

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A–560–842]

**Frozen Warmwater Shrimp From Indonesia: Final Affirmative Determination of Sales at Less-Than-Fair Value**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that imports of frozen warmwater shrimp (shrimp) from Indonesia are being, or are likely to be, sold in the United States at less-than-fair value (LTFV) for the period of investigation (POI) October 1, 2022, through September 30, 2023.

**DATES:** Applicable October 28, 2024.

**FOR FURTHER INFORMATION CONTACT:** Rachel Jennings or Miranda Bourdeau, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1110 or (202) 482–2021, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On May 30, 2024, Commerce published in the *Federal Register* its preliminary affirmative determination in the LTFV investigation of shrimp from Indonesia.<sup>1</sup> We invited interested parties to comment on the *Preliminary Determination*. On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.<sup>2</sup> The deadline for the final determination is now October 21, 2024.<sup>3</sup>

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination may be found in the Issues and Decision Memorandum.<sup>4</sup> The Issues and Decision

<sup>1</sup> See *Frozen Warmwater Shrimp from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 89 FR 46861 (May 30, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

<sup>3</sup> *Id.*

<sup>4</sup> See Memorandum, “Issues and Decision Memorandum for the Final Affirmative

Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

**Scope of the Investigation**

The product covered by this investigation is shrimp from Indonesia. For a complete description of the scope of this investigation, see Appendix I.

**Scope Comments**

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation.

**Verification**

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), Commerce verified the sales and cost information submitted by PT Bahari Makmur Sejati (BMS),<sup>5</sup> and PT First Marine Seafoods and PT Khom Foods (collectively, First Marine/Khom Foods)<sup>6</sup> for use in our final determination. We used standard verification procedures, including an examination of relevant sales and accounting records, and original source

Determination of Sales at Less-Than-Fair-Value of Frozen Warmwater Shrimp from Indonesia,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>5</sup> See Memoranda, “Verification of the Questionnaire Responses of PT Bahari Makmur Sejati in the Less-Than-Fair-Value Investigation of Frozen Warmwater Shrimp from Indonesia,” dated July 22, 2024; and “Verification of the Cost Response of PT Bahari Makmur Sejati in the Antidumping Duty Investigation of Frozen Warmwater Shrimp from Indonesia,” dated August 6, 2024.

<sup>6</sup> See Memoranda, “Verification of the Questionnaire Responses of PT First Marine Seafoods and PT Khom Foods in the Less-Than-Fair-Value Investigation of Frozen Warmwater Shrimp from Indonesia,” dated August 2, 2024, and “Verification of the Cost Response of PT First Marine Seafoods in the Less Than Fair Value Investigation of Frozen Warm Water Shrimp from Indonesia,” dated September 6, 2024. In the *Preliminary Determination*, Commerce determined that PT First Marine Seafoods and PT Khom Foods are a single entity and no party commented on this finding. Accordingly, we continue to treat these companies as a single entity for this final determination. See *Preliminary Determination* PDM at 5.

documents provided by BMS and First Marine/Khom Foods.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II.

**Changes Since the Preliminary Determination**

We have made certain changes since the *Preliminary Determination*. See the Issues and Decision Memorandum for a discussion of these changes.

**Use of Adverse Facts Available**

In making this final determination, Commerce relied, in part, on facts otherwise available with an adverse inference (AFA), pursuant to sections 776(a) and (b) of the Act, in determining BMS’s domestic brokerage and handling expenses. For further discussion of our application of AFA, see the Issues and Decision Memorandum.

**All-Others Rate**

Section 735(c)(5)(A) of the Act provides that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount 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* margins, and any margins determined entirely under section 776 of the Act.

For the final determination of this investigation, Commerce calculated an estimated weighted-average dumping margin of 0.00 percent for BMS, and an estimated weighted-average dumping margin of 3.90 percent for First Marine/Khom Foods. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for First Marine/Khom Foods. Consequently, the rate calculated for First Marine/Khom Foods is also assigned as the rate for all other producers and exporters.

**Final Determination**

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Weighted-average dumping margin (percent) <sup>7</sup>
PT Bahari Makmur Sejati .....	0.00
PT First Marine Seafoods/PT Khom Foods .....	3.90
All Others .....	3.90

## Disclosure

Commerce intends to disclose the calculations performed in connection with this final determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after May 30, 2024, the date of publication of the *Preliminary Determination* in the **Federal Register** except for those entries of subject merchandise produced and exported by BMS.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for estimated weighted-average antidumping duties as follows: (1) the cash deposit rate for the companies listed in the table above that exported the subject merchandise will be equal to the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a company identified in the table above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the estimated weighted-average dumping margin for all other producers and exporters. These suspension of

liquidation instructions will remain in effect until further notice.

Because the estimated weighted-average dumping margin for BMS is zero, entries of shipments of subject merchandise that are produced and exported by BMS will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce also applies the exclusion from the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce will not be directing CBP to suspend liquidation of entries of subject merchandise produced and exported by BMS. However, entries of subject merchandise from this company in any other producer/exporter combination (*i.e.*, where BMS is either the producer or the exporter, but not both), or by third parties that sourced subject merchandise from the excluded producer/exporter combination, will be subject to suspension of liquidation at the all-others rate.

Further, because the estimated weighted-average dumping margin is zero for subject merchandise produced and exported by BMS, entries of such merchandise will be excluded from the potential antidumping duty order. Such an exclusion will not be applicable to merchandise exported to the United States by this respondent in any other producer/exporter combinations or by third parties that sourced subject merchandise from the excluded producer/exporter combination.

## U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of shrimp from Indonesia no later than 45 days after this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and

all cash deposits will be refunded or canceled, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

## Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

## Notification to Interested Parties

This final determination and notice are issued and published in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: October 21, 2024.

**Ryan Majerus,**

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### Scope of the Investigation

The scope of this investigation 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, deveined or not deveined, cooked or raw, or otherwise processed in frozen form. "Tails" in this context means the tail fan, which includes the telson and the uropods.

The frozen warmwater shrimp and prawn products included in the scope, 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.

<sup>7</sup> Commerce determined that countervailable subsidies are not being provided to producers and exporters of shrimp from Indonesia. See Memorandum, "Decision Memorandum for the Final Negative Determination of the Countervailing Duty Investigation of Frozen Warmwater Shrimp from Indonesia," dated concurrently with this notice.

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, whiteleg 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*).

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

Excluded from the scope are: (1) breaded shrimp and prawns (HTSUS subheading 1605.21.10.20); (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 0306.36.0020 and 0306.36.0040); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.21.05.00 and 1605.29.05.00); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.29.10.40); 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 ten percent of the product’s total weight after being dusted, but prior to being frozen; and (5) that is subjected to 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 the scope 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, 1605.21.1030, and 1605.29.1010. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Discussion of the Issues
  - Comment 1: Whether BMS’s Cost Reporting Warrants the Application of Total AFA
  - Comment 2: Whether Commerce Should Rely on BMS’s Reported Selling Prices and Expenses for Products Containing Sauce
  - Comment 3: Whether Commerce Should Apply Partial AFA to BMS’s Reported Domestic Brokerage and Handling Expenses (DBROKU)
  - Comment 4: Whether Commerce Should Use BMS’s Quarterly Cost Data
  - Comment 5: Whether Commerce Should Revise BMS’s “Transactions Disregarded” Calculation
  - Comment 6: Whether Commerce Should Reject the Petitioner’s Pre-Verification Comments
  - Comment 7: Whether Commerce Should Reject First Marine/Khom Foods’ Raw Material Cost Reporting
  - Comment 8: Whether Commerce Should Make a Correction to First Marine/Khom Foods’ Final Margin Program
  - Comment 9: Whether Commerce Should Continue to Rely on the Financial Statements of PT Central Poteina Prima Tbk (CP Prima) to Calculate Constructed Value (CV) Profit and Selling Expenses
- V. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C–552–838]

#### Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of frozen warmwater shrimp (shrimp) from the Socialist Republic of Vietnam (Vietnam). The period of investigation (POI) is January 1, 2022, through December 31, 2022.

**DATES:** Applicable October 28, 2024.

**FOR FURTHER INFORMATION CONTACT:** Adam Simons, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6172.

### SUPPLEMENTARY INFORMATION:

#### Background

On April 1, 2024, Commerce published its *Preliminary Determination in the Federal Register* and invited interested parties to comment.<sup>1</sup> On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.<sup>2</sup> The deadline for the final determination is now October 21, 2024. For a complete discussion of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.<sup>3</sup>

The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Scope of the Investigation

The merchandise covered by the scope of this investigation is shrimp from Vietnam. For a complete description of the scope of this investigation, see Appendix I.

#### Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation.

#### Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in May and June, 2024, Commerce conducted verification of the subsidy information reported by the Government of Vietnam (GOV), Soc Trang Seafood

<sup>1</sup> See *Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 89 FR 22374 (April 1, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

<sup>3</sup> See Memorandum, “Issues and Decision Memorandum for the Final Determination of the Countervailing Duty Investigation of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).