



A-552-802
Administrative Review
POR: 02/01/2023 – 1/31/2024
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June 5, 2025

MEMORANDUM TO: Christopher Abbott
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties
of the Assistant Secretary for Enforcement and Compliance

FROM: Scot Fullerton
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Antidumping Duty Administrative Review of Certain Frozen
Warmwater Shrimp from the Socialist Republic of Vietnam; 2023-
2024

I. SUMMARY

The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain frozen warmwater shrimp (shrimp) from the Socialist Republic of Vietnam (Vietnam) for the period of review (POR) February 1, 2023, through January 31, 2024. This review covers 202 exporters.¹ We selected two exporters, Soc Trang Seafood Joint Stock Company (STAPIMEX) and Thong Thuan Company Limited (Thong Thuan), as mandatory respondents.² We preliminarily determine that STAPIMEX sold subject merchandise at prices below normal value (NV). We also preliminarily determine that Thong Thuan did not sell subject merchandise at prices below NV.

We also preliminarily determine that 24 companies, including Thong Thuan and STAPIMEX, are eligible for a separate rate, and we have based the rate for the 22 non-individually examined entities on the rates calculated for the mandatory respondents. Finally, we are rescinding this review with respect to 11 companies that had no reviewable entries of subject merchandise

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 24780 (April 9, 2024) (*Initiation Notice*). Although the *Initiation Notice* lists 203 company/entity names, we inadvertently listed Soc Trang Seafood Joint Stock Company twice, thus this administrative review was initiated with respect to only 202 distinct companies. In addition, 146 of these companies do not have an existing or preliminary separate rate (and, thus, we are treating them as part of the Vietnam-wide entity). See also Appendix III of the accompanying *Federal Register* notice. As noted below, we also preliminarily find that two companies constitute a single entity (*i.e.*, Thong Thuan and Thong Thuan Cam Ranh Seafood Joint Stock Company).

² See Memorandum, “Respondent Selection,” dated July 18, 2024 (Respondent Selection Memorandum).

during the POR, and announcing our intent to rescind the review with respect to Trang Khanh Seafood Co., Ltd.

II. BACKGROUND

On February 1, 2005, Commerce published the antidumping duty (AD) order on shrimp from Vietnam.³ On February 2, 2024, Commerce published a notice of opportunity to request an administrative review of the *Order*.⁴ Commerce received timely requests for an administrative review from Ad Hoc Shrimp Trade Action Committee (AHSTAC, or the petitioner),⁵ American Shrimp Processors Association (ASPA, or domestic processors),⁶ the U.S. Shrimpers Coalition (USSC), a domestic interested party,⁷ and numerous Vietnamese companies.⁸ On April 9, 2024, Commerce initiated an administrative review of the *Order* with respect to 202 companies, including multiple companies with name variations/abbreviations, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.221(c)(1)(i).⁹

On April 18, 2024, Commerce placed U.S. Customs and Border Protection (CBP) entry data on the record under administrative protective order (APO), for all interested parties with APO access, and requested comments regarding the CBP data and the respondent selection.¹⁰ AHSTAC and STAPIMEX submitted comments and ASPA submitted rebuttal on the CBP data and respondent selection.¹¹

On July 18, 2024, Commerce selected two mandatory respondents, STAPIMEX and Thong Thuan¹² and issued the initial questionnaire to STAPIMEX and Thong Thuan.¹³ From August to September 2024, STAPIMEX and Thong Thuan submitted responses to the Commerce's initial questionnaire.¹⁴ Subsequently, Commerce issued supplemental questionnaires to STAPIMEX

³ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) (*Order*).

⁴ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 7366 (February 2, 2024).

⁵ See AHSTAC's Letter, "Request for Administrative Review," dated February 28, 2024.

⁶ See ASPA's Letter, "American Shrimp Processors Association's Request for Administrative Reviews," dated February 29, 2024.

⁷ See USSC's Letter, "Request for Administrative Review," dated February 29, 2024.

⁸ See Ngoc Tri Seafood Joint Stock Company and Tai Kim Anh Seafood Joint Stock Corporation's Letter, "Request for Administrative Review," dated February 27, 2024; see also Bac Lieu Fisheries Joint Stock Company *et al.*'s Letter, "Request for Administrative Review (02/02/23-01/31/24)," dated February 29, 2024.

⁹ See *Initiation Notice*.

¹⁰ See Memorandum, "Customs Data of U.S. Imports of Certain Frozen Warmwater Shrimp for Respondent Selection," dated April 18, 2024 (CBP Data Memorandum).

¹¹ See Stapimex's Letter, "Comments Regarding CBP Import Data" Dated April 24, 2025; see also Petitioner's Letter, "Domestic Producers' Comments Regarding Respondent Selection," dated April 25, 2024; and ASPA's Letter, "Rebuttal Comments on Respondent Selection," dated May 2, 2024.

¹² See Respondent Selection Memorandum.

¹³ See Commerce' Letters, "Request for Information," dated July 18, 2024; and "Request for Information," dated July 18, 2024 (collectively, Initial Questionnaire).

¹⁴ See Stapimex's Letters, "STAPIMEX Response to Section A of the Initial Questionnaire," dated August 15, 2024 (STAPIMEX AQR); "STAPIMEX Response to Sections C and D of the Initial Questionnaire," dated September 5, 2024 (STAPIMEX CDQR); see also Thong Thuan's Letters, "Initial Section A Questionnaire Response," dated August 16, 2024 (Thong Thuan AQR); "Initial Section C Questionnaire Response," dated September 3, 2024 (Thong Thuan CQR); and "Initial Section D Questionnaire Response," dated September 13, 2024 (Thong Thuan DQR).

and Thong Thuan between November 2024 and May 2025.¹⁵ We received timely responses from Thong Thuan and STAPIMEX between December 2024 and May 2025.¹⁶

On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.¹⁷ On October 17, 2024, Commerce postponed the preliminary results of this review until March 7, 2025, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).¹⁸ Additionally, on December 9, 2024, Commerce tolled the deadline to issue the preliminary results in this administrative review by 90 days.¹⁹ The deadline for issuing the preliminary results is now June 5, 2025.

III. SCOPE OF THE ORDER

The scope of the *Order* includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,²⁰ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of the *Order*, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count-size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, white-leg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

¹⁵ See Commerce's Letters to Stapimex, "Supplemental Section D Questionnaire," dated November 20, 2024; "Supplemental Questionnaire," dated November 27, 2024; "Supplemental Section C Questionnaire," dated March 7, 2025 (STAPIMEX Supp C Questionnaire); "Second Supplemental Section D Questionnaire," dated May 15, 2025; see also Commerce's Letters to Thong Thuan, "Sections A and C Supplemental Questionnaire," dated January 9, 2025; "Section D Supplemental Questionnaire," dated April 22, 2025.

¹⁶ See Thong Thuan's Letter, "Sections A and C Supplemental Questionnaire Response," dated February 19, 2024; and "Section D Supplemental Questionnaire Response," dated May 9, 2025 (Thong Thuan's SDQR); see also STAPIMEX's Letters, "STAPIMEX Response to First Supplemental Section A Questionnaire," dated December 11, 2024 (STAPIMEX SAQR); "STAPIMEX Response to First Supplemental Section D Questionnaire," dated December 12, 2024 (STAPIMEX SDQR); "STAPIMEX Resubmission of response to the Supplemental Section C Questionnaire," dated May 14, 2025 (STAPIMEX SCQR); and "STAPIMEX Response to Second Supplemental Section D Questionnaire," dated May 22, 2025 (STAPIMEX 2SDQR).

¹⁷ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

¹⁸ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated October 17, 2024.

¹⁹ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

²⁰ "Tails" in this context means the tail fan, which includes the telson and the uropods.

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the *Order*. In addition, food preparations (including dusted shrimp), which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the *Order*.

Excluded from the scope are: (1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); and (7) certain battered shrimp. Battered shrimp is a shrimp-based product: (1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen (IQF) freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this *Order* are currently classified under the following HTSUS subheadings: 0306.17.0004, 0306.17.0005, 0306.17.0007, 0306.17.0008, 0306.17.0010, 0306.17.0011, 0306.17.0013, 0306.17.0014, 0306.17.0016, 0306.17.0017, 0306.17.0019, 0306.17.0020, 0306.17.0022, 0306.17.0023, 0306.17.0025, 0306.17.0026, 0306.17.0028, 0306.17.0029, 0306.17.0041, 0306.17.0042, 1605.21.10.30, and 1605.29.10.10. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this *Order* is dispositive.²¹

IV. INTENT TO RESCIND ADMINISTRATIVE REVIEW, IN PART

Pursuant to 19 CFR 351.213(d)(3), it is Commerce’s practice to rescind an administrative review of an antidumping (AD) order where it determines that there were no suspended entries of subject merchandise during the POR.²² Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate for the review period.²³ Therefore, for an administrative review to be conducted, there must be a suspended entry that Commerce can instruct CBP to liquidate at the calculated AD assessment rate for the review

²¹ On April 26, 2011, Commerce amended the antidumping duty order to include dusted shrimp, pursuant to the U.S. Court of International Trade decision in *Ad Hoc Shrimp Trade Action Committee v. United States*, 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission determination, which found the domestic like product to include dusted shrimp. See *Certain Frozen Warmwater Shrimp from Brazil, India, the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision*, 76 FR 23277 (April 26, 2011); see also *Ad Hoc Shrimp Trade Action Committee v. United States*, 703 F. Supp. 2d 1330 (CIT 2010); and *Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam*, Investigation Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Pub. 4221 (March 2011).

²² See, e.g., *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4157 (January 24, 2023).

²³ See 19 CFR 351.212(b)(1).

period.²⁴ Accordingly, we are rescinding this review for any company/entity that currently has a separate rate that did not have a POR entry. For a list of the companies for which Commerce is rescinding this administrative review, *see* Appendix IV of the accompanying *Federal Register* notice.

On April 18, 2024, Commerce released the CBP data entry data relating to all exporters for which this review was requested.²⁵ On April 25, 2025, Commerce notified interested parties of its intent to rescind the administrative review with respect to all companies that had no entries in the CBP data, and we provided interested parties an opportunity to comment.²⁶

We received comments regarding our Intent to Rescind Memorandum on behalf of Bac Lieu Fisheries Joint Stock Company (Bac Lieu Fisheries), Viet Foods Co., Ltd. (Viet Foods), and Trang Khanh Seafood Co., Ltd. (Trang Khanh Seafood).²⁷ In its comments Bac Lieu Fisheries stated that it was properly included on the Intent to Rescind Memorandum, but argued that Commerce should also rescind the review with respect to its two name variations, Bac Lieu Fis and Baclieufis.²⁸ Similarly, Viet Foods argued that it was properly listed in the Intent to Rescind Memorandum, but that Commerce should also rescind the review with respect to Nam Hai Foodstuff and Export Company Ltd.²⁹ However, these name variations are not included in the separate rate status previously granted to Bac Lieu Fisheries Joint Stock Company and Viet Foods Co., Ltd.³⁰ As these name variations were not previously granted separate rate status, consistent with Commerce's practice in non-market economy (NME) cases, we have not included them in the Intent to Rescind Memo along with companies that have separate rate status. Accordingly, we are preliminarily not rescinding the review with respect to these company names and are preliminarily including these name variations in the Vietnam-wide entity.³¹ In addition, Trang Khanh Seafood commented that it had filed a no-shipment letter and should have been listed in the Intent to Rescind Memorandum.³² We agree that Trang Khanh Seafood should have been listed in the Intent to Rescind Memorandum. The CBP data do not show any entries for Trang Khanh Seafood of subject merchandise during the POR.³³ Moreover, Trang Khanh Seafood was granted separate rate status as a name variation for Trang Khanh

²⁴ *See, e.g., Shanghai Sunbeauty Trading Co. v. United States*, 380 F. Supp. 3d 1328, 1335-36 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade (CIT) held that: "While the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended ..."; *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments*, 86 FR 36102 (July 8, 2021) and accompanying Issues and Decision Memorandum (IDM) at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that "for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate").

²⁵ *See* CBP Data Memorandum.

²⁶ *See* Memorandum, "Notice of Intent to Rescind Review, In Part," dated April 25, 2025, (Intent to Rescind Memorandum).

²⁷ *See* Bac Lieu Fisheries *et.al.*'s Letter, "Comments on Notice of Intent to Rescind Review, in Part," dated May 2, 2025 (Comments on Intent to Rescind).

²⁸ *Id.* at 2.

²⁹ *Id.* at 2-3.

³⁰ *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2014-2015*, 81 FR 62717, 62718 (September 12, 2016).

³¹ *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

³² *See* Comments on Intent to Rescind at 3.

³³ *See* CBP Data Memorandum at Attachment.

Trading Company Limited in the 2017-2018 administrative review.³⁴ Therefore, Commerce hereby notifies all interested parties of its intent to rescind this review with respect to Trang Khanh Seafood for the final results. Interested parties are invited to comment in case briefs on Commerce's intent to rescind the review with respect to Trang Khanh Seafood Co., Ltd..

V. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCES

As discussed above, STAPIMEX was selected as one of the two mandatory respondents in this administrative review and was issued the initial questionnaire. However, STAPIMEX did not provide certain information Commerce repeatedly requested regarding its market economy brokerage and handling expenses (DMEBROKU). For the reasons stated below, we determine that the use of partial facts otherwise available with adverse inferences (AFA), pursuant to sections 776(a) and (b) of the Act, is appropriate for these preliminary results with respect to STAPIMEX's DMEBROKU expenses.

A. Application of Facts Available

Sections 776(a)(1) and 776(a)(2) of the Act provide that, if necessary information is missing from the record, or if an interested party: (A) withholds information that has been requested by Commerce; (B) fails to provide such information in a timely manner or in the form or manner requested subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce shall use, subject to subsection 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act states that Commerce shall consider the ability of an interested party to provide information in the form and manner requested upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information.

Section 782(e) of the Act states further that Commerce shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Finally, where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

³⁴ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2017-2018*, 84 FR 44859 (August 27, 2019).

The initial questionnaire instructed STAPIMEX to report “any brokerage and handling charges in a market economy location...for sales to the United States” under the variable DMEBROKU.³⁵ In its initial section C questionnaire response, STAPIMEX reported that it paid brokerage and handling expenses through U.S. customs brokers for its delivered, duty paid (DDP) sales to the United States.³⁶ STAPIMEX also stated that it reported such expenses based on invoices issued by the customs brokers for DDP sales, and reported zero in the field for its sales made on other terms.³⁷ However, STAPIMEX did not include the field DMEBROKU in its U.S. sales database.³⁸

In Commerce’s supplemental section C questionnaire to STAPIMEX Commerce specifically asked STAPIMEX to clarify whether it “incurred DMEBROKU expenses in a market economy country,” to revise its U.S. sales database to report this expense accordingly, and for specific invoices to “provide documentation demonstrating that STAPIMEX paid DMEBROKU expenses, including the customs broker invoices and documentation that these invoices were paid in a ME currency.”³⁹ In its section C supplemental questionnaire response, STAPIMEX responded that it was “now reporting DMEBROKU expenses at field 20.1 in our U.S. sales database. We paid brokerage and handling expenses to our broker in U.S. {sic}.”⁴⁰ STAPIMEX also confirmed that it paid brokerage expenses only in the United States.⁴¹ However, STAPIMEX did not respond to part c of the question, requesting documentation demonstrating that it paid these DMEBROKU expenses for certain sales invoices and indicating the currency in which it did so.⁴² This documentation would also have demonstrated the calculation and reporting of the per-unit expense field as requested in Commerce’s initial questionnaire. Moreover, STAPIMEX again failed to include the DMEBROKU field reporting per-unit expenses for each sale in its U.S. sales database.⁴³

Thus, despite multiple requests and STAPIMEX confirming it incurred U.S. brokerage and handling expenses for its reported DDP sales of subject merchandise to the United States, STAPIMEX failed to provide the necessary information as to the value of such expenses and supporting documentation of the expenses. Therefore, pursuant to sections 776(a)(1) there is necessary information missing from the record. Also, pursuant to sections 776(a)(2)(A)-(D), we determine that the use of facts available is warranted because STAPIMEX (A) withheld the value of the brokerage and handling expenses it incurred on its U.S. sales in the U.S.; (B) failed to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impeded this administrative review; and (D) provided information (*i.e.*, the fact STAPIMEX incurred these expenses) but this information cannot be verified because it did not report a per-unit expense value.

³⁵ See Initial Questionnaire at C-21.

³⁶ See STAPIMEX CDQR at 40-41.

³⁷ *Id.*

³⁸ *Id.* at Exhibit C-1.

³⁹ See STAPIMEX Supp C Questionnaire at 3.

⁴⁰ See STAPIMEX SCQR at 8.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at Exhibit SC-14.

B. Use of Adverse Inference

Section 776(b) of the Act provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.⁴⁴ In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.⁴⁵ Further, section 776(b)(2) of the Act states that use of an adverse inference when selecting from the facts otherwise available may include reliance on information derived from the petition, the final determination from the antidumping duty investigation, a previous administrative review, or other information placed on the record.⁴⁶ In addition, the SAA explains that Commerce may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁴⁷ Affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference in selecting from the facts available.⁴⁸ It is Commerce’s practice to consider, in employing adverse facts available, the extent to which a party may benefit from its own lack of cooperation.⁴⁹

We preliminarily find that the use of partial facts available with an adverse inference is warranted, pursuant to section 776(b) of the Act, because STAPIMEX failed to cooperate by not acting to the best of its ability to comply with Commerce’s requests for information in the initial questionnaire and in the STAPIMEX Section C Supplemental questionnaire. As discussed above, both the initial questionnaire and the STAPIMEX Section C Supplemental questionnaire specifically requested that STAPIMEX report the per-unit amount of DMEBROKU expenses in its U.S. sales database, which it failed to do both times. Therefore, in accordance with sections 776(b) of the Act, we find that STAPIMEX did not act to the best of its ability to comply with Commerce’s requests for information. As such we preliminarily find that the application of partial AFA with respect to STAPIMEX’s DMEBROKU expenses is warranted. As partial AFA, we are applying the highest reported U.S. expense in STAPIMEX’s U.S. sales database as the DMEBROKU expense to STAPIMEX’s DDP sales.⁵⁰

⁴⁴ See 19 CFR 351.308(a).

⁴⁵ See section 776(b)(1)(B) of the Act.

⁴⁶ See 19 CFR 351.308(c).

⁴⁷ See Statement of Administrative Action Accompanying the Uruguay Rounds Agreement Act, H.R. Doc. 103-316, Vol. 1 (1994) (SAA), at 870; and *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

⁴⁸ See, e.g., *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000) (*Steel Hollow Products from Japan*); and *Preamble*, 62 FR at 27340.

⁴⁹ See SAA at 870; and *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Preliminary Decision Memorandum (PDM) at 4, unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476, 14477 (March 14, 2014).

⁵⁰ See Memorandum, “Analysis for the Preliminary Results for Soc Trang Seafood Joint Stock Company,” dated concurrently with this memorandum, (STAPIMEX Preliminary Calculation Memorandum) at 3.

VI. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

Commerce considers Vietnam to be an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Further, no party submitted a request to reconsider Vietnam's NME status as part of this administrative review. Therefore, we continue to treat Vietnam as an NME country for purposes of these preliminary results and applied our current NME methodology in accordance with section 773(c) of the Act.

B. Surrogate Country

Generally, when Commerce investigates imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOP), valued in a surrogate market economy (ME) country or countries considered to be appropriate by Commerce. Specifically, section 773(c)(4) of the Act, states that Commerce shall utilize, "to the extent possible, the prices or costs of {FOP} in one or more ME countries that are: (A) at a level of economic development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise."⁵¹

As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME, unless it is determined that none of the countries are viable options because they either: (a) are not significant producers of comparable merchandise; (b) do not provide sufficient reliable sources of publicly available surrogate value (SV) data; or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country but are still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development as the NME, Commerce generally relies on per capita gross national income (GNI) data from the World Bank's *World Development Report*.⁵² Further, Commerce normally values all FOPs, except for labor, in a single surrogate country.⁵³ If more than one country satisfies the two criteria noted above, Commerce narrows the field of potential surrogate countries to a single country based on data availability and quality.⁵⁴

1. Economic Comparability

On September 20, 2024, consistent with our practice, and section 773(c)(4) of the Act, and as stated above, we identified Indonesia, Jordan, Philippines, Egypt, Morocco, and Sri Lanka as countries at the same level of economic development as Vietnam based on the per capita GNI data from the World Bank's *World Bank Development Indicators*.⁵⁵ Therefore, we consider all

⁵¹ For a description of our practice, see Enforcement and Compliance's Policy Bulletin No. 04.1, regarding "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004) (Policy Bulletin 04.1), available on Commerce's website at <https://access.trade.gov/Resources/policy/bull04-1.html>.

⁵² *Id.*

⁵³ See 19 CFR 351.408(c)(2).

⁵⁴ See 19 CFR 351.405(c)(3).

⁵⁵ See Commerce's Letter, "Request for Comments re: (1) Economic Development, (2) Surrogate Country, (3) Surrogate Value Information," dated September 20, 2024.

six countries as having met this prong of the surrogate country selection criteria. The countries identified are not ranked and are considered equivalent in terms of economic comparability.

2. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as Policy Bulletin 04.1 for guidance on defining comparable merchandise. Policy Bulletin 04.1 states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁵⁶ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.⁵⁷ Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.⁵⁸ "In cases where the identical merchandise is not produced, Commerce must determine if other merchandise that is comparable is produced. How Commerce does this depends on the subject merchandise."⁵⁹ In this regard, Commerce recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.⁶⁰

Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.⁶¹ Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"⁶² it does not preclude reliance on additional or alternative metrics. It is Commerce's practice to evaluate whether production is significant based on characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics).⁶³

⁵⁶ See Policy Bulletin 04.1 at 2.

⁵⁷ *Id.* at note (noting that "{i}f considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.").

⁵⁸ See *Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) (explain that "to impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

⁵⁹ See Policy Bulletin 04.1 at 2.

⁶⁰ *Id.* at 3.

⁶¹ See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1999).

⁶² See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, 590 (1988).

⁶³ See *Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013), and accompanying PDM at 4-7, unchanged in *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013).

In this administrative review, because production data of comparable merchandise are not available, we analyzed exports of comparable merchandise from the six countries, as a proxy for production data. Based on the information placed on the record of this administrative review, we preliminarily determine that Indonesia is a significant producer of comparable merchandise.⁶⁴ Accordingly, we preliminarily determine that Indonesia meets the “significant producer” requirement of section 773(c)(4)(B) of the Act.

3. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, Commerce selects the primary surrogate country based on data availability and reliability.⁶⁵ When evaluating SV data, Commerce considers several criteria including whether the SV data are publicly available, contemporaneous with the period under consideration, broad-market averages, tax- and duty-exclusive, and specific to the inputs being valued.⁶⁶ There is no hierarchy among these criteria.⁶⁷ Commerce’s preference is to satisfy the breadth of these aforementioned selection criteria.⁶⁸ Moreover, it is Commerce’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.⁶⁹ Commerce must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the “best” available SV for each input.⁷⁰ Because Indonesia is the only economically comparable country that is a significant producer of comparable merchandise based on information available on the record of this proceeding, there is no need to further analyze data availability between potential surrogate countries.

C. Preliminary Surrogate Country Selection

As stated above, there is only data on the record for FOPs and surrogate financial statements for Indonesia. There is no data on the record for any FOPs or surrogate financial statements for Jordan, Egypt, Morocco, Sri Lanka or the Philippines and no party has argued that Jordan, Egypt, Morocco, Sri Lanka or the Philippines should be selected as the surrogate country. Therefore, based on record evidence, Commerce is left with Indonesia as the best available option for a potential primary surrogate country.

Thong Thuan, a mandatory respondent, submitted on the record SVs for direct raw materials, labor, packing materials, energy, and freight information for Indonesia, as well as audited

⁶⁴ See Thong Thuan’s Letter, “Comments on Surrogate Country Selection,” dated October 18, 2024, at Attachments 1 and 2 (reporting the quantity of net exports of identical or comparable merchandise under Harmonized System (HS) subheading 0306.17).

⁶⁵ See Policy Bulletin 04.1.

⁶⁶ *Id.*

⁶⁷ See, e.g., *Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) (*Mushrooms from China*), and accompanying IDM at Comment 1.

⁶⁸ See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews*, 2010-2011, 78 FR 17350 (March 21, 2013), and accompanying IDM at Comment II.

⁶⁹ See *Mushrooms from China* IDM at Comment 1.

⁷⁰ *Id.*

financial statements for an Indonesian producer of comparable merchandise (PT Indo American Seafood).⁷¹ Thong Thuan also submitted data for shrimp larvae from India from the 2009 annual report of an Indian shrimp processor, Sharat Industries Limited.⁷² Based on the record, we find that the Indonesian data for direct materials, labor, packing materials, scrap, energy, and freight are contemporaneous with the POR and thus there is no need to inflate these values.

Given the above factors, Commerce has preliminarily selected Indonesia as the primary surrogate country because it: (1) is at the same level of economic development as Vietnam; (2) is a significant producer of merchandise comparable to subject merchandise; and (3) provides useable and reliable data to value FOPs. Therefore, Commerce has calculated NV using Indonesian SV data to value STAPIMEX's and Thong Thuan's FOPs. However, for the reasons specified below, we are preliminarily using Indian SV data to value shrimp larvae. A detailed description of the SVs selected by Commerce is provided in the "Factor Valuation Methodology" section below and in the Preliminary SV Memorandum.⁷³

D. Affiliation and Single Entity

As indicated above, Commerce selected Thong Thuan as a mandatory respondent in this administrative review. In its AQR, Thong Thuan reported that it is affiliated with Thong Thuan Cam Ranh Seafood Joint Stock Company (TTCR), a producer and seller of subject merchandise.⁷⁴ Based on the evidence on the record, including information submitted by Thong Thuan in its questionnaire responses, Commerce preliminarily finds Thong Thuan affiliated with TTCR, a producer and seller of subject merchandise according to sections 771(33)(B) and (E).⁷⁵ Further, based on the evidence presented in Thong Thuan's questionnaire responses, we preliminarily find that Thong Thuan and TTCR (collectively, Thong Thuan/TTCR) should be treated as a single entity for the purposes of this administrative review, pursuant to 19 CFR 351.401(f).⁷⁶

E. Separate Rates

In proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.⁷⁷ In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this administrative review.⁷⁸ This process requires exporters to submit an SRA⁷⁹ and to demonstrate the absence of both *de jure* and *de facto* government control over their export activities. In the *Initiation Notice*, Commerce required that "companies from Vietnam submit a

⁷¹ See Thong Thuan's Letter, "Comments on Surrogate Values," dated November 8, 2024 (Thong Thuan's SV Submission).

⁷³ *Id.*

⁷⁴ See Thong Thuan AQR at 5.

⁷⁵ See Memorandum "Preliminary Affiliation and Collapsing Memorandum for Thong Thuan Group," dated concurrently with this memorandum.

⁷⁶ *Id.*

⁷⁷ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

⁷⁸ See *Initiation Notice*.

⁷⁹ See Policy Bulletin 05.1.

response to both the Q&V Questionnaire and SRA by the respective deadlines to receive consideration for separate rate status.”⁸⁰

Commerce’s policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.⁸¹ Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers from China*⁸² and further developed in *Silicon Carbide from China*.⁸³ According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, Commerce determines that a company is wholly foreign owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades from China* proceeding and its determinations therein.⁸⁴ In particular, in litigation involving the *Diamond Sawblades from China* proceeding, the U.S. Court of International Trade (CIT) found Commerce’s existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.⁸⁵ Following the CIT’s reasoning, in recent proceedings, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the government

⁸⁰ See *Initiation Notice*, 89 FR at 24780.

⁸¹ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers from China*).

⁸² *Id.*

⁸³ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide from China*).

⁸⁴ See *Final Results of Redetermination Pursuant to Court Remand, Diamond Sawblades and Parts Thereof from the People’s Republic of China*, Consol. Court No. 09-00511, Slip Op. 12-147 (CIT November 30, 2021), dated May 6, 2013, available at <https://enforcement.trade.gov/remands/12-147.pdf>, in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), *aff’d Advanced Technology & Materials Co. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff’d Advanced Technology & Materials Co. v. United States*, Court No. 2014-1154 (Fed. Cir. 2014); see also *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying IDM at Comment 1 (collectively, *Diamond Sawblades from China*).

⁸⁵ See, e.g., *Advanced Technology I*, 885 F. Supp. 2d at 1349 (CIT 2012) (“The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it.”); *Id.*, 885 F. Supp. 2d at 1351 (“Further substantial evidence of record does not support the inference that SASAC’s {state-owned assets supervision and administration commission} ‘management’ of its ‘state-owned assets’ is restricted to the kind of passive-investor de jure ‘separation’ that Commerce concludes.”) (footnotes omitted); *Id.*, 885 F. Supp. 2d at 1355 (“The point here is that ‘governmental control’ in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a ‘degree’ of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to ‘day-to-day decisions of export operations,’ including terms, financing, and inputs into finished product for export.”); *Id.*, 885 F. Supp. 2d at 1357 (“AT&M itself identifies its ‘controlling shareholder’ as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.”) (footnotes omitted).

exercises or has the potential to exercise control over the company's operations generally.⁸⁶ This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with our normal separate rate practice, any ability to control, or possess an interest in controlling, the operations of the company including the selection of board members, management, and the profit distribution of the company by a government entity is subject to Commerce's rebuttable presumption that all companies within the NME country are subject to government control.

In the *Initiation Notice*, we stated that SRAs and SRCs were due 30 days after publication of the notice, *i.e.*, May 9, 2024.⁸⁷ On May 8, 2024, we extended the deadline for companies to submit SRAs and SRCs.⁸⁸ We received timely filed SRAs or SRCs from 24 companies, including STAPIMEX and Thong Thuan/TTCR.⁸⁹ STAPIMEX and Thong Thuan/TTCR also submitted information pertaining to their eligibility for a separate rate in their responses to section A of the initial questionnaire.⁹⁰

The following companies in addition to STAPIMEX and Thong Thuan/TTCR timely submitted SRAs or SRCs: (1) Camau Seafood Processing and Service Joint-Stock Corporation, CASES; (2) C.P. Vietnam Corporation; (3) Cantho Import Export Fishery Limited Company (CAFISH); (4) Cuulong Seaproducts Company, CuuLong Seapro; (5) Sao Ta Foods Joint Stock Company, FIMEX VN; (6) Hai Viet Corporation, HAVICO; (7) Kim Anh Company Limited; Kim Anh Co., Ltd.; (8) Minh Hai Jostoco, Minh Hai Export Frozen Seafood Processing Joint-Stock Company; (9) Ngoc Tri Seafood Joint Stock Company, Ngoc Tri Seafood Company; (10) Nha Trang Seafoods F89 Joint Stock Company, Nha Trang Seaproduct Company, NT Seafoods Corporation, NTSF Seafoods Joint Stock Company, Nha Trang Seafoods Group; (11) QNL Company Limited; (12) Sea Minh Hai, Seaprodex Minh Hai; (13) Seaprimexco Vietnam, Seaprimexco; (14) Tai Kim Anh Seafood Joint Stock Corporation, TAIKA Seafood Corporation; (15) Thuan Phuoc

⁸⁶ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, in Part, 79 FR 53169 (September 8, 2014), and accompanying PDM at 5-9.

⁸⁷ See *Initiation Notice*.

⁸⁸ See Commerce's Letter, "Deadline Extension to File Separate Rate Certifications and Separate Rate Applications," dated May 8, 2024.

⁸⁹ See STAPIMEX's Letter, "Separate Rates Certification by Soc Trang Seafood Company (STAPIMEX)," dated May 8, 2024; *see also*, Thong Thuan's Letter, "Separate Rate Certification," dated May 16, 2024; TTCR's Letter, "Separate Rate Certification," dated May 15, 2024; Fish One' Letter, "Separate Rate Application," dated May 3, 2024; *see also* Ngoc Tri Seafood Joint Stock Company's Letter, "Separate Rate Certification – Ngoc Tri Seafood Joint Stock Company," dated May 7, 2024; TAIKA's Letter, "Separate Rate Certification --Tai Kim Anh Seafood Joint Stock Corporation," dated May 7, 2024; Viet I-Mei's Letter, "Separate Rate Certification," dated May 8, 2024; CASES' Letter, "Separate Rate Certification," dated May 13, 2024; CAFISH's Letter, "Separate Rate Certification," dated May 13, 2024; Hai Viet (HAVICO)'s Letter, "Separate Rate Certification," dated May 13, 2024; Kim Anh's Letter, "Separate Rate Certification," dated May 13, 2024; QNL's Letter, "Separate Rate Certification," dated May 13, 2024; Trong Nhan's Letter, "Separate Rate Certification," dated May 13, 2024; Camimex's Letter, "Separate Rate Certification, dated May 14, 2024; Cuulong's Letter, "Separate Rate Certification," dated May 14, 2024; C.P. Vietnam's Letter, "Separate Rate Certification," dated May 15, 2024; Minh Hai Jostoco's Letter, "Separate Rate Certification," dated May 15, 2024; Seaprimexco's Letter, "Separate Rate Certification," dated May 15, 2024; UTXI's Letter, "Separate Rate Certification," dated May 15, 2024; Vina Cleanfood's Letter, "Separate Rate Certification," dated May 16, 2024; Fimex and Sao Ta Factory's Letter, "Separate Rate Certification," dated May 15, 2024; SeaprodexMinh Hai's Letter, "Separate Rate Certification," Nha Trang Seafoods' Letter, "Separate Rate Application," dated May 16, 2024; and Thuan Phuoc and Frozen Seafoods Factory's Letter, "Separate Rate Certification," dated May 16, 2024 (collectively, SRA and SRC Submissions).

⁹⁰ See STAPIMEX AQR; *see also* Thong Thuan AQR.

Seafoods and Trading Corporation, Thuan Phuoc Corp; (16) Trong Nhan Seafood Co., Ltd., Trong Nhan Seafood; (17) UTXI Aquatic Products Processing Corporation, UTXICO; (18) Viet I-Mei Frozen Foods Co., Ltd., Viet I-Mei; (19) Viet Nam Clean Seafood Corporation, Vina Cleanfood; (20) Vietnam Fish One Co., Ltd., Viet Hai Seafood Co., Ltd.; (21) Camimex Group Joint Stock Company, Camimex; (22) Frozen Seafoods Factory No. 32.

We examined the SRAs and SRCs submitted by the aforementioned companies to determine whether the applicants provided evidence of an absence of *de jure* and *de facto* government control, as detailed below.

Separate Rate Analysis

1. *Wholly Foreign-Owned Applicants*

One company, Viet I-Mei Frozen Foods Co., Ltd., reported that it is wholly-foreign owned.⁹¹ As there is no Vietnamese ownership in this company, and because Commerce has no evidence indicating that this company is under the control of the Vietnamese government, further analyses of the *de jure* and *de facto* criteria are not necessary to determine whether it is independent from government control of its export activities.

2. *Absence of De Jure Control*

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.⁹² The evidence provided by STAPIMEX and Thong Thuan/TTCR and the other 22 aforementioned companies supports a preliminary finding of an absence of *de jure* government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of Vietnam companies.⁹³

3. *Absence of De Facto Control*

Typically, Commerce considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.⁹⁴ Commerce has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject

⁹¹ See Viet I-Mei Frozen Foods Co., Ltd.'s Letter, "Separate Rate Certification," dated May 8, 2024.

⁹² See *Sparklers*, 56 FR at 20589.

⁹³ See STAPIMEX AQR; see also Thong Thuan AQR see also SRA and SRC Submissions. .

⁹⁴ See *Silicon Carbide*, 59 FR at 22586-87; *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

to a degree of government control which would preclude Commerce from assigning separate rates.

The evidence provided by STAPIMEX and Thong Thuan/TTCR and the other 22 companies listed below supports a preliminary finding of an absence of *de facto* government control, based on record statements and supporting documentation showing that the companies: (1) set their own export prices (EPs) independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.⁹⁵

Therefore, the evidence placed on the record of this administrative review by STAPIMEX and Thong Thuan/TTCR, and the 22 non-individually examined companies eligible for a separate rate demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, we preliminarily granted a separate rate to the 24 separate rate companies listed below, along with the trade names that have satisfied the criteria for separate rate status:

1. Camau Seafood Processing and Service Joint-Stock Corporation; CASES; Camau Seafood Processing and Service Joint Stock Corporation
2. C.P. Vietnam Corporation
3. Cantho Import Export Fishery Limited Company; CAFISH
4. Camimex Group Joint Stock Company; Camimex Group
5. Cuulong Seaproducts Company; Cuulong Seapro
6. Sao Ta Foods Joint Stock Company; FIMEX VN/Sao Ta Seafood Factory
7. Frozen Seafoods Factory No. 32
8. Hai Viet Corporation; HAVICO
9. Kim Anh Company Limited; Kim Anh Co., Ltd.
10. Minh Hai Jostoco; Minh Hai Export Frozen Seafood Processing Joint-Stock Company
11. Ngoc Tri Seafood Joint Stock Company; Ngoc Tri Seafood Company
12. Nha Trang Seafoods F89 Joint Stock Company; Nha Trang Seaproduct Company; NT Seafoods Corporation; NTSF Seafoods Joint Stock Company; Nha Trang Seafoods Group
13. Q N L Company Limited; QNL Company Limited
14. Minh Hai Joint-Stock Seafoods Processing Company; Sea Minh Hai; Seaprodex Minh Hai
15. Seaprimexco Vietnam; Seaprimexco
16. Soc Trang Seafood Joint Stock Company; STAPIMEX
17. Tai Kim Anh Seafood Joint Stock Corporation; TAIKA Seafood Corporation
18. Thong Thuan Company Limited; Thong Thuan Cam Ranh Seafood Joint Stock Company;
19. Thuan Phuoc Seafoods and Trading Corporation; Thuan Phuoc Corp
20. Trong Nhan Seafood Co., Ltd.; Trong Nhan Seafood
21. UTXI Aquatic Products Processing Corporation; UTXICO
22. Viet I-Mei Frozen Foods Co., Ltd.; Viet I-Mei

⁹⁵ See STAPIMEX AQR; see also Thong Thuan AQR; see also SRA and SRC Submissions.

23. Viet Nam Clean Seafood Corporation; Vina Cleanfood
24. Vietnam Fish One Co., Ltd.; Viet Hai Seafood Co., Ltd

4. Calculation of the Separate Rate

The Act and Commerce's regulations do not address the establishment of a rate to apply to exporters not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an AD investigation, for guidance when calculating the dumping margin for non-individually examined companies granted a separate rate that are not individually examined in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* dumping margins, and any dumping margins determined entirely on the basis of facts available.” Accordingly, Commerce’s practice is to average the weighted-average dumping margins for the individually-examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available, when calculating the separate rate.⁹⁶

We preliminarily calculated a dumping margin for STAPIMEX that is above *de minimis* and not based entirely on AFA and calculated a dumping margin for Thong Thuan/TTCR that is zero. Therefore, consistent with Commerce’s practice, we preliminarily assign the dumping margin calculated for STAPIMEX to the non-individually examined companies to which we preliminarily granted a separate rate.

5. Companies Not Receiving a Separate Rate

Because 146 companies with respect to which this review was initiated did not submit an SRA or SRC, Commerce is preliminarily not granting separate rate status to these companies and is treating these companies as part of the Vietnam-wide entity.⁹⁷ Because no party requested a review of the Vietnam-wide entity, the entity is not under review⁹⁸ and the entity’s dumping margin (*i.e.*, 25.76 percent) is not subject to change.⁹⁹

F. Date of Sale

Section 351.401(i) of Commerce’s regulations states that Commerce normally will use the date of the sales invoice as the date of sale for sales of the merchandise under consideration unless another date better reflects the date on which the material terms of sale were established. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material

⁹⁶ See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying IDM at Comment 16.

⁹⁷ See Appendix III to the *Federal Register* notice accompanying this memorandum for the complete list of companies.

⁹⁸ See *Initiation Notice*.

⁹⁹ See *Order*, 69 FR at 42672.

terms of sale.¹⁰⁰ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.¹⁰¹

STAPIMEX

In this administrative review, STAPIMEX explained that it selected the commercial invoice date as the date of sale because “{t}he commercial invoice date, rather than the sales contract date, better reflects the date on which the material terms are established because the invoice represents the final confirmation of the transaction.”¹⁰² Commerce’s normal practice is to rely on the earlier of shipment or invoice date as the date of sale. However, STAPIMEX did not report shipment dates which precede the invoice date for any sales, thus, we preliminarily used the invoice date as the date of sale for STAPIMEX.¹⁰³

Thong Thuan

In this administrative review, Thong Thuan/TTCR explained that it selected the invoice date as the date of sale.¹⁰⁴ Commerce’s normal practice is to rely on the earlier of shipment or invoice date as the date of sale. However, Thong Thuan did not report shipment dates which precede the invoice date for any sales, thus, we preliminarily used the invoice date as the date of sale for Thong Thuan/TTCR.

G. Comparison of Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether the respondents’ sales of the subject merchandise from Vietnam to the United States were made at LTFV, Commerce compared the export price (EP) to the NV as described in the “Export Price” and “Normal Value” sections of this memorandum.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In AD administrative reviews, Commerce examines whether to compare weighted-average NVs with EPs (or CEP) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.¹⁰⁵

¹⁰⁰ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

¹⁰¹ See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

¹⁰² See STAPIMEX SCQR at 2; see also STAPIMEX CDQR at 18-19.

¹⁰³ See STAPIMEX SCQR at Exhibit SC-14.

¹⁰⁴ See Thong Thuan CQR at 15.

¹⁰⁵ See *Ball Bearing and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012), and accompanying IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

In numerous investigations and administrative reviews, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation consistent with 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁰⁶ Commerce finds that the differential pricing analysis is instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to evaluate its approach in this area based on comments received in this administrative review and the application of the differential pricing analysis on a case-by-case basis, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the consolidated customer codes reported by the respondent. Regions are defined using the reported destination code (*i.e.*, ZIP code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium, or large (0.2, 0.5, and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

¹⁰⁶ See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test (mixed alternative method). If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: (1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold; or (2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results.

2. Results of the Differential Pricing Analysis

STAPIMEX

For STAPIMEX, based on the results of the differential pricing analysis, Commerce preliminarily finds that 70.9 percent of the value of U.S. sales pass the Cohen’s *d* test,¹⁰⁷ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus,

¹⁰⁷ See STAPIMEX Preliminary Calculation Memorandum at 8-9 and Attachment I.

for these preliminary results, Commerce is applying the average-to-average method to all U.S. sales to calculate the weighted-average dumping margin for STAPIMEX.

Thong Thuan/TTCR

For Thong Thuan/TTCR, based on the results of the differential pricing analysis, Commerce preliminarily finds that 56.7 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁰⁸ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the average-to-average method to all U.S. sales to calculate the weighted-average dumping margin for Thong Thuan/TTCR.

H. U.S. Price

1. Export Price

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under subsection (c) of section 772 of the Act.

Thong Thuan

All of Thong Thuan/TTCR's sales to the United States were EP sales because the first sale to an unaffiliated party was made before the date of importation and the CEP methodology was not otherwise warranted based on the facts of the record. We calculated EP based on the packed price to an unaffiliated purchaser in the United States, based on the reported terms of sale. We made deductions, where appropriate, for movement expenses, including U.S. brokerage expenses, U.S. duties, and other U.S. transportation expenses, in accordance with section 772(c)(2)(A) of the Act.¹⁰⁹

In addition, pursuant to section 772(c)(1)(C) of the Act, Commerce increases the U.S. price by the amount of any countervailing duty (CVD) imposed to offset an export subsidy. Therefore, we increased Thong Thuan/TTCR's U.S. net price by an amount based on the export subsidy rate calculated in the most recently completed segment of the companion CVD proceeding (*i.e.*, the CVD investigation).¹¹⁰

STAPIMEX

¹⁰⁸ See Memorandum, “Analysis for the Preliminary Results for Thong Thuan Company Limited and Thong Thuan – Cam Ranh Seafood Joint Stock Company,” dated concurrently with this memorandum, at 4-5 and Attachment I (Thong Thuan Calculation/TTCR Preliminary Calculation Memorandum).

¹⁰⁹ See Thong Thuan/TTCR Preliminary Calculation Memorandum at Attachment I.

¹¹⁰ See *Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 89 FR 85500 (October 28, 2024) (*Shrimp CVD Final*), and accompanying IDM; see also Thong Thuan/TTCR Preliminary Calculation Memorandum..

All of STAPIMEX's sales to the United States were EP sales because the first sale to an unaffiliated party was made before the date of importation and the CEP methodology was not otherwise warranted based on the facts of the record. We calculated EP based on the packed price to an unaffiliated purchaser in the United States, based on the reported terms of sale. We made deductions, where appropriate, for movement expenses, including international freight, marine insurance, brokerage and handling, and inland freight, in accordance with section 772(c)(2)(A) of the Act.¹¹¹

In addition, pursuant to section 772(c)(1)(C) of the Act, Commerce increases the U.S. price by the amount of any CVD imposed to offset an export subsidy. Therefore, we increased STAPIMEX's U.S. net price by an amount based on the export subsidy rate calculated in the most recently completed segment of the companion CVD proceeding (*i.e.*, the CVD investigation).¹¹²

2. Value-added Tax

Commerce's practice in NME cases is to adjust EP (or the CEP) for the amount of any unrefunded (herein irrecoverable) value-added tax (VAT) in certain NMEs, in accordance with section 772(c)(2)(B) of the Act.¹¹³ Commerce has previously explained that, when an NME government imposes an export tax, duty, or other charges on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.¹¹⁴ Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP by this percentage.¹¹⁵

Commerce's methodology, as explained above and applied in this administrative review, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise; and (2) reduce U.S. price by the amount determined in step one. Thong Thuan/TTCR reported that any VAT it pays on inputs for producing subject merchandise is fully refunded upon export, thus is fully deductible.¹¹⁶ Similarly, STAPIMEX reported that any VAT it pays on inputs for producing subject merchandise is completely refunded after the export goods for the month are paid by the customer, and that VAT on exports is not collected.¹¹⁷ Information STAPIMEX submitted on the record of this administrative review indicates that according to the Vietnamese VAT schedule applicable to this POR, the standard VAT levies applicable to the subject merchandise are 0, 5, 8, or 10 percent and the applicable rebate rates are also 0, 5, 8, or 10.¹¹⁸ Therefore, because the record indicates that there was no difference between the standard VAT

¹¹¹ See STAPIMEX Preliminary Calculation Memorandum at Attachment I.

¹¹² See *Shrimp CVD Final*; see also STAPIMEX Preliminary Calculation Memorandum.

¹¹³ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481 (June 19, 2012).

¹¹⁴ *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying IDM at Comment 5.A.

¹¹⁵ *Id.*

¹¹⁶ See Thong Thuan CQR at 35.

¹¹⁷ See STAPIMEX SCQR at 12.

¹¹⁸ See STAPIMEX CDQR at pages 54-55; see also STAPIMEX SCQR at 11-12.

rates and the refund rates during the POR, and thus no irrecoverable VAT, no reduction of export sales values for irrecoverable VAT is necessary.

I. Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third country prices, or constructed value under section 773(a) of the Act. Commerce bases NV in an NME context on FOPs because the presence of government controls on various aspects of NME countries renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.¹¹⁹ Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), we calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials used; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.¹²⁰ Commerce based NV on STAPIMEX and Thong Thuan/TTCR's reported FOPs for materials, energy, and labor. In accordance with section 773(c) of the Act and 19 CFR 351.408(c)(1), we calculated NV by multiplying the reported per-unit FOP consumption rates by publicly available SVs.

1. Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by STAPIMEX and Thong Thuan/TTCR. To calculate NV, we multiplied the reported per-unit FOP consumption rates by publicly available SVs. When selecting SVs, we considered, among other factors, the quality, specificity, and contemporaneity of the SV data.¹²¹ As appropriate, we adjusted FOP costs by including freight costs to make them delivered values. A detailed description of the SVs used can be found in the Preliminary SV Memorandum.¹²²

a. Direct and Packing Materials

For these preliminary results, we are using Indonesian import data, as published by Trade Data Monitor (TDM), to calculate SVs for STAPIMEX's and Thong Thuan/TTCR's FOPs. In accordance with section 773(c)(1) of the Act, we used the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) broad market averages; (2) product-specific; (3) tax-exclusive, non-export average values; and (4) contemporaneous with, or closest in time to, the POR.¹²³

¹¹⁹ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).

¹²⁰ See sections 773(c)(3)(A)-(D) of the Act.

¹²¹ See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008), and accompanying IDM at Comment 9.

¹²² See Preliminary SV Memorandum.

¹²³ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final*

As noted above, the parties made several submissions regarding the appropriate surrogate valuation of the respondent's reported material FOPs. In instances where the parties disagree with respect to the particular HS subheading under which a particular material input should be valued, we used an HS subheading selection method based on the best match between the reported physical description and function of the input and the HS subheading description. The record shows that Indonesian import data obtained through TDM are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POR.¹²⁴

Pursuant to section 773(c)(5) of the Act, Commerce disregards import prices from countries that we have determined maintain broadly available export subsidies.¹²⁵ We have reason to believe or suspect that prices of inputs from India, Indonesia, the Republic of Korea (Korea), and Thailand may have been subsidized because we have determined in other proceedings that these countries maintain broadly available, non-industry specific export subsidies.¹²⁶ Based on the existence of the subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, Commerce finds that it is reasonable to infer that all exports to all markets from India, Indonesia, Korea, and Thailand may be subsidized.¹²⁷ Further, guided by the legislative history, it is Commerce's practice not to conduct a formal investigation to ensure that such prices are not subsidized.¹²⁸ Additionally, we disregarded import data from NME exporting countries (including the Russian Federation)¹²⁹ when calculating Indonesian import-based per-unit SVs. We also excluded from the calculation of Indonesian import-based per-unit SVs imports labeled as originating from an "unidentified" country because we could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.¹³⁰ Therefore, we excluded prices from these countries in calculating the import-based SVs or in calculating ME input values.

Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

¹²⁴ For further discussion, see the Preliminary SV Memorandum.

¹²⁵ See section 773(c)(5) of the Act (permitting Commerce to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

¹²⁶ See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying IDM at 4-5; see also *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying IDM at 17 and 19-20; *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; and *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying IDM at section IV.

¹²⁷ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers from the People's Republic of China*, 69 FR 20594 (April 16, 2004), and accompanying IDM at Comment 7.

¹²⁸ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576 (1988), at 590.

¹²⁹ See *Emulsion Styrene-Butadiene Rubber from the Russian Federation: Final Affirmative Determination of Sales at Less Than Fair Value and Classification of the Russian Federation as a Non-Market Economy*, 87 FR 69002, 69003 (November 17, 2022), and accompanying IDM at 4.

¹³⁰ See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanates from the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005).

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (*i.e.*, not insignificant quantities) and pays in an ME currency, Commerce uses the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.¹³¹ Where Commerce finds ME purchases to be of significant quantities (*i.e.*, 85 percent or more), in accordance with our statement of policy as outlined in *Antidumping Methodologies: Market Economy Inputs*,¹³² Commerce uses the actual purchase prices to value the inputs. Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, Commerce will weight average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption. When a firm has made ME input purchases that may have been dumped or subsidized, that are not *bona fide*, or that are otherwise not acceptable for use in a dumping calculation, Commerce will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.

Thong Thuan/TTCR reported ME purchases of sauce and frozen shrimp from ME countries, for which the purchase documentation on the record demonstrates that the sauce and frozen shrimp were paid for in an ME currency.¹³³ For Thong Thuan/TTCR's reported ME purchases of sauce, there were no usable purchase prices to value the FOP because the ME purchases were from countries that maintain broadly available, non-industry-specific export subsidies. Thus, we applied an Indonesian SV to Thong Thuan/TTCR's reported quantity of purchased sauce.¹³⁴ For frozen shrimp, because the ME purchases constitute less than 85 percent of the required threshold of the total frozen shrimp purchases, we weight-averaged the ME purchase price with an SV for frozen shrimp.¹³⁵

In this review, STAPIMEX reported 85 percent or greater of its purchases of a certain farm chemical from a ME country. Therefore, we applied the ME purchase price to value this certain chemical.¹³⁶ Where STAPIMEX reported ME purchases of other farm chemicals and a packing material, there were no usable purchase prices to value these FOPs. The ME purchases were purchased from countries that maintain broadly available, non-industry-specific export subsidies. Thus, we applied an Indonesian SV to STAPIMEX's reported quantity of the other farm chemicals and a packing material FOPs.¹³⁷

Thong Thuan/TTCR submitted a shrimp larvae SV from the financial statements of Sharat Industries, an integrated aquaculture company with comparable products in India. Because the SV for larvae is not contemporaneous, we applied an inflator for India.¹³⁸

¹³¹ See, e.g., *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997).

¹³² See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013) (*Antidumping Methodologies: Market Economy Inputs*).

¹³³ See Thong Thuan DQR at Exhibit D-7.

¹³⁴ See Thong Thuan's Preliminary Calculation Memorandum at 4.

¹³⁵ *Id.*

¹³⁶ See STAPIMEX Preliminary Calculation Memorandum.

¹³⁷ *Id.*

¹³⁸ See Preliminary SV Memorandum.

Thong Thuan/TTCR submitted Indonesian fresh shrimp SVs from *UnderCurrent News*, a subscription seafood pricing periodical.¹³⁹ The data are, among other criteria, contemporaneous, specific to the input, and publicly available. Specifically, the prices are average weekly farmgate prices of vannamei (*i.e.*, white) shrimp provided by a selection of suppliers and buyers in Indonesia.¹⁴⁰ The prices are collated from aggregate daily prices submitted to Jala, a shrimp farming technology platform.¹⁴¹ The shrimp are sold whole, fresh, and raw, *i.e.*, head-on shell-on (HOSO).¹⁴² As noted above, the fresh shrimp prices cover count sizes between 30 pieces per kilogram through 100 pieces per kilogram. Thus, Commerce was required to extrapolate, from those existing prices, SVs covering count-size ranges below 30 pieces per kilogram and above 100 pieces per kilogram. As explained in the Preliminary SV Memorandum, we also applied conversion factors to match the SV data to the basis of the reported FOP by each respondent (*i.e.*, headless to head-on, and pounds to kilograms, as appropriate).¹⁴³

Record evidence detailing specific factors impacting price in the Indonesian shrimp market, we also adjusted the SVs for fresh shrimp to account for a markup from middlemen that are heavily involved in the Indonesian shrimp industry. In its rebuttal SV comments, ASPA argued that Commerce should apply a markup to account for the prevalence of middlemen in the sales of fresh raw shrimp from the farms to the processors in the Indonesian and Vietnamese shrimp industries, according to reports prepared by Boston Consulting Group (BCG).¹⁴⁴ We agree because the source for the Indonesia SV for raw shrimp indicates that the prices are “farmgate” and thus would not include the likely markup from intermediaries between shrimp farmers and shrimp processors.¹⁴⁵ Therefore, to account for the involvement of middlemen, we are applying a markup based on the average of the two to seven percent range specified in the BCG report for Indonesia (*i.e.*, 4.5 percent) to the SVs for raw shrimp.¹⁴⁶ The markup was not applied to the respondents’ FOPs for frozen shrimp or shrimp larvae because the record does not contain any information that such purchases would include a similar markup.

b. By-product

In our initial questionnaire, we requested that each respondent identify “by month, the quantity produced, sold, reintroduced into production, or otherwise disposed of (*e.g.*, sold, returned to production of the merchandise under consideration, discarded)” and “provide production records demonstrating the production of each byproduct/co-product during one month of the POR” and, if the scrap was sold, to provide “evidence of the sales ... as well as evidence of receipt of payment for the sale of the item for the largest month of sales for each by-product/co-product{.}”¹⁴⁷

Thong Thuan

Thong Thuan/TTCR also reported that it sold shrimp heads, shells, and tails that are generated as

¹³⁹ See Thong Thuan’s SV Submission at Exhibit 6.

¹⁴⁰ *Id.*

¹⁴¹ See Preliminary SV Memorandum at Exhibit 7.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ See ASPA’s SV Rebuttal Submission at Exhibits 1 and 2.

¹⁴⁵ See Thong Thuan’s SV Submission at Exhibit 6.

¹⁴⁶ For further discussion on the calculation of the raw shrimp SVs and how the mark-up was applied, see Preliminary SV Memorandum at 7 and Exhibit 5.

¹⁴⁷ See Initial Questionnaire at D-10.

a result of its production process.¹⁴⁸ However, Thong Thuan/TTCR also stated that they “do not record the actual quantities of by-product that result from production in the ordinary course of business. Instead, the companies only record the quantity of by-product invoiced and sold.”¹⁴⁹ In Thong Thuan/TTCR’s DQR, it only provided sales documentation for its by-product and did not submit any of the other documentation Commerce requested to support its production scrap amount such as documentation showing how the scrap amount is recorded in its production records, workshop records (*i.e.*, scrap generation), and accounting system.¹⁵⁰ Commerce asked Thong Thuan/TTCR in a supplemental questionnaire to provide example of production records for the scrap. In response, Thong Thuan/TTCR again only provided sales documentation and no production records for its scrap production.¹⁵¹

Commerce’s practice with respect to granting by-product offset claims is clear. A company claiming a by-product offset must provide production records showing its reported recovered quantities and its sales records must show that it later sold these recovered quantities.¹⁵² As Thong Thuan/TTCR failed to provide the required production records to support the claim that its by-product scrap sales amount was generated from its own production, we preliminarily did not make an offset to Thong Thuan/TTCR’s FOP for this by-product.

STAPIMEX

STAPIMEX reported that it generates shrimp waste, including the heads and shells, in the production process.¹⁵³ In contrast to Thong Thuan/TTCR, STAPIMEX did provide production and sales records.¹⁵⁴ Therefore, we relied on import statistics from TDM for the POR to value shrimp waste/scrap sold by STAPIMEX.¹⁵⁵

Therefore, we relied on import statistics from TDM for the POR to value shrimp waste/scrap sold by STAPIMEX.¹⁵⁶

c. Labor

We valued labor using a 2023 wage rate from the Indonesian ILO Statistics.¹⁵⁷ As this is contemporaneous with the POR, we did not inflate this value.

d. Energy

We preliminarily valued electricity based on Indonesian data from the website globalpetrolprices.com.¹⁵⁸ We preliminarily valued water based on Indonesian data from PAM

¹⁴⁸ See Thong Thuan’s DQR at D-35.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* at Exhibit D-17.

¹⁵¹ See Thong Thuan’s SDQR at Exhibit SD-6.

¹⁵² See, e.g., *Ribbons from China*; and *Certain Collated Steel Staples from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; and Partial Rescission*; 2020–2021, 88 FR 8800 (February 10, 2023), and accompanying IDM at Comment 6.

¹⁵³ See STAPIMEX CDQR at D-25.

¹⁵⁴ See STAPIMEX DQR at Exhibit D-17-C; see also STAPIMEX 2SDQR at Exhibit SD3-3A.

¹⁵⁵ See Preliminary SV Memorandum at Exhibit 7.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* at Exhibit 8.

¹⁵⁸ *Id.* at Exhibit 10.

Jaya.¹⁵⁹ As these are contemporaneous with the POR, we did not inflate these values. For coal, we preliminarily relied on import statistics from TDM for the POR.¹⁶⁰

e. Movement Expense

As appropriate, we added freight costs to SVs. Specifically, we added surrogate inland freight costs to import values used as SVs. We calculated freight SVs using the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, where appropriate.¹⁶¹

We preliminarily valued truck freight and brokerage and handling using data from Klik Logistics submitted by Thong Thuan/TTCR. The rates are contemporaneous with the POR and the only SV on the record.¹⁶²

f. Financial Ratios

Section 351.408(c)(4) of Commerce's regulations directs Commerce to value overhead expenses, selling, general and administrative (SG&A) expenses, and profit using public information gathered from producers of merchandise that is identical or comparable to the merchandise under consideration in the surrogate country.¹⁶³ Commerce's preference is to derive surrogate overhead expenses, SG&A expenses, and profit using financial statements that: (1) cover a period contemporaneous with the POI; (2) show a profit; (3) are from companies with a production experience similar to that of the mandatory respondent; and (4) are not distorted or otherwise unreliable, such as financial statements that indicate the company received subsidies.¹⁶⁴

To value factory overhead expenses, SG&A expenses, and profit, we preliminarily used the audited financial statements of an Indonesian producer of comparable merchandise (*i.e.*, frozen shrimp products): PT Indo American Seafoods, for the year ending December 31, 2023.¹⁶⁵ For further analysis of the financial ratio SVs, *see* Preliminary SV Memorandum.

J. Currency Conversion

Where necessary, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *See Sigma Corp. v. United States*, 117 F. 3d 1401, 1407-08 (Fed. Cir. 1997).

¹⁶² *See* Preliminary SV Memorandum at Exhibit 9.

¹⁶³ *See* 19 CFR 351.408(c)(4).

¹⁶⁴ *See Hand Trucks and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 28801 (May 16, 2013), and accompanying IDM at Comment 2; and *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 78 FR 5414 (January 25, 2013), and accompanying IDM at Comment 1.

¹⁶⁵ *See* Thong Thuan's SV Submission at Exhibits 14 and 15.

VII. ADJUSTMENT UNDER SECTION 777(A)(f) OF THE ACT

Section 777(A)(f) of the Act provides that Commerce will reduce the antidumping duties determined in NME cases where domestic subsidies have been provided if certain criteria are met. Therefore, we examined whether those criteria have been met in this administrative review. Specifically, in applying section 777A(f) of the Act in this administrative review, we examined: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period; and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.¹⁶⁶ For a subsidy meeting these criteria, the statute requires Commerce to reduce the antidumping duty by the estimated amount of the increase in the weighted-average dumping margin due to a countervailable subsidy, subject to a specified cap.¹⁶⁷

In conducting this analysis, Commerce has not concluded that concurrent application of NME dumping duties and countervailing duties necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.¹⁶⁸

For purposes of our analysis under sections 777A(f)(1)(A) and (f)(1)(C) of the Act, Commerce requested certain relevant firm-specific information from STAPIMEX and Thong Thuan/TTCR.¹⁶⁹ Specifically, Commerce requested information from STAPIMEX and Thong Thuan/TTCR regarding whether it received countervailed subsidies during the relevant period, information on its costs, and information regarding its pricing policies and practices. Additionally, we required STAPIMEX and Thong Thuan/TTCR to provide documentary support for the information that each provided. Thong Thuan/TTCR responded to the Double Remedy Questionnaire stating that it does not intend to seek an adjustment for domestic subsidies under section 777A(f) of the Act.¹⁷⁰ In STAPIMEX's response to the Double Remedy Questionnaire, it stated that none of the subsidy programs under review in the concurrent CVD proceeding have a direct impact on STAPIMEX's cost of manufacturing, nor does it consider the benefits received from these countervailable subsidy programs in setting prices.¹⁷¹

To determine whether to grant a domestic pass-through adjustment, Commerce relies on the experience of the mandatory respondents examined, subject to section 777A(f)(2) of the Act.

¹⁶⁶ See sections 777A(f)(1)(A)-(C) of the Act.

¹⁶⁷ See sections 777A(f)(1)-(2) of the Act.

¹⁶⁸ See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances, in Part*, 83 FR 33205 (July 17, 2018), and accompanying IDM at Comment 15.

¹⁶⁹ See Commerce's Letters to Stapimex and Thong Thuan, "Request for Double Remedy Information," dated May 15, 2025 (Double Remedy Questionnaire).

¹⁷⁰ See Thong Thuan's Letter, "Notice of Intent to Not Seek "Double Remedy" Adjustment Under Section 777A(f) of the Tariff Act," dated May 19, 2025.

¹⁷¹ See STAPIMEX's Letter, "STAPIMEX Response to Double Remedies Supplemental Questionnaire," dated May 27, 2025, at 5-6.

In doing so, Commerce examines whether the respondents demonstrated: (1) a subsidies-to-cost link, e.g., subsidy impact on cost of manufacturing (COM); and (2) a cost-to-price link, e.g., respondent’s prices changed due to changes in the COM.¹⁷² As noted above, in this administrative review, neither respondent reported any programs that satisfy these criteria. Thus, for these preliminary results, Commerce is not making any such adjustment to the margin calculated for STAPIMEX or Thong Thuan/TTCR. However, as noted in the “U.S. Price” section above, we are increasing STAPIMEX’s and Thong Thuan’s U.S. net price by an amount based on the export subsidy rate calculated in the most recently completed segment of the companion CVD proceeding, in accordance with section 772(c)(1)(C) of the Act.

VIII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results. If this recommendation is accepted, we will publish the preliminary results of this administrative review in the *Federal Register*.

Agree

Disagree

X 

Signed by: CHRISTOPHER ABBOTT
Christopher Abbott
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties
of the Assistant Secretary for Enforcement and Compliance

¹⁷² See, e.g., *Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 36876 (June 8, 2016), and accompanying PDM at 36, unchanged in *Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 81 FR 75032 (October 28, 2016); and *Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 75 (January 4, 2016), and accompanying PDM at 25-26, unchanged in *Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316 (June 2, 2016).