



A-552-801
Sunset Review
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September 29, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Expedited Second Sunset Review of the Antidumping Duty Order
on Certain Frozen Fish Fillets from the Socialist Republic of
Vietnam: Issues and Decision Memorandum

Summary

In the second sunset review of the antidumping duty (“AD”) order covering certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”), domestic interested parties, Catfish Farmers of America and individual U.S. catfish processors (“Petitioners”), submitted an adequate substantive response on July 2, 2014.¹ No respondent interested party submitted a substantive response. In accordance with our analysis of Petitioners’ Substantive Response, we recommend adopting the positions described below. The following is a complete list of issues in this sunset review for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping; and
2. Magnitude of the dumping margin likely to prevail.

Background

On June 2, 2014, the Department of Commerce (“the Department”) published a notice of initiation of the second sunset review of the AD order on fish fillets from Vietnam.² On June 11, 2014, Petitioners timely notified the Department of their intent to participate within the deadline specified in 19 CFR 351.218(d)(1)(i), claiming domestic interested party status under section 771(9)(C) and (G) of the Tariff Act of 1930, as amended (“the Act”).³ On July 2, 2014, Petitioners timely submitted their Substantive Response. The Department did not receive a substantive response from any respondent interested party. Consequently, the Department is

¹ See Petitioners’ July 2, 2014, submission (“Substantive Response”).

² See *Initiation of Five-Year (“Sunset”) Review*, 79 FR 31306 (June 2, 2014).

³ See Petitioners’ June 11, 2014, submission.



conducting an expedited (120-day) sunset review consistent with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*.

Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact (“regular” fillets), boneless fillets with the belly flap removed (“shank” fillets) and boneless shank fillets cut into strips (“fillet strips/finger”), which include fillets cut into strips, chunks, blocks, skewers, or any other shape.

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

The subject merchandise will be hereinafter referred to as frozen “basa” and “tra” fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁴

The order covers all frozen fish fillets meeting the above specifications, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

History of the Order

On June 23, 2003, the Department published the *Final Determination* in the investigation of fish fillets from Vietnam.⁵ On July 24, 2003, the Department amended the *Final Determination* and calculated company-specific weighted average dumping margins ranging from 36.84 percent to

⁴ Until July 1, 2004 these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007 these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra). On March 2, 2011 the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”): 1604.19.2000 and 1604.19.3000. On January 30, 2012 the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁵ See *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003) (“*Final Determination*”).

53.68 percent, as well as a Vietnam-wide rate of 63.88 percent.⁶ On August 12, 2003, the Department issued the *Order* on fish fillets from Vietnam.⁷

Between the *Order* and the first sunset review,⁸ the Department completed multiple segments in this case, such as administrative reviews,⁹ new shipper reviews,¹⁰ a circumvention and scope inquiry,¹¹ and a changed circumstances review.¹²

On February 2, 2009 the Department published the final results of the expedited first sunset review of the *Order*.¹³ On July 6, 2009, the ITC published its final results of the expedited sunset review.¹⁴ On July 10, 2009, the Department published the continuation of the *Order*.¹⁵

Since the *First Sunset*, we have conducted multiple administrative reviews¹⁶ and new shipper reviews.¹⁷

⁶ See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 43713 (July 24, 2003) (“*Amended Final Determination*”).

⁷ See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (“*Order*”).

⁸ See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 5819 (February 2, 2009) (“*First Sunset*”).

⁹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the First Administrative Review*, 71 FR 14170 (March 21, 2006) (“*First Review*”); *Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 72 FR 23800 (May 1, 2007) (“*Second Review*”); *Notice of Amended Final Results of Third Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 73 FR 15479 (March 24, 2008) (“*Third Review*”).

¹⁰ See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of New Shipper Reviews*, 73 FR 36840 (June 30, 2008) (“*First New Shipper*”).

¹¹ See *Circumvention and Scope Inquiries on the Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Affirmative Final Determination of Circumvention of the Antidumping Duty Order, Partial Final Termination of Circumvention Inquiry and Final Rescission of Scope Inquiry*, 71 FR 38608 (July 7, 2006).

¹² See *Certain Frozen Fish Fillets from Vietnam: Notice of Initiation and Preliminary Results of Changed Circumstances Review*, 72 FR 46604 (August 21, 2007), rescinded in *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Rescission of Antidumping Duty Changed Circumstances Review*, 74 FR 7659 (February 19, 2009).

¹³ See *First Sunset*.

¹⁴ See *Certain Frozen Fish Fillets from Vietnam; Determination*, 74 FR 31975 (July 6, 2009); see also USITC Publication 4083 (June 2009).

¹⁵ See *Continuation of Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 74 FR 33208 (July 10, 2009).

¹⁶ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of the Fourth Antidumping Duty Administrative Review*, 74 FR 17816 (April 17, 2009) (“*Fourth Review*”); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 75 FR 12726 (March 17, 2010) (“*Fifth Review*”); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review*, 76 FR 15941 (March 22, 2011) (“*Sixth Review*”); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of the Seventh Antidumping Duty Administrative Review*, 77 FR 15039 (March 14, 2012) (“*Seventh Review*”); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 29323 (May 20, 2013) (“*Eighth Review*”); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 37714 (July 2, 2014) (“*Ninth Review*”).

Discussion of the Issues

Legal Framework

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the *Order* would likely lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before, and the periods after, the issuance of the *Order*.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 (1994) (“SAA”),¹⁸ the House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”),¹⁹ and the Senate Report, S. Rep. No. 103-412 (1994) (“Senate Report”), the Department’s determinations of likelihood will be made on an order-wide, rather than company-specific, basis.²⁰ In addition, the Department normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.²¹ Alternatively, the Department normally will determine that revocation of an AD order is not likely to lead to continuation or recurrence of dumping where dumping margins declined or were eliminated and import volumes remained steady or increased after issuance of the order.²² In addition, as a base period of import volume comparison, it is the Department’s practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.²³

Further, section 752(c)(3) of the Act states that the Department shall provide to the International Trade Commission (“ITC”) the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the dumping margins from the final

¹⁷ See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 29323 (May 20, 2013) (“*Ninth New Shipper*”); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty New Shipper Review; 2011-2012*, 78 FR 48415 (August 8, 2013) (“*Eleventh New Shipper*”).

¹⁸ Reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

¹⁹ Reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

²⁰ See SAA at 879, and House Report at 56.

²¹ See SAA at 889-90, House Report at 63-64, and Senate Report at 52; see also *Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (“*Sunset Policy*”).

²² See SAA at 889-90, and House Report at 63.

²³ See, e.g., *Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007) and accompanying Issues and Decision Memorandum at Comment 1.

determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.²⁴

In February 2012, the Department announced that it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (“WTO”)-inconsistent.²⁵ In the *Final Modification for Reviews*, the Department stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.²⁶ The Department further stated that apart from the “most extraordinary circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”²⁷

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at less than fair value (“LTFV”).²⁸ Our analysis of the comments submitted by domestic interested parties follows.

Analysis

1. *Likelihood of Continuation or Recurrence of Dumping*

Petitioners state that revocation of the *Order* would likely result in the continuation of dumping of subject merchandise into the United States, and that the continued existence of higher than *de minimis* margins after the issuance of the order compels the finding that dumping will continue or recur if the Department revokes the order.²⁹

Department’s Position: As explained above, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. In addition, the

²⁴ See SAA at 890; see also *Persulfates from the People’s Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008) and accompanying Issues and Decision Memorandum at Comment 2.

²⁵ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (“*Final Modification for Reviews*”).

²⁶ *Id.*

²⁷ *Id.*, 77 FR at 8109.

²⁸ See *Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007) and accompanying Issues and Decision Memorandum at Comment 1.

²⁹ See Substantive Response at 8 & 9.

Department normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when, among other scenarios: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.³⁰ Thus, one consideration is whether the Department continued to find dumping at above *de minimis* levels in administrative reviews subsequent to the imposition of the AD order.³¹ According to the SAA and the House Report, “if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed.”³² We find that revocation of the *Order* would likely result in the continuation of dumping in the United States due to the continued existence of dumping margins since the issuance of the *Order*.

Petitioners note that dumping has continued at above *de minimis* rates after the issuance of the order, and most Vietnamese producers and exporters are currently subject to margins that are well above *de minimis*, and the Vietnam-wide entity continues to have a substantial margin.³³ Moreover, Petitioners observe that, even after the *Final Modification for Reviews*, the Department has continued to find above *de minimis* margins.³⁴

Pursuant to section 752(c)(1)(A) of the Act, the Department first considered the weighted-average dumping margins determined in the investigation and any subsequent reviews. In the *Amended Final Determination*, the Department calculated weighted-average dumping margins ranging from 36.84 percent to 53.68 percent for four mandatory respondents.³⁵ Further, the Department found that the Vietnam-wide entity failed to cooperate to the best of its ability and, as adverse facts available, assigned it the highest rate in the petition, *i.e.*, 63.88 percent.³⁶ We applied our zeroing methodology in the investigation, in the *First Review* through *Seventh Review*, and all new shipper reviews until the *Ninth New Shipper*. We did not apply our zeroing methodology in the *Eighth Review* and *Ninth Review*, nor in the *Ninth New Shipper* and *Eleventh New Shipper*.³⁷ We note that although the zeroing methodology was used in the investigation, no offsets were denied for three of four mandatory respondents because all comparison results were positive for those companies.³⁸ Further, the dumping margin for the Vietnam-wide entity in the *Final Determination* was based on the dumping margin from the petition and, therefore, did not include zeroing. Consistent with our recent practice articulated in the *Final Modification for Reviews*, we are not relying upon margins affected by zeroing. Moreover, as Petitioners note, since the investigation we have continued to calculate above *de minimis* margins that were

³⁰ See SAA at 889-90, House Report at 63-64, and Senate Report at 52.

³¹ See SAA at 890.

³² *Id.*; see also House Report, at 63-64.

³³ See Substantive Response at 9, and Exhibit 1.

³⁴ *Id.*

³⁵ See *Amended Final Determination*, 68 FR at 43713.

³⁶ *Id.*

³⁷ We rescinded the tenth new shipper review. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Rescission of Antidumping Duty New Shipper Review; 2012-2013*, 78 FR 40100 (July 3, 2013).

³⁸ See Memo to the File, from Paul Walker, Case Analyst “Expedited Second Sunset Review of the Antidumping Duty Order on Frozen Fish Fillets from the Socialist Republic of Vietnam: SAS Output from the Investigation,” dated concurrently with and hereby adopted by this memo. No offsets were denied for An Giang Fisheries Import and Export Joint Stock Company, Can Tho Agricultural and Animal Products Import Export Company and Nam Viet Company Limited. *Id.*

calculated without using the zeroing methodology, such as in the *Eighth Review* and *Ninth Review*, and the *Ninth New Shipper* and *Eleventh New Shipper*.³⁹ Thus, the Department determines that it calculated above *de minimis* dumping margins that are WTO-consistent for several Vietnamese manufacturers and exporters during the original investigation and that it has continued to calculate above *de minimis* margins that are WTO-consistent in subsequent reviews.

In addition, pursuant to section 752(c)(1)(B) of the Act, the Department also considered the volume of imports of the subject merchandise in determining whether revocation of the AD order would likely lead to continuation or recurrence of dumping. We reviewed the import data on the record which reflects the import quantity of imports of fish fillets from Vietnam for the period from 2001 through 2013, which is based on import data, collected by the U.S. Census Bureau and available through the ITC website (“ITC Dataweb”).⁴⁰ We note that this data is acceptable for our analysis, as we obtained it from the ITC Dataweb, a source the Department has relied on in the past.⁴¹

It is the Department’s practice to compare the volume of imports for the one-year period preceding the initiation of the investigation to the volume of imports during the period of this sunset review. Since the issuance of the *Order*, import volumes of Vietnamese fish fillets into the United States have increased and remain above pre-investigation levels. In analyzing import volumes for the period of this sunset review, based on U.S. Census Bureau import statistics, the Department has determined that imports from Vietnam under the HTSUS numbers listed in the scope of the *Order*, applicable to frozen basa and tra fillets, have been at levels higher than the year immediately preceding the initiation of the LTFV investigation (*i.e.*, 2002).⁴² Specifically, the volume of imports for 2001, the year prior to the filing of the petition, was 6,159 metric tons (“mt”).⁴³ The volume of imports for 2012 was 99,690 mt.⁴⁴ Thus, record evidence shows that the imports are significantly higher in the last five years when compared to pre-initiation import volumes. Thus, the combination of above *de minimis* margins and increasing import volumes reasonably indicates that dumping is likely to continue or recur.

Therefore, pursuant to section 752(c)(1) of the Act, the Department determines that revocation of the *Order* is likely to lead to continuation or recurrence of dumping because the record indicates that dumping has continued at levels above *de minimis* during the period of investigation and in subsequent reviews, even with increasing import volumes.⁴⁵

³⁹ See Substantive Response at 9, and Exhibit 1; see also *Eighth Review*; *Ninth Review*; *Ninth New Shipper*; and *Eleventh New Shipper*.

⁴⁰ See Memo to the File, from Paul Walker, Case Analyst, “Expedited Second Sunset Review of the Antidumping Duty Order on Frozen Fish Fillets from the Socialist Republic of Vietnam: Import Data,” dated August 13, 2014 (“Import Data”).

⁴¹ See, e.g., *Circular Welded Carbon-Quality Steel Line Pipe from the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 79 FR 19052 (April 7, 2014) and accompanying Issues and Decision Memorandum at 5.

⁴² See Import Data at Exhibit 1.

⁴³ *Id.*

⁴⁴ *Id.* The volume for 2009 was 42,258 mt, for 2010 it was 67,364 mt, and for 2011 it was 98,924 mt.

⁴⁵ Since there was an offset in Vinh Hoan’s margin calculation, we are not relying on that rate. See Memo to the File, from Paul Walker, Case Analyst “Expedited Second Sunset Review of the Antidumping Duty Order on Frozen Fish Fillets from the Socialist Republic of Vietnam: SAS Output from the Investigation,” dated concurrently with and hereby adopted by this memo.

2. *Magnitude of the Margins of Dumping Likely to Prevail*

Petitioners note that the rates calculated for Vietnamese exporters in the investigation either were not affected by zeroing, or zeroing had little impact on the margins.⁴⁶ Moreover, since the *Final Modification for Reviews*, the Department has continued to calculate above *de minimis* margins.⁴⁷

Department’s Position: Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. Normally, the Department will provide to the ITC the company-specific, weighted-average dumping margin from the investigation for each company.⁴⁸ The Department is selecting rates from the investigation because these rates reflect the behavior of exporters without the discipline of an order or suspension agreement in place.⁴⁹ For companies not investigated individually, or for companies that did not begin shipping until after the order was issued, the Department will normally provide a rate based on the “All-Others” rate from the investigation.⁵⁰ However, for Vietnam, which the Department considers to be a non-market economy under section 771(18)(A) of the Act, the Department does not have an “All-Others” rate. Thus, in non-market economy cases, instead of an “All-Others” rate, the Department uses an established country-wide rate, which it applies to all imports from exporters that have not established their eligibility for a separate rate.⁵¹

As indicated in the “Legal Framework” section, the Department’s current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology, consistent with the *Final Modification for Reviews*. Instead, we may rely on other rates that may be available, or we may recalculate weighted-average dumping margins using our current offsetting methodology in extraordinary circumstances.⁵²

The dumping margin for the Vietnam-wide entity in the *Final Determination* was based on the dumping margin from the petition and, therefore, did not include zeroing. The Department determines that the rate assigned to the Vietnam-wide entity is another available rate that we may report to the ITC, consistent with the *Final Modification for Reviews*. Therefore, the Department will report the Vietnam-wide entity rate to the ITC without modification.

⁴⁶ See Substantive Response at 8.

⁴⁷ *Id.*

⁴⁸ See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

⁴⁹ *Id.*; see also SAA at 890.

⁵⁰ See *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People’s Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006) and accompanying Issues and Decision Memorandum at Comment 2.

⁵¹ See *Bristol Metals L.P. v. United States*, 703 F. Supp. 2d 1370, 1378 (CIT 2010) (citation omitted); see also *Amanda Foods (Vietnam) Ltd. v. United States*, 647 F. Supp. 2d 1368, 1379 (CIT 2009) (citation omitted).

⁵² See *Final Modification for Reviews*, 77 FR at 8103.

Final Results of Review

We determine that revocation of the *Order* on fish fillets from Vietnam would be likely lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be weighted average margins up to 63.88 percent.⁵⁴

Recommendation

Based on our analysis of Petitioners' Substantive Response and the record evidence, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this second sunset review in the *Federal Register* and notify the ITC of our determination.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

29 SEPTEMBER 2014
(Date)

⁵⁴ See Amended Final Determination, 68 FR at 43715.

Attachment

	Year before Initiation	Year of Investigation	AR 1	AR 2	AR 3	AR 4	AR 5	AR 6	AR 7	AR 8	AR 9	AR 10
Quantity (kg)	8/1/01 - 7/31/02	8/1/02 - 7/31/03	8/1/03 - 7/31/04*	8/1/04 - 7/31/05	8/1/05 - 7/31/06	8/1/06 - 7/31/07	8/1/07 - 7/31/08	8/1/08 - 7/31/09	8/1/09 - 7/31/10	8/1/10 - 7/31/11	8/1/11 - 7/31/12	8/1/12 - 7/31/13
	6,159,420	3,185,062	454,062	6,768,923	8,933,330	20,485,327	22,287,992	28,591,218	42,257,556	67,364,479	98,923,896	99,689,922

Source: U.S. Bureau of Census import statistics, obtained from USITC Dataweb