 2018, Commerce verified the questionnaire responses of the sole mandatory respondent, Fimex VN (Fimex). We issued the verification report on August 9, 2018. On August 9, 2018, we invited interested parties to comment on the Preliminary Results. On August 16, 2019, Mazzetta Company LLC (Mazzetta) and the Vietnam Association of Seafood Exporters and Producer (VASEP) filed case briefs. On August 22, 2018, the petitioner filed its rebuttal brief.

III. 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 ("HTS"), 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, white-leg shrimp (Penaeus vannamei), banana prawn (Penaeus merguiensis), 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.

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4 See Letter from Mazzetta, re: “Case Brief,” dated August 16, 2018 (Mazzetta Case Brief).
6 Ad Hoc Shrimp Trade Action Committee (the petitioner). See Letter from the petitioner, re: “Rebuttal Brief,” dated August 22, 2018 (the Petitioner’s Rebuttal Brief).
7 “Tails” in this context means the tail fan, which includes the telson and the uropods.
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 0306.23.00.02 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); and 7) certain battered shrimp. Battered 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 individually quick frozen (“IQF”) freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. 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 this order is dispositive.8

IV. DISCUSSION OF THE ISSUES

Comment 1: Fresh Shrimp Surrogate Value

VASEP/Mazzetta Case Brief:

- Commerce should use the best information available to value Fimex’s raw vannamei shrimp input. In the Preliminary Results, Commerce used Bangladeshi data contained in the 2011 study performed by the Network of Aquaculture Centres in the Asia-Pacific (NACA) to value all of Fimex’s raw shrimp input.9
- However, the Bangladeshi NACA pricing data are limited to prices for black tiger shrimp, while a large percentage of Fimex’s production and sales are for vannamei shrimp. Of Fimex’s sales, vannamei represents nearly 80% of total shrimp production, so reliable values for vannamei shrimp weigh more heavily than those for black tiger.
- Given that the NACA study contains data from both Indonesia and Bangladesh but the Indonesia portion of the study contains shrimp prices for vannamei shrimp, while the Bangladesh portion of the study does not, Commerce should rely on the Indonesian portion

8 On April 26, 2011, Commerce amended the order to include dusted shrimp, pursuant to the U.S. Court of International Trade (CIT) decision in Ad Hoc Shrimp Trade Action Committee v. United States, 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission (ITC) determination, which found the domestic like product to include dusted shrimp. See Certain Frozen Warmwater Shrimp from Brazil, India, the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011); see also Ad Hoc Shrimp Trade Action Committee v. United States, 703 F. Supp. 2d 1330 (CIT 2010) and Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam (Investigation Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Publication 4221, March 2011.

9 See VASEP Case Brief at 2; see also id. at 6, citing to Memorandum re: “Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Results,” dated March 5, 2018 (Prelim SV Memo).
of the study to value *vannamei* shrimp. Commerce relied on the Indonesia NACA study to value raw shrimp in AR7 when Indonesia was the primary surrogate country; thus, reliance on this study in the review is not a new approach or methodology.10

- Given recent court precedent, Commerce should use Indonesian pricing data contained in the NACA study to value Fimex’s *vannamei* shrimp input, because it is the most specific potential surrogate value (SV) and the best information available on the record.11 Moreover, unlike the circumstances in prior reviews where Commerce declined to rely on Indonesia NACA data to value shrimp (i.e., AR8),12 which the CIT upheld,13 here, for the first time, *vannamei* production far surpasses black tiger production; thus, *vannamei* shrimp should be valued with pricing data accorded to that species, despite fewer count-size availabilities in the Indonesia data than the Bangladeshi data.

- The reliance on a different surrogate country for SV data and extrapolating additional count-sizes for the Indonesia *vannamei* shrimp data are not as distortive to the normal value (NV) as overvaluing *vannamei* shrimp using higher black tiger shrimp prices. In AR8, the Indonesian *vannamei* data accounted for only between 49% and 57% of the respondents’ production.14

- To the extent that extrapolation is necessary to account for count-size, any inaccuracies caused by extrapolation would affect a far smaller percentage of sales (or production) than in AR8, while the gains in accuracy of applying a species-specific SV would apply to a far larger percentage of sales than in AR8.15

- The extremely small potential extrapolation benefit of selecting shrimp SVs for count-size is far outweighed by the actual benefit of valuing Fimex’s shrimp correctly by species.16

The Petitioner’s Rebuttal Brief:

- VASEP argued that (1) Bangladesh is the most appropriate surrogate country for the purposes of valuing FOPs in this administrative review; and (2) data regarding Bangladeshi shrimp prices reported in studies performed by NACA are the most appropriate SV for the

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10 See VASEP Case Brief at 8, citing to *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 56211 (September 12, 2013) (AR7 Final).*


13 See VASEP Case Brief at 10, citing to *Tri Union Frozen Prods., Inc. v. United States*, 163 F. Supp. 3d 1255 (CIT 2016) (*Tri Union I*).

14 See VASEP Case Brief at 11, citing to *AR8 Final* and *Tri Union 1*, 163 F. Supp. 3d at 1273.

15 See VASEP Case Brief at 11, citing to *Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the People’s Republic of China, 69 FR 42654, 42662 (July 16, 2004)* (“...the Department notes that the placement of the shrimp species category in the order of CONNUM assignments does not increase or decrease the weight given to that category in nonmarket economy margin calculations. In the NME margin calculation methodology, the CONNUM hierarchy is inconsequential to the normal value calculation because each CONNUM characteristic is afforded equal weight when calculating CONNUM-specific normal values.”).

16 See VASEP Case Brief at 11-12, citing to revised FOP databases submitted August 14, 2018, on ACCESS under barcode 3743684-07.
fresh shrimp FOP in this administrative review.”\textsuperscript{17} VASEP’s surrogate country comments acknowledged that Bangladeshi shrimp prices in the NACA study were limited to the monodon species and argued that “the use of black tiger prices as a surrogate for white leg \{\textit{vannamei}\} is conservative.”

- Neither VASEP nor Mazzetta populated the record with data from Indonesia for non-shrimp FOPs. Accordingly, VASEP and Mazzetta are simultaneously arguing that Bangladesh is the most appropriate surrogate country for valuing FOPs and that Bangladesh is not an appropriate surrogate country for valuing fresh shrimp, which is the most important FOP in the proceeding. If Bangladeshi values are inappropriate for valuing the most important FOP, Bangladesh cannot be the most appropriate surrogate country.\textsuperscript{18}

- VASEP argued that Bangladeshi shrimp farming practices were most similar to farming practices in Vietnam and that “the Department should find that the shrimp produced in Bangladesh is most similar to Vietnam because of (i) the species of shrimp that is cultured and (ii) the technology and production methods used.”\textsuperscript{19} However, neither VASEP nor Mazzetta address “the technology and production methods” used in Indonesian shrimp farming. As such, the extent of the record on this point is VASEP’s claim that Vietnam and Bangladesh continue “to be technologically and organizationally less developed compared to other developing country shrimp industries,”\textsuperscript{20} presumably including Indonesia.

- Neither VASEP nor Mazzetta provide any explanation as to why the similarities in “the technology and production methods used” in Bangladeshi and Vietnamese shrimp farming are no longer relevant to the determination of what SV constitutes the best available information. It is just as likely that the difference in species pricing in the Indonesia NACA is due to the use of intensive (as opposed to extensive) farming production methods for \textit{vannamei} in Indonesia that are not reflected in \textit{vannamei} production in Vietnam. Neither VASEP nor Mazzetta contemplated this alternative explanation.

- The CIT’s opinion in \textit{Soc Trang 2018} is distinguishable from this segment of the proceeding. In \textit{Soc Trang 2018}, the CIT held that Commerce’s utilization of a Bangladeshi surrogate to value the frozen shrimp FOP “was not reasonable in light of evidence that is from a far less specific category than the Indian data” also on the record of that proceeding.\textsuperscript{21} In that case, it was asserted that a significant portion of the Bangladeshi SV was comprised of coldwater shrimp – an input not used in the production of frozen warmwater shrimp in Vietnam.\textsuperscript{22} Here, Commerce has used a SV that is specific to the input used in production, warmwater shrimp. The Bangladeshi NACA SV is for black tiger shrimp and there is no dispute that Fimex used black tiger shrimp as an input.

- Conversely, in \textit{Tri Union I}, the CIT upheld the decision to use a Bangladeshi surrogate to value fresh shrimp rather than the Indonesian surrogate alternative and the CIT further upheld the decision not to supplement the Bangladeshi surrogate with \textit{vannamei} prices from the Indonesian NACA. Commerce determined, and the Court upheld, that the Indonesian NACA data may be more specific with respect to species, but the Bangladeshi NACA data are more specific with respect to the FOP as a whole.

\textsuperscript{17} See the Petitioner’s Rebuttal Brief at 2, citing to Letter from VASEP, “Certain Frozen Warmwater Shrimp from Vietnam: Surrogate Country Comments,” dated July 26, 2017 (VASEP Surrogate Country Comments).
\textsuperscript{18} Id.
\textsuperscript{19} See the Petitioner’s Rebuttal Brief at 3, citing to VASEP Surrogate Country Comments at 7.
\textsuperscript{20} Id.
\textsuperscript{21} Id. at 5, citing to \textit{Soc Trang 2018}, at *39.
\textsuperscript{22} Id., citing to \textit{Soc Trang 2018}, at *40.
The Court opined that once Commerce determined that the Bangladeshi NACA data are the best available information, it was reasonable for Commerce to choose to rely on the single data source that is more specific for the FOP in its entirety rather than integrate another data source from another country that is relatively more specific with regard to a component of the FOP.23

While VASEP differentiates this review from *Tri Union I*, VASEP ignores the full extent of the reasons Commerce declined to rely on Indonesian NACA values.

Commerce’s regulations establish a preference for valuing FOPs through a single surrogate country. Here, Commerce determined that Bangladesh is the primary surrogate country. Neither VASEP nor Mazzetta have submitted a surrogate financial statement from Indonesia or otherwise provided Indonesian values for the non-shrimp FOPs. Neither party has attempted to present an argument that Indonesia is a more appropriate surrogate country than Bangladesh.

Commerce also determined that there is a Bangladeshi SV for the fresh shrimp FOP within the Bangladeshi NACA study that is usable and the best available information available on the record, consistent with its statutory obligations.

VASEP and the Mazzetta Company have not established that the mere inclusion of *vannamei* prices in the Indonesian NACA data renders such information the best available information on the record. This is not a legally sufficient basis for the utilization of an alternative SV from outside of the primary surrogate country and Commerce should reject VASEP and Mazzetta’s arguments.

**Commerce’s Position:**

Commerce disagrees with VASEP and Mazzetta’s argument that Indonesia NACA data should be used to value the raw *vannamei* shrimp FOP in the final results. In the *Preliminary Results*, we stated that:

> in accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, “to the extent possible, the prices or costs of {FOPs} in one or more ME countries that are — (A) at a level of economic development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise.” As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available surrogate value (SV) data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.24

As stated, Commerce normally values all FOPs in a single surrogate country.25 In evaluating interested parties’ comments regarding surrogate country selection for the *Preliminary Results*, we acknowledged VASEP’s argument that “Bangladesh is the most suitable surrogate country

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23 *Id.* at 7, citing to *Tri Union I*, at 1276-1277.
24 *See Preliminary Decision Memorandum* at 12 (internal citations omitted).
25 *Id.; see also* 19 CFR 351.408(c)(2).
because it is at a comparable level of economic development, is a significant producer of comparable merchandise, and provides the best-quality data for SV purposes, specifically raw shrimp, the main input."\textsuperscript{26} We also acknowledged VASEP’s comment that “for less important factors of production (non-shrimp), India and Indonesia may provide usable SV data where such data cannot be obtained from Bangladeshi sources, as necessary.”\textsuperscript{27}

Prior to the \textit{Preliminary Results}, VASEP argued in favor of selecting Bangladesh as the surrogate country, inherently implying that the Bangladeshi NACA data are sufficient for covering both black tiger and \textit{vannamei} shrimp consumption, with its statement that “the NACA data meet the Department’s expressed preference for data based on actual transaction prices… The NACA data also satisfies product specificity standards because the prices are for raw black tiger (\textit{p. monodon}) shrimp in HOSO form.”\textsuperscript{28} VASEP also acknowledged that:

as documented in Vietnamese Respondents’ surrogate country comments, a substantial portion of subject merchandise exported from Vietnam consists of black tiger shrimp…. Furthermore, although white leg shrimp (\textit{P. Vannamei}) is also being exported from Vietnam, we note that black tiger shrimp are more expensive on a per-unit basis, so the use of black tiger prices as a surrogate for white leg is conservative.”\textsuperscript{29}

VASEP even converted the count-sizes and extrapolated the Bangladeshi NACA data for Fimex in its SV Comments.\textsuperscript{30}

Subsequently, in making our surrogate country selection in the \textit{Preliminary Results}, we noted that Bangladesh met the statutory criteria under section 773(c)(4) of the Tariff Act of 1930, as amended (the Act), as the appropriate surrogate country for this review, resting on data availability on the record.\textsuperscript{31} Specifically, we stated that “in this case, SV data for direct materials or surrogate financial statements are unavailable for Pakistan, India, Indonesia, Nigeria, and the Philippines; therefore, these countries cannot be considered for primary surrogate country selection purposes at this time.”\textsuperscript{32} Next, we determined that:

the value of the main input, head-on, shell-on shrimp, is the critical FOP in the dumping calculation as it accounts for the majority of the NV. Consequently, Commerce places great weight on the available sources of fresh, whole shrimp prices—more so than for non-shrimp FOPs. The record contains publicly available SV information for most FOPs from Bangladesh. With respect to the main raw material input, fresh shrimp, VASEP submitted fresh shrimp SV data for Bangladesh from a study conducted by the Network of Aquaculture Centers in Asia-Pacific (NACA), an intergovernmental organization affiliated with the United Nation’s (UN) Food and Agricultural Organization (FAO) which provides prices for several shrimp count-sizes.\textsuperscript{33}

\textsuperscript{26} See Preliminary Decision Memorandum at 13 (emphasis added); see also VASEP Surrogate Country Comments.
\textsuperscript{27} Id.
\textsuperscript{28} See VASEP Submission re; “Surrogate Value Comments,” dated August 7, 2017 (VASEP SV Comments) at 5.
\textsuperscript{29} Id. at 5, footnote 16.
\textsuperscript{30} Id., at Exhibit SV-2, at .pdf page 23.
\textsuperscript{31} See Preliminary Decision Memorandum at 13-14.
\textsuperscript{32} Id. at 15.
\textsuperscript{33} Id. (internal citations omitted).
Based on the above, and the fact that, besides raw shrimp SVs, the record also contains Bangladeshi SVs for the majority of non-shrimp FOPs, we determined that Bangladesh is the most appropriate primary surrogate country because it satisfied all the criteria required under section 773(c)(4) of the Act. Accordingly, Commerce did not seek information to supplement the record in search of another country that would satisfy the statutory criteria, apart from the four known FOPs for which Bangladesh could not provide SVs (i.e., shrimp scrap byproduct, shrimp larvae, shrimp feed, and labor). Thus, where Bangladesh could not provide SV data for FOPs, we relied in India as the secondary choice.35  

With regard to the raw shrimp data on the record, we stated that the NACA study containing the Bangladeshi shrimp data are a reliable and objective source of fresh, whole shrimp prices available to the public, as we have determined in prior segments of this proceeding.36 Citing to prior reviews where raw shrimp species was raised as an issue, we specifically acknowledged that the Bangladeshi NACA data are limited to black tiger shrimp data:

Commerce acknowledges that the Bangladeshi NACA data pertain to Black Tiger shrimp only. Commerce also notes that Fimex VN produced and sold both white (P. Vannamei) and Black Tiger shrimp. Accordingly, while the Bangladeshi SV data would not cover all shrimp species produced and exported by the respondent, as we stated in VN Shrimp AR8 Final and VN Shrimp AR9 Prelim, the absence of white shrimp price data in the Bangladeshi NACA study does not render it inferior or unusable. Specifically, as we stated in VN Shrimp AR8 Final, “what the data for Bangladesh lacks in vannamei prices is outweighed by other factors, such as Bangladesh’s economic comparability to Vietnam, as well as the availability of Bangladeshi surrogate financial statements…and a larger range of pricing for count sizes of black tiger shrimp, particularly the largest, most expensive shrimp count size.”37

In support of our continued reliance on the Bangladeshi NACA data, which VASEP also initially supported in its surrogate country and SV comments, we addressed the issue of count-sizes, rather than shrimp species, as the physical characteristic upon which we place greater weight in selecting Bangladeshi NACA data over any other source:

…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

34 See, e.g., Prelim SV Memo at 3, 6, and 9. With regard to shrimp feed, Commerce clarifies that, consistent with its practice, it determines that country-wide data are a broad market average, regardless of the number of countries within the import statistics for a specific HS subheading. However, in this case, import statistics for shrimp feed were reported by one country, the Netherlands, at a quantity of one kilogram, which is the determining factor in our finding that this was not a broad market average.
35 We have relied on India for SV data for very few FOPs in several segments of the proceeding and also in remand redeterminations in recent years (see, e.g., Tri Union Frozen Prods., Inc. v. United States, 254 F. Supp. 3d 1290 (CIT August 8, 2017) (Tri Union II) and Ad Hoc Shrimp Trade Action Comm. v. United States, 234 F. Supp. 3d 1315 (CIT June 29, 2017)).
36 See Preliminary Decision Memorandum at 15.
raw shrimp input are both reported on a count-size-specific basis. Commerce’s long-standing reliance on the NACA study rests on the fact that it provides usable and reliable pricing data for a large range of shrimp count-sizes, which is a fundamental element of Commerce’s margin calculations, as our control number (CONNUM) categories place a greater weight on count-sizes of shrimp versus the species of shrimp.38

In citing to the litigation history and AR8 Final, we re-emphasized that the importance of count-size specificity, and our continued reliance on the Bangladeshi NACA data because of its count-size specificity, weighs more heavily in our consideration of valuing the main input:

the CIT affirmed our placement of great weight on count size stating that ‘because the count size of shrimp is unquestionably an important consideration, the Department reasonably placed more weight on its specificity criterion than on its four other criteria.’” Moreover, for these reasons, in prior administrative reviews, Commerce rejected shrimp SVs with limited count-sizes. Accordingly, we find the Bangladeshi data to be specific to the main input. Finally, the CIT has sustained our determination to rely on Bangladeshi NACA data to value fresh, whole shrimp, regardless of species.39

In determining whether to continue to rely on Bangladeshi NACA data to value the raw shrimp FOP for these final results, Commerce has further examined the following issues: shrimp species verses count-size, the pricing structure of shrimp, and whether to rely on information from an additional surrogate country.

I. Analysis of Shrimp Species Verses Count-Size

VASEP and Mazzetta make several arguments regarding the differences between the information on the record of this segment of the proceeding and that of AR8 Final and AR9 Final, including the relative sales and/or consumption of vannamei shrimp of the mandatory respondents in those reviews compared to the respondent in the instant review. Among the arguments, VASEP claims that Fimex sold more vannamei than black tiger shrimp in this review than the mandatory respondents had done in the above-referenced prior reviews. We find this argument misleading, as sales data are inapposite to the valuation of the consumption of raw shrimp. Exporters’ sales data are not homogeneous and, thus, comparing the sales data of companies of varying sizes, export volumes and customer bases, from different review periods, is not instructive with regard to Fimex’s consumption of raw shrimp in the instant review. Moreover, sales of a product do not necessarily equate to the production of a product. For instance, a company may sell a specific product from finished goods inventory, not POR production. Also, a company may sell a product it did not produce at all (i.e., the exporter may be a reseller of subject merchandise). In either scenario, the sales quantity of vannamei subject merchandise in this and previous segments of the proceeding is irrelevant to the discussion here. Rather, the relevant statistics are based on actual consumption/production records.

38 Id.
39 Id., citing to Allied Pacific Food (Dalian) Co. Ltd., v. United States, 716 F. Supp. 2d 1339, 1344-1345 (CIT 2010) (Allied); AR8 Final at Comment 1; Tri Union I, 163 F. Supp. 3d at 1278 (“Commerce’s decision to use the Bangladeshi NACA data to value all raw shrimp, including white vannamei shrimp, is reasonable”).
On this record the evidence shows that Fimex acquired *vannamei* shrimp from three different sources: 1) self-farmed *vannamei*,\(^{40}\) 2) purchased raw shrimp—domestic,\(^{41}\) and 3) purchased frozen shrimp—imported.\(^{42}\) First, to properly evaluate the actual consumption of the shrimp at issue here (fresh, raw local purchases), it is appropriate to exclude the quantity of self-farmed *vannamei* from the total shrimp consumption quantity because we did not value Fimex’s self-farmed *vannamei* shrimp with the Bangladeshi NACA SV. Rather, because Fimex reported integrated processes for its farming activity, we valued the upstream direct materials used for the farming stage of production.\(^{43}\) Thus, at this point in our valuation of shrimp, a considerable quantity of Fimex’s *vannamei* shrimp consumption must be excluded from the discussion and analysis.

Next, it is also appropriate to exclude from this discussion and analysis the quantity of purchased frozen shrimp from the total shrimp consumption quantity because we relied on a different SV to value purchased, frozen shrimp, which covered both species. Incidentally, we find it instructive that the frozen shrimp SV, under HS 0306.17, has no delineation regarding shrimp species at any digit-level of the Harmonized Schedule (HS) (the HS subheading only refers to this category as warmwater shrimp with no species specifically identified).\(^{44}\) Thus, our analysis and discussion focuses solely on Fimex’s locally-sourced raw shrimp consumption.

While VASEP argues that nearly 80 percent of Fimex’s raw material shrimp was *vannamei*, VASEP did not address the percentage of all shrimp consumption on a count-size basis. We have reviewed the raw shrimp allocation data that Fimex submitted.\(^{45}\) In reviewing this data, we have identified that, while Fimex consumed a large quantity of its shrimp within the count-size bands for which pricing data exist, there remains a significant quantity of count-sizes that Fimex also consumed, which the Bangladeshi NACA data cover but the Indonesia NACA data do not. Thus, VASEP’s suggestion to rely on Indonesia NACA data to value the largest countsizes, which Commerce would have to extrapolate, does not increase the accuracy of the NV calculation. Rather, the proposition would require Commerce to create SVs for roughly 63 percent of the count-sizes for *vannamei* values, where the count-size data already exist on the record, albeit for a different species.\(^{46}\)

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\(^{40}\) See Fimex Section D Questionnaire Response (SDQR) dated July 13, 2017, at 4 (“…Fimex VN has one small farm. The output of the farm is, as an initial matter, not the merchandise under consideration, but instead, fresh raw shrimp. However, we have provided in this response the upstream FOPs for raw shrimp produced by Fimex VN’s farm…”). See also Verification Report at 10 (“Company officials explained there are…ponds on the farm which contain Vannamei shrimp. Company officials explained that all shrimp produced on the farm are transferred directly to Fimex’s processing plant.”).

\(^{41}\) See SDQR at Exhibit D-8 and D-10c.

\(^{42}\) See SDQR at Exhibits D-7 (where the quantity of imported frozen shrimp, by supplier, also provides the origin of the shrimp and the species) and D-10c.

\(^{43}\) Id., at 4; see also Prelim SV Memo at 3-6.

\(^{44}\) See, e.g., Prelim SV Memo at Exhibit 5f (“030617: Crustaceans; frozen, shrimp and prawns, excluding cold-water varieties, in shell or not, smoked, cooked or not before or during smoking; in shell, cooked by steaming or by boiling water”). We note that, at the six-digit level, HS subheadings are harmonious worldwide; but, at the eight-to-ten-digit levels, the sub-headings are count-size specific according to the country. See, e.g., the scope of this Order (see above). Thus, if shrimp imports under 0306.17 are valued by count-size, not species, then the SV of the raw shrimp, by species, is not consequential.

\(^{45}\) See Memorandum to the File re; “Analysis for the Final Results for Fimex VN,” dated September 10, 2018 (Final Calculation Memo).

\(^{46}\) Id.
As such, the record in this review continues to show that selecting a SV for shrimp based on species would suffer from the same deficiencies as in past reviews. The Indonesia NACA data are still lacking, regardless of review period and regardless of the quantity of *vannamei* that Fimex produced. In fact, it is because Fimex produced more *vannamei* in more count-sizes than black tiger shrimp in this review, that the lack of prices for the largest and smallest count-size bands for *vannamei* diminishes the accuracy of the NV, as the necessary extrapolation of those missing count-sizes would not be based on actual data collected from primary sources, but rather would be a calculation based on the average difference between the prices of the count-sizes that are available. Commerce’s reliance on Bangladeshi NACA data, in part, is due to the relatively larger coverage of actual count-size data, as collected from primary sources. Additionally, the extrapolation of the smallest count-sizes is not as critical to calculating NV as having to extrapolate prices for higher-value, larger count-size shrimp, as we would have to do with the Indonesia NACA data. Further, the CIT previously affirmed our determination to continue valuing all raw shrimp with the Bangladeshi NACA data rather than introducing tertiary data from yet a third surrogate country.

The Indonesia NACA data lack prices for approximately 63 percent of the 15 count-sizes that Fimex reported (e.g., 10 of 15 count-size bands have no actual and available prices). Specifically, both the Bangladeshi and Indonesian NACA data do not contain prices for countsizes of 100 pieces per kilogram and over, regardless of species. This requires Commerce to derive prices for those count-sizes from the existing NACA data. Therefore, for countsizes over 100 pieces per kilogram, both sets of data are equivalent and similar in their deficiency. Nevertheless, the volume of raw shrimp over the 100 pieces-per-kilogram count-sizes that Fimex consumed is minor compared to that of the larger count-sizes. Thus, VASEP’s and Mazzetta’s arguments regarding Fimex’s heavier reliance on *vannamei* shrimp than black tiger shrimp in this review are unavailing and, if anything, demonstrate that the Indonesia NACA data unnecessarily introduce more distortion rather than less.

We also disagree with VASEP and Mazzetta that the Court’s ruling in *Soc Trang 2018* is pertinent here. In the Court’s holding in that case, the Court directed Commerce to explain its reliance on a SV that was not as specific to the input as a different SV on that record (i.e., explain reliance on a SV that contains data points for both cold-water and warmwater shrimp.

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47 In discussing count-sizes of shrimp, Commerce refers to “larger count-sizes” as physically larger shrimp, typically in the 6-8, 8-12, 16-20, count-size brackets. Conversely, when we refer to “smaller count-sizes,” we mean physically smaller shrimp, typically in the 90-103, 104-131, count-size brackets, for example.

48 *See Tri Union 1*, 163 F. Supp 3d at 1272 (“Commerce favored the Bangladeshi NACA data and ultimately selected Bangladesh as the primary surrogate country because it found that the Indonesian NACA data, though having data for both species, suffered from a limited availability of prices for a broad range of count-sizes. Thus, Commerce chose to rely upon the Bangladeshi NACA data because ‘what the data for Bangladesh lacks in *vannamei* prices is outweighed by other factors, such as Bangladesh’s economic comparability to Vietnam . . . and a larger range of pricing for count-sizes of black tiger shrimp, particularly the largest, most expensive shrimp count-size.’”). *See also Allied*, 716 F. Supp 2d at 1344-1345 (“Because the count-size of shrimp is unquestionably an important consideration, Commerce reasonably placed more weight on its specificity criterion than on its four other criteria...”).

49 *See Final Calculation Memo at 5-7 and Attachment 6*. Fimex reported its consumption using a “mix ratio” methodology, whereby one reported count-size bracket, such as 16-20 pieces per kilogram, is composed of a mix ratio of other count-sizes. Our analysis of the mix ratios indicates that 63 percent of the count-sizes in each reported “RM” category of raw shrimp consumption requires extrapolated SV data, if Indonesia NACA data were to be used.

50 *Id.*

51 *Id.* at Attachment 6.
compared to a SV that was for warmwater shrimp only). Here, we valued raw warmwater shrimp consumption reported on a count-size specific basis (15 count-sizes), with count-size specific SVs of raw warmwater shrimp from the primary surrogate country. Thus, the circumstances here are dissimilar from those in *Soc Trang 2018*.

II. Pricing Structure of Shrimp

Commerce disagrees with VASEP’s and Mazzetta’s argument that the pricing structure of raw shrimp is based on species rather than count-size. The NACA study itself confirms that count-size, not species, drives prices. As we stated in *AR8 Final*, the NACA study (within the Vietnamese section) reports the importance of shrimp size in pricing, stating that “shrimp price depends on the size and seasonal crop, and has tended to increase rapidly…especially for bigger sizes for both {black tiger and vannamei}.” Moreover, the Bangladeshi portion of the NACA study avers that “bigger size of shrimps had relatively lower price variation than the smaller sizes,” with no mention of species differentiation regarding prices.

Indonesian NACA data price differences between black tiger and *vannamei* can be explained by intra-country market forces that did not affect Bangladesh or Vietnam. For instance, the Indonesia portion of the NACA study reports that the “data set for vannamei shrimp were mainly dominated by size 61-100, whereas other data were less available during study period…it can be seen that prices were tend to be {sic} stable overtime. Low production volume due to disease outbreaks during study period has also affected price stability.” The lower pricing of the Indonesian NACA data versus the Bangladeshi data can also be attributed to production issues: “Exporters also recognized that Indonesian shrimp face lower market prices because of allegedly poorer quality.” Thus, it is reasonable that Bangladeshi shrimp prices would be higher.

Conversely, there is no indication in the Bangladeshi portion of the NACA study that Bangladesh suffered the same issues as in Indonesia. The crux of the price differences between the two countries may be summed up in two findings within the study: with respect to Indonesia the study found that “the Indonesia shrimp industry has experienced an increasing number of difficulties over the past few years…” while the study’s finding for Bangladesh was that “the shrimp industry in Bangladesh is quite healthy at present.”

While VASEP and Mazzetta have focused solely on the species specificity, both parties failed to acknowledge that count-sizes are more determinative of the pricing of shrimp than species. A review of Fimex’s own sales data demonstrates that count-size drives prices more so than species. Specifically, we find Fimex’s pricing of its *vannamei* versus black tiger shrimp sales

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52 See *Soc Trang 2018* at *35-36.

53 See VASEP SV Comments at Exhibit SV-2, .pdf page 45.

54 Id. at Exhibit SV-2, .pdf page 31.

55 Id. at .pdf page 78.

56 Id. at .pdf page 59.

57 Id. at .pdf page 65.

58 Id. at .pdf page 67.

59 Id. at .pdf page 92.

60 Id. at .pdf page 45 (“shrimp price depends on the size and seasonal crop, and has tended to increase rapidly in both {black tiger} and {vannamei} species between 2009 and 2010.”)

61 See Final Calculation Memo at Attachment 5. Our analysis of Fimex’s reported U.S. sales prices demonstrates a consistent trend of increasing prices for larger count-sizes and decreasing prices for smaller count-sizes irrespective of species.
instructive in evaluating VASEP’s argument that black tiger shrimp is more expensive. Our analysis of Fimex’s pricing structure, using Fimex’s reported sales data, is discussed in detail in the Final Calculation Memo. Accordingly, based on our analysis of Fimex’s sales data, we disagree with VASEP that species, unlike count-size, has significant impact on pricing structure. Moreover, while Commerce did not rely on Fimex’s market-economy purchase prices for imported frozen shrimp, an examination of the values on the record demonstrates that there are significant price differences between count-sizes.

III. Reliance on a Third Surrogate Country

Finally, we disagree with VASEP’s and Mazzetta’s contention that it is appropriate to rely on a third surrogate country, Indonesia, for a raw shrimp SV, when the record contains raw shrimp SVs for a wider range of count-sizes from the primary surrogate country, Bangladesh. VASEP’s argument that using the *vannamei* data from the Indonesia NACA study will result in a more accurate NV is unsupported by the record.

As we stated above, for the past several administrative reviews and pursuant to litigation, Commerce has relied on India as a secondary surrogate country for SVs not available from Bangladesh. Here, we again relied on India for SVs that Bangladesh could not provide. Thus, Commerce is already relying on a secondary source for SVs and declines to rely on a third country, especially where such departure from Bangladesh is not necessary. The Act sets forth procedures in an effort to determine margins “as accurately as possible.” This alternative approach proffered by VASEP and Mazzetta only invites more distortion rather than less insofar as Commerce would have to extrapolate more values than necessary to fill the gaps in the Indonesia NACA price data. This proposed reliance on a third country also detracts from the predictability of conducting the administrative review wherein we selected Bangladesh because it fulfills our surrogate country selection criteria, as VASEP itself noted. Because we have used Bangladeshi NACA data to value raw shrimp in nearly all past reviews, continuing its use in this review contributes to the predictability when assigning SVs to FOPs in the proceeding.

Furthermore, we disagree with VASEP’s and Mazzetta’s contention that Commerce’s previous selection of Indonesia as the primary surrogate country demonstrates that Indonesia satisfies the statutory criteria in this review. Our selection of Indonesia as the surrogate country in the seventh administrative review did not preclude our selection of Bangladesh as the surrogate country in subsequent segments of the proceeding. And, the fact that we relied on Indonesia as a surrogate country in one segment does not imply that we determined Indonesia to be superior to

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62 Id. at 7 and Attachment 5.
63 Id.
64 See Prelim SV Memo at 3 (“Where Fimex VN reported ME purchases of frozen shrimp, there were no usable purchase prices to value the frozen shrimp… thus, we applied a Bangladeshi SV from UN Comtrade to the respondents’ respective reported quantity of purchased frozen shrimp.”)
65 See Final Calculation Memo at Attachment 7; see also SDQR at Exhibit D-7.
66 See Preliminary Decision Memorandum at 23-24, 26.
67 See Rhone Poulenc, Inc. v. United States, 899 F.2d 1185, 1191 (Fed. Cir. 1990).
68 See Freshwater Crawfish Tail Meat from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission; 2010-2011, 78 FR 22228 (April 15, 2013) and accompanying Issues and Decision Memorandum at Comment 1; see also Sebacic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 65 FR 49537 (August 14, 2000) and accompanying Issues and Decisions Memorandum at Comment 5 (“The Department emphasizes accuracy, fairness, and predictability when assigning surrogate values to factors of production”).
Bangladesh for all future segments. Nor does that precedent compel such an outcome. Rather, we make surrogate country determinations based on the information on the record of each administrative segment. In this administrative review, we examined the surrogate country comments from interested parties, evaluated the data availability, and made a determination based on that information. In evaluating that information, we note that VASEP itself argued that Bangladesh is the most appropriate surrogate country and provided Bangladeshi SVs for most FOPs. Accordingly, we continue to find it appropriate to rely on the Bangladeshi SV information to value shrimp.

Thus, as noted above, while VASEP emphasizes that black tiger shrimp is more expensive than vannamei shrimp, neither VASEP nor Mazzetta provided record evidence that would compel Commerce to abandon its practice of relying on the primary surrogate country to value most inputs and to instead rely in the final results on a third country to account for the alleged difference in shrimp species values, at the expense of relying on available data with a wider range of count-sizes from the primary surrogate country.

Commerce has made its surrogate country determination in this review based on the overall quality and volume of the data on the record, which weighed in favor of Bangladesh. Commerce declines to selectively rely on multiple countries for raw shrimp SVs based on speculation when there is sufficient record evidence available from a single country. The relative increase in representativeness that might be gained by using vannamei prices from the Indonesian NACA data does not overcome the fact that: 1) no parties argued for Indonesia as the surrogate country, and 2) Indonesian NACA data, overall, provides fewer data points for the full range of shrimp count-sizes. While we note that no SV source is perfect, to avoid further distortions, where a country on the Surrogate Country List has passed our three-prong test required by section 773(c) of the Act, and provides usable data to calculate an NV, we will not use multiple countries when the selected surrogate country provides the required data. Accordingly, based on the overall consideration of the statutory criteria and the quality of data, Commerce determines to continue valuing raw shrimp using the Bangladeshi SVs because the data satisfy the SV selection criteria and remain the best available information on the record to value raw warmwater shrimp.

**Comment 2: Fimex VN Shrimp Input Conversion**

**VASEP Case Brief:**
- Commerce erred in its application of the Head-Less, Shell-On (HLSO) to Head-On, Shell-On (HOSO) conversion factor to Fimex’s raw shrimp FOPs.
- Fimex reported its fresh and frozen shrimp consumption on the basis by which it was consumed in the production process, and thus some FOPs were reported on a HOSO basis. However, Commerce applied a conversion to HOSO for all FOPs, thus HOSO shrimp FOPs were unnecessarily converted, the effect of which overstated the calculated NV.
- The HLSO-to-HOSO conversion factor used with respect to the vannamei shrimp FOPs was also inaccurate.

69 See Clearon Corp. v. United States, No. 08-00364, 2013 WL 646390, at 6 (CIT February 20, 2013) (acknowledging that Commerce’s preference is reasonable because “deriving the surrogate data from one surrogate country limits the amount of distortion introduced into its calculations”).

70 See Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997) (“{T}he process of constructing foreign market value for a producer in a nonmarket economy country is difficult and necessarily imprecise…While §1677b(c) provides guidelines to assist Commerce in this process, this section also accords Commerce wide discretion in the valuation of factors in the application of those guidelines…”).
• Commerce should use the revised, post-verification FOP database, which reverted all raw shrimp FOPs to an HLSO basis and therefore allows for a proper conversion to HOSO using the relevant species-specific ratios.

**The Petitioner’s Rebuttal Brief:**
• Commerce should accept only those corrections that are consistent with the results of its verification of Fimex’s reporting.

**Commerce’s Position:**

Commerce agrees with Fimex that the HLSO input should be converted to HOSO in the SAS program such that the raw shrimp input is on the same basis as the SV, which is also HOSO.\(^71\) We agree that the HLSO conversion to HOSO is different between black tiger shrimp and *vannamei* shrimp, which Fimex reported in its SDQR.\(^72\) Additionally, Fimex’s arguments are consistent with the results of our verification regarding its FOP reporting.\(^73\) Accordingly, we have made the appropriate adjustment to the species-specific HLSO-to-HOSO conversions in the SAS program, as reported on the record.\(^74\)

**Comment 3: Separate Rate Status for Trade Names**

**VASEP Case Brief:**
• Commerce erred in declining to grant separate rate (SR) status to various factory branches and other names contained in the separate rate applications (SRA) and certifications (SRC) of certain Vietnamese respondents. A branch factory is not separate corporate entity. A factory is a division of the company, not an affiliated company. Hence, it is reasonable for a company to file a single SRC, as it has done in all prior reviews, to maintain SR status for a branch under whose name product was shipped during the POR.
• Commerce did not take into account all the Business Registration Certificates (BRCs) provided as evidence of trade names.
• Commerce’s adopted policy of denying SR status to company names that were not used in sales to the United States during the POR is problematic because it requires a company to sell to the United States with that name at the country-wide rate, after which time the company has to file an SRA in order to reinstate its SR status.
• Commerce should consider changing its policy. A better policy would be to simply rescind the review for those names rather than deny them SR status and place the companies in this untenable position. This applies to many of the companies’ full names, such as Fimex VN’s full name Sao Ta Foods Joint Stock Company, the mandatory respondent in this review. VASEP suspects Commerce would not permit a company of Fimex’s size to ask for rescission of the review for one of its names – particularly its full name – when it is one of the largest shippers to the United States. But, merely because it chose not to sell under its full name during the POR, its eligibility to sell using its full name is put at risk. This should not be the case.

\(^{71}\) See Prelim SV Memo at 4-5.
\(^{72}\) See SDQR at 18, 20-21.
\(^{73}\) See Verification Report at 4.
\(^{74}\) See Final Calculation Memo at 2 and Attachments 1 and 2.
The Petitioner’s Rebuttal Brief:

- VASEP asserts that Commerce “has adopted a policy that denies {separate rate} status to company names that were not used in sales to the United States during the POR.”
- VASEP takes issue with this policy, arguing that “it requires a company to sell to the United States with that name at the country-wide rate, after which time the company has to file a SR Application in order to reinstate its SR status” and that this puts the companies in an “untenable position.”
- While enumerating the difficulties presented by the various permutations of names employed by different Vietnamese shrimp exporters, VASEP does not explain why the desire by Vietnamese companies to sell under a wide variety of different names should be accommodated under the administration of the Order.
- VASEP fails to provide reasons for why Commerce should assist Vietnamese exporters in maintaining the widest spectrum of possible names under which they might ship. Nor does VASEP address the impact of its argument on U.S. Customs and Border Protection’s (CBP’s) enforcement and administration of the antidumping duty Order.
- VASEP contends that Commerce should, instead of denying SR status, rescind the review with regard to the names of companies for which there is no evidence of shipments or entries of subject merchandise during the POR. But this would appear to create an administrative nightmare for federal agencies, whereby a company would be able to maintain the SR cash deposit rate established in a prior administrative review for names under which it did not ship during the period of a current review, while the same company would be simultaneously subject to the SR cash deposit rate established by the current review for names under which it did ship during the period of that review.
- To the extent that Commerce has adopted a policy of denying SR status to company names for which there are no shipments or entries during a POR, such a policy would significantly simplify the administration of the Order by reducing the number of variant names that can be used to enter subject merchandise under a separate, rather than country-wide, rate. If a Vietnamese exporter is concerned about its ability to maintain SR status for any variant name employed by the company, it need only make a shipment or entry of subject merchandise under that variant name during the relevant POR.

Commerce’s Position:

Commerce disagrees with VASEP’s arguments regarding the denial of SR status for certain claimed company trade names in the Preliminary Results. In the Preliminary Results, Commerce addressed SR applicants’ requests for SR status for claimed trade names.\(^7^5\) Citing to the Trade Name Memo in the Preliminary Results, we noted that:

}\(^7^5\) See Memorandum to the File re: “Antidumping Duty Administrative of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Requested Trade Names Not Granted Separate Rate Status at the Preliminary Results,” dated March 5, 2018 (Trade Name Memo).
these names have not met the requirements for separate rate status, as discussed below, we are preliminarily not including these names on the list of companies for which separate rate status applies.

Commerce assigns separate rates in NME cases only if the applicant can demonstrate an absence of both *de jure* and *de facto* governmental control over its export activities in accordance with the criteria of the separate-rates test. In determining whether companies should receive separate rates, we focus our attention on the exporter rather than the producer.\textsuperscript{76} Consequently, we limit our consideration of SRAs to firms that exported the merchandise to the United States. Further, to be considered for separate-rate treatment in an administrative review, the applicant must have a suspended entry of subject merchandise into the United States during POR.\textsuperscript{77} Commerce’s practice regarding the application process for SR status is necessarily guided by its established policy. *Policy Bulletin 5.1*, states “\{e\}ach applicant seeking separate rate status must submit a separate and complete individual application regardless of any common ownership or affiliation between firms . . .”\textsuperscript{78} *Policy Bulletin 5.1* also states that “firms that produce the subject merchandise are not required to demonstrate their eligibility for separate rate status unless they also export the merchandise to the United States.”\textsuperscript{79} That is, in determining whether companies should receive a SR, Commerce focuses its attention on the exporter rather than the manufacturer.\textsuperscript{80} *Policy Bulletin 5.1* provides specific instructions regarding the documentation required for SR consideration. Among those instructions, the policy requires that “all applicants must identify in the application any affiliates in the NME country that exported to the United States during the period of investigation the merchandise described in the petition, as well as any affiliates located in the United States involved in the sale of subject merchandise.”\textsuperscript{81} *Policy Bulletin 5.1* further requires that:

The name that is provided in the application must be the name that appears on the exporter’s business license/registration documents. All shipments to the United States declared to U.S. Customs and Border Protection must identify the exporter by its legal business name, and this name must match the name that appears on the exporter’s business/registration documents. If your firm is assigned separate rate status, your firm will only be able to ship under your separate rate names that are included on your business license/registration documents, or for which you have explained are otherwise permitted.\textsuperscript{82}

\textsuperscript{76} See SRA available at: https://enforcement.trade.gov/nme/sep-rate-files/app-20150323/srv-sr-app-20150416.pdf; see also Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People’s Republic of China, 60 FR 56045 (November 6, 1995).

\textsuperscript{77} Id. at 2.


\textsuperscript{79} Id., at 6.

\textsuperscript{80} See *AR9 Final* at Comment 12; see also Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People’s Republic of China, 60 FR 56045 (November 6, 1995); see also Commerce’s Separate Rate Application, available at: http://enforcement.trade.gov/nme/sep-rate-files/app-20150323/srv-sr-app-20150416.pdf.

\textsuperscript{81} See *Policy Bulletin 5.1* at 4-5.

\textsuperscript{82} Id. at 5.
Further, *Policy Bulletin 5.1* states that:

The Department’s separate rates analysis and test is not being extended to producers. Firms that produce the subject merchandise are not required to demonstrate their eligibility for separate rate status unless they also export the merchandise to the United States. The Department’s separate rates test, which focuses exclusively on the respondent’s export activities, is not being altered by the extension of combination rates to all NME exporters receiving a separate rate.\(^{83}\)

The instructions and requirements outlined in *Policy Bulletin 5.1* also informed the requirements and instructions in Commerce’s SRA and SRC. For instance, within the SRA, at Section II.2, Commerce inquires whether the applicant is “identified by any other names, such as trade names or ‘doing-business-as’ (‘d.b.a.’) names, as a legal matter in the home market, in third countries, or in the United States?\(^{84}\) This question specifically pertains to the applicant itself, not to “branch factories” or other affiliates of the applicant. There is a clear instruction provided regarding any affiliates\(^{85}\), whether or not the applicant believes these “branch factories” to be affiliates or not. Moreover, Commerce defines the term “trade name” as contemplated for the purpose of granting a SR:

> Trade names are other names under which the company does business. It does not include product brand names or the names of any other entities in the applicant’s “group,” affiliated or otherwise. If your firm is assigned separate rate status, your firm will only be able to ship under your separate rate under names that are included on your business license/registration documents, or are otherwise permitted, as explained in your response to this question.\(^{86}\)

As demonstrated above, Commerce has clear and unambiguous requirements regarding the granting of SR status to applicants and the applicants’ trade names. VASEP’s claim that Commerce’s determinations are “unfair” is unavailing. Our determinations are based on the information provided by the applicant as guided by the requirements readily available to the applicant from multiple sources, such as *Policy Bulletin 5.1*, or the SRA itself.

Further, the granting of a SR to an exporter is not a *carte blanche* or invitation for all trade names associated with the applicant (or certifier) to benefit from that SR, particularly if that associated “branch” or affiliate is a manufacturer, not an exporter.\(^{87}\) As we stated in prior segments:

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\(^{83}\) *Id.*

\(^{84}\) *Id.* at 10.

\(^{85}\) *Id.* at footnote 5 (“Ensure that each applicant seeking separate rate status is submitting a separate and complete individual application regardless of any common ownership or affiliation between firms and regardless of foreign ownership. Your response to this question should have only one company name.”).

\(^{86}\) *Id.* at footnote 6.

\(^{87}\) Commerce’s SRA clearly requires companies, whether affiliated or not, that are seeking a separate rate to file an application regardless of affiliation. This means that an applicant and all of its claimed affiliates must file their own SRAs. Moreover, in administrative reviews, Commerce grants separate rate status to exporters only—not manufacturers that do not export on their own. Thus, if an applicant is a manufacturer, not an exporter, it does not satisfy the requirements for a separate rate.
…we do not automatically grant separate rate status in an active segment simply because we had previously granted separate rate status to that name variation. As we stated above, the purpose of requiring a SRA or SRC is that separate rates are granted on a segment-by-segment basis and not in perpetuity for the life of the order, just as a denial of a separate rate in one segment does not bar a respondent from receiving a separate rate in the next segment based on the information provided on the record of that next segment. The same standard applies to all name variations requested. The Department makes separate rate determinations in each segment after reviewing and evaluating the documents submitted for such.88

Contrary to VASEP’s understanding, exporters are not afforded automatic SRs simply because they have filed a SRC and have been previously granted SR status for a certain trade name. Our determinations in AR10 Final, AR9 Final, AR8 Final and earlier attest to that policy and practice.89 “Shorthand” names or abbreviations of the companies identified and discussed in subsection I of this comment, for example, are not eligible for SR status if the exporter did not employ this shorthand name, as the legal business name, in its commercial documents submitted to CBP, as unequivocally stated in the instructions of the SRC. The name on the BRC must match the documents for shipments declared to CBP. Our determinations are not intended to subvert an exporter’s commercial activities. Rather, we evaluate the documentation on the record to determine if the applicant/certifier has met the requirements for SR status in the instant review, regardless of its SR status in prior reviews. Consistent with established policy and practice, we decline VASEP’s suggestion to revise our policy to fit the needs of a handful of Vietnamese exporters that do not file SRAs and SRCs pursuant to the instructions provided therein.

With regard to VASEP’s claim that trade names for certain applicants discussed below appear on the BRCs, we disagree, in part. We have noted that a number of applicants or certifiers provide photocopies of numerous amendments of the original BRCs that may identify claimed trade names. However, there are several problems with the submission of these superseded amendments to the BRCs. First, it is our understanding that if a company amends its BRC, it surrenders the original prior amendment before receiving the subsequent amendment. For examples, the ninth amendment of a company’s BRC must be surrendered to the issuing agency prior to receiving a new, original, tenth amendment to the BRC. Thus, a BRC in its 20th amendment that is valid during the POR, supersedes the prior amendments to the BRC, even if the applicant maintained photocopies of the older amendments and submits them with its SRA or SRC. Our practice is to consider only the most recently amended BRC as valid during the


For example, if the BRC was last amended in January 2016 and has not been amended since, then that January 2016 amendment to the BRC is the BRC that is valid during the POR covering February 1, 2016, through January 31, 2017. Thus, in short, simply because an applicant provides, as evidence of a trade name, a BRC from 2002, for example, that has been superseded by numerous amendments and the BRC valid during the POR does not contain that trade name, then the claimed trade name does not qualify for SR status.

Furthermore, the statutory and regulatory definitions of “affiliation” are unambiguous, regardless of VASEP’s definitions of “branch factories.” Section 771(33) of the Act, sets out several categories of persons who are considered to be “affiliated” or “affiliated persons” under the Act. Commerce does not make affiliation or collapsing determinations with regard to SR applicants because the purpose of evaluating a non-individually examined exporter’s application for a SR is to determine whether the applicant has demonstrated an absence of both de jure and de facto government control over its export activities. Commerce typically makes affiliation and collapsing determinations for exporters selected for individual examination where potential affiliations and intertwined operations may impact the sales and FOP information provided.

With the exception of Nha Trang Seafoods Group, Commerce has not made an affiliation or collapsing determination for any of the companies discussed below. Thus, regardless of their claimed affiliation with so-called “branch factories” or subsidiary manufacturers, the SR is granted to the exporter that applied for it or certified no changes from the prior application/certification. The evidence that Commerce requires for SR status is unambiguously clear in the application and in Policy Bulletin 5.1, as described above.

This same argument from VASEP has been repeatedly raised in multiple segments of this proceeding; thus, Commerce is perplexed by VASEP’s allegation that we have adopted a “new practice.” Commerce has denied SR status to applicants’ claimed trade names since the second administrative review. While the application of the policy as outlined above has been refined within each segment of this proceeding, our determinations in this review are in accordance with our stated policy. That is, while Commerce may have granted certain trade names SR status in prior reviews, the reasons for such are limited to the determinations in those segments and have no bearing on the information relied upon in this segment.

Finally, with respect to VASEP’s claim that CBP may be confused by the trade names identified in the Trade Name Memo, we disagree. CBP does not review the Trade Name Memo regarding the trade names granted SR status. CBP looks to Commerce’s cash deposit instructions, liquidation instructions, the Federal Register notice and/or accompanying decision.
memorandum, or may contact Commerce directly, for guidance on the names identified in the ACE system. Thus, there is no danger of CBP misunderstanding any trade name determinations in the Trade Name Memo. To facilitate liquidation of entries for specific company names, CBP may inquire with Commerce regarding, for example, the punctuation (i.e., quotation marks, apostrophes, dashes, parentheses, capital letters, etc.) of a company’s name as confirmation that it is the same company without Commerce having to grant SR status to a name that does not meet the requirements for such.94 The issue of properly liquidating entries is separate from a company receiving SR status for a name that does not merit such status. Based upon our policy and practice, we address each trade name issue raised by VASEP separately below.

A. Thuan Phuoc Seafoods and Trading Corporation

VASEP Case Brief:

- Commerce denied SR status to certain factories of Thuan Phuoc Seafoods and Trading Corporation, but should reinstate that status in the final results. Denial of SR status to these entities will impose significant additional duty costs on Thuan Phuoc and its customers that should not have to be incurred. In the Preliminary Results, Commerce included Thuan Phuoc’s factory “Frozen Seafoods Factory No. 32” in the list of entities denied SR status. In the Trade Name Memo, Commerce also listed “Frozen Seafoods Factory No. 32” and “Seafoods and Foodstuff Factory” as names that should be denied SR status because those names do not appear on a valid BRC. This is not correct.

- In Thuan Phuoc’s SRC both factories are listed in the main company’s most recent BRC. Furthermore, later in the same exhibit, the factory-specific branch BRC was also provided. There is no question from the BRCs provided on the record that these two factories are part of Thuan Phuoc. Furthermore, based on their dates, these are the same BRCs Commerce would have considered in ninth administrative review when the company was a mandatory respondent and these factories were granted SR status.

- Sample sales documents were provided demonstrating that the company had shipped product to the United States during the POR using the two factory names. This is an important distinction from what was on the record in the tenth administrative review. These two factories are not separate firms that are seeking to “piggyback” on Thuan Phuoc’s SRC. Commerce is well aware of the difference between divisions of a company and affiliated companies.

- Commerce’s own verification agenda in this review (and in early reviews of this order) reflects this distinction. Item II.A of Commerce’s verification agenda refers to the review of the “organizational and corporate structures of Fimex VN, and the activities of all divisions of Fimex VN involved in the production, sale and distribution of shrimp to all markets,” whereas Items II.B through II.F refer to “affiliations between Fimex VN and other companies” or “affiliated companies” of Fimex VN.

- “Frozen Seafoods Factory No. 32” and “Seafoods and Foodstuff Factory” are divisions of Thuan Phuoc and do not have a corporate existence separate from the mother company, Thuan Phuoc. Commerce knows this from ninth administrative review, when Thuan Phuoc was a mandatory respondent and was fully verified. None of the memoranda accompanying the preliminary or final results for that review discuss Frozen Seafoods Factory No. 32 or Seafoods and Foodstuff Factory as affiliates of Thuan Phuoc or as part of a collapsed entity. The question of “collapsing” these entities never arose during the course of that review.

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94 See AR10 Final at Comment 12A.
because Commerce would never consider not including a company’s factories as part of the company, as they are divisions of the company, not separate entities.

- In the ninth administrative review, despite no findings regarding affiliation or collapsing, Commerce granted SR status to these factory names when it granted SR status to Thuan Phuoc, reflecting the fact that these factories were part of Thuan Phuoc, instead of separate legal entities. Commerce would have known if this was not the case as it conducted a full week of verification, during which it would have learned if these factories were not part of the company. SR status was granted because it was clear, as it is on the record here, that these factories are divisions of Thuan Phuoc, located on the same premises as Thuan Phuoc, and managed by the same executives as Thuan Phuoc.

- Each of the invoices provided in the company’s SRC have the same address and are signed by the same person, the company’s General Director. Because these factories are covered by both Thuan Phuoc’s BRC and their own separate factory-specific branch BRCs, and because evidence has been supplied showing that shipments were made to the United States using these names during the POR, these factory names should be granted SR status in this review, as in all prior reviews up through ninth administrative review. The decision to deny these factory names SR status in the tenth administrative review should be fixed rather than repeated here.

**Commerce’s Position:**

Commerce disagrees with VASEP’s argument regarding the disposition of Thuan Phuoc Seafoods and Trading Corporation’s claimed trade names. In reviewing Thuan Phuoc Seafoods and Trading Corporation’s SRC,95 we note that Thuan Phuoc Seafoods and Trading Corporation requested SR status for: 1) Thuan Phuoc Seafoods and Trading Corporation; 2) Frozen Seafoods Factory No. 32, 3) Seafoods and Foodstuff Factory, 4) My Son Seafoods Factory, and 5) Frozen Seafoods Factory.96

Next to each name above, Thuan Phuoc Seafoods and Trading Corporation noted the BRC associated with that name and when Commerce last granted SR status to that name.97 As discussed above, SR determinations in each segment of the proceeding are based on the information on the record of that segment; thus, the fact that Commerce may have granted SR status to a particular trade name in a past review is inapposite to the evidence on the instant record and to Commerce’s determination whether such evidence supports granting SR status in this review.

The fact that Thuan Phuoc Seafoods and Trading Corporation was a verified mandatory respondent in the ninth administrative review has no bearing on the information on this record. Moreover, VASEP’s references to “the memoranda accompanying the preliminary or final results for that review,”98 is inapposite here because those documents are not on the record of this review. VASEP argues that “the question of ‘collapsing’ these entities never arose during the course of that review, because Commerce would never consider not including a company’s factories as part of the company, as they are divisions of the company, not separate entities.”99

96 Id. at 4-5. Commerce notes that the reason for Thuan Phuoc Seafoods and Trading Corporation’s inclusion of “Frozen Seafoods Factory” in the list of requested trade names is business proprietary information.
97 Id.
98 See VASEP Case Brief at 12-15.
99 Id.
However, this claim regarding the ninth administrative review is speculative. A mandatory respondent is subject to evaluation of different data, such as sales and FOPs, that are not present in the instant review with respect to Thuan Phuoc Seafoods and Trading Corporation. Further, VASEP’s references to Commerce’s verification outline issued to Fimex in this review are not relevant. Commerce’s examination of Thuan Phuoc Seafoods and Trading Corporation in the ninth administrative review and the memoranda and documentation thereof are not on this record and cannot be compared with our examination of Fimex in the instant review.

The record of this review shows that Frozen Seafoods Factory No. 32, Seafoods and Foodstuff Factory, and My Son Seafoods Factory are identified as “branch factories” on Thuan Phuoc Seafoods and Trading Corporation’s currently valid BRC. VASEP has also argued that these three companies are under the same ownership and management. However, as noted above, Policy Bulletin 5.1 states that “{e}ach applicant seeking separate rate status must submit a separate and complete individual application regardless of any common ownership or affiliation between firms...” Commerce’s SRA further states that “trade names are other names under which the company does business. It does not include product brand names or the names of any other entities in the applicant’s ‘group,’ affiliated or otherwise.”

Because Thuan Phuoc Seafoods and Trading Corporation has alleged here that Frozen Seafoods Factory No. 32, Seafoods and Foodstuff Factory, My Son Seafoods Factory are its “branch factories” under the same ownership, which Policy Bulletin 5.1 addresses, it can be deduced that the “branch factories” are part of the “group,” which the SRA has identified as an exclusion to the definition of “trade name.” If one of Thuan Phuoc’s “branch factories” produced the merchandise and Thuan Phuoc exported that merchandise, then that merchandise produced by the branch factories benefits from Thuan Phuoc’s SR. However, if the branch factory wishes to export under its own name, then it must comply with Commerce’s instructions and file its own SRA, showing evidence of a suspended entry, and provide a BRC, as directed. Policy Bulletin 5.1 and the SRA state that each company applying for a SR must do so individually regardless of common ownership.

Based on the foregoing, for the final results, Commerce continues to deny Frozen Seafoods Factory No. 32, Seafoods and Foodstuff Factory, and My Son Seafoods Factory separate rate status under the SR granted to Thuan Phuoc Seafoods and Trading Corporation. Further, we continue to deny SR status to Frozen Seafoods Factory under Thuan Phuoc Seafoods and Trading Corporation’s SRC, as there is no evidence on this record that the company identified as “Frozen Seafood Factory” exists.

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100 Commerce inadvertently miscategorized the reasons for which the claimed trade names did not receive SR status in the Trade Name Memo and the Preliminary Results.
101 Id. at 15.
104 See Thuan Phuoc Seafoods and Trading Corporation’s SRC at 6, where SR status was requested for “Frozen Seafoods Factory” as a trade name because importers may have used it for entering subject merchandise. We have previously determined that importer data entry error does not qualify a trade name for SR status under the trade name provision. See, e.g., AR10 Final at Comment 12A, where Commerce denied the same request from Thuan Phuoc Seafoods and Trading Corporation.
B. Seaprodex Minh Hai

VASEP Case Brief:
- Commerce listed only “Sea Minh Hai, aka Seaprodex Minh Hai” as being granted SR status, and not the company’s full name. In the Trade Name Memo, Commerce listed “Minh Hai Joint Stock Seafoods Processing Company” and “Minh Hai Joint Stock Seafoods” (the latter is shorthand for the full name) as being ineligible for SR status, but this is not true.
- In the company’s SRC Supplemental Response, Seaprodex Minh Hai provided at Exhibits 2a and 2b sample invoices specifically using these two names. Because the full name appears in the company’s BRC (demonstrated at page 1 of Exhibit 1 of the company’s SRC), and because the company shipped under those names during the POR based on the past granting of SR status for those names, these names should be granted SR status so there is no confusion upon liquidation about their eligibility for the SR.

Commerce’s Position:

Commerce disagrees with VASEP, in part, regarding the trade names granted SR status under Seaprodex Minh Hai. In the Preliminary Results, we granted the SR to Sea Minh Hai and Seaprodex Minh Hai. We denied SR status to the remaining eight of 10 claimed trade names, identified below. In reviewing Seaprodex Minh Hai’s SRC, we note that Seaprodex Minh Hai requested SR status for alleged trade names, exactly as written below:

- Minh Hai Joint-Stock Seafoods Processing Company
- Minh Hai Joint-Stock Seafoods Processing Company (“Seaprodex Minh Hai”)
- Seaprodex Minh Hai
- Sea Minh Hai
- Seaprodex Minh Hai - Factory No. 69
- Seaprodex Minh Hai - Factory No. 78
- Minh Hai Joint Stock Processing Company
- Minh Hai Joint Stock Seafoods
- Seaprodex Minh Hai Sea Minh Hai
- Tra Kha Seafood Processing Factory (Workshop I)

As stated above, SR determinations regarding trade names in a particular segment rest on the record evidence of that segment, not on previous determinations with respect to those trade names. First, we note that the SRC valid during the POR is from February 26, 2016, as the eighth amendment to the BRC. The “Name of the Company” is listed as MINH HAI JOINT-STOCK SEAFOODS PROCESSING COMPANY, expressed as written here. The abbreviations are listed as SEAPRODEX MINHHAI, and SEA MINHHAI.

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106 See Seaprodex Minh Hai Submission re; “Separate Rate Certification,” dated May 15, 2018 (Seaprodex Minh Hai’s SRC).
107 See Preliminary Results, 83 FR at 10674.
108 See Seaprodex Minh Hai’s SRC at 5-6.
109 Id. at 5 and Exhibit 1.
110 See Seaprodex Minh Hai SRC at 6 and Exhibit 1.
111 Id. at Exhibit 1.
We have allowed Sea Minh Hai and Seaprodex Minh Hai, as abbreviations of Minh Hai Joint-Stock Seafoods Processing Company. In response to VASEP’s arguments, Commerce notes that it inadvertently excluded Minh Hai Joint-Stock Seafoods Processing Company from the list of companies to which it granted a SR in the Preliminary Results and will include it for the final results. The record demonstrates that Minh Hai Joint-Stock Seafoods Processing Company, as the full name of the company, appears, as written, on the BRC and on commercial documents. Further, we note that Seaprodex Minh Hai requested trade name Minh Hai Joint Stock Seafoods, as written, admitting that this alleged trade name is missing a word from the name on the commercial invoice as compared with the legal trade name in the BRC, Minh Hai Joint-Stock Seafoods Processing Company. That commercial invoice shows the signature at the bottom is the same as the signature on the invoice containing the full company name at Exhibit 2A of the SRC Supplemental Response and both commercial invoices indicate the same address. While the name Minh Hai Joint Stock Seafoods does not match exactly to the BRC, a reasonable mind can conclude that it is the same company. Thus, we find it appropriate to grant this name SR status in the final results.

However, the claimed trade names listed below are not eligible for a SR because, as written, they are either not legal trade names used by the company or are created combinations the applicant has claimed as single legal trade name:

- Minh Hai Joint-Stock Seafoods Processing Company ("Seaprodex Minh Hai")
- Minh Hai Joint Stock Processing Company
- Seaprodex Minh Hai Sea Minh Hai

In Seaprodex Minh Hai’s SRC Supplemental Response, Seaprodex Minh Hai reported that Minh Hai Joint-Stock Seafoods Processing Company ("Seaprodex Minh Hai") appears on both the BRC and in commercial documents. However, this name, a combination of the full name and the abbreviation, does not appear in this manner on the BRC and commercial documents. Therefore, we continue to find that this claimed trade name is not eligible for SR status.

In Seaprodex Minh Hai’s SRC Supplemental Response, Seaprodex Minh Hai also reported that the name Minh Hai Joint Stock Processing Company, as written, was used during the POR, and then cites to business proprietary information on the record that was not submitted by Seaprodex Minh Hai and does not belong to Seaprodex Minh Hai, as evidence that the name was used. However, the record shows that Seaprodex Minh Hai is not the entity that “used” this name, but rather it was the importer of record which used it. Any requests for specific trade names that do not appear on the BRC and on commercial documents, and were requested for SR status because of importer data entry error has been addressed by Commerce in previous segments of the proceeding:

We also disagree…that importer data entry error qualifies as reasons for granting separate rate status to these two requested name variations. It is not the Department’s responsibility to ensure that importers properly enter exporter names when completing CBP entry documentation. The Federal Register notices are searchable public documents such that any public person may immediately know

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112 *Id.* at 5, Exhibit 1 and Exhibit 2-A.
113 *See* Seaprodex Minh Hai’s SRC Supplemental Response Exhibit 2B.
114 *Id.* at 2.
what names are granted separate rate status. Furthermore, importers and customs brokers have access to the ACE system used by CBP and can readily identify which companies and trade names obtained separate rate status for the relevant POR. It is also not the Department’s responsibility to correct importers’ entry errors, whether typographical or as a result of translation. The Department is not required to grant separate rate status to trade names that are not eligible for it (i.e., without evidence of use in commercial documentation and inclusion in the BRC).115

Finally, the requested trade name, Seaprodex Minh Hai Sea Minh Hai, as written, is ineligible for SR status because the name does not appear, as written, on the BRC and on commercial documents. The record shows that this is another concatenation of two company name abbreviations being put forward as a legal company name. Seaprodex Minh Hai is one abbreviation and Sea Minh Hai is another abbreviation, and both abbreviations appear as distinct and separate abbreviations in the BRC and in the commercial documents.116 The concatenation of two company abbreviations does not signify a legal company name that merits the status as a stand-alone trade name, absent supporting documentation that such a concatenation as one name is legally recognized in the BRC. As noted above, CBP may inquire with Commerce regarding, for example, the punctuation (i.e., quotation marks, apostrophes, dashes, parentheses, capital letters, etc.) of a company’s name as confirmation that it is the same company without Commerce having to grant SR status to a name that does not meet the requirements for such.117

C. Camau Frozen Seafood Processing Import Export Corporation

VASEP Case Brief:
- Commerce granted SR status to “Camau Frozen Seafood Processing Import Export Corporation, aka Camimex”, but in the Trade Name Memo it denied such status to “Camau Frozen Seafood Processing Import Export Corporation (“CAMIMEX”),” claiming that the name does not appear on the currently valid BRC or in the commercial documentation. Neither is true. Both the full name and the shorthand name appear clearly in the BRC that was provided, which is why the “aka” name was granted SR status in the Preliminary Results.
- Furthermore, every invoice issued by Camau Frozen Seafood Processing Import Export Corporation contains at the top of the invoice both the full name and the shorthand name. Indeed, in the beneficiary for payment section of the invoice, both the full name and short name in parentheses appear; the only difference is the absence of the quotation marks.
- The names listed in the Preliminary Results as receiving SR status and the name being denied such status in the Trade Name Memo are virtually identical; one simply uses an “aka” while the other uses parentheses, which is effectively the same thing. Denial of SR status to the company’s name with its shorthand name in parentheses, when that name is also being granted SR status as an “aka” of the full name, is both unfair and confusing – particularly when Commerce knows the company shipped under that rendition of the name.
- Commerce should remove the name “Camau Frozen Seafood Processing Import Export Corporation (“CAMIMEX”)” from the Trade Name Memo to avoid confusion when CBP liquidates the entries using this name.

115 See AR10 Final at Comment 12A.
116 See Seaprodex Minh Hai’s SRC at Exhibit 1 and Exhibit 2-C (where the names are not attached, but rather appear separately on two different lines at the top of the invoice).
117 See AR10 Final at Comment 12A.
• Commerce also denied SR status to the company’s branch factory “Camau Seafood Factory No. 4.” In Camau Frozen Seafood Processing Import Export Corporation’s SRC, the branch BRC was provided for Camau Seafood Factory No. 4 at Exhibit 1 (.pdf page 112), and proof of a sale using this factory name was provided in Exhibit 2 of the SRC Supplemental Response. This factory name should therefore maintain its SR status in this review.

• A branch factory is not a separate corporate entity. A factory is a division of the company, not an affiliated company. Hence, it is reasonable for a company to file a single SRC, as it has done in all prior reviews, to maintain SR status for a branch under whose name product was shipped during the POR.

**Commerce’s Position:**

Commerce disagrees with VASEP regarding the trade names granted SR status under Camau Frozen Seafood Processing Import Export Corporation. In the Preliminary Results, we granted the SR to Camau Frozen Seafood Processing Import Export Corporation and Camimex, as these were the names that appeared in both the BRC and commercial documents. We denied SR status to the remaining five names, identified below. In reviewing Camau Frozen Seafood Processing Import Export Corporation’s SRC, we note that it requested SR status for the below claimed trade names listed below, as written:

- Camau Frozen Seafood Processing Import Export Corporation
- Camimex
- Camau Frozen Seafood Processing Import Export Corporation (“CAMIMEX”)
- Camau Seafood Factory No. 4
- Camau Seafood Factory No. 5
- Camau Frozen Seafood Processing Import Export Corp. (CAMIMEX-FAC25)
- Frozen Factory No. 4

Regarding Camau Frozen Seafood Processing Import Export Corporation (“CAMIMEX”) and Camau Frozen Seafood Processing Import Export Corp. (CAMIMEX-FAC25), as noted above, the concatenation of the company name and an abbreviation does not signify a legal company name that merits the status as a stand-alone trade name, absent supporting documentation that such a concatenation as one name is legally recognized in the BRC. Additionally, as noted above, CBP may inquire with Commerce regarding, for example, the punctuation (i.e., quotation marks, apostrophes, dashes, parentheses, capital letters, etc.) of a company’s name as confirmation that it is the same company without Commerce having to grant SR status to a name that does not meet the requirements for such.

Further, as noted above, if one of Camimex’s “branch factories” produced the merchandise and Camimex exported that merchandise, then that merchandise benefits from Camimex’s SR. However, if the branch factory wishes to export under its own name, then it must file its own

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120 See Preliminary Results, 83 FR at 10674.
121 See Camimex’s SRC at 5-6.
122 See AR10 Final at Comment 12A.
SRA, providing evidence of a suspended entry and a BRC, as directed. Policy Bulletin 5.1 and the SRA state that each company applying for a SR must do so individually regardless of common ownership.

Finally, as stated above, any requests for specific trade names that do not appear on the BRC and commercial documents, and were requested for SR status because of importer data entry error are ineligible for such status because it was not the applicant that used that name for its exports, but rather the importer of record. Accordingly, we continue to find that importer data entry error does not qualify as a reason for granting SR status.

D. Can Tho Import Export Fishery Limited Company

VASEP Case Brief:

- Commerce granted SR status to the company “Can Tho Import Export Fishery Limited Company, aka CAFISH”, but in the Trade Name Memo it denied such status to “Can Tho Import Export Fishery Limited Company (CAFISH),” claiming that the name does not appear on the currently valid BRC. This is not true.
- Both the full name and the shorthand name appear in the BRC. Indeed, the names listed in the Preliminary Results as receiving SR status and the names being denied such status are virtually identical; one simply uses an “aka”, the other uses parentheses.
- Denial of SR status to the company’s name with its shorthand name in parentheses, when that name is also being granted SR status as an “aka” of the full name, is plainly unfair – particularly when Commerce knows the company shipped under that rendition of the name.
- Commerce should remove the name “Can Tho Import Export Fishery Limited Company (CAFISH)” from the Trade Name Memo in order to avoid confusion when CBP liquidates the entries using this name.

Commerce’s Position:

Commerce disagrees with VASEP regarding the trade names granted SR status under Can Tho Import Export Fishery Limited Company. In the Preliminary Results, we granted the SR to Can Tho Import Export Fishery Limited Company and CAFISH, two distinct names that appear in the BRC.123 We denied SR status to the two claimed trade names, identified below. In reviewing the company’s SRA,124 we note that it requested SR status for the claimed trade names listed below, as written:

- Can Tho Import Export Fishery Limited Company (CAFISH)
- Cantho Import Export Fishery Lim

Regarding the first claimed trade name, Can Tho Import Export Fishery Limited Company (CAFISH), as noted above, the concatenation of the company name and an abbreviation does not signify a legal company name that merits the status as a stand-alone trade name, absent supporting documentation that such a concatenation as one name is legally recognized in the BRC. Both the full company name and the abbreviation appear in the SRC and in commercial documents and are, therefore, easily discernible by CBP as the names to which we granted SR

123 See Preliminary Results, 83 FR at 10674.
status. CBP may inquire with Commerce regarding, for example, the punctuation (i.e., quotation marks, apostrophes, dashes, parentheses, capital letters, etc.) of a company’s name to confirm that it is the same company without Commerce having to grant SR status to a name that does not meet the requirements for such.\textsuperscript{125}

With regard to the second claimed trade name, Cantho Import Export Fishery Lim, as stated above, any requests for specific trade names that do not appear on the BRC and on commercial documents, and were requested for status because of importer data entry error are not eligible for SR status because it was not the applicant that used that name for its exports. Accordingly, we continue to find that importer data entry error does not qualify as a reason for granting SR status.

\textbf{E. Minh Hai Export Frozen Seafood Processing Joint-Stock Company}

\textbf{VASEP Case Brief:}

- Commerce granted SR status to the company “Minh Hai Export Frozen Seafood Processing Joint-Stock Company, aka Minh Hai Jostoco”, but in the Trade Name Memo it denied such status to “Minh Hai Export Frozen Seafood Processing Joint-Stock Company (“Minh Hai Jostoco”),” claiming that the name does not appear on the currently valid BRC. This is not true.
- Both the full name and the shorthand name appear in the BRC. Indeed, the names listed in the \textit{Preliminary Results} as receiving SR status and the names being denied such status are virtually identical; one simply uses an “aka”, the other uses parentheses. Denial of SR status to the company’s name with its shorthand name in parentheses, when that shorthand name is also being granted SR status as an “aka” of the full name, is plainly unfair – particularly when the Department knows the company shipped under that rendition of the name.
- Commerce should remove the name “Minh Hai Export Frozen Seafood Processing Joint-Stock Company (“Minh Hai Jostoco”)” from the Trade Name Memo in order to avoid confusion when CBP liquidates the entries using this name.

\textbf{Commerce’s Position:}

Commerce disagrees with VASEP regarding the trade names granted SR status under Minh Hai Export Frozen Seafood Processing Joint-Stock Company. In the \textit{Preliminary Results}, we granted the SR to Minh Hai Export Frozen Seafood Processing Joint-Stock Company and Minh Hai Jostoco, two distinct names that appear in the BRC and in the commercial documents.\textsuperscript{126} We denied SR status to the third claimed trade name: Minh Hai Export Frozen Seafood Processing Joint-Stock Company (“Minh Hai Jostoco”)

As stated above, the concatenation of the company name and an abbreviation does not signify a legal company name that merits the status as a stand-alone trade name, absent supporting documentation that such a concatenation as one name is legally recognized in the BRC. While the concatenation appears on the commercial invoice in Exhibit 2-C of the SRA,\textsuperscript{127} a reasonable mind can conclude that both names are granted SR status separately, but to assign SR status to a concatenation of two separate names that have been separately granted SR status is nonsensical.

\textsuperscript{125} See AR10 Final at Comment 12A.
\textsuperscript{126} See Preliminary Results, 83 FR at 10674.
\textsuperscript{127} Id. The BRC at Exhibit 1 does not include the concatenation of the full company name attached to the abbreviation of the full company name. They appear separately.
Either the company’s full name or its abbreviation on the commercial document can be identified by CBP as one of the names that has been granted SR status. As noted above, CBP may inquire with Commerce regarding a company’s name as confirmation that it is the same company without Commerce having to grant SR status to a name that does not meet the requirements for such.128

F. Fine Foods Co.

VASEP Case Brief:

- Commerce granted SR status to “Fine Foods Co, aka Fine Foods Co (FFC),” but in the Trade Name Memo it denied such status to “Fine Foods Co (“FFC”)” and “Fine Foods Company (“FFC”),” claiming that the names do not appear on the currently valid BRC or in the commercial documentation. Neither is true.
- Both the full name and the shorthand name appear clearly in the BRC that was provided at Exhibit 1 of the company’s SRC,129 which is why both the full name and the “aka” name were granted SR status in the Preliminary Results.
- The names listed in the Preliminary Results as receiving SR status and the names being denied such status in the SR Memo are virtually identical; one simply uses an “aka” for the acronym FFC, while the other uses parentheses, which is effectively the same thing. The fact that quotation marks appear around FFC in one rendition and not another is hardly reason to highlight denial of the name in parentheses using quotation marks. And that fact that “Co” is shortened in one instance and written out as “Company” in another is also no reason to highlight denial of that rendition of the name.
- Denial of SR status to these alternative company names, when that same name is also being granted SR status in the Preliminary Results, is likely to lead to confusion. Commerce should simply remove the names “Fine Foods Co (“FFC”)” and “Fine Foods Company (“FFC”)” from the Trade Name Memo in order to avoid confusion when CBP liquidates the entries using these names.

Commerce’s Position:

Commerce agrees with VASEP that the company trade names listed in the Preliminary Results contained an error. However, we disagree with VASEP as to the nature of the error. In the Preliminary Results, we granted the SR to: 1) Fine Foods Co and 2) a concatenation of Fine Foods Co and its abbreviation FFC -- Fine Foods Co (FFC).130 Commerce was mistaken in granting a SR to the concatenation; thus, for purposes of these final results, we are removing Fine Foods Co (FFC) from the rate box in the Federal Register notice.

As stated above, the concatenation of the company name and an abbreviation does not signify a legal company name that merits the status as a stand-alone trade name, absent supporting documentation that such a concatenation as one name is legally recognized in the BRC.131 A reasonable mind can conclude that both names are granted SR status separately, but to assign SR status to a concatenation of two separate names that have been separately granted SR status is nonsensical. Either the company’s full name or its abbreviation on the commercial document.

128 See AR10 Final at Comment 12A.
130 See Preliminary Results, 83 FR at 10674.
131 See, e.g., Fine Foods Co’s SRC.
can be identified by CBP as one of the names that has been granted SR status. As noted above, CBP may inquire with Commerce regarding a company’s name as confirmation that it is the same company without Commerce having to grant SR status to a name that does not meet the requirements for such.\textsuperscript{132}

For the reasons explained above, we are similarly not granting SR status to the following two concatenations: Fine Foods Co (“FFC”) and Fine Foods Company (“FFC”).

**G. Bentre Forestry and Aquaproduct Import-Export Joint Stock Company**

**VASEP Case Brief:**

- Commerce granted SR status to “Bentre Forestry and Aquaproduct Import-Export Joint Stock Company, aka FAQUIMEX, aka Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (FAQUIMEX)”.\textsuperscript{133}
- Yet, in the Trade Name Memo it denied such status to “Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (“FAQUIMEX”)” claiming that the name does not appear on the currently valid BRC or in the commercial documentation. Neither is true. Both the full name and the shorthand name appear clearly in the BRC that was provided at Exhibit 1 of the SRC.\textsuperscript{133}
- The commercial invoice provided as Exhibit 1 of the SRC Supplemental Response contains both long and short names at the top of the invoice. This is presumably why both the full name and the “aka” name were granted SR status in the Preliminary Results.
- The names listed in the Preliminary Results as receiving SR status and those being denied status in the Trade Name Memo are virtually identical; one uses an “aka” for the shorthand name Faquimex, while the other uses parentheses, which is effectively the same thing.
- The fact that quotation marks appear around Faquimex in one rendition and not another is hardly reason to highlight denial of the name in parentheses using quotation marks. Denial of SR status to these alternative company names when those same names are also being granted SR status in the Preliminary Results without quotation marks is likely to lead to confusion.
- Commerce should simply remove the name “Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (“FAQUIMEX”)” from the Trade Name Memo in order to avoid confusion when CBP liquidates the entries using this name.

**Commerce’s Position:**

Commerce agrees with VASEP that the company trade names listed in the Preliminary Results contained an error. However, we disagree with VASEP as to the nature of the error. In the Preliminary Results, we granted the SR to Bentre Forestry and Aquaproduct Import-Export Joint Stock Company, FAQUIMEX, and the concatenation of the two -- Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (FAQUIMEX).\textsuperscript{134} Commerce was mistaken in granting the concatenation a SR and, for purposes of these final results, we are removing Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (FAQUIMEX) from the rate box in the Federal Register notice.

\textsuperscript{132} See AR10 Final at Comment 12A.
\textsuperscript{133} See Bentre Forestry and Aquaproduct Import-Export Joint Stock Company Submission re; “Separate Rate Certification,” dated May 8, 2017 (Bentre Forestry and Aquaproduct Import-Export Joint Stock Company’s SRC).
\textsuperscript{134} See Preliminary Results, 83 FR at 10674.
As stated above, the concatenation of the company name and an abbreviation does not signify a legal company name that merits the status as a stand-alone trade name, absent supporting documentation that such a concatenation as one name is legally recognized in the BRC. While the full company name—Bentre Forestry and Aquaproduct Import-Export Joint Stock Company—and the abbreviation-- FAQUIMEX-- both appear on the commercial invoice,135 a reasonable mind can conclude that both names are granted SR status separately, but to assign SR status to a concatenation of two separate names that have been separately granted SR status is nonsensical. Either the company’s full name or its abbreviation on the commercial document can be identified by CBP as one of the names that has been granted SR status. As noted above, CBP may inquire with Commerce regarding a company’s name as confirmation that it is the same company without Commerce having to grant SR status to a name that does not meet the requirements for such.136

In the company’s SRC, it reported that “the company’s full name as it appears on its BRC is Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (“Faquimex”), which is the name previously granted separate rate status.”137 However, regardless of prior trade name determinations, the BRC on this record identifies both the full name and the abbreviation separately, and without quotes.138 Thus, for the reasons explained above, we are similarly not granting SR status to this concatenation.

H. UTXI Aquatic Products Processing Corporation

VASEP Case Brief:
• Commerce preliminarily denied SR status to UTXI Aquatic Products Processing Corporation’s branch factories Hoang Phuong Seafood Factory and Hoang Phong Seafood Factory. Commerce specifically included “Hoang Phuong Seafood Factory” in the list of entities denied SR status.
• In the Trade Name Memo, Commerce also listed, “Hoang Phuong Seafood Factory” and “Hoang Phong Seafood Factory” as ineligible for SR status based on their failure to ship under those names during the POR. However, these branches are specifically listed in the company’s BRC and have their own branch BRCs as well, all of which were provided at Exhibit 1 to the SRC.139
• Furthermore, these branch factories were granted SR status in prior reviews and should not be specifically denied such status in this review, as doing so will not permit them to sell under this name in the future even though SR status was previously granted.
• Commerce knows from the company’s responses to its supplemental questionnaire response that the names only appeared as the manufacturer and not the exporter during the POR. This is effectively an indication that the company did not ship under these factory names, and therefore, the review should be rescinded for these names rather than punishing the company with denial of SR status for these names.
• To the extent Commerce believes separate “no shipment” letters should have been filed, these are branch factories, not separate companies. They do not exist as separate corporate

136 See AR10 Final at Comment 12A.
137 See Bentre Forestry and Aquaproduct Import-Export Joint Stock Company’s SRC at 4.
138 Id., at Exhibit 1.
entities; they can only be addressed within the mother company UTXI Aquatic Products Processing Corporation’s response, because they are divisions of the company, not a separate affiliate. UTXI Aquatic Products Processing Corporation’s statement and signed certification within its SRC that these factories did not ship to the United States during the POR should be sufficient to rescind the review for these names and maintain their SR status for future shipments.

Commerce’s Position:

Commerce disagrees with VASEP that Commerce erred in its treatment of “branch factories” associated with UTXI Aquatic Products Processing Corporation. As an initial matter, as previously noted, it is Commerce’s practice to treat each segment of an antidumping proceeding independently with separate records which lead to independent determinations. Thus, simply because Commerce may have granted SR status to these factories in a prior segment, whether properly or not, Commerce must review the documents on the instant record to determine whether these factories merit the SR status requested. In this review, they do not. Commerce’s policy regarding the criteria fulfillment for SR status is clearly articulated in various public sources: 1) Policy Bulletin 5.1, 2) the SRC and SRA on Commerce’s website, and 3) the published Federal Register notices and accompanying decision memoranda in numerous segments of this proceeding wherein Commerce has stated and re-stated its SR practice and policy since the second administrative review.

Further, if one of UTXI Aquatic Products Processing Corporation’s “branch factories” produced the merchandise and UTXI Aquatic Products Processing Corporation exported that merchandise, then that merchandise benefits from Camimex’s SR. However, if the branch factory wishes to export under its own name, then it needs to file its own SRA, showing evidence of a suspended entry, and provide a BRC, as directed. Policy Bulletin 5.1 and the SRA state that each company applying for a SR must do so individually regardless of common ownership.

Consistent with the above determinations, we find that “branch factories” are not akin to trade names, and thus, must file their own SRA pursuant to the clear instructions provided in Policy Bulletin 5.1 and the SRA. UTXI Aquatic Products Processing Corporation has clearly demonstrated that “Hoang Phuong Seafood Factory” and “Hoang Phong Seafood Factory” are manufacturers, not exporters, and requested SR status for them despite this fact and contrary to the established policy described in Policy Bulletin 5.1 and the SRA. Thus, Commerce continues to find that these two alleged trade names are ineligible for SR status because they are not exporters, they are manufacturers, and Commerce only grants SR status to exporters in administrative reviews. As above, if these two manufacturers seek a SR as exporters, they need

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141 See Policy Bulletin 5.1.
to comply with our policy and practice, and apply for a SR, providing the required evidence to merit the status.

We also disagree with VASEP’s argument that Commerce ought to rescind the administrative review with respect to “Hoang Phuong Seafood Factory” and “Hoang Phong Seafood Factory.” As VASEP is aware, pursuant to 19 CFR 351.213(d)(1), Commerce 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 publication of the notice of initiation of the requested review. As none of the interested parties that requested review of “Hoang Phuong Seafood Factory” and “Hoang Phong Seafood Factory” withdrew their review requests, Commerce has no basis upon which to rescind review of these two companies.

Finally, VASEP also argues that “to the extent Commerce believes separate ‘no shipment’ letters should have been filed, these are branch factories, not separate companies. They do not exist as separate corporate entities; they can only be addressed within the mother company UTXI Aquatic Products Processing Corporation’s response, because they are divisions of the company, not a separate affiliate.” We find this argument misplaced. The question of which entities are required to file “no shipment” certifications can be compared to the entities, in administrative reviews, which are directed to file SRAs or SRCs, and, they are the exporters. To that end, Commerce’s “separate rate test already requires that all NME exporters demonstrate that they operate free of government control of their export activities. Generally, we do not find it necessary to require the producer to provide the same information already provided by the exporter.” In this case, exporter UTXI Aquatic Products Processing Corporation filed a SRC, exported subject merchandise during the POR, fulfilled the criteria for SR status and was granted such in the Preliminary Results. Thus, a “no shipment” certification from exporter UTXI Aquatic Products Processing Corporation would have been contrary to the record evidence.

I. Abbreviated Names for Other Companies

VASEP Case Brief:

- Commerce should grant SR status to the following company abbreviations:
  - INCOMFISH (BRC shorthand name for Investment Commerce Fisheries Corporation),
  - Nha Trang Seafoods (BRC shorthand for Nha Trang Seafood Company), NT Seafoods (BRC shorthand for NT Seafood Corporation), Nha Trang Seafoods – F.89 (BRC shorthand for Nha Trang Seafoods – F 89 Joint Stock Company), NTSF Seafoods (BRC shorthand for NTSF Seafoods Joint Stock Company),
  - Cadovimex-Vietnam (BRC shorthand for Cadovimex Seafood Import-Export and Processing Joint Stock Company, and
  - Phuong Nam Co. Ltd. (BRC shorthand for Phuong Nam Foodstuff Corp.) – all of which were previously granted SR status.

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145 See VASEP Case Brief at 21.
146 See De Facto Criteria for Establishing a Separate Rate in Antidumping Proceedings Involving Non-Market Economy Countries, 78 FR 40430, 40433 (July 5, 2013).
Commerce’s Position:

As noted above, Commerce disagrees with VASEP that it “has apparently adopted a policy that denies SR status to company names that were not used in sales to the United States during the POR.” VASEP’s statement is contrary to the policy described in Policy Bulletin 5.1, where, as noted above, one of the clear instructions to exporters is that “all shipments to the United States declared to U.S. Customs and Border Protection must identify the exporter by its legal business name. This name must match the name that appears on the exporter’s business license/registration documents, a copy of which shall be provided to the Department as part of the exporter’s request for separate rate status.” The information referenced in “all shipments to the United States declared to U.S. Customs and Border Protection…” are commercial documents, such as invoices. And, as commercial invoice denotes a sale/entry, it is reasonable to conclude that for a company to receive a SR, it must have had a suspended entry during the POR, as noted in Policy Bulletin 5.1. It is reasonable to also conclude that if the alleged trade name did not appear on a commercial invoice, then it is not eligible for a SR, even if that name appears in the BRC because “the names must match.” As we stated above, regardless of SR determinations for trade names in prior administrative reviews, “shorthand” names or abbreviations of the companies identified below are not eligible for SR status if the exporter did not employ this shorthand name, as the legal business name, in its commercial documents submitted to CBP.

Thus, with regard to INCOMFISH (abbreviation for Investment Commerce Fisheries Corporation), we find that, as Investment Commerce Fisheries did not provide any commercial documentation demonstrating that “INCOMFISH,” as written, was used during the POR as the legal business name, we continue to deny SR status for INCOMFISH.

With regard to Nha Trang Seafoods (abbreviation for Nha Trang Seafood Company), the record shows that the applicant is not the entity that “used” this name, but rather it was the importer of record that used this name. Therefore, for the reasons explained above, the claimed trade name is ineligible for SR status. For NT Seafoods (abbreviation for NT Seafood Corporation), we find that this name is ineligible for SR status because the applicant reported that the name was not commercially used during the POR. For Nha Trang Seafoods – F.89 (abbreviation for Nha Trang Seafoods – F 89 Joint Stock Company), we note that the applicant provided an invoice demonstrating the full name but not the abbreviated name. However, because the abbreviation of the name is contained in the full company name, CBP may contact Commerce with any inquiries regarding the abbreviation of the name, without Commerce having to grant gratuitous SR status to dozens of variations of these names under the collapsed entity, Nha Trang

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147 See Policy Bulletin 5.1, at 5.
149 While we issued a supplemental questionnaire to Investment Commerce Fisheries Corporation regarding this trade name, Investment Commerce Fisheries Corporation did not file a timely response and did not file a timely request for an extension to file its response. See Letter to Investment Commerce Fisheries Corporation re; “Separate Rate Certification Supplemental Questionnaire Extension Request,” dated June 28, 2017. As a result, Commerce is making its SR determination based on the original SRC which did not contain any supporting documentation demonstrating commercial use of INCOMFISH.
150 See Nha Trang Seafoods Group’s SRC Supplemental Response at 2.
151 Id. at 2.
152 Id. at Exhibit 4.
Seafoods Group. For NTSF Seafoods (abbreviation for NTSF Seafoods Joint Stock Company), we find that this name is ineligible for SR status because the applicant reported that the name was not commercially used during the POR.153

For Cadovimex-Vietnam (abbreviation for Cadovimex Seafood Import-Export and Processing Joint Stock Company), we find that this name is ineligible for SR status because the applicant reported that the name was not commercially used during the POR.154 Finally, for Phuong Nam Co. Ltd. (abbreviation for Phuong Nam Foodstuff Corp.), we find that this name is ineligible for SR status because the applicant reported that the name was not commercially used during the POR.155

V. Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the administrative review and the final dumping margins in the *Federal Register.*

☒ ☐

Agree Disagree

9/7/2018

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

153 *Id.* at 3.
155 See Phuong Nam Foodstuffs Corp. Submission re; “Certification Supplemental Questionnaire Response,” dated June 23, 2017, at 1. The applicant also replied “N” denoting No, when asked if it exported under the requested trade name during the POR.