



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

C-560-825
Investigation
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DATE: August 12, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Negative
Determination in the Countervailing Duty Investigation of Certain
Frozen Warmwater Shrimp from the Republic of Indonesia

I. SUMMARY

The Department of Commerce (the Department) determines that countervailable subsidies are not being provided to producers and exporters of certain frozen warmwater shrimp (frozen shrimp) in the Republic of Indonesia (Indonesia), as provided in section 705 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

On June 4, 2013, the Department published the *Preliminary Determination* in this investigation.¹ Between June 4, and June 18, 2013, we conducted verification of the questionnaire responses submitted by the Government of Indonesia (GOI); PT. Central Proteinaprima (CPP), PT. Central Pertiwi Bahari (CPB), and their affiliated companies (collectively, CPP);² and PT. First Marine Seafoods and its cross-owned affiliate, PT. Khom Foods (collectively, First Marine), as well as

¹ See *Certain Frozen Warmwater Shrimp from Indonesia: Negative Preliminary Countervailing Duty Determination*, 78 FR 33349 (June 4, 2013) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² As explained in the *Preliminary Determination*, CPP is the parent company of CPB. See *Preliminary Determination*, and accompanying PDM, at 8.



certain of its fresh shrimp suppliers. We released verification reports from July 3, through July 8, 2013.³

On June 10, 2013, the Coalition of Gulf Shrimp Industries (Petitioner) submitted ministerial error comments regarding the *Preliminary Determination*.⁴ On July 5, 2013, the Department responded to Petitioner's ministerial error comments on the *Preliminary Determination*, stating that the issues raised by Petitioner in its comments are methodological in nature and do not constitute ministerial errors within the meaning of the Department's regulations.⁵

On July 5, 2013, Petitioner submitted a case brief regarding scope issues,⁶ and on July 10, 2013, the Ad Hoc Shrimp Trade Enforcement Committee (AHSTEC), an interested party to this proceeding, submitted a rebuttal brief.⁷ At the request of Petitioner, on July 23, 2013, the Department held a hearing limited to the scope issues raised in these briefs.⁸ We have addressed these issues in the August 12, 2013 Memorandum to Paul Piquado, Assistant Secretary for Import Administration, "Certain Frozen Warmwater Shrimp from Ecuador, India, Indonesia, Malaysia, People's Republic of China, Thailand, and Socialist Republic of Vietnam – Final Scope Memorandum Regarding Onboard Brine-Frozen Shrimp," which is hereby adopted by this notice.

Petitioner, respondents, and interested parties submitted case briefs concerning case-specific issues on July 15, 2013,⁹ and rebuttal briefs on July 22, 2013.¹⁰ At the request of Petitioner, respondents, and interested parties, a hearing concerning these case-specific issues was held on July 30, 2013.¹¹

³ See Memoranda to the File, "Verification of the Questionnaire Responses Submitted by the Government of Indonesia," July 8, 2013 (GOI Verification Report); "Verification of PT. Central Pertiwi Bahari, PT. Central Proteinaprima and their Cross-owned Companies," July 5, 2013 (CPP Verification Report); "Verification of PT. First Marine Seafoods and its Cross-Owned Affiliate PT. Khom Foods," July 3, 2013 (First Marine Verification Report); "Verification of the Questionnaire Responses Submitted by PT. Windu Mantap Mandiri," July 3, 2013; and "Verification of the Questionnaire Responses Submitted by PT. Teluk Beringin Jaya and PT. Sumber Windu Airmas," July 3, 2013 (TBJ/SWA Verification Report).

⁴ See Letter from Petitioner, "Countervailing Duty Investigation on Certain Frozen Warmwater Shrimp from Indonesia (C-560-825) – Preliminary Determination Ministerial Error Comments," June 10, 2013.

⁵ See Letter from the Acting Director, AD/CVD Operations, Office 6, "Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from Indonesia: Allegation of Significant Ministerial Errors in the Preliminary Determination," July 5, 2013.

⁶ See Letter from Petitioner, "Scope Case Brief of the Coalition of Gulf Coast Shrimp Industries," July 5, 2013.

⁷ See Letter from AHSTEC, "Certain Frozen Warmwater Shrimp from Indonesia: Scope Rebuttal Brief," July 10, 2013.

⁸ See "Scope Hearing in the Countervailing Duty Investigations of Certain Warmwater Shrimp From Various Countries," July 23, 2013.

⁹ See Letter from Petitioner, "Case Brief of the Coalition of Gulf Shrimp Industries," July 15, 2013 (Petitioner Case Brief); Letter from the GOI, CPP, and First Marine, "Frozen Warmwater Shrimp from Indonesia: Case Brief," July 15, 2013 (GOI and Respondents Case Brief); and Letter from Bumi Menara Internusa, "Certain Frozen Warmwater Shrimp from Indonesia: Case Brief," July 15, 2013 (BMI Case Brief).

¹⁰ See Letter from Petitioner, "Rebuttal Brief of the Coalition of Gulf Shrimp Industries," July 22, 2013 (Petitioner Rebuttal Brief); and Letter from the GOI, CPP, and First Marine, "Frozen Warmwater Shrimp from Indonesia: Rebuttal Brief," July 22, 2013 (GOI and Respondents Rebuttal Brief).

¹¹ See "Public Hearing in the Matter of Certain Frozen Warmwater Shrimp from Indonesia, Case No. C-560-825," July 30, 2013.

The “Analysis of Programs” and “Subsidy Valuation Information” sections below describe the subsidy programs and the methodologies used to calculate the subsidy rates for our final determination. Additionally, we have analyzed the comments submitted by interested parties in their case briefs and rebuttal briefs in the “Analysis of Comments” section below, which contains the Department’s responses to the issues raised in these briefs. Based on the comments received, and our verification findings, we have made certain modifications to the *Preliminary Determination*, which are discussed below under each program. We recommend that you approve the positions we have described in this memorandum. Below is a complete list of the issues in this investigation for which we have received comments from the parties:

General Issues

- Comment 1: The Application of Section 771B of the Act (the Agricultural Processing Provision) to Subsidies to Fresh Shrimp Farmers
- Comment 2: The Attribution of Fresh Shrimp Subsidies to Respondent Processors; Use of a Simple or Weighted Average
- Comment 3: The Attribution of Fresh Shrimp Subsidies to Respondent Processors: Proper Sales Denominator

Cross-Ownership

- Comment 4: CPP and the Plasma Farmers
- Comment 5: CPP and CWS
- Comment 6: Windu Mantap and its Cross-Owned Companies

Debt Forgiveness

- Comment 7: CPP’s 2001 Restructuring Agreement
- Comment 8: CPP’s Repayment Terms
- Comment 9: Forgiven Loans to CPP’s Plasma Farmers
- Comment 10: CPP’s Investment Commitments for the Shrimp Pond Revitalization Project
- Comment 11: The Indonesia Ex-Im Bank’s Waiver for CPP

Export Financing

- Comment 12: CPP’s Export Financing

Income Tax Reduction

- Comment 13: The Article 31E Income Tax Reduction Program

VAT Exemptions for Strategic Goods

- Comment 14: VAT Exemptions are Countervailable in their Entirety
- Comment 15: Time Value of Money Benefits from VAT Exemptions

Import Duty Exemptions for Bonded Zones

- Comment 16: Import Duty Exemptions for Equipment Imported into Bonded Zones
- Comment 17: Import Duty Exemptions for Raw Materials Imported into Bonded Zones

VAT Exemptions for Bonded Zones

- Comment 18: VAT Exemptions for Equipment and Raw Materials Imported into Bonded Zones
- Land*

Comment 19: First Marine's Land Lease at the Jakarta Fishery Port
Comment 20: Land Provided to CPP and CWS by KIM

Creditworthiness

Comment 21: The Department's Preliminary Determination Regarding CPP's Uncreditworthiness During 2011
Comment 22: Petitioner's Other Uncreditworthiness Allegations

Voluntary Respondents

Comment 23: The Department's Denial of Bumi Menara's Voluntary Respondent Request

Miscellaneous

Comment 24: CPP's Minor Corrections

III. SUBSIDY VALUATION INFORMATION

A. Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 2011, through December 31, 2011.

B. Allocation Period

The Department finds the average useful life (AUL) in this proceeding to be 12 years, pursuant to 19 CFR 351.524(d)(2)(i) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System, as amended by the Treasury Department.¹² No party in this proceeding has disputed this allocation period.

For non-recurring subsidies, we have applied the "0.5 percent expense test" described in 19 CFR 351.524(b)(2). Under this test, we compare the amount of subsidies approved under a given program in a particular year to relevant sales (*e.g.*, total sales or total export sales) for the same year. If the amount of subsidies is less than 0.5 percent of the relevant sales, the benefits are allocated to the year of receipt rather than allocated over the AUL period.

C. Attribution of Subsidies

19 CFR 351.525(b)(6)(i) states that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides that the Department will attribute subsidies received by certain other companies to the combined sales of those companies when: (1) two or more corporations with cross-ownership produce the subject merchandise; (2) a firm that received a subsidy is a holding or parent company of the subject company; (3) a cross-owned firm supplies the subject company with an input that is produced primarily for the production of the downstream product;

¹² See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

or (4) a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to the cross-owned subject corporation.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where “there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations.”¹³ The Court of International Trade (CIT) has upheld the Department’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.¹⁴

CPP

In the *Preliminary Determination*, the Department determined CPP and two subsidiaries were cross-owned: PT. Central Bali Bahari and PT. Marindolab Pratama.¹⁵ For this final determination, we are finding one additional subsidiary to be cross-owned with CPP: PT. Central Windu Sejati (CWS). CPP owns a substantial majority of CWS, and additional details concerning its cross-ownership with CPP are discussed below in response to Comment 5. While the Department investigated the possible cross-ownership between CPP and several other affiliates and requested questionnaire responses from these companies, the responses provided indicated these companies did not receive subsidies and were not otherwise relevant to this investigation (*i.e.*, their sales would not affect the denominators used in our calculations). Thus we found it unnecessary to reach a determination regarding whether these companies were cross-owned with CPP.¹⁶ For this final determination, we continue to find it unnecessary to determine whether these companies are cross-owned with CPP.

First Marine

In the *Preliminary Determination*, the Department determined that First Marine and Khom Foods, both of which produce subject merchandise, are cross-owned.¹⁷ We have received no comments challenging this determination, and continue to treat these companies as cross-owned.

As explained below, we are including subsidies to fresh shrimp production in the countervailing subsidy rates calculated for the respondent processors in this final determination. To determine the rate of fresh shrimp subsidization, we examined subsidies provided to CPP for its “self-production” of fresh shrimp (*i.e.*, its in-house shrimp farming) and subsidies provided to the largest of First Marine’s unaffiliated fresh shrimp suppliers. As a result, we requested a complete response to Section III of the Department’s initial questionnaire from PT. Windu Mantap Mandiri (Windu Mantap). In its April 8, 2013 submission, Windu Mantap stated that it is affiliated with the Indonesian companies PT. Prima Larvae, which produces shrimp fry and broodstock, and PT. Sumberwindo Airmas (SWA) and PT. Teluk Beringin Jaya (TBJ), both of

¹³ See 19 CFR 351.525(b)(6)(vi).

¹⁴ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

¹⁵ See *Preliminary Determination*, and accompanying PDM, at 8-9.

¹⁶ *Id.*, at 8.

¹⁷ *Id.*, at 9.

which produce raw shrimp.¹⁸ Based on the information provided by Windu Mantap, in the *Preliminary Determination*, we determined that cross-ownership exists, in accordance with 19 CFR 351.525(b)(6)(vi), among Windu Mantap, Prima Larvae, SWA, and TBJ.¹⁹ For the final determination, we continue to find that cross-ownership exists among these four companies. While no parties have argued against our finding that Windu Mantap is cross-owned with Prima Larvae, Petitioner and First Marine have each commented on our cross-ownership finding with respect to Windu Mantap and its affiliates, SWA and TBJ. Arguments concerning our cross-ownership finding with respect to these companies are addressed below at Comment 6.

D. Application of Section 771B of the Act

Section 771B of the Act directs that subsidies provided to producers or processors of a raw agricultural product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product when two conditions are met. First, the demand for the prior stage (raw agricultural) product is substantially dependent on the demand for the latter stage (processed) product. Second, the processing operation adds only limited value to the raw commodity. For the reasons explained in the *Preliminary Determination*,²⁰ we continue to find that these two conditions have been met in this investigation. As a result, and pursuant to Section 771B of the Act, we have included subsidies to fresh shrimp in the final countervailing duty rates for the processed product. While no party contested our determination in the *Preliminary Determination* to include fresh shrimp subsidies in this investigation under section 771B, arguments from parties concerning the manner in which we accounted for such subsidies in the respondent processors' countervailing duty rates are discussed in detail below in response to Comments 1 through 3.

E. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents' export or total sales. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in the "Calculation Memorandum" prepared for this final determination.²¹

F. Loan Benchmarks and Discount Rate Benchmarks for Allocating Non-Recurring Subsidies

As explained below, because we determine that CPP received neither long-term loans nor allocable non-recurring subsidies, the Department requires no long-term loan benchmarks or

¹⁸ See Letter from First Marine, "Frozen Warmwater Shrimp from Indonesia: PT First Marine Seafoods/Supplier Questionnaire Response," April 8, 2013, at Exhibit 1.

¹⁹ See *Preliminary Determination*, and accompanying PDM, at 10.

²⁰ *Id.*

²¹ See Department Memoranda, "Final Negative Determination in the Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from the Republic of Indonesia: Final Determination Calculations for PT. Central Pertiwi Bahari and PT. Central Proteinaprima," (CPP Calculation Memorandum) and "Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from Indonesia: First Marine Calculation Memorandum," (First Marine Calculation Memorandum), dated concurrently with this memorandum.

discount rates for this final determination. For measuring the benefit to CPP from short-term loans provided by the Ex-Im Bank, we have continued to rely on CPP's average cost of short-term borrowing for comparable commercial loans for the reasons provided in the *Preliminary Determination* and the accompanying company-specific calculation memoranda.²² No party has challenged our calculation of the benefit for such short-term loans.

IV. ANALYSIS OF PROGRAMS

Based upon our analysis of the record, including parties' comments addressed below, we determine the following.

A. Programs Determined To Be Countervailable

1. Export Financing from the Indonesia Export-Import Bank

Export credits can be provided for up to 90 percent of an exporter's working capital needs, and are provided either directly from the Ex-Im Bank or from other Indonesian banks based on a letter of credit from the Ex-Im Bank.²³ Additionally, record information indicates that these various lines of credit are issued with preferential interest rates.²⁴ The Ex-Im Bank's 2011 Annual Report states that "Bank Financing" and "Export Loan Financing" are two of its business lines,²⁵ and that it targets clients that export or have export supporting activities.²⁶ CPP reported having outstanding loans and a line of credit from the Ex-Im Bank during the POI, and in the *Preliminary Determination* we found that this program conferred a countervailable subsidy.²⁷ During verification of CPP, the Department reviewed the company's outstanding loans and the line of credit under this program.²⁸

We continue to find that this program provides a financial contribution pursuant to section 771(5)(D)(i) of the Act. Loans, including lines of credit, confer a benefit that is equal to the difference between the amount the recipient pays on the government loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market, in accordance with section 771(5)(E)(ii) of the Act. After considering arguments from interested parties (*see* Comment 12), we continue to determine that this program is contingent upon export performance, within the meaning of section 771(5A)(B) of the Act.

²² *See Preliminary Determination*, and accompanying PDM, at 11; *see also* CPP Calculation Memorandum and First Marine Calculation Memorandum.

²³ *See* Letter from Petitioner, "Certain Frozen Warmwater Shrimp from the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam –Petitioner's Response To The Department's January 4, 2013 Supplemental Questions on Indonesia on Behalf of Coalition of Gulf Shrimp Industries ("COGSI")," January 9, 2013, exhibit V-SQ-5, at 9.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*, at 104.

²⁷ *See* Letter from the GOI, "Frozen Warmwater Shrimp from Indonesia: Government of Indonesia Response to 2nd Supplemental Questionnaire Translations and Loan Documents," April 30, 2013, at 24; *see also*, Letter from CPP, "Frozen Warmwater Shrimp from Indonesia: PT Central Pertiwi Bahari Response to the Initial CVD Questionnaire," April 1, 2013 (CPP Initial QR), at 38 and exhibit 5a; *see also Preliminary Determination*, and accompanying PDM, at 15-16.

²⁸ *See* CPP Verification Report, at 6-7.

To calculate the benefit from this program, we used the short-term loan benchmark discussed above under the “Subsidies Valuation” section. On this basis, we determine an *ad valorem* subsidy rate of 0.23 percent for this program for CPP.

2. The Article 31E Income Tax Reduction

Windu Mantap and two cross-owned suppliers of fresh shrimp each reported an income tax reduction from the standard rate of 25 percent to 12.5 percent for a portion of their income.²⁹ Windu Mantap explained that the standard Indonesian income tax rate is 25 percent, but that corporations with an annual “turnover” (*i.e.*, gross income or revenue) up to IDR 50 billion are entitled to a tax discount of 50 percent of the standard rate on taxable income derived from the first IDR 4.8 billion in gross income.³⁰ Based on this tax rule, Article 31E, the only article of the GOI’s income tax law for which an English translation was placed on the record, Windu Mantap reported that in 2010 and 2011 the income tax rates applicable to it were 12.5 percent for taxable income derived from the first IDR 4.8 billion in gross income and 25 percent for taxable income derived from all additional gross income.³¹ Windu Mantap claims that this discount is applicable to all industries in Indonesia. In the *Preliminary Determination*, we countervailed these income tax reductions, finding that the tax reductions constitute a financial contribution in the form of revenue foregone, pursuant to section 771(5)(D)(ii) of the Act, and that they confer a benefit in the amount of the difference between the tax that Windu Mantap would have paid without the program and the amount it did pay under the program. Further, we found that the tax reductions are limited by law to a group of companies (*i.e.*, those companies with a turnover up to IDR 50 billion) and are specific under section 771(5A)(D)(i) of the Act.³²

For the final determination, we are continuing to countervail these income tax reductions, for the same reasons as in the *Preliminary Determination*. On this basis, we have calculated a countervailable subsidy rate of IDR 162.55 per kilogram for fresh shrimp.³³

Petitioner and respondents provided comments on these income tax reductions. Their arguments, and the Department’s responses to these arguments, can be found below at Comment 13.

²⁹ See, e.g., Letter from First Marine, “Frozen Warmwater Shrimp from Indonesia: PT First Marine Seafoods/Supplier Supplemental Questionnaire Response,” May 9, 2013, at 16.

³⁰ *Id.*

³¹ *Id.*, at 11-12.

³² See *Preliminary Determination*, and accompanying PDM, at 17. In the *Preliminary Determination*, this program was referenced as “Income Tax Article 25 Reduction.” We have revised the name of this program based on information that we learned at verification.

³³ See First Marine Calculation Memorandum.

B. Programs Determined To Be Not Countervailable

1. Import Duty Exemptions for Raw Materials Imported into Bonded Zones³⁴
2. VAT Exemptions for Raw Materials and Equipment Imported into Bonded Zones³⁵
3. VAT Exemptions for Purchases of Fish Feed³⁶

C. Programs Determined To Have Been Not Used By Respondents or To Not Confer a Benefit During the POI

1. Import Duty Exemptions for Equipment Imported into Bonded Zones

As the benefits received under this program are non-recurring subsidies, we conducted the 0.5 percent test, as described in 19 CFR 351.524(b)(2), for each year that import duty exemptions were received. We found that in no year did the total amount of exemptions on equipment pass the 0.5 percent test; therefore, all benefits were expensed in the year of receipt.³⁷ For the POI, the subsidy rate was less than 0.005 percent. As such, it does not have an impact on the countervailable subsidy rate for CPP.³⁸

2. Debt Forgiveness from the Government of Indonesia

As explained in Comment 7, the total value of the loans purchased by IBRA is virtually identical to the sum of the restructuring agreement paid to IBRA and the convertible bonds issued to IBRA and eventually resold to Lehman Brothers. The difference is slightly more than one one-hundredth of one percent. This amount is so miniscule that it fails our 0.5 percent test for allocating any benefit and gets fully expensed to years prior to the POI. Therefore, this program is determined not to confer a benefit during the POI.

3. Government Provision of Loans to the Indonesian Fishing and Aquaculture Sector³⁹
4. Government Loans to the Indonesian Fishing and Aquaculture Sector through Bank Rakyat Indonesia⁴⁰
5. Government Provision of Electricity to the Indonesian Fishing and Aquaculture Sector for LTAR⁴¹

³⁴ See Comment 17 for a detailed discussion on this program.

³⁵ See Comment 18 for a detailed discussion on this program.

³⁶ See Comment 14 and 15 for a detailed discussion on this program.

³⁷ See CPP Calculation Memorandum.

³⁸ See, e.g., *Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 72 FR 60642 (October 25, 2007) (*Coated Paper I*), and accompanying Issues and Decision Memorandum (IDM), at 15.

³⁹ See *Preliminary Determination*, and accompanying PDM, at 18.

⁴⁰ *Id.*, at 19.

⁴¹ *Id.*, at 20.

6. Government Provision of Goods and Services Used to Promote the Indonesian Fishing and Aquaculture Sector for LTAR
7. Government Provision of Land to the Indonesian Fishing and Aquaculture Sector for LTAR
8. Government Provision of Shrimp Breeding Stock and Fry for LTAR
9. Tax Incentives from the Capital Investment Coordinating Board
10. Government Provision of Grants to the Indonesian Fishing and Aquaculture Sector
11. Government Provision of Grants for the Lampung Shrimp Pond Project
12. Export Credit Insurance
13. Export Credit Guarantees
14. Export Ban on Raw Shrimp
15. Government Provision of Assistance through the Aquaculture Intensification (INBUDKAN) Program
16. Government Provision of Assistance through the Fish Culture Intensification (FCIP) Program
17. Government Provision of Assistance through the Revitalisation of Aquaculture Development (RPPB) Program
18. Government Provision of Clean Water Facilities to the Indonesian Fishery Sector for LTAR
19. Government Provision of Fishing Boats for LTAR
20. Government Provision of Cold Storage Facilities for LTAR
21. Government Provision of Shrimp Breeding Stock and Seed for LTAR
22. Government Loans to Coastal Community Businesses under the Project of Coastal Community Empowerment/Loans for the Economic Development of Coastal Communities (PEMP) Program
23. Government Provision of Land to Brackish-Water Aquaculture Farms for LTAR

V. ANALYSIS OF COMMENTS

General Issues

Comment 1: The Application of Section 771B of the Act (the Agricultural Processing Provision) to Subsidies to Fresh Shrimp Farmers

Respondents' Arguments

- The Department cannot attribute subsidies to a downstream producer when it is evident that the upstream suppliers did not or could not have benefitted from those subsidies.
- The Department verified that CPP received no income tax benefits. Moreover, CPP's plasma farmers are farmers and are not subject to corporate income tax. Thus, CPP and its plasma farmers could not have benefitted from the reduced corporate tax rate received by Windu Mantap and its affiliates.
- The record indicates CPP's plasma farmers received no debt forgiveness. Therefore, the plasma farmers could not have benefitted from any debt forgiveness received by CPP.

Petitioner's Arguments

- Section 771B of the Act requires the Department to attribute subsidies received by upstream producers to the downstream processed product. It is not discretionary.
- If the Department does not rely on the subsidy rates calculated for the examined fresh shrimp farmers as an estimate of what subsidies were received by the unexamined fresh shrimp farmers, it will seriously underestimate the amount of fresh shrimp subsidies benefitting the respondent processors.

Department's Position: In the *Preliminary Determination*, the Department found CPP's "self-produced" fresh shrimp benefited from countervailable debt forgiveness.⁴² We also found that First Marine's largest fresh shrimp supplier, Windu Mantap, received an income tax reduction.⁴³ We averaged the rates calculated for these two subsidy programs and applied the result to all other fresh shrimp purchased by respondents.⁴⁴

For this final determination, the Department is no longer averaging the two fresh shrimp subsidy rates and applying the resulting rate to all other fresh shrimp purchased by respondents. To calculate rates that reflect the production experience of each respondent, the Department finds it appropriate to attribute subsidies received by suppliers only to their respective downstream processor. The approach taken by the Department in the *Preliminary Determination* created an average that did not reflect the actual experience of any respondent and their suppliers, based on verified information. Moreover, while it is necessary to determine a "general" level of fresh shrimp subsidization that might have benefited all other producers and exporters, that determination is subsumed within the calculation of the all others rate itself, whereby the Department weight-averages the total countervailable subsidy rates calculated for the respondents, which include all fresh shrimp subsidies attributed to the respondents under section

⁴² *Id.*, at 10, 13-15.

⁴³ *Id.*, at 10, 17-18.

⁴⁴ *Id.*, at 10.

771B of the Act. As a consequence, and contrary to Petitioner’s argument, we do not believe that this approach will seriously underestimate the amount of fresh shrimp subsidies benefitting the respondent processors.

With respect to respondents’ concerns that the plasma farmers supplying CCP could not benefit from the “corporate” tax subsidies provided to Windu Mantap, we find them moot in light of the Department’s decision not to average fresh shrimp subsidy rates. Similarly, respondents’ concerns that CPP’s plasma farmers and the “individual farmers or small-size enterprises” supplying First Marine could not benefit from CPP’s debt forgiveness are now moot given our final determination, discussed below, that CPP received no debt forgiveness.

In so far as the respondents’ are also suggesting that First Marine’s other suppliers could not have benefited from Windu Mantap’s tax subsidies, we do not believe the record supports such a conclusion. First Marine reported purchasing fresh shrimp from Windu Mantap, “traders,” “formal enterprises,” and “household farmers.”⁴⁵ It noted the traders might be individuals or formal enterprises.⁴⁶ The tax reduction received by Windu Mantap (the “Article 31E Income Tax Reduction,” discussed below) does not differentiate between suppliers. The GOI’s discussion of the program at verification refers to “taxpayers,” “corporations,” and “companies” when describing the tax system in general and Article 31E in particular.⁴⁷ The GOI also noted that the benefits would be available to small and medium enterprises.⁴⁸ Article 31E itself states simply that “domestic taxpayers with a gross turnover of up to IDR 50 billion are entitled to a tariff reduction”⁴⁹ Therefore, the plain text of Article 31E demonstrates that First Marine’s other suppliers, whether “formal” enterprises or household businesses, could have benefited from the income tax reductions.

Comment 2: The Attribution of Fresh Shrimp Subsidies to Respondent Processors: Use of a Simple or Weighted Average

Petitioner’s Arguments

- The Department determined a fresh shrimp subsidy rate by selecting respondents’ largest suppliers, akin to how it calculates an all others rate for uninvestigated respondents. The Department must therefore weight-average the subsidies received by the farmers selected as representative as it is required to weight-average subsidies received by mandatory respondents in calculating an all others rate.

⁴⁵ See Letter from First Marine, “Frozen Warmwater Shrimp from Indonesia: PT. First Marine Seafoods Response to Questionnaire Regarding Sources of Fresh & Frozen Shrimp,” February 20, 2013, at Exhibit 1.

⁴⁶ *Id.*, at 3.

⁴⁷ See GOI Verification Report, at 6 and Exhibit 9.

⁴⁸ *Id.*

⁴⁹ *Id.*

Respondents' Arguments

- If the Department weight-averaged the subsidies received by fresh shrimp production, then it will aggravate the distortion caused by assuming subsidies received by one fresh shrimp farmer were received by others.
- In weight-averaging the subsidies received by fresh shrimp production, the Department would overstate the rate calculated for debt forgiveness attributed to CPP's fresh shrimp production, given that debt forgiveness was unlikely received by the small corporate and household farmers supplying First Marine.

Department's Position: As noted above, we are no longer averaging fresh shrimp subsidy rates across respondents. Instead, we will attribute the fresh shrimp subsidies on a respondent-specific basis. Therefore this issue has become moot for this final determination.

Comment 3: The Attribution of Fresh Shrimp Subsidies to Respondent Processors: Proper Sales Denominator

Petitioner's Arguments

- The Department should divide the amount of fresh shrimp subsidies we attribute to respondents by their sales of the "downstream product."
- By analogy, 19 CFR 351.525(b)(5)(ii) and 19 CFR 351.525(b)(6)(iv) require subsidies to cross-owned input suppliers to be divided by the combination of the sales of the input and downstream products produced by both companies.
- Section 771B of the Act states that subsidies to fresh shrimp "shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product." This language essentially requires the Department to find fresh shrimp subsidies "tied" to sales of subject merchandise.

Respondents' Arguments

- The Department's standard practice is to rely on total sales as the denominator for domestic subsidies. The fact that some subsidies being countervailed are subsidies to downstream fresh shrimp farmers is irrelevant in selecting the proper denominator for the respondent processors.

Department's Position: In applying section 771B of the Act in the *Preliminary Determination*, the Department determined the amount of benefits received by respondents and their unaffiliated farmers and then calculated the net subsidy rate for the program at issue by dividing the benefit by each individual respondent's total sales.⁵⁰ For the reasons explained below, we have modified this aspect of our approach in the final determination.

Section 771B of the Act states that, "subsidies found to be provided to either producers or processors of the product shall be deemed to be provided with respect to the manufacture, production or exportation of the processed product." Upon further review, we find that phrase

⁵⁰ See *Preliminary Determination*, and accompanying PDM, at 11.

“deemed to be provided with respect to the . . . processed product” directs the Department to limit the attribution of farmer subsidies to the sales of all processed shrimp. Accordingly, in this instance, we are not looking to 19 CFR 351.525 for guidance on attributing subsidies under section 771B of the Act. This reading of section 771B of the Act is supported by the plain text of that provision. In particular, the subject of section 771B of the Act concerns “an agricultural product processed from a raw agricultural product” This passage demonstrates that the import of section 771B of the Act centers on the processed product derived from the “raw agricultural product.”

Other reasons support the Department’s interpretation. The subsections of section 771B of the Act provide two criteria the Department must consider in determining whether the facts of the particular case support its application. Section 771B(1) of the Act instructs the Department to evaluate the dependency of demand for the raw product on demand for the processed product. Section 771B(2) of the Act instructs the Department to evaluate whether processing adds only limited value to the raw product. Taken together, section 771B of the Act contemplates the foreign government subsidizing the processed product by subsidizing the raw product.

Thus, as explained in the “Denominators” section above, for those subsidies apportioned to respondents’ suppliers or farmers under section 771B of the Act, we attributed subsidies to each respondents’ sales of processed shrimp.

Cross-Ownership

Comment 4: CPP and the Plasma Farmers

Petitioner’s Arguments

- The record indicates that the CPP companies own the plasma farms, and therefore any subsidies to these farms must be attributed to CPP. In its annual report, CPP emphasizes its vertical integration and describes the plasma farming operation as the key to its vertical integration.
- Even in the absence of direct ownership, the CPP companies use or direct the plasma farms’ assets in the same way it uses its own assets. CPP exercises substantial control over the plasma farms’ assets and provides the plasma farms with inputs, including shrimp fry, feed, electricity, water, training, technical support, and monitoring. Record evidence indicates that CPP also considers the plasma farmers to be its employees.

Respondents’ Arguments

- The record does not indicate that CPP owns the plasma farmers; instead, the record indicates that the plasma farmers themselves were the owners of the shrimp farm land, equipment, and the residential houses attached to the farming land. The relationship between the plasma farmers and CPP is contractual.
- The CPP companies do not use or direct the plasma farmers’ assets in the same way they use their own assets. The contractual agreement between the farmers and CPP does not grant the CPP companies the authority to dictate the price for the equipment sold to the farmers and the fresh shrimp purchased by CPP.

Department’s Position: The Department finds that the plasma farmers are not cross-owned with CPP within the meaning of 19 CFR 351.525(b)(6)(vi). We agree with CPP that its relationship with the plasma farmers is contractual and does not involve ownership.⁵¹ While the cooperative agreements require the plasma farmers to sell all of their product to the CPP companies, they do not dictate prices for equipment sold to the farmers or prices paid by CPP for fresh shrimp.⁵² At verification, CPP provided average price guidance published by the government on a periodic basis for the *vannamei* shrimp (the only species that CPP processes).⁵³ The guidance serves as a price benchmark for CPP’s purchases from the plasma farmers.⁵⁴ One of the cooperation agreements between CPP and its plasma farmers was terminated in May 2011, as the farmers refused to extend the agreement.⁵⁵ In addition, to the extent that CPP owns some of the assets used by the farmers in their fresh shrimp production, subsidies provided by the GOI for the acquisition of those assets would be subsidies provided directly to CPP and would have been reported as such, barring inaccuracies, misreporting, or concealment by CPP in its questionnaire responses. The record contains no evidence that CPP misreported or concealed subsidies that were provided for such assets, or that its financial statements and other records the Department has examined were inaccurate. To the contrary, CPP’s financial statements clearly identify information regarding loans to the plasma farmers and distinguish those from loans to itself. For example, when CPP guarantees loans made directly to the plasma farmers, they are clearly referenced in the notes to the financial statements as loans to the plasma farmers; they are not comingled with loans to CPP.⁵⁶ For these reasons, we find that the plasma farmers are not cross-owned with CPP pursuant to 19 CFR 351.525(b)(6)(vi).

Comment 5: CPP and CWS

Petitioner’s Arguments

- CWS and other CPP subsidiaries were cross-owned with CPP during the AUL, and subsidies received by these companies should be attributed to CPP.
- Record information indicates that CWS benefitted from import duty and VAT exemptions on equipment imported into bonded zones and from land purchases from a state-owned enterprise during the AUL.

Respondents’ Arguments

- CWS was not cross-owned with CPP during the POI because it had sold all of its processing plants. Thus, CPP could not use or direct the assets of CWS in the same way it could use its own assets.
- Indonesian law requires affiliated companies to conduct transactions at market prices.

Department’s Position: For this final determination, we are finding CWS cross-owned with CPP and are attributing subsidies received by CWS to CPP. The fact that CWS was not

⁵¹ See CPP Verification Report at Exhibit 3, for copies of the plasma farmer cooperation agreements.

⁵² *Id.*

⁵³ See CPP Verification Report, at Exhibit 6.

⁵⁴ *Id.*

⁵⁵ *Id.*, at 3.

⁵⁶ See, e.g., CPP Initial QR, at Exhibit 5a, “CPP 2010 financial statements.”

operational during the POI is irrelevant. Pursuant to 19 CFR 351.524(d)(2)(i), the Department is examining subsidies received by CPP and its cross-owned affiliates during the AUL, not just the POI. And while respondents' argue that provisions in Indonesia's tax laws require transactions between affiliated parties to be at arm's length, the essential test articulated in the regulations asks the Department to determine whether the respondent can use or direct the assets of its affiliate as it can use its own. The ability to dictate price is only one element to consider in determining whether companies are cross-owned and whether subsidies can be attributed from one company to another. The essential test articulated in the regulations asks the Department to determine whether the respondent can use or direct the assets of its affiliate as it can use its own.⁵⁷ The regulation states further that this test will “{n}ormally” be met where “where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations.”⁵⁸ Given CPP's substantial stake in CWS,⁵⁹ we find it can use or direct CWS's assets as it can use its own, and that subsidies to CWS are attributable to CPP within the meaning of 19 CFR 351.525.

Comment 6: Windu Mantap and its Cross-Owned Companies

Petitioner's Arguments

- Consistent with the *Preliminary Determination*, the Department should continue to find that SWA and TBJ are cross-owned with First Marine's supplier, Windu Mantap.
- The Department should also continue to attribute subsidies received by SWA and TBJ to Windu Mantap.

Respondents' Arguments

- The facts do not support a finding that cross-ownership exists between Windu Mantap and its affiliates, SWA and TBJ. In practice, there is no relationship between these companies. The common directors are passive.

Department's Position: Our examination of the May 13, 2013 questionnaire responses submitted by Windu Mantap leads us to conclude that Windu Mantap, SWA, and TBJ are all owned and managed by members of the same family. Indeed, at the verification of the questionnaire responses submitted by SWA and TBJ, the director of SWA and TBJ stated that the companies are all owned by the same family.⁶⁰

As stated in the section, “Attribution of Subsidies,” above, 19 CFR 351.525(b)(6)(vi) states that cross-ownership exists between two or more corporations “where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets,” and further states that this standard will normally be met “where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations.”

⁵⁷ See 19 CFR 351.525(b)(6)(vi).

⁵⁸ *Id.*

⁵⁹ See CPP Initial QR, at Exhibit 1.

⁶⁰ See TBJ/SWA Verification Report, at 2.

In its case brief, Petitioner noted that the Department has found cross-ownership to exist between companies because they were owned by the same family, particularly where the family as a whole can control the assets of all of the companies.⁶¹ In this instance, our analysis of the record leads us to conclude that the affiliations among Windu Mantap, SWA, and TBJ are such that they meet the attribution standard under 19 CFR 351.525(b)(6)(vi). Under the Department's regulations, it is immaterial whether the three companies currently actively use or direct each other's assets, what matters is that they are affiliated to such an extent that the framework and potential for such control is in place. Thus, for this final determination, we continue to find that Windu Mantap, SWA, and TBJ are cross-owned, within the meaning of 19 CFR 351.525(b)(6)(vi). As a result of our cross-ownership finding, any subsidies attributed to SWA or to TBJ will be attributed to Windu Mantap.

Debt Forgiveness

Comment 7: CPP's 2001 Restructuring Agreement

Petitioner's Arguments

- The Department should continue to apply adverse facts available (AFA) and countervail debt forgiveness stemming from the 2001 restructuring for the reasons stated in the *Preliminary Determination*.
- The GOI admits that it cannot account for all of the debt involved in the 2001 restructuring, and it failed to provide the restructuring agreement and the memorandum of understanding (MOU) that preceded it.
- CPP's explanation that the restructuring was the result of the Asian financial crisis is implausible. The more likely explanation for the restructuring was that CPP was in default.
- CPP's claim that the forgiven debt was actually amortized through higher interest rates called for by the restructuring is not supported by the record, other than by CPP's self-serving financial statements.
- There is no evidence that CPP actually paid a higher interest rate after the restructuring than before.

Department's Position: In its questionnaire responses of April 24, and May 13, 2013, the GOI stated it was unable to reconcile the discrepancy between its own records regarding CPP debt restructured by IBRA in 2001 and figures CPP had provided in its own questionnaire responses.⁶² At verification, Ministry of Finance (MOF) officials acting on behalf of the now-defunct IBRA confirmed the reported value of the loans restructured by IBRA and repeated the GOI's claim that it could not reconcile that value with CPP's questionnaire responses.⁶³ The MOF officials stated they had provided all the information they could provide without a court order.⁶⁴

⁶¹ See Petitioner Case Brief, at 20 (citing, e.g., *Coated Paper I* and accompanying IDM, at 11-12).

⁶² See CPP Initial QR; see also Letter from CPP, "Frozen Warmwater Shrimp from Indonesia: PT Central Pertiwi Bahari Response to First Supplemental CVD Questionnaire," April 24, 2013 (CPP April 24 SQR).

⁶³ *Id.*

⁶⁴ See GOI Verification Report, at 3.

During the CPP verification, the Department learned that the value of the restructured IBRA loans reported by the GOI was nearly identical to the value of the restructured IBRA loans recorded in the debt restructuring agreement CPP provided, and to the value in CPP's books and records.⁶⁵ The remaining difference between the total value of the loan restructuring agreement and the value of the IBRA loans reported by the GOI was attributable to restructured loans owed to other banks,⁶⁶ none of which were authorities, within the meaning of section 771(5)(B) of the Act, based on record evidence. Verification confirmed that the GOI provided accurate information concerning the scope of IBRA's involvement in the restructuring. Its inability to provide a complete reconciliation between its records and the total value of the restructuring, which included a substantial amount of debt owed to private banks, is not an indication that the GOI failed to cooperate in this investigation. The GOI was simply one member, albeit the largest member, of a syndicate that held debt owed by CPP. Section 776(a) of the Act provides that the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching its determination if necessary information is not available on the record, or if an interested party or any other person: (1) withholds information that has been requested by the Department; (2) fails to provide such information by the deadlines or in the form and manner requested, subject to sections 782(c)(1) and 782(e) of the Act; (3) significantly impedes a proceeding; or (4) provides information that cannot be verified. We find that none of these conditions for the use of facts available is satisfied in this case. No necessary information is missing from the record, and neither the GOI nor CPP withheld information or otherwise failed to provide information by the established deadlines. Nor did it significantly impede the proceeding.⁶⁷ Furthermore, as just noted, the GOI's inability to provide a complete reconciliation is not a verification failure.

The Department examined the agreements by which IBRA acquired the debt in question in the approximately two-year period preceding the restructuring. The total value of the debt covered by these agreements, including all transferred principal and unpaid interest, exceeds the debt owed to IBRA after the restructuring by slightly more than one one-hundredth of a percent.⁶⁸ Thus, CPP's debt to IBRA passed through the restructuring largely unimpaired, and the reduction in the overall value of the syndicated debt, which the Department countervailed as debt forgiveness in the *Preliminary Determination*, is attributable to the other creditors and not to IBRA or to any other authority of the GOI. For this reason, whether the debt reduction was offset or amortized through increased interest payments, or forgiven, is immaterial. There is no

⁶⁵ See CPP Verification Report, at 7.

⁶⁶ *Id.*

⁶⁷ Petitioner argues that the Department should apply AFA to other instances of alleged "debt forgiveness" to CPP, including (1) CPP's guarantee of loans to plasma farmers; (2) the restructuring of loans to plasma farmers in 2001 and 2004; (3) CPP's assumption of loans to plasma farmers in 2011; (4) CPP's supposed failure to spend IDR 1.7 trillion on shrimp pond revitalization; and (5) the Ex-Im Bank's waiver of a default provision in a CPP loan agreement. See Petitioner's Case Brief, at 28-29. For the reasons provided in the Department's responses to Comments 9 through 11, we find that both CPP and the GOI provided necessary information requested by the Department and that the application of AFA is not warranted.

⁶⁸ Without revealing business proprietary information, the reconciliation is as follows: the total value of the 11 loans purchased by IBRA, reported by the GOI in response to question 4 in its May 7, 2013 questionnaire response and verified by the Department during its meetings with the MOF officials, is virtually identical to the sum of the portions of Tranches A and B of the restructuring agreement paid to IBRA and the convertible bonds issued to IBRA and eventually resold to Lehman Bros, the difference being slightly more than one one-hundredth of one percent. This amount is so miniscule that it fails our 0.5 percent test for allocating any benefit and gets fully expensed to years prior to the POI. For a detailed discussion of this information, see GOI Verification Report, at 2-3.

financial contribution within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act, regardless of the other facts at issue.⁶⁹

Comment 8: CPP's Repayment Terms

Petitioner's Arguments

- The portion of Tranche A paid to IBRA under the 2001 restructuring agreement was interest free. Tranche B provided for payments to IBRA over a much longer period of time than provided for in the original loan agreements taken over by IBRA.

Department's Position: The Department's regulations explain that we "will treat a loan from a government-owned bank as a commercial loan, unless there is evidence that the loan from a government-owned bank is provided on non-commercial terms or at the direction of the government."⁷⁰ As verified, the GOI's questionnaire responses and the agreements by which IBRA purchased the 11 loans before the restructuring indicate that all principal and unpaid interest was included in the debt acquired by IBRA.⁷¹ The restructuring resulted in new debt, with new terms.⁷² Thus, any arrangements applicable to the post-restructuring debt have to be assessed according to those new terms, rather than to the old terms that applied to the debt before restructuring. The record evidence indicates that CPP was in full compliance with the new terms, and, in fact, completed its obligations to IBRA several years before the POI. That the restructured loan agreement contained terms different from the original loan agreements does not, *ipso facto*, demonstrate that the restructured loans were inconsistent with commercial principles. Indeed, Petitioner has not given any other explanation why the terms of the new loan are not commercial other than that they are different from the old loan. Given this, and given that we have fully accounted for the debt attributable to IBRA, there is no support for finding new subsidies to CPP arising from the new, restructured debt.

Comment 9: Forgiven Loans to CPP's Plasma Farmers

Petitioner's Arguments

- The Department should countervail as debt forgiveness loans from PT Ficorinvest Tbk (Ficorinvest) to CPP's plasma farmers, which were guaranteed by CPP, taken over by IBRA, and resold to New Age World Ltd (New Age World).
- The Department should also apply AFA and countervail loans to the plasma farmers that were guaranteed by CPP and restructured in 2001 and 2004.
- The Department should apply AFA and countervail loans from BRI to the plasma farmers that CPP assumed in 2011.
- The GOI did not provide all relevant records for these loans and has admitted discrepancies between its records and those of CPP.

⁶⁹ The Department verified that CPP complied with the restructuring agreement in so far as IBRA's portion of the debt is concerned. *See* CPP Verification Report, at 7. Thus, the record indicates no possibility of debt forgiveness after the restructuring as well.

⁷⁰ *See* 19 CFR 351.505(a)(2)(ii).

⁷¹ *See* GOI Verification Report, at 2.

⁷² *See* CPP April 24 SQR, at Exhibit S2-5.

Respondents' Arguments

- CPP was only the guarantor, and the plasma farmers remained the debtors, when the loans were transferred from Ficorinvest to IBRA and from IBRA to New Age World.
- CPP provided a statement from the plasma farmers earlier in the investigation that stated the plasma farmers were the debtors when the loans were transferred from IBRA to New Age World.
- There is no evidence that IBRA granted debt forgiveness to the plasma farmers, let alone CPP. The plasma farmers were not cross-owned with CPP and any subsidy received by the plasma farmers, therefore, cannot be attributed to CPP.
- No debt was forgiven when CPP assumed loans from BRI to the plasma farmers in 2011. CPP simply agreed to repay the debt owed by the plasma farmers.

Department's Position: We continue to find these loans do not give rise to countervailable debt forgiveness. The fact that debt was purchased by a state-owned bank from another bank,⁷³ in this case a private bank, is not in and of itself an indication of debt forgiveness. By contrast, in both investigations of coated paper from Indonesia, the Department examined a debt forgiveness allegation involving IBRA after information was presented by the petitioner indicating that IBRA had sold the respondent's debt to the respondent's affiliate for approximately 25 percent of its book value. This act was in violation of the rules governing IBRA and essentially allowed the respondent to forgive 75 percent of its own debt.⁷⁴ Similarly, in the investigation of off-the-road tires from the PRC, we investigated the possibility of debt forgiveness after it became clear that the respondent had largely ignored the terms of its loan agreements for years, despite two restructurings, and that the state-owned lenders had eventually resold their loans to other state-owned banks tasked with disposing of non-performing loans.⁷⁵

In the current investigation, aside from the allegation concerning the 2001 restructuring, discussed above in response to Comments 7 and 8, the record, in some instances, indicates only that IBRA purchased and resold loans.⁷⁶ There is no indication that IBRA forgave the loans at issue or absolved CPP of its obligations as a guarantor when (or if) the debt it had guaranteed was in default. Nor is there evidence that when IBRA resold the debt it prohibited its buyers contractually or otherwise from collecting the full amount of the debt from CPP or the plasma farmers. Finally, because we have not found CPP cross-owned with the plasma farmers, even if loans to these farmers were forgiven, any benefit to the farmers would not be attributable to CPP, outside of its role as guarantor. However, as noted, there is no evidence that CPP ever actually

⁷³ IBRA was not an ordinary commercial bank, but a special purpose institution directed to "bailout" commercial banks in Indonesia. See Letter from the GOI, "Frozen Warmwater Shrimp from Indonesia: Government of Indonesia Response to Initial Questionnaire," April 1, 2013, at 99-102.

⁷⁴ See *Coated Paper I*, and accompanying IDM at "Debt Forgiveness through SMG/APP's the {sic} Buyback of Its Own Debt from the GOI;" see also *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Final Affirmative Countervailing Duty Determination*, 75 FR 59209 (September 27, 2010), and accompanying IDM at "Debt Forgiveness Through APP/SMG's Buyback of Its Own Debt from the Indonesian Government."

⁷⁵ See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008), and accompanying IDM at "Government Debt Forgiveness to TUTRIC."

⁷⁶ See GOI Verification Report, at 2-3.

became liable as a guarantor for any unpaid plasma farmer debt other than the BRI loans CPP assumed in 2011.⁷⁷ Thus, the record does not support Petitioner's speculative allegations.

Comment 10: CPP's Investment Commitments for the Shrimp Pond Revitalization Project

Petitioner's Arguments

- Information provided by Petitioner indicates that CPP took over shrimp ponds at a discount and promised the GOI that it would invest IDR 170 trillion on revitalization. Petitioner's information indicates CPP never made the promised investment.
- The Department never initiated an investigation into this allegation.

Department's Position: Petitioner's information was provided as an attachment to comments it submitted on May 2, 2013, in response to a recent CPP questionnaire response. Although not characterized as a "new subsidy allegation," the comments, submitted after the deadline for new subsidy allegations had passed,⁷⁸ requested that the Department investigate Petitioner's theory that CPP's supposed failure to invest in the shrimp ponds as promised resulted in debt forgiveness.⁷⁹ The information consists solely of a two-page 2010 petition circulated by various groups who believe that CPP harms the environment and treats its workers and farmers unfairly.⁸⁰ The information does not – in the Department's view – actually state that CPP failed to make the promised investment.⁸¹ Instead, it suggests the IDR 170 trillion was held in escrow. It also suggests the IDR 170 trillion must have been inappropriately spent, as the parties to the petition do not believe their concerns regarding the ponds have been addressed.⁸² Thus, while the Department has the authority to countervail subsidies discovered during the course of a proceeding, we do not believe that the record demonstrates debt forgiveness or any other subsidy was provided to CPP in relation to CPP's pond revitalization commitments.

⁷⁷ There are a number of different loans to the plasma farmers at issue: loans from Ficorinvest, loans restructured in 2001 and 2004, and loans from BRI. Loans from BRI were assumed by CPP, and thus it became directly liable for these loans made originally to the plasma farmers. See CPP Initial QR, at Exhibit 5a, "CPP 2010 financial statements." There is no evidence, however, that any of these loans were forgiven.

⁷⁸ See 19 CFR 351.301(d)(4)(i)(A) (stating that petitioner and any other domestic interested party must submit new subsidy allegations no later than 40 days before the scheduled date of the preliminary determination). Consistent with the time limits imposed by the Act, the scheduled date for the preliminary determination in this investigation fell on May 28, 2013.

⁷⁹ See Letter from Petitioner, "Countervailing Duty Investigation on Certain Frozen Warmwater Shrimp from Indonesia (C-560-825)- Petitioner's Comments on April 24, 2013 Supplemental Questionnaire Responses," May 2, 2013.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

Comment 11: The Indonesia Ex-Im Bank's Waiver for CPP

Petitioner's Arguments

- The GOI's Ex-Im Bank agreed not to enforce obligations against CPP in the event of default. The record indicates a second waiver was also provided.
- The fact that CPP initially denied receiving the first waiver and the failure of either CPP or the GOI to provide the subsequent waiver warrants the application of AFA and the finding of countervailable debt forgiveness.

Respondents' Arguments

- The Ex-Im Bank simply agreed not to "cross-default" CPP as a result of an affiliate's default.⁸³ It also agreed not to enforce financial ratio requirements that otherwise could have resulted in automatic default.

Department's Position: While in default, the record provides no indication that the bonds issued by CPP's affiliate were ever forgiven, at least not by an authority of the GOI. Likewise, the record provides no indication that CPP ever defaulted on any of the export financing it received from the Ex-Im Bank (which, as noted elsewhere in this memorandum, the Department is continuing to countervail, as financing at a preferential rate, not as debt forgiveness). With no affirmative indication that any of the underlying debt was forgiven, the Department does not see how the waiver constitutes debt forgiveness. The evidence, including the notes to CPP's financial statements as well as the text of the waiver itself, supports CPP's claims that the Ex-Im Bank simply agreed not to call the debt it held in response to the problems CPP's affiliate was having with separate obligations. Moreover, the Department does not believe that respondents' initial denial of the waiver's existence constitutes a failure to provide information or indicates that respondents failed to act to the best of their ability. The Department never asked for the second waiver, the existence of which Petitioner infers from CPP's financial statements. Therefore, the record does not support Petitioner's speculative allegations, and the Department declines to find that the circumstances warrant the application of AFA.

Export Financing

Comment 12: CPP's Export Financing

Petitioner's Arguments

- In the *Preliminary Determination*, the Department correctly determined that the export financing CPP received from Indonesia Ex-Im Bank was a countervailable export subsidy.
- Ample evidence was provided in the Petition demonstrating that the Ex-Im Bank's mission is to promote exports and that its financing is export contingent.
- CPP's own loan documentation demonstrates that the loan and letter of credit facilities are provided for export sales.

⁸³ CPP reported that an offshore affiliate defaulted on bonds in 2010 (several years after IBRA was shut down). Respondents denied that the GOI was a holder of any of the bonds involved.

- For the final determination, the Department should update its calculations based on the loan template provided at Exhibit MC-6 of CPP's Minor Corrections submission of June 13, 2013.
- The Department should use the convention of 360 days in a year for its benefit calculations.

Respondents' Arguments

- One of the two facilities CPP obtained from the Ex-Im Bank, the letter of credit facility, was not export contingent. The agreement providing the two facilities does not reference exports in its description of the letter of credit facility, although it does in its description of the loan facility. Therefore, this facility should not be countervailed in the final determination, as there are no grounds for specificity.
- The Department should use the actual number of days in a year, 365, for its benefit calculations.

Department's Position: The Department continues to countervail both facilities at issue provided by Indonesia's Ex-Im Bank to CPP. The loan facility and the letter of credit facility are both set forth in an agreement provided by CPP, indicating the loan is for export financing.⁸⁴ Moreover, as noted in the *Preliminary Determination*, the Ex-Im Bank's 2011 annual report states that "bank financing" and "export loan financing" are two of its business lines,⁸⁵ and that the bank targets clients who export or have export supporting activities.⁸⁶ Therefore, we continue to find the loans and the lines of credit to be export contingent and, thus, specific under section 771(5A)(B) of the Act.

For the final determination, we updated the benefit calculations based on the loan template provided at exhibit MC-6 of CPP's minor corrections submission of June 13, 2013.⁸⁷ We have also adjusted our calculations to rely on the conventional one-year loan period of 360 days.⁸⁸ Because the record demonstrates that the term of a conventional loan spans 360 days, and a type of loan is the financial contribution at issue, we decline to follow respondents' suggestion of using a term of 365 days to calculate the benefit.

⁸⁴ *Id.*

⁸⁵ See Letter from Petitioner, "Certain Frozen Warmwater Shrimp from the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam –Petitioner's Response To The Department's January 4, 2013 Supplemental Questions on Indonesia on Behalf of Coalition of Gulf Shrimp Industries ("COGSI")," January 9, 2013, exhibit V-SQ-5, at 9.

⁸⁶ *Id.*, at 104.

⁸⁷ See CPP Calculation Memorandum.

⁸⁸ *Id.*

Income Tax Reduction

Comment 13: The Article 31E Income Tax Reduction Program

Petitioner's Arguments

- The Department should continue to countervail the income tax reduction received by Windu Mantap, SWA, and TBJ.
- Neither the GOI nor respondents provided any information about the actual number of enterprises or industries that receive this tax reduction.

Respondents' Arguments

- The Department should find the income tax reduction to be not countervailable. The tax provision includes no *de jure* limitation to any industry or type of enterprise. Eligibility is automatic and any company with gross income up to IDR 50 billion can enjoy the benefits without submitting an application or waiting for an approval.
- According to the GOI, the reduced rate simply reflects normal rate differentiation resulting from a normal progressive tax scheme, which should not be treated as giving rise to a subsidy.
- Should the Department continue to find this income tax reduction to be countervailable, the Department should base the benefit calculation on the companies' 2010 tax liability.

Department's Position: Regarding the GOI's claim that the reduced rate simply reflects normal rate differentiation in a progressive tax scheme, *i.e.*, a tax bracket, we find that the record indicates otherwise. Information on the record, from both the GOI and respondents, provides every indication that the rate is indeed a reduction from what is otherwise the standard or normal rate of 25 percent. Thus, it does not reflect a normal rate differentiation in the sense of a standard tax bracket. Contrary to respondents other arguments, we find that the reduction is limited to a group of enterprises, namely those showing turnover of up to IDR 50 billion for the year which, at verification, the GOI confirmed was not limited only to small and medium enterprises.

For this final determination,⁸⁹ we continue to find that this reduction is *de jure* specific as it is limited by law to companies with sales up to IDR 50 billion a year. Section 771(5A) of the Act provides certain guidelines that shall apply when the Department determines whether a subsidy is specific. One such guideline explains that a subsidy shall be deemed specific if it is expressly limited to a group of enterprises.⁹⁰ The law is limited to group of Indonesian enterprises – namely, corporations that earn up to IDR 50 billion annually – and affords them a tax discount of 50 percent of the standard rate on taxable income derived from the first IDR 4.8 billion in gross income. Contrary to the GOI's argument, the fact that these enterprises may come from a variety of industries is irrelevant, because the Act clearly states that a limitation to a group of enterprises

⁸⁹ As explained above, this program was incorrectly referenced in the *Preliminary Determination*, and accompanying PDM as an income tax reduction under Article 25 of the Indonesia tax code, instead of under Article 31E.

⁹⁰ See section 771(5A)(D)(i) of the Act; *see also* section 771(5A)(D) of the Act (explaining that “any reference to an enterprise or industry is a reference to a foreign enterprise or foreign industry and includes a group of such enterprises or industries”).

can constitute specificity.⁹¹ Consequently, we find this specific under section 771(5A)(D)(i) of the Act.

With respect to First Marine's comment on using the companies' 2010 tax liability for calculating the benefit from this program, we are adjusting the benefit calculations to reflect the tax levied on 2010 sales and due to the tax authorities in 2011.⁹² We regard this adjustment as reasonable because income tax liabilities are based on companies' financial results from the prior year. As such, for the final determination, we will use the 2010 sales reported by Windu Mantap and two cross-owned fresh shrimp suppliers to calculate the shrimp supplier benefit for this program.⁹³

VAT Exemptions for Strategic Goods

Comment 14: VAT Exemptions are Countervailable in their Entirety

Petitioner's Arguments

- The Department should countervail the entire amount of the VAT exemptions for strategic goods.
- The Department should include the entire amount of the VAT exemptions in the subsidy margins as required by the Department's regulations, Court precedent, and the Department's current practice.

Respondents' Arguments

- The Department should not countervail the entire amount of the VAT exemptions for strategic goods.
- Including the entire amount of the VAT exemptions in the subsidy margins is not consistent with the Department's current practice.
- Including the entire amount of the VAT exemptions in the subsidy margins is not required by the Department's regulations or by Court precedent.

Department's Position: According to 19 CFR 351.502(d), we "will not regard a subsidy as being specific under section 771(5A)(D) of the Act solely because the subsidy is limited to the agricultural sector (domestic subsidy)."⁹⁴ For this final determination, we have determined that VAT exemptions for strategic goods encompasses, *inter alia*, the entire agricultural sector. In particular, the applicable regulations of the GOI provide that all of the following are subject to VAT exemptions:⁹⁵

- "The animals, fowl and fish feed and/or raw materials for making animal, fowl and fish feed;"

⁹¹ *Id.*

⁹² See First Marine Case Brief, at 10.

⁹³ See First Marine Calculation Memorandum.

⁹⁴ See 19 CFR 351.502(d).

⁹⁵ See GOI Verification Report, at Exhibit 9 at 2 (quoting Article 1 of "Government Regulation Number 12, Year 2001, concerning Import and Supply of Certain Strategic Taxable Goods which are Exempted from Value Added Tax as lastly amended by Government Regulation Number 31 Year 2001").

- “The agricultural products;” and,
- “The seed and/or parent stocks of agricultural, plantation, forestry, animal husbandry, breeding or fishery products.”

The GOI’s regulations further define “agriculture products” as goods resulting from business activities in the following sectors:⁹⁶

- “Agriculture, plantation and forestry;”
- “Animal husbandry, hunting or catching;” and,
- “Fishery, from either fishing or cultivation which is taken, tapped directly from their sources, including those initially processed for the purpose of extension of the storage or facilitation.”

Thus, because the VAT exemption is available to the entire agricultural sector, we find the program to be non-specific, and non-countervailable as a result. Nevertheless, we address the comments submitted by the parties with regard to VAT.

As we explained in *Thai Hot-Rolled* and other proceedings,⁹⁷ under a normal VAT system, a producer pays input VAT on its purchases from suppliers and collects output VAT on its sales to customers. The producer merely conveys the tax forward and the ultimate tax burden is borne by the final (non-producing) consumer. This is achieved through a reconciliation mechanism in which the input VAT paid is offset against the output VAT collected. Any excess output VAT is remitted by the producer to the government. Any excess input VAT is refunded back to the producer by the government or credited to the producer to offset against future input VAT, as the case may be. Under this mechanism, the producer ultimately keeps no surplus output VAT and pays no excess input VAT. Thus, the net VAT incidence to the producer is ultimately zero, with the actual VAT burden conveyed forward to the final, non-producing consumer.

As Petitioner has correctly identified, 19 CFR 351.510(a)(1) governs the identification and measurement of any benefit that might arise from an indirect tax such as a VAT, under a program other than an export program. 19 CFR 351.510(a)(1) states that a benefit exists under a remission or exemption of taxes “to the extent that the taxes or import charges paid by a firm as a result of the program are less than the taxes the firm would have paid in the absence of the program.” As indicated in the plain text of the regulation, and as noted in *Thai Hot-Rolled*, 19 CFR 351.510(a) makes no distinction between a remission of the tax and an exemption of the tax and therefore does not require the Department to apply different means by which to identify and measure benefits that arise from a VAT refund compared to a VAT exemption. Instead, 19 CFR 351.510(a) directs the Department to determine a benefit by assessing whether the producer pays less under the refund or exemption program than it would normally pay without the program.

In the normal reconciliation mechanism for VAT, in which input VAT is offset against output VAT, there is no benefit within the meaning of 19 CFR 351.510(a), because the net VAT incidence to the producer is ultimately zero both under the program and in the absence of the

⁹⁶ *Id.*

⁹⁷ See *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001) (*Thai Hot Rolled*) and accompanying IDM.

program. This holds true whether the program involves a refund as part of the reconciliation mechanism or an exemption that obviates the need for reconciliation in the first place. In other words, 19 CFR 351.510(a) recognizes no distinction between the producer getting a refund instead of an exemption and the producer getting an exemption instead of a refund.

Petitioner is incorrect in claiming that *Thai Hot-Rolled* is no longer relevant to this issue in the face of *Bethlehem II*, which the CIT decided subsequent to the Department's decision in *Thai Hot-Rolled*. Importantly, the facts before the CIT in *Bethlehem II* are distinguishable from the facts in this case. In *Bethlehem II*, no VAT programs were at issue. That litigation involved import duty exemptions.⁹⁸ While Petitioner is correct that *Bethlehem II* implicated the same section of the Department's regulations that applies to VAT, namely 19 CFR 351.510(a), Petitioner ignores the crucial difference between an import duty and a VAT that makes *Bethlehem II* inapposite to the issues in the instant proceeding. An import duty imposes an actual tax burden on the producer, whereas under a normal VAT program, the final consumer, not the producer, bears the ultimate tax burden. Hence, a refund or exemption of an import duty has a different effect than a refund or exemption of a VAT. In the former, the producer does indeed pay less tax than otherwise owed in the absence of the program, whereas in the latter, the producer ultimately pays zero tax both under the program and in the absence of the program. Consequently, the CIT's decision in *Bethlehem II* offers no useful instruction for the Department's practice with regard to VAT.

Petitioner also points to some of the Department's past proceedings, such as *Citric Acid from the PRC*,⁹⁹ which it claims reflects a change in our practice following *Bethlehem II*. We note that the overwhelming majority of those cases involved VAT programs in the PRC, under which the VAT exemptions applied to purchases of certain domestic equipment by foreign-invested enterprises. Under a normal VAT system, the effect of an exemption for the purchase of equipment (whether domestically-produced or imported) is exactly the same as an exemption for raw materials, *i.e.*, the producer pays no less in tax under the program than otherwise payable in the absence of the program, because the net tax burden is zero under both circumstances, with the final consumer shouldering the actual VAT burden. However, in the PRC system, the producer would have incurred an actual VAT burden without the exemption because PRC law did not allow for input VAT on either domestically-produced or imported equipment to be offset against the producer's output VAT. Consequently, under the VAT exemption, the producer paid less tax than otherwise owed, thus receiving a benefit within the meaning of 19 CFR 351.510(a). Therefore, Petitioner's reliance on those cases is misplaced.

Thus, contrary to Petitioner's claim, the CIT's decision in *Bethlehem II* did not pertain to the Department's practice with regard to its treatment of VAT exemptions. Setting the PRC cases aside, which as noted involved the non-crediting of input VAT for equipment, the Department has continued the practice since *Thai Hot-Rolled*, such as in *Korean DRAMS*.¹⁰⁰

⁹⁸ See *Bethlehem Steel Corp. v. United States*, 162 F.Supp.2d 639 (CIT 2001) (*Bethlehem Steel II*) at 646.

⁹⁹ See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Determination*, 76 FR 64313 (December 12, 2011) and accompanying IDM at 15-16.

¹⁰⁰ See *Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003) (*Korean DRAMS*), and accompanying IDM at section "Exemption of VAT on Imports Used for Bonded Factories under Construction."

Comment 15: Time Value of Money Benefits from VAT Exemptions

Petitioner's Arguments

- Even if the Department only considers the time value of money benefit of the VAT exemptions, the Department must countervail any above *de minimis* time value benefit determined to exist.

Respondents' Arguments

- If the Department only considers the time value of money benefit of the VAT exemptions, it is not required to countervail any insignificant time value determined per the Department's precedent.
- Consistent with its prior practice, the Department should continue to apply the one-year *de minimis* threshold before countervailing any time value of money benefit.

Department's Position: As noted above, we determine that the VAT exemptions for strategic goods program is not specific and, therefore, not countervailable. Also as noted above, under 19 CFR 351.510(a), the Department makes no distinction between a VAT refund and a VAT exemption for the purpose of identifying and measuring any countervailable benefit. As explained above, with the exception of China's VAT exemption on equipment (both domestically-produced and imported) and a few other aberrational cases elsewhere, we have otherwise generally recognized that the reconciliation mechanism in a typical VAT system, which ultimately zeroes out the difference between the input VAT paid and the output VAT collected by a producer, does not provide a benefit under 19 CFR 351.510(a)(1), because the actual tax incidence is borne by the final consumer. Exempting the VAT in the first place makes no difference under the regulation and confers no benefit for the same reason, because the tax burden would otherwise have been borne not by the producer but by the final consumer.

However, as the parties have noted, we have allowed the possibility, addressed in *Thai Hot-Rolled*, *Korean DRAMS* and other cases, that under certain circumstances a time-value-of-money (TVM) benefit could arise from the difference between a refund and an exemption where, as it was stated in *Thai Hot-Rolled*, "the amount of time ... to reconcile ... is inordinate."¹⁰¹ While the Department has thus far not defined what would be inordinate, and such a finding would depend on the particular case facts, we note that in the *Preliminary Determination*,¹⁰² the Department recognized one year to be within the bounds of a typical or normal VAT system.¹⁰³ Within these time parameters, and where the record information indicates that the VAT system in question is the typical system in other respects, such as providing a clear mechanism to reconcile input VAT against output VAT, and the final consumer, not the producer, bears the ultimate tax burden, the Department will adhere to the explicit requirements of 19 CFR 351.510(a)(1), *i.e.*, making no distinction between a refund and an exemption in measuring a benefit. In this investigation, the Department verified with the GOI that the Indonesian system

¹⁰¹ See *Thai Hot-Rolled*, and accompanying IDM, at Comment 8.

¹⁰² See *Preliminary Determination*, and accompanying PDM, at 21.

¹⁰³ To the extent that a wait period may be longer than a year, if the government is mandated to compensate producers by paying a reasonable level of interest on the money to be refunded for any time past a year, as was the case in the *Preliminary Determination*, then there is no TVM benefit even past one year.

requires rebates to be issued within one year of the submission of a properly completed application.¹⁰⁴ If the GOI fails to pay the rebate within one year, the taxpayer receives interest to compensate for the delay.¹⁰⁵ During the company verifications, the Department confirmed that, in the case of the companies examined, the rebate system had functioned in accordance with the claims of the GOI, and, in fact, rebates had been received far sooner than the one-year deadline.¹⁰⁶ Thus, where we find no benefit under a refund (as part of the reconciliation process), we will also find no benefit under an exemption. Therefore, we disagree with Petitioners that if the VAT period is a year or less, a calculation for TVM is relevant for purposes of our benefit analysis under 19 CFR 351.510(a)(1).

Import Duty Exemptions for Bonded Zones

Comment 16: Import Duty Exemptions for Equipment Imported into Bonded Zones

Petitioner's Arguments

- Because equipment cannot be consumed in products exported from bonded zones, import duty exemptions on equipment provide a benefit under 19 CFR 351.519(a).
- Department precedent establishes that equipment cannot be consumed in an exported product within the meaning of 19 CFR 351.519(a).¹⁰⁷

Respondents' Arguments

- Regardless of whether equipment is consumed in production, this is an exemption in a bonded zone and international conventions recognize that bonded zones are outside a country's customs territory and that import duty generally does not apply in such zones. Therefore, the exemption does not constitute revenue foregone by the government, as there is no revenue otherwise due.

Department's Position: For this final determination, the Department has calculated an *ad valorem* subsidy rate of less than 0.005 percent for this program for CPP. Because this program resulted in no measurable benefit in the POI, the parties' arguments are moot.

Comment 17: Import Duty Exemptions for Raw Materials Imported into Bonded Zones

Petitioner's Arguments

- The Department should countervail the raw materials exemptions because the GOI lacks an adequate system to confirm which inputs are consumed in the production of exported products, allowing for waste.
- The GOI's system suffers from the same flaws as the system examined in the Vietnam polyethylene retail carrier bags investigation.

¹⁰⁴ See GOI Verification Report, at 8.

¹⁰⁵ *Id.*

¹⁰⁶ See CPP Verification Report, at 6, and First Marine Verification Report, at 7.

¹⁰⁷ See *Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Countervailing Duty Administrative Review*, 65 FR 13368 (March 13, 2000), and accompanying IDM at Comment 7 (*Mexican CTL IDM*).

Respondents' Arguments

- Regardless of whether raw materials are consumed in production, this is an exemption in a bonded zone and international conventions recognize that bonded zones are outside a country's customs territory and that import duty generally does not apply in such zones. Therefore, the exemption does not constitute revenue foregone by the government, as there is no revenue otherwise due.
- The GOI has an effective system to ensure that import duties are paid for raw materials that enter Indonesia.

Department's Position: With regard to the GOI's claim that the bonded zones in question are outside the country's customs territory, the GOI has raised this claim late in the investigation (in its rebuttal brief) and we have not sought out facts or otherwise verified it. In any event, regardless of the GOI's claim, we find this program not countervailable. We disagree with Petitioner that the GOI has an inadequate system in place to ensure that raw materials exempted from import duties are consumed in the products exported from bonded zones. The GOI's system includes both physical inspection of raw materials and finished products entering and exiting the zones, by customs officials assigned to each zone, routine reporting requirements, and periodic audits.¹⁰⁸ This system was examined during verification meetings with the GOI and CPP. In light of this extensive system and our verification of that system, we find it adequate.

While the GOI stated at verification that CPP generates no "waste" in shrimp processing,¹⁰⁹ we do not believe this statement alone undermines the credibility of the GOI or its system. First of all, the GOI was referring to actual waste (raw materials that are damaged or that perish during the production process to the extent that they no longer have value), not scrap (raw materials that still have some value after production process).¹¹⁰ The GOI explained that virtually anything left over after production could be reused (shrimp heads and shells can be converted to feed), thus leaving very little of no value.¹¹¹ Second, the products CPP actually imports into its zones are feed, vitamins, and medicine.¹¹² These are not products one would expect to generate much if any waste because they easily are consumed in their entirety. Thus, we continue to find that this program provides no benefit and is not countervailable.

Finally, we do not find that the GOI's system suffers from the same flaws as the Vietnam system examined in the polyethylene retail carrier bag investigation. In that investigation, we noted as an "example" of the flaws in Vietnam's system the fact that customs officials accepted respondents' yield factors apparently without ever attempting to verify those factors.¹¹³ We also

¹⁰⁸ See GOI Verification Report, at 6-8.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ See *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 74 FR 45811, 45819 (September 4, 2009), unchanged in *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 75 FR 16428 (April 1, 2010), and accompanying IDM (*Vietnam PRCBs IDM*) at "Import Duty Exemptions for Imported Raw Materials for Exported Goods."

referred to the verification report for additional information regarding the flawed system. In this investigation, by contrast, while the GOI also accepts respondents' yield factors, customs officials stated at verification that "they will revise those factors if their audits indicate they are problematic."¹¹⁴ CPP has, in fact, been audited by the GOI's customs officials and the audit was examined at verification.¹¹⁵

VAT Exemptions for Bonded Zones

Comment 18: VAT Exemptions for Equipment and Raw Materials Imported into Bonded Zones

Petitioner's Arguments

- The Department should countervail the equipment VAT exemptions because equipment is not consumed in the production of exported products.
- The Department should countervail the raw materials VAT exemptions because the GOI lacks an adequate system to confirm which inputs are consumed in the production of exported products, allowing for waste.

Respondents' Arguments

- The Department should not countervail the reported VAT exemptions for equipment and raw materials imported into bonded zones as no revenue is forgone.
- The GOI has an effective system to ensure that VAT is paid for equipment and raw materials that enter Indonesia.

Department's Position: We find that the reported VAT exemptions for equipment and raw materials imported into bonded zones do not provide a benefit. As an initial matter, we note that the Department does not examine VAT exemptions for equipment and raw materials imported into bonded zones pursuant to 19 CFR 351.518, which applies to prior stage cumulative taxes, meaning there is "no mechanism for the subsequent crediting of the tax,"¹¹⁶ as there is with VAT. Rather, the regulations concerning VAT are 19 CFR 351.510(a) and 19 CFR 351.517(a), with 19 CFR 351.517 typically applying to export programs, and 19 CFR 351.510 typically applying to non-export programs.¹¹⁷ Neither of these regulations requires that equipment or raw materials exempted from VAT be consumed in the exported product. Both sections define the conditions under which a VAT program results in a benefit to the taxpayer, making no distinctions between remission and exemption for the measurement of any benefit. As explained above in our response to comments concerning VAT exemptions for strategic goods, and as confirmed at verification, we find that the GOI employs a normal system in which producers along the value chain merely convey the VAT forward to the final (non-producing) consumer who bears the ultimate tax burden. As typical with VAT systems in other countries, producers offset the input VAT payable on purchases against the output VAT, they collect on their sales. Excess output VAT is remitted to the government. Excess input VAT is either rebated to the

¹¹⁴ See GOI Verification Report, at 7-8.

¹¹⁵ *Id.*, at 8.

¹¹⁶ See 19 CFR 351.102(a)(13).

¹¹⁷ See, e.g., *Vietnam PRCBs IDM*; see also *Final Negative Countervailing Duty Determination: Carbon and Certain Alloy Steel Wire Rod from Turkey*, 67 FR 55815 (August 30, 2002), and accompanying IDM at 13-14.

producer by the government or credited to the producer against future input VAT, as the case may be, thus ensuring that the producer's ultimate VAT burden is zero.¹¹⁸ Therefore, we find that this program provides no benefit and is not countervailable.

Land

Comment 19: First Marine's Land Lease at the Jakarta Fishery Port

Petitioner's Arguments

- The Department should countervail First Marine's land lease issued by the state-owned Perum Prasarana Perikanan (Perum PPS) at the Jakarta Fishery Port. Further, because First Marine and the GOI did not notify the Department of this lease earlier, the Department should apply AFA to conclude the land lease was provided for less-than-adequate-remuneration (LTAR).
- The lease price is set by a formula. The formula is not responsive to market movements and therefore cannot represent a market price.

Respondents' Arguments

- There is no evidence that First Marine's land lease from the Perum PPS is anything other than a commercial transaction. In addition, information on First Marine's lease was first placed on the record on April 24, 2013, which provided enough time for Petitioner to research and place on the record evidence that the lease terms (1) were not commercial, or (2) provide a benefit.

Department's Position: The Department investigated two provision of land for LTAR allegations: (1) the Government Provision of Land to the Indonesian Fishing and Aquaculture Sector for LTAR, in which Petitioner alleged that the GOI's Ministry of Marine Affairs and Fisheries (MMAF) provided land certificates to fisheries and to fishermen,¹¹⁹ and (2) the Government Provision of Land to Brackish-Water Aquaculture Farms for LTAR, in which Petitioner alleged that the GOI provided land access and land-use rights for brackish-water aquaculture farms, including shrimp farms, on publicly owned land.¹²⁰ In its initial questionnaire response, First Marine stated that it had not purchased or leased land from MMAF, but subsequently reported that its land lease was held by Perum PPS and that the MMAF did, indeed, play a role in the development of its lease.¹²¹ After realizing the MMAF did play a role in the development of its lease, First Marine placed its land lease on the record.¹²² At First Marine's verification, the company explained that it did not know that Perum PPS was associated with the

¹¹⁸ See GOI Verification Report, at 8-9 (the GOI's system also incorporates excess input VAT into cost in certain circumstances).

¹¹⁹ See "Countervailing Duty Initiation Checklist: Certain Frozen Warmwater Shrimp from Indonesia," January 17, 2013 (Checklist).

¹²⁰ See Department Memorandum, "Analysis of February 13, 2013 New Subsidy Allegations," March 19, 2013 (March 19 NSA Memorandum).

¹²¹ See Letter from First Marine, "Frozen Warmwater Shrimp from Indonesia: PT. First Marine Seafoods Response to Supplemental Questionnaire," April 24, 2013 (First Marine April 24 SQR), at 14.

¹²² *Id.*, at Exhibit 14.

MMAF until this investigation.¹²³ Our review of the record demonstrates that Perum PPS is a state-owned enterprise, established by the GOI to promote the Indonesian fisheries sector by functioning as a port authority within Indonesia.¹²⁴ One of its roles is to manage the Jakarta Fishery Port, where it holds the land lease for First Marine’s facilities.¹²⁵

Our review of First Marine’s land lease shows no indication that it is associated with the GOI programs providing land certificates to fisheries and fishermen and land to brackish-water aquaculture farms. First Marine does not “fish” for shrimp (*i.e.*, it does not catch fish with boats and nets); instead it purchases shrimp from unaffiliated freshwater shrimp farms, not brackish water farms.¹²⁶

While the Department may investigate programs discovered during the course of a proceeding,¹²⁷ we find no indication that First Marine’s lease is specific or that it provides a benefit, thus there is no basis for additional examination. The lease contains charges for tariffs and fees (*e.g.*, a “development charge”), which are established by the MMAF, that are used to build and maintain the infrastructure that is managed by the Perum PPS.¹²⁸ At First Marine’s verification, company officials explained that, to their knowledge, these charges are standard charges paid by all companies located at the Jakarta Fishery Port.¹²⁹

In the instant investigation, the record demonstrates that the price paid by First Marine reflects prevailing market conditions in Indonesia. In addressing allegations that land was provided for LTAR, the Department examines evidence of whether the price paid by the respondent is consistent with prices charged for similar land leases on similar terms. For example, in *Steel Wire Rod from Germany*, the Department determined that a land lease in the port area, issued by the Government of the Free and Hanseatic City of Hamburg (GOH), was not countervailable because we found that the respondent in that investigation paid a standard rate charged by the GOH to all enterprises leasing similar land, and that the lease contained the same terms as all other similar lease agreements signed with enterprises in the port area.¹³⁰ As explained above, the record shows that the lease provided to First Marine was not specific in its fees, charges, or lease price, or in any of its other terms; rather, the lease’s terms reflect the standard charges paid by all companies located at the Jakarta Fishery Port. Moreover, nothing on the record indicates that First Marine received preferential pricing in its lease. Thus, the Department finds no countervailable subsidies related to the land lease. Additionally, we find that and the two programs under investigation were not used.

¹²³ See First Marine Verification Report, at 3.

¹²⁴ See First Marine April 24 SQR, at exhibits 15 and 16, specifically Chapter III, Articles 7 and 8 of the GOI’s Government Regulation No. 23/2000, Concerning the Public Corporation (Perum) Prasarana Perikanan Sumudera.

¹²⁵ See First Marine April 24 SQR, at exhibit 14.

¹²⁶ See, *e.g.*, Letter from First Marine, “Frozen Warmwater Shrimp from Indonesia: PT. First Marine Seafoods Response to Initial Questionnaire,” March 25, 2013, at 14.

¹²⁷ See 19 CFR 351.311(b).

¹²⁸ See First Marine April 24 SQR, at exhibit 17, “Decree Ministry of Marine Affairs and Fisheries No: Kep. 41/Men/2007 Concerning Tariff Determination For The Use Of Goods/Services Managed By Public Corporation Prasarana Perikanan Samudera (Perum PPS).”

¹²⁹ See First Marine Verification Report, at 3.

¹³⁰ See *Final Affirmative Countervailing Duty Determination: Steel Wire Rod From Germany*, 62 FR 54990, 55003 (October 22, 1997) (*Steel Wire Rod from Germany*).

Regarding Petitioner's argument that the Department should apply AFA with respect to First Marine's land lease, we find that First Marine disclosed the roles of Perum PPS and the MMAF early enough in the investigation for the Department to pursue this matter as appropriate and for Petitioner to provide evidence of specificity or benefit. Therefore, we find that applying AFA is not warranted.

Comment 20: Land Provided to CPP and CWS by KIM

Petitioner's Arguments

- The Department should countervail CPP's land purchase from Kawasan Industri Medan (KIM) in 2006. The Department should apply AFA regarding this land purchase due to the fact that CPP did not report the land purchase until a late stage in the investigation and that the GOI did not provide any information about this land purchase.
- The Department should countervail CWS's land purchases from KIM in 2000 and 2001. The Department should apply AFA regarding these land purchases due to the fact that CPP did not disclose these land purchases until a late stage in the investigation and provided no documents indicating such purchases were consistent with market principals.

Respondents' Arguments

- The CPP and CWS purchases of land from KIM are not within the scope of the investigation as they did not involve the land programs the Department is investigating.

Department's Position: As noted above, the Department investigated two land programs: (1) Government Provision of Land to the Indonesian Fishing and Aquaculture Sector for LTAR,¹³¹ and (2) Government Provision of Land to Brackish-Water Aquaculture Farms for LTAR.¹³² The Department continues to find that these two land programs were not used by the CPP companies. Additionally, we find that the CPP and CWS purchases of land from KIM are not within the scope of the investigation and there is no record evidence indicating the existence of a subsidy. The two programs investigated involve subsidies allegedly provided by the MMAF. We find no evidence that the tracts of land at issue involve fishing or brackish water land or involve the MMAF.

As noted above, the Department can investigate subsidies discovered during the course of a proceeding, but, as with the tract leased by First Marine from Perum PPS discussed above, there is no evidence that these tracts were obtained through a program specific to CPP and CWS, their industry, or their type of enterprise and no evidence that the purchase prices were preferential.¹³³ Moreover, given that these two tracts were not provided pursuant to the programs under investigation, we cannot find CPP to be uncooperative by not disclosing these tracts earlier in the investigation. Therefore, because CPP was not asked about the land or programs that affected the land, we find that AFA is not warranted.

¹³¹ See Checklist.

¹³² See March 19 NSA Memorandum.

¹³³ See Letter from CPP, "Frozen Warmwater Shrimp from Indonesia: PT Central Pertiwi Bahari Response to Third Supplemental CVD Questionnaire," May 7, 2013, at 14-18.

Creditworthiness

Comment 21: The Department's Preliminary Determination Regarding CPP's Uncreditworthiness During 2011

Petitioner's Arguments

- The Department should continue to find CPP uncreditworthy during 2011.
- A number of factors indicate that CPP was uncreditworthy during 2011.

Respondents' Arguments

- The Department places undue emphasis on quick and current ratios in its creditworthiness analysis.
- Properly adjusted financial ratios indicate that the CPP companies were financially healthy.
- Commercial lenders consider CPP a creditworthy company.
- Third party opinions support the creditworthiness of the CPP companies.

Department's Position: As explained above, the Department is not countervailing any long-term loans and is not countervailing any non-recurring subsidies that are allocable under 19 CFR 351.524(b)(2) (*i.e.*, that pass the "0.5 percent test"). Therefore, because we are not relying on any long-term loan benchmarks or discount rates for our final determination, this issue is moot.

Comment 22: Petitioner's Other Uncreditworthiness Allegations

Petitioner's Arguments

- Much of the information needed for investigating the April 25, 2013 allegations was already on the record at the time of the allegations. Thus, given that the Department did not need additional time to collect this information, the Department could have adequately investigated these allegations before the *Preliminary Determination*.

Respondents' Arguments

- The creditworthiness allegations were properly deferred as they were submitted only 33 days before the *Preliminary Determination* and less than four months before the final determination.
- The allegations were also deficient as they did not analyze the time period preceding the years covered by the allegation and ignored relevant information already on the record.

Department's Position: As explained above, the Department is not countervailing any long-term loans and is not countervailing any non-recurring subsidies that are allocable under 19 CFR

351.524(b)(2). Therefore, because we are not relying on any long-term loan benchmarks or discount rates for our final determination, this issue is moot.¹³⁴

Voluntary Respondents

Comment 23: The Department's Denial of Bumi Menara's Voluntary Respondent Request

Bumi Menara's Arguments

- The Department improperly denied Bumi Menara's request to be a voluntary respondent and to have its own individual rate.
- Section 777A(c)(2) of the Act, which permits the Department to limit the number of companies it examines, does not outweigh section 782(a) of the Act, which directs the Department to examine voluntary respondents.
- The Department abused its discretion when it refused to examine Bumi Menara as directed by section 782(a) of the Act.

Petitioner's Arguments

- The Department should not calculate an individual margin for Bumi Menara.
- Should the Department calculate an individual margin for Bumi Menara, it should apply AFA in calculating Bumi Menara's rate under the "VAT Exemptions for the Purchases of Strategic Goods Program" because Bumi Menara did not respond to the Department's questionnaire regarding VAT exemptions for purchases of strategic goods.

Department's Position: The Department is not calculating an individual rate for Bumi Menara in this final determination, and is assigning Bumi Menara the all others rate.

On February 13, 2013, the Department selected two mandatory respondents to investigate, representing the top two producers of subject merchandise to the United States.¹³⁵ At that time, the Department specifically addressed voluntary respondents, stating:

{I}f a voluntary response is submitted in accordance with section 782(a) of the Act and 19 CFR 351.204(d), the Department recommends evaluating the circumstances during the course of the investigation to determine whether the Department may examine another respondent or respondents in addition to the mandatory respondents identified above. We further recommend requiring that all firms requesting voluntary treatment respond to all questionnaires issued by the Department in a timely manner and in accordance with the Department's established filing guidelines.¹³⁶

¹³⁴ To the extent that this issue becomes subject to judicial review, the Department determines that it properly deferred these allegations for the reasons provided in the Memorandum to Mark Hoadley, "Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from Indonesia: Analysis of April 18, 2013 New Subsidy Allegations and April 25, 2013 Creditworthiness Allegations," May 13, 2013, and adopted herein by reference.

¹³⁵ See Department Memorandum, "Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from Indonesia: Respondent Selection Analysis," February 13, 2013 (Respondent Selection Memorandum).

¹³⁶ See Respondent Selection Memorandum, at 7.

Subsequently, the Department stated why selecting even one voluntary respondent in this particular investigation would be unduly burdensome and why it would inhibit the timely and accurate completion of the investigation.¹³⁷ Specifically, the Department explained that, in light of the complexities surrounding the production of this particular subject merchandise, considerable time was needed to “analyze the initial questionnaire responses, to issue several supplemental questionnaires, and to examine details regarding farmers that supply fresh shrimp to the mandatory respondents, as well as their cross-owned affiliates.”¹³⁸ In this investigation, the Department had to analyze complex and voluminous data from: (1) the two mandatory respondents, who participated fully; (2) the mandatory respondents’ suppliers of fresh shrimp; (3) the cross-owned affiliates of the mandatory respondents and their suppliers of fresh shrimp; and (4) the GOI.¹³⁹ Due in part to the complexity of the responses received, the Department extended the *Preliminary Determination*.¹⁴⁰ The Department also noted that because there is no companion antidumping duty (AD) investigation with which to align the instant CVD investigation, the Department did not have the option of extending the date for the final determination beyond 75 days.¹⁴¹ In light of the complexities of the industry producing the subject merchandise, the Department properly determined that examining a voluntary respondent, its supplier, its cross-owned affiliates, and the cross-owned affiliates of its supplier would have amounted to an undue burden and would have inhibited the timely completion of the *Preliminary Determination*, as well as the final determination in this investigation.

The reasons provided for not selecting a voluntary respondent are not the same reasons provided for limiting the number of mandatory respondents. In the Respondent Selection Memorandum, the Department noted that it was limiting the number of mandatory respondents examined based on its current case load and the constraints on its administrative resources.¹⁴² The Department went further in the Voluntary Respondent Memorandum and explained that the unique aspects of this investigation demonstrate why the burden of examining a voluntary respondent would have been an undue burden. The degree of cross-ownership among the mandatory respondents, the number of fresh shrimp suppliers that needed to be examined, the numerous new subsidy allegations, and the issue of possible debt forgiveness are among the specific aspects of this investigation that affected our decision. These facts evince that it would have been unduly burdensome for the Department to examine a voluntary respondent.

The increased administrative burden of examining respondents with complex ownership structures and their unaffiliated fresh shrimp suppliers should not be readily dismissed when considering whether it is unduly burdensome to examine a voluntary respondent. The Department had to analyze submissions from the mandatory respondents, their cross-owned affiliates, and from certain unaffiliated suppliers, just as though these submissions were from additional separate respondents. Each of these companies has its own set of financial books and

¹³⁷ See Department Memorandum, “Countervailing Duty Investigation on Certain Frozen Warmwater Shrimp from the Republic of Indonesia: Voluntary Respondent Requests,” March 21, 2013 (Voluntary Respondent Memorandum), and herein adopted by reference.

¹³⁸ *Id.*, at 4.

¹³⁹ *Id.*

¹⁴⁰ See *Certain Frozen Warmwater Shrimp From the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 78 FR 13325, 13325 (February 27, 2013).

¹⁴¹ See Voluntary Respondent Memorandum, at 4.

¹⁴² See Respondent Selection Memorandum, at 4.

records, with which its data must be reconciled. Bumi Menara reported that it was affiliated with 12 different entities.¹⁴³ If the Department had individually examined Bumi Menara as a voluntary respondent, as well as the two mandatory respondents, it would have been undertaking an investigation of over 20 different production facilities. Given the time and resource constraints faced by the Department in this investigation, this would have been atypical and extraordinarily burdensome.

Setting aside the additional burdens of verifying Bumi Menara's multiple facilities, the resources required simply to verify a voluntary respondent would have been significant. The Department spent several weeks verifying the GOI, CPP and its affiliated producers at several locations, and First Marine and its fresh shrimp suppliers at several locations.¹⁴⁴ The Department correctly predicted that this effort would be required after the submission of the mandatory respondents' initial questionnaire responses, in which their company structures were reported. The Department knew that examination of these companies would be far more complex and time-consuming than examining the typical exporter or producer. In fact, given the complexity of this case, the Department found it was necessary to issue five supplemental and new subsidy allegation questionnaires to the GOI and each of the mandatory respondents.¹⁴⁵

The Department recognizes that section 782(a) of the Act establishes a separate standard from section 777A(c) of the Act for the investigation of voluntary respondents. However, the determination of whether examining voluntary respondents creates an undue burden and inhibits the timely and accurate completion of the investigation is made after the Department has chosen a reasonable number of mandatory respondents under section 777A(c) of the Act. Thus, the determination must be made within the context established after that initial decision and must necessarily be considered in light of the challenges presented by the companies already selected, in addition to any other particular circumstances that the specific investigation presents to the Department's resources.

Based on the above, we found that examining Bumi Menara's questionnaire responses, issuing supplemental questionnaires, analyzing its particular circumstances (including any affiliations and fresh shrimp suppliers), verifying the submitted information, and calculating an additional individual rate would have unduly burdened the Department and seriously impaired our ability to timely and accurately complete this investigation within the meaning of section 782(a) of the Act.

Finally, Petitioner claims correctly that Bumi Menara failed to comply with the requirement stated in the Respondent Selection Memorandum and did not respond to all the Department's questionnaires. Section 782(a) of the Act directs the Department to calculate individual countervailable subsidy rates for producers not initially selected for examination who voluntarily provide information, if the information is submitted by the due date(s) specified for the producers initially selected. Specifically, Bumi Menara did not respond to the Department's

¹⁴³ See Letter from Bumi Menara, "Certain Frozen Warmwater Shrimp from Indonesia: Fresh and Frozen Shrimp Countervailing Duty Questionnaire," February 28, 2013, at 2-3.

¹⁴⁴ See GOI Verification Report; see also CPP Verification Report; see also First Marine Verification Report.

¹⁴⁵ See *Preliminary Determination*, and accompanying PDM at 1-3.

April 25, 2013, "Questionnaire for VAT Exemptions on Purchases of Fish Feed." The Department clearly informed parties that they must respond to all questionnaires issued by the Department in a timely manner to be considered a voluntary respondent.¹⁴⁶ Bumi Menara therefore did not meet one of the Department's requirements to be considered a voluntary respondent.

Miscellaneous

Comment 24: CPP's Minor Corrections

Respondents' Arguments

- The Department should accept the minor corrections CPP presented at the outset of verification.

Department's Position: The Department has accepted all of CPP's minor corrections. CPP submitted one set of minor corrections on June 13, 2013.¹⁴⁷ The Department believes we correctly accepted these submissions as "minor corrections" discovered by CPP during the course of preparing for verification. No party has objected to the Department's acceptance of these corrections or to the corrections themselves.

VI. RECOMMENDATION

We recommend approving all of the above positions and adjusting all related countervailable subsidy rates accordingly. If these Department positions are accepted, we will publish the final determination in the *Federal Register* and will notify the U.S. International Trade Commission of our determination.

Agree

Disagree



Paul Piquado
Assistant Secretary
for Import Administration

12 August 2013

Date

¹⁴⁶ See Respondent Selection Memorandum, at 7.

¹⁴⁷ See Letter from CPP, "Certain Warmwater Shrimp from Indonesia: Minor Corrections -PT. Central Pertiwi Bahari," June 13, 2013.