

FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND  
*Ad Hoc Shrimp Trade Action Committee v. United States*  
Court No. 15-00279, Slip Op. 17-27 (CIT March 16, 2017)

**I. SUMMARY**

The Department of Commerce (Department) has prepared these final results of redetermination pursuant to the remand order of the Court of International Trade (“Court or CIT”) in *Ad Hoc Shrimp Trade Action Committee v. United States*, Court No. 15-00279, Slip Op. 17-27 (March 16, 2017) (*Remand Opinion and Order*). These final remand results concern *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2013–2014*, 80 FR 55328 (September 15, 2015) (*Final Results*) and accompanying Issues and Decision Memorandum. In the *Remand Opinion and Order*, the Court ordered the Department to: 1) clarify or reconsider its practice with regard to how plaintiff Ad Hoc Shrimp Trade Action Committee (the petitioner) can demonstrate quantitatively that the Bangladeshi wage rate data are aberrational given that its claims stem from alleged systemic labor abuses; and 2) explain why the Bangladeshi wage rate data are not aberrational in light of record evidence of systemic labor abuses; or if the data are aberrational, why they are, nonetheless, the best available information; or reconsider its determination that the Bangladeshi data are the best available information.<sup>1</sup>

As explained below, pursuant to the Court’s *Remand Opinion and Order*, we have addressed further the Department’s practice in determining if data are or are not quantitatively

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<sup>1</sup> See *Remand Opinion and Order* at 24.

aberrational, and reconsidered our determination in the *Final Results* that the Bangladeshi wage rate data are the best available information for valuing the respondents' labor input on the record. In light of that reconsideration, we have determined to use data derived from India to value respondents' labor inputs on the record.

## II. BACKGROUND

On April 1, 2014, the Department initiated an administrative review of 246 producers and exporters of certain frozen warmwater shrimp from Vietnam for the period February 1, 2013, through January 31, 2014.<sup>2</sup> Based on the petitioner's request, on October 3, 2014, the Department selected mandatory respondents employing the sampling methodology,<sup>3</sup> wherein we selected three mandatory respondents for individual examination.<sup>4</sup> We issued the preliminary results of our review on March 9, 2014.

In the *Preliminary Results*, the Department stated that it considers Vietnam to be a non-market economy (NME) country and that, in accordance with section 771(18)(C)(i) of the Tariff

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<sup>2</sup> See *Initiation of Antidumping Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 18262 (April 1, 2014) (*Initiation Notice*). While there were 246 individual names on which we initiated an administrative review, the actual number of companies is 91, due to variations of names requested by multiple interested parties and the groupings of companies that we have collapsed.

<sup>3</sup> See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014*, 80 FR 12441 (March 9, 2015) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memo) at 3. See also Memorandum to James C. Doyle, Office Director, from Alexis Polovina, Analyst, re; "Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Respondent Selection Methodology and Sampling Pool for Selection of Respondents," dated September 2, 2014 (First Sampling Memo); Memorandum to James C. Doyle, Office Director, from Alexis Polovina, Analyst, re; "Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Respondent Selection Methodology and Sampling Pool for Selection of Respondents," dated September 29, 2014 (Second Sampling Memo); and Memorandum to the File, from Alexis Polovina, Analyst, Enforcement & Compliance, re: "Respondent Selection for Frozen Warmwater Shrimp from Vietnam: Sampling Meeting with Outside Parties," dated October 3, 2014 (Respondent Selection Memo).

<sup>4</sup> Since the issuance of the *Final Results*, the Department has revoked the antidumping duty order with respect to one of the mandatory respondents, the Minh Phu Group. Moreover, the Minh Phu Group is not subject to this litigation, the original injunction enjoining the lifting of suspension has been lifted and the suspended entries have been liquidated. Accordingly, our recalculations pertain to the two remaining mandatory respondents, Sao Ta Foods Joint Stock Company and Thuan Phuoc Seafoods and Trading Corporation, and the non-individually examined companies that received a separate rate and are subject to this litigation.

Act of 1930, as amended (the Act), any determination that a foreign country is an NME country shall remain in effect until revoked by the Department.<sup>5</sup> The Department further stated that in investigating imports from an NME country, section 773(c)(1) of the Act directs it to determine normal value (NV), in most circumstances, using the NME respondent producer's factors of production (FOPs) in a surrogate market economy (ME) country or countries considered to be appropriate by the Department.<sup>6</sup> As a result, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department uses, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>7</sup>

In the *Preliminary Results* of this proceeding, the Department determined that Bangladesh, India, Nicaragua, Nigeria, Pakistan, and the Philippines were countries which had per capita gross national incomes (GNI) comparable to Vietnam in terms of economic development.<sup>8</sup> In selecting the primary surrogate country, the Department stated that “among Bangladesh, India, Nicaragua, Nigeria, Pakistan and the Philippines, the Department evaluated the availability of SV data to determine the most appropriate surrogate country.”<sup>9</sup> In the *Preliminary Results*, we disqualified Nicaragua, Nigeria, Pakistan, and the Philippines from surrogate country consideration because the record contained no whole shrimp surrogate value data or surrogate financial statements for these countries, which left only Bangladesh and India

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<sup>5</sup> See Preliminary Decision Memo at 6.

<sup>6</sup> *Id.*, at 11-12.

<sup>7</sup> See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin 4.1*) and Preliminary Decision Memo at 11-12.

<sup>8</sup> See Preliminary Decision Memo at 13.

<sup>9</sup> *Id.*, at 14.

for consideration.<sup>10</sup> In selecting a primary surrogate country in this proceeding, we selected Bangladesh to value FOPs, including labor.<sup>11</sup> No interested parties challenged our primary surrogate country selection with the Court.

The Department published its *Final Results* on September 15, 2015. In the *Final Results*, we continued to rely on the Bangladeshi labor wage rate data to value the respondents' labor consumption. We also endeavored to address the petitioner's comments regarding our reliance on the Bangladeshi Bureau of Statistics (BBS) data, specifically addressing: 1) our preliminary decision to use the BBS data;<sup>12</sup> 2) our interpretation of the controlling statutory provision and our practice regarding allegations that potential surrogate value data are aberrational;<sup>13</sup> 3) whether the BBS data are aberrational in light of that practice;<sup>14</sup> 4) the various documents on the record regarding Bangladeshi working conditions;<sup>15</sup> and 5) whether the record demonstrates that the BBS data are less reliable than International Labor Organization (ILO) data.<sup>16</sup>

### III. REMAND OPINION AND ORDER

As noted above, in the *Remand Opinion and Order*, the Court ordered the Department to: 1) clarify or reconsider its practice with regard to how the petitioner can demonstrate quantitatively that data are aberrational given that its claims stem from alleged systemic labor abuses; and 2) explain why the Bangladeshi wage rate data are not aberrational in light of record evidence of systemic labor abuses; or if the data are aberrational, why the data are, nonetheless,

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<sup>10</sup> See *Preliminary Results* and accompanying Preliminary Decision Memo at 14 (“The Department notes that the value of the main input, head-on, shell-on shrimp, is a critical FOP in the dumping calculation as it accounts for a significant percentage of NV. Moreover, 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 raw shrimp input are both sold on a count-size specific basis.”).

<sup>11</sup> *Id.*

<sup>12</sup> See *Issues and Decision Memorandum* at 46-47.

<sup>13</sup> *Id.*, at 47-48.

<sup>14</sup> *Id.*, at 48-50.

<sup>15</sup> *Id.*, at 50-53.

<sup>16</sup> *Id.*, at 53-55.

the best available information; or reconsider its determination that the Bangladeshi data are the best available information.<sup>17</sup> In the “Analysis” section below, the Department has provided its analysis of the record evidence to address the Court’s *Remand Opinion and Order*.

#### IV. ANALYSIS

##### A. The Department’s Practice of Determining Whether Data Are Aberrational for Use as a Surrogate Value in General and for Labor FOPs Particularly

In accordance with section 773(c) of the Act, the Department determines NV for subject merchandise from an NME country by valuing each respondent’s FOPs using the “best available information” for these factors from ME countries.<sup>18</sup> In doing so, the Department relies on ME countries that are economically comparable to the NME country at issue and significant producers of the merchandise at issue.<sup>19</sup>

Pursuant to 19 CFR 351.408(c)(2), Commerce “normally will value all factors in a single surrogate country.” However, up until 2010, this regulation did not apply to the valuation of labor. Indeed, in 1996, we recognized in the *Preamble* to the Department’s regulations that labor values, in particular, can vary greatly from country to country, depending on the “country the Department selects as the economically comparable surrogate economy.”<sup>20</sup> This was the policy reason behind 19 CFR 351.408(c)(3), which directed the Department to use a “regression-based” methodology which incorporated the wage rates from multiple countries.<sup>21</sup>

The Department’s labor-valuation regulation was invalidated, however, by the Court of Appeals for the Federal Circuit in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (Fed. Cir. 2010), which determined that the Department’s regression-based methodology was inconsistent

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<sup>17</sup> See *Remand Opinion and Order* at 24.

<sup>18</sup> See section 773(c)(1)(B) of the Act.

<sup>19</sup> See section 773(c)(4)(A)-(B) of the Act; see also 19 CFR 351.408(b).

<sup>20</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27295, 27367 (May 19, 1997) (*Preamble*).

<sup>21</sup> *Id.* (explaining that “combining data from more than one country” would “yield a more accurate result”).

with the statute. As a result, the Department reconsidered its practice in this regard and concluded that, in light of the Court’s holding, “relying on multiple countries to calculate the wage rate is no longer the best approach for calculating the labor value.”<sup>22</sup> The Department, therefore, concluded that, under such constraints, “using the data on industry-specific wages from the primary surrogate country is the best approach for valuing the labor input in NME antidumping duty proceedings,” in part because it is “fully consistent with how the Department values all other FOPs, and it results in the use of a uniform basis for FP valuation – a single surrogate.”<sup>23</sup>

This is not to say, however, that once the Department ceased using wage rates derived from multiple countries in determining a surrogate value for labor that labor values suddenly became similarly situated with many other FOPs. As a factual matter, that is simply not the case. For example, the volume and commercial value of internationally traded commodities, such as coal, diesel, salt, chlorine, and carbon are objectively obtainable through numerous commercial sources that provide statistical data.<sup>24</sup> Labor, on the other hand, is an FOP largely and universally dependent on numerous factors, such as, but not limited to, labor rights, child and women’s rights, health care costs, costs of living, environmental conditions, pension and retirement laws, and political pressures which, arguably, may not be as relevant in valuing other

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<sup>22</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092, 36093 (June 21, 2011).

<sup>23</sup> *Id.*

<sup>24</sup> See Memorandum to Catherine Bertrand, Program Manager, Office V, from Irene Gorelik, Senior International Trade Analyst, Office V, re: “Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Results,” dated March 2, 2015 (Prelim SV Memo) at Exhibits 3 and 4 (containing the raw import statistics from UN Comtrade and Global Trade Atlas, which we frequently rely upon as public sources of global trade data in this proceeding and other NME proceedings.)

FOPs.<sup>25</sup> Accordingly, as reflected by the Court’s concerns in this case, it comes as no surprise that there is a natural tension between certain analyses which the Department normally applies to other FOPs and the application of those analyses specifically to a labor FOP.

As a general rule, when evaluating whether potential surrogate value data provide the “best available information” in accordance with section 773(c) of the Act, the Department considers several factors, including whether the SV is publicly available, contemporaneous with the POR, represents a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the input.<sup>26</sup> Furthermore, as the Department stated in the *Preamble*, in selecting surrogate values, “aberrational surrogate input values should be disregarded.”<sup>27</sup>

As we explained in the *Final Results*, where a party alleges that potential surrogate value data are “aberrational,” the Department’s practice generally is to compare the surrogate value with prices from other countries found to be economically comparable to the NME country under review or with historical values from the potential surrogate country and evaluate other quantitative record evidence that inform the Department’s understanding of such a comparison.<sup>28</sup> There is no set standard for what constitutes “aberrational” data, although this Court has considered this question in the context of certain other surrogate values. For example, in

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<sup>25</sup> See, e.g., the petitioner’s submission, re: “Comments on Surrogate Values,” dated December 15, 2014, at Exhibit 2, the petitioner’s report from Verite’s “Research on Indicators of Forced Labor in the Supply Chain of Shrimp in Bangladesh,” where the report indicates: 1) that the Government of Bangladesh instituted numerous initiatives and “created several ad hoc governance institutions” to address regulatory gaps in labor rights, child labor, health and safety codes, compensation laws, and welfare; and 2) that working conditions are identified as factors in the study of labor practices. See also Exhibit 5 at Appendix B, the petitioner’s report from Accenture for Humanity United regarding “Exploitative Labor Practices in the Global Shrimp Industry,” which identified labor certification factors such as child labor, forced labor, safety, freedom of association and collective bargaining, working hours, remuneration, migrant workers, etc. See also Exhibit 14, the petitioner’s report from the BBS regarding “Innovation in Official Statistics: Bangladesh Experience,” where the report indicates that the BBS collects statistics from surveying “Household Income and Expenditure, Agriculture, Demography and Health, Labour Force, Child and Mother Nutrition, Vital Statistics, Situation of Children and Women, Enterprise and Institutions, Manufacturing and Cottage Industries, Distributive Trade, Hotel and Restaurant and many others.”

<sup>26</sup> See Preliminary Decision Memo at 14.

<sup>27</sup> See *Preamble*, 62 FR at 27366.

<sup>28</sup> See *Final Results* and accompanying Issues and Decision Memorandum at 49.

*Xinjiamei Furniture (Zhangzhou) Co. v. United States*, 2013 Ct. Int'l Trade LEXIS 34, \*20 (Mar. 11, 2013), this Court held that when the potential surrogate value is based on import data, “a very small relative quantity of imports triggers an obligation for Commerce to explain why the data is not aberrational.” Furthermore, this Court has held that input values cannot be greater than that of a primary or finished good.<sup>29</sup> In all of these cases, the issue before the Court was whether the quantitative analysis conducted by the Department to determine if a potential surrogate value was “aberrational” was reasonable.

The Court has requested in this case that the Department further clarify or reconsider its practice with regard to how the petitioner can demonstrate quantitatively that data are aberrational given that its claims stem from alleged systemic labor abuses. The simple answer to this question is that the petitioner cannot reasonably be expected to “demonstrate quantitatively” that potential surrogate labor values are aberrational when its claims stem from systematic labor abuses. For the reasons explained above, the valuation of labor, in particular, does not avail itself of a quantitative aberrational analysis.

In the *Remand Opinion and Order*, the Court found that “{d}espite Commerce’s stated practice of quantitatively assessing labor wage rate data to determine whether that data is aberrational, Commerce did not perform a quantitative assessment of the BBS data with the labor wage rate data presented by Plaintiff.”<sup>30</sup> Moreover, even if {the Department} did not have sufficient labor wage rate data to comparatively assess the aberration claim,” the Court explained, “{the Department} subsequently indicated that it could not perform a quantitative analysis because of the uniqueness of the labor {factor of production.}”<sup>31</sup> We agree. The

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<sup>29</sup> See, e.g., *Blue Field (Sichuan) Food Indus. Co., Ltd. v. United States*, 949 F. Supp. 2d 1311, 1327 (CIT 2013); *Baroque Timber Indus. (Zhongshan) Co., Ltd. v. United States*, 925 F. Supp. 2d 1332, 1345 (CIT 2013).

<sup>30</sup> See *Remand Opinion and Order* at 10.

<sup>31</sup> *Id.*, at 12.

quantitative evaluation normally conducted for commodity FOPs (*e.g.*, traded goods) is not possible for labor based on the evidence on this record and, for this reason, as the Court acknowledged, in the *Final Results*, we concluded that quantitative cross-country comparisons for labor wage rate data cannot be made.<sup>32</sup>

In fact, a quantitative comparison of wage rates between countries, or within a single country, does little to address whether or not a labor value is “aberrational,” as wages among economically comparable countries and across industries often vary considerably. Furthermore, the Department does not have subject-matter expertise with respect to labor markets and the diverse factors which can affect labor values. Moreover, neither the statute, nor the Department’s regulations, require the Department to conduct an exhaustive analysis of the operation of labor law, policies, and practices in Bangladesh and other comparable ME countries in its administrative proceedings. Accordingly, we recognize that the Department’s normal practice of determining if a surrogate value is “aberrational” using a quantitative analysis cannot, and does not, provide a path by which the petitioner can demonstrate that the Bangladeshi wage rate data are aberrational, given its claim of systemic labor abuses.

However, given the Court’s concerns with respect to Bangladeshi labor practices, the Department has determined to re-evaluate whether or not the Bangladeshi wage rate is the “best available information,” for valuing labor in accordance with section 773(c) of the Act, as we explain below.

**B. Whether the Bangladeshi Wage Rate Is Aberrational or Otherwise Not the Best Available Information for Valuing Labor**

In light of the Court’s Order, we have evaluated the record evidence and reconsidered our determination that the Bangladeshi data are the best available information. Although the

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<sup>32</sup> See *Remand Opinion and Order* at 12-13 (citing Issues and Decision Memorandum at 50).

Department's practice with respect to claims of aberration does not enable the petitioner to demonstrate quantitatively that the Bangladeshi data are aberrational in light of its claim, we acknowledge that additional considerations may affect a determination as to whether potential surrogate value data constitute the best available information. Given the Court's concerns with respect to the evidence of labor abuses in Bangladesh provided by the petitioner,<sup>33</sup> and given that there are no allegations of systematic labor abuses specific to the shrimp processing industries in certain other potential surrogate countries on the record, we have elected to conclude that the Bangladeshi wage rate is not the best available information on the record with which to value the respondents' labor FOPs.

In doing so, we evaluated the alternative wage rates on the record and determined that India wage rate data are the best available information for valuing labor. In the *Preliminary Results*, "where we could not obtain Bangladeshi values for {shrimp} larvae, frozen shrimp, and scrap, we looked to Indian sources for appropriate SV for shrimp larvae, frozen shrimp, and scrap byproduct."<sup>34</sup> The Department noted that "{w}hile we did not select India as the primary surrogate country, India was determined to be at the same level of economic development as Vietnam and was included on the S{urrogate} C{ountry} list."<sup>35</sup> Consequently, we find that, in consideration of the Court's concern with the Bangladeshi labor surrogate value for shrimp processing, and the fact that there are no allegations on the record of systemic labor abuses in the Indian shrimp processing industry, the most appropriate and the best available alternative information on the record to value labor is the Indian ILO data.<sup>36</sup> With respect to the other wage

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<sup>33</sup> See the petitioner's submission re: "*Comments on Surrogate Values*," dated December 15, 2014. See also the petitioner's submission re: "Factual Information to Value FOPs," dated February 18, 2015.

<sup>34</sup> See Preliminary Decision Memo at 25-26.

<sup>35</sup> *Id.*

<sup>36</sup> See the petitioner's "Factual Information to Value FOPs," dated February 18, 2015, at Exhibit 8.

data on the record, we find that the ILO data from Guyana are not appropriate, because Guyana was not among the potential surrogate countries considered in this review.<sup>37</sup> We also find that the ILO data from Nicaragua, Nigeria, Pakistan, and the Philippines are not appropriate because using data from a tertiary surrogate country, after Bangladesh and India, may distort the NV even further.<sup>38</sup> Consequently, we employed the Indian ILO data and consumer price index data that are on the record to inflate the non-contemporaneous Indian ILO data,<sup>39</sup> which we then converted to U.S. dollars,<sup>40</sup> using the Indian exchange rates on the record<sup>41</sup> to recalculate the remaining respondents' final margins.<sup>42</sup>

## V. INTERESTED PARTY COMMENTS ON DRAFT REMAND RESULTS

On May 12, 2017, the Department released the draft remand results of redetermination to all interested parties.<sup>43</sup> We invited interested parties to comment on the draft remand results by May 19, 2017. On May 19, 2017, the petitioner filed timely comments,<sup>44</sup> which we address below. No other party commented.

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<sup>37</sup> See *Final Results* and accompanying Issues and Decision Memorandum at Comment 9 (n. 218) (“while Petitioner also includes wage rate from Guyana for the Department’s consideration, we note that Guyana was not on the Surrogate Country List for this review period, thus not considered as a potential surrogate country.”)

<sup>38</sup> See, e.g., *Clearon Corp. v. United States*, Slip Op. 13-22, 2013 Ct. Intl. Trade LEXIS 27, 2013 WL 646390, at \*6 (CIT 2013) (“deriving the surrogate data from one surrogate country limits the amount of distortion introduced into {Commerce’s} calculations”).

<sup>39</sup> See the petitioner’s submission, re: “Factual Information to Value FOPs,” dated February 18, 2015, at Exhibit 8.

<sup>40</sup> See Memorandum to the File, from Irene Gorelik, Senior International Trade Compliance Analyst, Office VIII, re: “Remand Redetermination—Revised Final Results Calculations,” dated May 12, 2017 (Remand Recalculations).

<sup>41</sup> See “Memorandum to Catherine Bertrand, Program Manager, Office V, from Irene Gorelik, Senior International Trade Analyst, Office V, re: “Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Results,” dated March 2, 2015, at 3 and Exhibit 5.

<sup>42</sup> See Remand Recalculations.

<sup>43</sup> See Letter to All Interested Parties, re: “Remand Redetermination in the Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam (Vietnam),” dated May 12, 2017 (draft remand results).

<sup>44</sup> See Letter from the petitioner, re: “Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Comments on Draft Remand Redetermination,” dated May 19, 2017.

## **Issue: Calculation of the Sample Rate for Non-Individually Examined Companies Receiving a Separate Rate**

### *The Petitioner's Comments:*

- The petitioner agrees with the Department's analysis in the draft remand results and supports the Department's decision to utilize Indian ILO data to value labor in this proceeding. However, by not correcting the dumping margin for the Minh Phu Group, the resulting sample rate for non-individually examined companies is not representative.
- The fact that the Minh Phu Group is not subject to this litigation does not justify the continued reliance on Bangladeshi labor values in establishing a sample rate margin to be applied to separate rate respondents. The petitioner does not dispute that the CIT's determination cannot reach parties who are not subject to this litigation, but the Minh Phu Group's dumping margin remains subject to this litigation insofar as it forms part of the basis of the sample rate applied to multiple respondents who are parties to the litigation.
- While the Department's remand redetermination will have no impact on the Minh Phu Group, the dumping margin calculated for the Minh Phu Group impacts parties to the litigation and should be properly adjusted using the revised labor SV to calculate a representative sample rate.

### **Department's Position:**

The Department agrees with the petitioner that the sample rate that we recalculated in the draft remand results continued to improperly rely, in part, on the BBS wage data as a labor SV. For the final results of redetermination, we adjusted the Minh Phu Group's final margin, using the Indian ILO data as the labor SV.<sup>45</sup> As we stated in the draft remand results, the Minh Phu Group is not subject to this litigation and its suspended entries of subject merchandise for this period have been liquidated.<sup>46</sup> Thus, our adjustment of the Minh Phu Group's final margin is for

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<sup>45</sup> See Memorandum to the File, from Irene Gorelik, Senior International Trade Compliance Analyst, Office VIII, re: "Final Remand Redetermination—Revised Final Remand Recalculations," dated June 15, 2017 (Final Remand Recalculations).

<sup>46</sup> See U.S. Customs and Border Protection (CBP) Message Number 6207308, dated July 25, 2016, available at: [http://adcvd.cbp.dhs.gov/adcvdweb/ad\\_cvd\\_msgs/21568?filter\\_cat=ALL&filter\\_type=ALL&page=1&per\\_page=10&search=6207308](http://adcvd.cbp.dhs.gov/adcvdweb/ad_cvd_msgs/21568?filter_cat=ALL&filter_type=ALL&page=1&per_page=10&search=6207308); see also CBP Message Number 6209303, dated July 27, 2016, available at: [http://adcvd.cbp.dhs.gov/adcvdweb/ad\\_cvd\\_msgs/21594?filter\\_cat=ALL&filter\\_type=ALL&page=1&per\\_page=10&search=6209303](http://adcvd.cbp.dhs.gov/adcvdweb/ad_cvd_msgs/21594?filter_cat=ALL&filter_type=ALL&page=1&per_page=10&search=6209303); see also CBP Message Number 6224308, dated August 11, 2016, available at: [http://adcvd.cbp.dhs.gov/adcvdweb/ad\\_cvd\\_msgs/21661?filter\\_cat=ALL&filter\\_type=ALL&page=1&per\\_page=10&search=6209303](http://adcvd.cbp.dhs.gov/adcvdweb/ad_cvd_msgs/21661?filter_cat=ALL&filter_type=ALL&page=1&per_page=10&search=6209303).

the sole purpose of calculating a sample rate that is consistent with our draft remand results determination to rely on an alternative labor SV.

## **VI. FINAL RESULTS OF REDETERMINATION**

Consistent with the *Remand Opinion and Order*, we have clarified that our practice of determining whether or not a potential surrogate value is “aberrational” based upon a quantitative analysis does not apply to labor FOPs. However, given the allegations and accompanying information placed on the record by the petitioner in support of its claim of systemic labor abuses in the Bangladeshi shrimp processing industry, we have reconsidered our determination in the *Final Results* that the Bangladeshi data are the best available information on the record to value labor, and instead used Indian data on the record.

In the *Final Results*, we calculated a 0.00 percent weighted-average margin for Sao Ta Foods Joint Stock Company and a 1.16 percent weighted-average margin for Thuan Phuoc Seafoods and Trading Corporation.<sup>47</sup> Based on our change of labor SV, as noted in the draft remand results, we calculated a 0.00 percent weighted-average margin for Sao Ta Foods Joint Stock Company and a 1.42 percent weighted-average margin for Thuan Phuoc Seafoods and Trading Corporation.<sup>48</sup> We intend to liquidate Sao Ta Foods Joint Stock Company’s and Thuan Phuoc Seafoods and Trading Corporation’s enjoined entries of subject merchandise at their

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<sup>47</sup> See *Final Results*, 80 FR at 55329.

<sup>48</sup> See Remand Recalculations at Attachments 1-4.

revised weighted-average dumping margins of 0.00 percent and 1.42 percent, respectively, at the completion of this litigation.

Further, based on the petitioner's comments on the draft remand results, we adjusted the Minh Phu Group's final margin from 1.39 percent<sup>49</sup> to 1.53 percent,<sup>50</sup> for the sole purpose of recalculating the sample rate for the non-individually examined companies that received a separate rate and are parties to this litigation.<sup>51</sup> Based on the petitioner's comments, with which we agree, the Department recalculated the sample rate resulting in a weighted-average dumping margin of 1.05 percent<sup>52</sup> for the non-individually examined companies that qualified for a separate rate and are subject to this litigation. We intend to liquidate these companies' enjoined entries of subject merchandise at this revised rate of 1.05 percent at the completion of this litigation.

6/6/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

June 6, 2017

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Date

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<sup>49</sup> See *Final Results*, 80 FR at 55329. See also Remand Recalculations at 4.

<sup>50</sup> See Final Remand Recalculations at Attachments 1-3. The recalculations from the draft remand results, with respect to Sao Ta Foods Joint Stock Company and Thuan Phuoc Seafoods and Trading Corporation, are unchanged for these final results of redetermination.

<sup>51</sup> See Remand Recalculations at 4-6, for the list of the separate rate companies that are subject to this litigation; see also Final Remand Recalculations at 4 for the sample rate revised for the final remand redetermination.

<sup>52</sup> See Final Remand Recalculations at 4.