
**OFFICE OF AD/CVD OPERATIONS
SEPARATE RATE CERTIFICATION
FOR FIRMS PREVIOUSLY AWARDED SEPARATE RATE STATUS***

* Firms that do not currently hold a separate rate may *not* use this Certification and *must* instead submit an Application for separate rate status (posted on the Department's website at <http://trade.gov/ia/index.asp>, "Highlights and News").

REQUESTER(S): {insert name of applicant}

REPRESENTATION: {insert name of counsel and law firm and contact info}

CASE: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam ("Vietnam") A- 552-801

PERIOD OF REVIEW: August 1, 2007 through July 31, 2008

DEADLINE FOR SUBMISSION OF CERTIFICATION: **October 30, 2008**

OFFICIALS IN CHARGE:

Alex Villanueva
Program Manager
AD/CVD Operations, Office 9
Telephone: (202) 482-3208

Alexis Polovina
Case Analyst
AD/CVD Operations, Office 9
Telephone: (202) 482-3927

FILING ADDRESS:

Secretary of Commerce
Attention: Import Administration
APO/Dockets Unit
Room 1870
U.S. Department of Commerce
14th Street and Constitution Avenue, NW
Washington, DC 20230

FILING INSTRUCTIONS: See the "General Instructions" section at Attachment IV.

SEPARATE RATE BACKGROUND

The Department assigns a separate rate in non-market economy (“NME”) cases only if the firm can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), over its export activities in accordance with the separate-rate test criteria. The Department limits its separate rate consideration to firms that exported or sold subject merchandise to the United States during the period of review (“POR”) in a commercial transaction.

- Completion of this Certification does not guarantee separate rate status for this POR.
- If your responses to the questions in this Certification do not demonstrate your eligibility for separate rate status, you will not be granted a separate rate for this POR.
- Each firm seeking separate rate status must submit a separate Certification regardless of any common ownership or affiliation between firms and regardless of foreign ownership.
- Firms whose Certifications are untimely, incomplete or otherwise deficient may be denied a separate rate in the administrative review.
- By completing the Certification, firms certify that they have relevant supporting documents and can submit them to the Department upon request. If a firm that has completed this form is not able to furnish supporting documents as requested by the Department, the Department may conclude the firm is not eligible for a separate rate.
- Along with requesting supporting documentation, the Department may issue questionnaires for clarification purposes. All information submitted and representations made by your firm are subject to verification.
- There is a possibility that your firm may be selected as a mandatory respondent, in which case your firm will be required to provide a response to the full antidumping questionnaire.
- The firm name provided to the Department in this Certification must be the name that appears on the firm’s business license/registration documents. All shipments to the United States declared to U.S. Customs and Border Protection must identify the firm by its legal business name, and this name must match the name that appears on the firm’s business/registration documents. 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.
- Firms owned wholly by entities located in market-economy countries, provided that the ultimate owners are also located in market-economy countries, (“wholly market-economy owned firms”), need not respond to questions marked with an asterisk (“*”).

SEPARATE RATE CERTIFICATION

APPLICANT INFORMATION:

1. Please provide the full name and contact information (including address, telephone, fax, and e-mail address) of the firm, previously granted separate status, which is seeking separate rate status for this administrative review.
2. I certify that during the POR, the firm was owned (select one):
 - wholly or partially by a domestic entity/entities located in Vietnam
 - 100% by a foreign entity/entities ¹ located in (identify country or countries)

FIRM OFFICIAL AND REPRESENTATIVE CERTIFICATIONS:

3. I, (Firm official name and title), currently employed by (Firm), certify that: (1) I have read the attached submission; and (2) the certifications contained in this submission are, to the best of my knowledge, complete and accurate.

(Firm official signature)

4. I, (Legal counsel or representative name), of (law firm or other entity), counsel or representative to (Firm), certify that: (1) I have read the certifications contained in this submission; and (2) based on the information made available to me by (person), I have no reason to believe that this submission contains any material misrepresentation or omission of fact.

(Legal counsel or representative signature)

GENERAL CERTIFICATIONS:²

5. I certify that (Firm) was previously granted separate rate status as part of the final determination/results in the (insert investigation/review and period of investigation/review) ; published in Federal Register (insert citation), that the separate rate status is currently applicable, and the separate rate status has not been revoked.

(Firm official, legal counsel or representative signature)

¹ Wholly market-economy owned firms need not respond to questions marked with an asterisk (“*”).

² If you cannot certify to each question in this section, please contact the official in charge.

6. I certify that I will provide, to the best of my ability, any and all documents requested by the Department in support of separate rate status for this administrative review. I understand that if I cannot furnish these documents, the Department may conclude the firm is not eligible for a separate rate.

(Firm official, legal counsel or representative signature)

EXPORT CERTIFICATIONS (check any that apply):

7. I certify that during the POR, the firm conducted business under the following (please include a list of all trade names)³:
- the same trade names as identified in the segment of investigation or review in which the firm was granted a separate rate (“previous Granting Period”).
 - the same trade names as identified in the previous Granting Period, as well as new trade names.
 - new trade names.
8. I certify the firm possesses an official government business license/registration documents for each trade name listed in response to question 7, above, valid during the POR. (list each trade name, the corresponding document and its expiration date).⁴
9. I certify the firm exported or sold subject merchandise to the United States during the POR.

CERTIFICATIONS OF ABSENCE OF *DE JURE* CONTROL (check any that apply):

10. * I certify that during the POR, as with the previous Granting Period, there were no government laws or regulations, at either national and sub-national (*e.g.*, provincial, local) levels of government, that controlled the firm’s export activities.

³ Trade names are other names under which the firm does business. It does not include product brand names or the names of any other entities in the firm’s “group,” affiliated or otherwise. Note that if the Department determines that your firm is eligible for separate rate status, the separate rate will only apply to the firm as named in your business license/registration documents and not to any alternative or trade names that are not included in your business license/registration documents.

⁴ It is the Department’s understanding that a valid business license/registration documents with clearly defined periods of validity issued by the appropriate licensing authority is required for all business activity. A firm submitting a business license without an expiration date must provide an explanation in order for the Department to consider its application.

11. I certify that during the POR, the ownership under which the firm registered itself with the official government business license issuing authority remains the same as for the previous Granting Period.⁵
12. * I certify that during the POR, the firm had valid Vietnamese Export Certificate(s) of Approval.⁶
13. * I certify that during the POR, as with the previous Granting Period, in order to conduct export activities, the firm was not required by any national, provincial, or local government law or regulation to possess additional certificates or other documents related to the legal status and/or operation of its business beyond those discussed above.
14. * I certify that during the POR, Vietnam's government laws and legislative enactments applicable to the firm seeking a separate rate remained the same as for the previous Granting Period.

CERTIFICATIONS OF ABSENCE OF *DE FACTO* CONTROL (check any that apply):

15. * I certify that during the POR, the largest 10 individual/entity shareholders of the firm and all of their shareholders had no significant relationship⁷ with any of the following:⁸
- Vietnamese state asset management company (government-owned and/or private chartered);
 - The Vietnamese national government and/or its ministries/agencies;
 - Vietnamese provincial governments;
 - Vietnamese local/municipal/village government(s)/agency(ies).
16. * I certify that during the POR, the firm's export prices were not set by, subject to the approval of, or in any way controlled by a government entity at any level (e.g., national, provincial, local).⁹

⁵ If you cannot certify to this statement, leave the box unchecked and provide a short narrative explanation.

⁶ If you cannot certify to this statement, leave the box unchecked and provide a short narrative explanation.

⁷ A significant relationship would include ownership, control, affiliation, significant transactions, *etc.*

⁸ If you cannot certify to this statement, leave the box unchecked and provide a short narrative explanation.

⁹ This includes, but is not limited to, the presence of government officials at any meeting where export and pricing decisions are discussed.

17. I certify that during the POR, the firm had independent authority to negotiate and sign export contracts and other agreements (*i.e.* the firm conducted independent price negotiation).¹⁰
18. I certify that during the POR, the firm had autonomy from all levels of the government (*e.g.*, national, provincial, local) and from any government entities in making decisions regarding the selection of management.
19. I certify that during the POR, the firm did not have to submit for approval any of its candidates for managerial positions within the firm to any government entity at any level (*e.g.*, national, provincial, local).
20. * I certify that during the POR, the firm retained the proceeds of its export sales and made independent decisions regarding the disposition of profits or financing of losses.

SALES & AFFILIATION:

21. I certify the firm made at least one export or sale to the United States during the POR to (select only one):

- affiliated¹¹ parties only.
- unaffiliated parties only.
- both affiliated and unaffiliated parties.

ADDITIONAL DOCUMENTATION:

22. Please provide copies of the following documentation:
- The firm's business license(s)/ registration document(s) valid during the POR;
 - * The firm's Vietnamese Export Certificate(s) of Approval valid during the POR.

¹⁰ The authority to conduct independent price negotiation refers to the ability of an NME firm to set its own export prices independently of the government at any level (national, provincial, local) and without the approval of any government entity.

¹¹ See Section 771(33) of the Tariff Act of 1930, as amended, for a definition of affiliation. For the purposes of control under the definition of affiliation, the Department will consider a person to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.