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April 9, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China

Summary

We have analyzed the case and rebuttal briefs of interested parties in the administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) for the period of review (POR) September 1, 2010, through August 31, 2011. Based on our analysis of the comments received, we have made changes in the margin calculations for Xiping Opeck Food Co., Ltd. (Xiping Opeck), China Kingdom (Beijing) Import & Export Co., Ltd. (China Kingdom), and Yancheng Hi-King Agriculture Developing Co., Ltd. (Hi-King Agriculture).[1] Therefore, the final results differ from the preliminary results for these companies, as well as for Nanjing Gemsen International Co., Ltd. Below is a list of the comments raised by interested parties. We recommend that you approve the positions we have developed in the Discussion of the Issues section of this memorandum.

Comment 1: Use of U.S. Prices to Value Whole Crawfish
Comment 2: Use of Post-POR Spanish Prices to Value Whole Crawfish
Comment 3: Use of Updated Financial Information to Value Factory Overhead, Selling, General & Administrative (SG&A) Expenses, and Profit

Background

On October 9, 2012, we published the preliminary results of the review.[2] On January 14, 2013, we issued a memorandum extending the time limit for the final results of the review to April 9, 2013.[3]

[1] We received case briefs from the petitioner, Crawfish Processors Alliance (CPA), and from Hi-King Agriculture on March 5, 2013, and rebuttal briefs from CPA, Xiping Opeck, and Hi-King Agriculture on March 11, 2013.
[2] *Freshwater Crawfish Tail Meat From the People's Republic of China: Antidumping Duty Administrative Review; 2010-2011*, 77 FR 61383 (October 9, 2012) (*Preliminary Results*).

On February 25, 2013, we issued a post-preliminary memorandum finding that Xiping Opeck's U.S. customer's customer (Company A) is a price discriminator for most of Xiping Opeck's entries subject to this review.[4] We received no comments on this issue. Accordingly, for the reasons provided in the Post-Preliminary Analysis Memo, which we hereby adopt for the final results of this review, we continue to find that Company A is a price discriminator for most of Xiping Opeck's entries subject to this review.

Surrogate Country

In the *Preliminary Results*, we treated the PRC as a non-market economy (NME) country and, therefore, we calculated normal value in accordance with section 773(c) of the Tariff Act of 1930, as amended (Act). We selected Indonesia as the primary surrogate country, pursuant to section 773(c)(4) of the Act, because it is a significant producer of merchandise comparable to subject merchandise and is at a level of economic development comparable to the PRC.[5] For these final results, we have continued to treat the PRC as an NME country and have used the same primary surrogate country, Indonesia.

Affiliation

In the *Preliminary Results*, we stated that Hi-King Agriculture and its affiliates, Yancheng Seastar Seafood Co., Ltd., Wuhan Hi-King Agriculture Development Co., Ltd., Yancheng Hi-King Frozen Food Co., Ltd., Jiangxi Hi-King Poyang Lake Seafood Co., Ltd., and Yancheng Hi-King Aquatic Growing Co., Ltd., should be treated as a single entity for the purpose of calculating an antidumping duty margin.[6] For these final results, we continue to find that Hi-King Agriculture and its affiliates are a single entity for the purpose of calculating an antidumping duty margin.

Separate Rates

In proceedings involving NME countries, the Department of Commerce (Department) begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review 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.

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[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled "Freshwater Crawfish Tail Meat from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review," dated January 14, 2013.
[4] *See* Memorandum to Paul Piquado, Assistant Secretary for Import Administration, entitled, "Freshwater Crawfish Tail Meat from the People's Republic of China – Post-Preliminary Analysis Memorandum" dated February 25, 2013 (Post-Preliminary Analysis Memo).
[5] *See* Preliminary Decision Memorandum, at 4.
[6] *See* Memorandum to Susan Kuhbach entitled ''Freshwater Crawfish Tail Meat from the People's Republic of China - Collapsing of Yancheng Hi-King Agriculture Developing Co., Ltd., and its Affiliates,'' dated October 1, 2012.

In the *Preliminary Results*, we found that Xiping Opeck, Hi-King Agriculture, China Kingdom (Beijing) Import & Export Co., Ltd (China Kingdom) and Nanjing Gemsen International Co., Ltd. (Nanjing) demonstrated their eligibility for separate-rates. For these final results, we continue to find that Xiping Opeck, Hi-King Agriculture, China Kingdom, and Nanjing are eligible for separate rates.

Separate Rate for a Non-Selected Company

Nanjing is the only exporter of crawfish tail meat from the PRC that demonstrated its eligibility for a separate rate which was not selected for individual examination in this review. The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Accordingly, the Department's usual practice has been to average the margins for the selected companies, excluding margins that are zero, *de minimis*, or based entirely on facts available.[7] Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents, including "averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated."

In previous cases, the Department has determined that a "reasonable method" to use when, as here, the rates of the respondents selected for individual examination are all zero is to apply to those companies not selected for individual examination (but eligible for a separate rate in NME cases) the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available (which may be from a prior administrative review or a new shipper review).[8] If any such non-selected company had its own calculated rate that is contemporaneous with or more recent than such prior determined rates, however, the Department has applied such individual rate to the non-selected company in the review in question, including when that rate is zero or *de minimis*.[9] The Department has also stated that it will not use its prior zeroing

[7] *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 Issues and Decision Memorandum at Comment 16.
[8] *See Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results and Preliminary Partial Rescission of Fifth Antidumping Duty Administrative Review*, 76 FR 8338, 8342 (February 14, 2011) (unchanged in *Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940 (August 19, 2011)); *see also Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 49460, 49463 (August 13, 2010), and *Amanda Foods (Vietnam) Ltd. v. United States*, 774 F. Supp. 2d 1286 (CIT April 14, 2011).
[9] *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results of the New Shipper Review and Fourth Antidumping Duty Administrative Review and Partial Rescission of the Fourth Administrative Review*, 73 FR 52015 (September 8, 2008), *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 11349

methodology in administrative reviews with preliminary determinations issued after April 16, 2012.[10]

In this case, Nanjing received its own weighted average margin that is contemporaneous with or more recent than the most recent weighted average margins determined for other companies that are not zero, *de minimis*, or based entirely on facts available, and this rate was not affected by the methodology the Department abandoned in its *Final Modification for Reviews* pursuant to section 123 of the Uruguay Round Agreements Act. Accordingly, we have concluded that in this case a reasonable method for determining the rate for Nanjing, is to apply its most recent individually calculated weighted average margin, 12.37 percent.[11]

<u>Discussion of the Issues</u>

Comment 1: Use of U.S. Prices to Value Whole Crawfish

CPA argues that for the final results, the Department should base the surrogate value for whole crawfish on published U.S. prices for farmed and wild-caught crawfish. CPA asserts that there is nothing in the Act or the Department's regulations (*i.e.*, 19 CFR 351.408) that prohibits using U.S. prices for surrogate value purposes.

CPA also contends that the Department does not adequately explain in the *Preliminary Results* why non-contemporaneous Spanish import data are preferred over contemporaneous U.S. price data covering a much larger volume of trading. According to CPA, in the absence of data from a comparable economy that produces comparable merchandise, the Department could use either Spanish or U.S. price data because neither Spain nor the United States are considered comparable to the PRC in terms of economic development. CPA argues that Import Administration's *Policy Bulletin 04.1*[12] at page 5 makes clear that the Act does not require the Department to use a surrogate country that is at a level of economic development most comparable to the NME country. Thus, the fact that Spain may be closer to the PRC in per capita gross national income (GNI), if true, is not a basis for favoring Spanish data over U.S. data according to CPA.

CPA notes that it placed on the record contemporaneous U.S. prices that the Department did not use for the *Preliminary Results* and that the Department did not explain why it chose not to use

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(March 17, 2009) (changing rate for non-selected respondents because the final calculated rate for the selected respondent was above *de minimis*) (unchanged in *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of the Fourth Antidumping Duty Administrative Review*, 74 FR 17816 (April 17, 2009)); *see also Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47191, 47195 (September 15, 2009), and accompanying Issues and Decision Memorandum at Comment 16.

[10] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012)(*Final Modification for Reviews*).

[11] *See Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative and New-Shipper Reviews*, 75 FR 79337 (December 20, 2010).

[12] *Import Administration Policy Bulletin 04.1*: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin 04.1*).

such data. CPA claims that the U.S. price data are far superior to the Spanish import data for two reasons: breadth of coverage (encompassing a trade volume 716 times greater than the Spanish data), and contemporaneity (the current, rather than a prior, POR). CPA also argues that the U.S. prices on the record are for the same harvest methods used in the PRC, *i.e.*, from both aquacultural/farmed and wild-catch operations. CPA argues that the Department should not use a surrogate value that is limited to wild-caught crawfish because the record evidence indicates that crawfish production in the PRC is no longer limited to wild-caught production but, rather, also includes aquacultural production.

Xiping Opeck and China Kingdom argue that the Spanish data used in the *Preliminary Results* represent the best available information for valuing the live crawfish input, and that the Department should continue to use such data for the final results. Xiping Opeck and China Kingdom assert that the Department has repeatedly determined that Spanish prices are the best available information from which to obtain a surrogate value for whole live crawfish and that the Department has never indicated that U.S. prices could reasonably be considered a better source for this surrogate value. Citing the original less-than-fair-value determination,[13] Xiping Opeck and China Kingdom argue further that as early as the original investigation, the Department declined to use U.S. prices to value whole live crawfish—in part because the per capita GNI of Spain was more similar to that of the PRC than the per capita GNI of the United States. Xiping Opeck and China Kingdom also argue that the Department has long considered U.S. prices unsuitable for factor valuation in antidumping duty proceedings involving the PRC, and has in numerous instances explicitly declined to use surrogate values from countries, including the United States, that are economically more advanced than the PRC.[14] Hi-King Agriculture adds that CPA does not cite to a single case from over twenty years of NME antidumping duty investigations, administrative reviews, or new shipper reviews in which the Department has used U.S. prices as a surrogate value.

Xiping Opeck and China Kingdom dispute CPA's arguments regarding the breadth and contemporaneity of the U.S. prices, arguing that the breadth of coverage is not referred to as a factor in the statute, regulations, or the Department's *Policy Bulletin 04.1*, and that while contemporaneity may be relevant, it is not specifically mentioned in the Act and, therefore, not as important as the core requirements outlined under section 773(c)(4) of the Act. Xiping Opeck and China Kingdom comment further that contemporaneity is not an issue in this case because the Department inflated the 2008-2009 Spanish import data so that it would be contemporaneous with the POR.

Xiping Opeck and China Kingdom also argue that the Department should use wild-caught live crawfish prices instead of farm-raised live crawfish prices, in the event the Department decides to use U.S. prices, because the evidence indicates that all of their crawfish tail meat was harvested from wild-caught crawfish.

[13] *Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From the People's Republic of China*, 62 FR 41347, 41354 (August 1, 1997).
[14] Citing *Sebacic Acid From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 10530 (March 7, 1997).

Like Xiping Opeck and China Kingdom, Hi-King Agriculture disputes CPA's argument that the U.S. values are superior to Spanish import values. Hi-King Agriculture argues that the Department has never used U.S. production as a basis to evaluate whether Spain was a significant producer even though Spain has never produced as much crawfish as the United States. Therefore, Hi-King Agriculture argues, a comparison of Spanish import volumes to U.S. production volumes should not be used to discredit the Spanish import volumes, given the Department's acceptance in prior review periods of surrogate values derived from Spanish import volumes notwithstanding similar relative Spanish and U.S. crawfish volumes.

Hi-King Agriculture argues that there are significant questions as to whether the U.S. prices submitted by CPA in this review reflect transaction values or not.[15]

Department's Position: In the *Preliminary Results*, we determined that it is not appropriate to use the contemporaneous Spanish import data, which included only imports from Portugal, because the volume of shipments from Portugal during the POR might not reflect the industry's typical commercial quantity, given the historical volume of trade between Spain and Portugal. While we recognize that we have declined to use contemporaneous POR Spanish import data at various times in this proceeding due to a "low volume" of imports, after careful consideration of our standard practice and the facts on the record of this case, we have reconsidered our preliminary decision not to use contemporaneous POR Spanish import values to value whole crawfish.

In selecting the best available information for valuing factors of production (FOP) in accordance with section 773(c)(1) of the Act, the Department's general practice is to select, to the extent practicable, information from the primary surrogate country that is publicly available; product-specific; representative of broad market average prices; contemporaneous with the POR; and free of taxes and duties.[16]

As we explained in the *Preliminary Results*, there is no factor valuation information for whole crawfish available in the primary surrogate country in this case, Indonesia, or in the other potential surrogate countries identified by the Department's Office of Policy (OP). *See also Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of a Surrogate Countr*y," dated October 1, 2012 (Surrogate Country Memorandum), at 4. Therefore, our practice in such situations is to obtain surrogate value information from countries that are not included in the OP's list of countries economically comparable to the PRC in terms of GNI but are significant producers of comparable merchandise. *See Policy Bulletin 04.1* at 6. *See also* Memorandum entitled "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat ("FCTM") from the People's Republic of China ("China")" dated April 23, 2012.

[15] Citing *Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review*, 64 FR 27961, 27963 (May 24, 1999).
[16] *See Frontseating Service Valves From the People's Republic of China; 2010–2011 Antidumping Duty Administrative Review; Final Results,* 77 FR 67334 (November 9, 2012) and accompanying Issues and Decision Memorandum at Comment 2 (*Frontseating Service Valves from the PRC*).

In this review, we have determined that Spain is a significant producer of comparable merchandise.[17] *See* Surrogate Country Memorandum, at 5 and at Attachment II. In addition, the Spanish import data for whole processed crawfish as reported by *Agencia Tributaria*, the Spanish government agency responsible for trade statistics, are contemporaneous with the POR, publicly available, specific to the input in question, representative of broad market average prices, and free of taxes and duties.[18] Finally, while we acknowledge that the U.S. prices represent a significantly larger volume of trade, there is no evidence on the record of this review indicating that the POR Spanish import transactions are not commercial quantities or that the values or volumes are otherwise aberrational. Thus, use of Spanish import data to value whole crawfish is consistent with Department practice in identifying the best available information for factor valuation.

We agree with CPA that there is nothing in the statute or the Department's regulations that precludes the Department from using U.S. prices to value FOPs. As a general matter, however, the Department only values FOPs in countries that are not economically comparable to the NME country in question if it cannot find the needed values in an economically comparable economy that is a significant producer of comparable merchandise. *See Policy Bulletin 04.1* at 4-5. When the data are not available from the preferred surrogate countries, as in this review, the Department looks to other data sources. In this review, as explained above, we have identified Spain as a significant producer of subject merchandise and CPA has placed on the record evidence that the United States is a large producer of crawfish tail meat. Addressing such situations, the Department's *Policy Bulletin 04.1* at 5 states: "{i}f the competing significant producer countries are at disparate levels of economic development, and the necessary factors data is available in these countries, then the team should use the country closest to the NME country in terms of per-capita GNI." Thus, because Spain's per-capita GNI is closer to that of the PRC than is the United States' per-capita GNI,[19] Spanish data are preferable to U.S. data for valuing whole crawfish. Moreover, the Department has indicated that predictability is a consideration in factor valuation. *See Sebacic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 65 FR 49537 (August 14, 2000) and accompanying Issues and Decisions Memorandum at Comment 5 ("The Department emphasizes accuracy, fairness, and predictability when assigning surrogate values to factors of production."). Because we have used Spanish data to value whole crawfish in past reviews of the order, continuing their use in this review contributes to the predictability of the proceeding. Finally, the parties have made conflicting claims about the methods of producing crawfish in the PRC and the United States. Regardless, differences in production methods that do not result in different physical characteristics that, in turn, yield different values are not relevant to our analysis. *See* CPA's submission dated February 24, 2013, at Exhibit 10 (indicating that there are no differences in terms of physical characteristics between farmed raised crawfish and wild caught crawfish because only two species of crawfish exist).

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[17] Having found that Spain is a significant producer of comparable merchandise, we agree with Hi-King Agriculture that it would not be appropriate to then reject Spanish data because U.S. production is higher.
[18] *See* Xiping Opeck's Final Results Analysis Memorandum, dated concurrently with this memorandum, at Attachment 2.
[19] *See Policy Bulletin 04.1* and Xiping Opeck's Final Results Analysis Memorandum, at Attachment 1.

Comment 2: Use of Post-POR Spanish Prices to Value Whole Crawfish

Hi-King Agriculture argues that for the final results of this review, the Department should use the Spanish import data covering the period of April 2011 through May 2012. According to Hi-King Agriculture, this would address the Department's concern that the volume of imports into Spain during the POR (September 2010 through August 2011) was too small.

CPA objects to Hi-King Agriculture's proposal and further argues that all of the Spanish import data on the record of this review are riddled with sampling errors and other flaws which make the data demonstrably unrepresentative of actual prices for whole crawfish in the broader Spanish market. First, according to CPA, the Spanish import data are for only a handful of transactions, and although the record does not disclose the precise number of sales covered by Hi-King Agriculture's proposed fourteen-month interval, it is unlikely to be much different than the Spanish import data used in the *Preliminary Results*.

Next CPA asserts that the monthly Spanish import values vary sporadically in a way that is wholly inconsistent with normal pricing patterns for a seasonal and perishable agricultural commodity such as live crawfish. In this regard, CPA argues that the Spanish data are flawed because they show no peak in production and corresponding inevitable steady drop in price. To support its claims regarding the normal pricing pattern for crawfish, CPA points to U.S. production and pricing data for crawfish. CPA contends that the Spanish data should show the same price trends as the U.S. data, which CPA purports is normal for whole crawfish production, because the same species (facing the same biological constraints) are produced and sold in the two countries.

Thus, CPA concludes, the U.S. values it provided are a better alternative than the Spanish data placed on the record by Hi-King Agriculture.

Department's Position: As we explained above, our general practice and preference is to use contemporaneous surrogate value information when it is available over non-contemporaneous information. *See Frontseating Service Valves from the PRC* and accompanying Issues and Decision Memorandum at Comment 2. Because we have determined to use Spanish import values contemporaneous with the POR for these final results, we are not adopting Hi-King Agriculture's proposal.

Turning to CPA's arguments, although the number of transactions underlying the Spanish import data may be limited in CPA's view, there is no evidence that the transactions involve less than commercial quantities or are otherwise aberrational. With respect to the price trends, CPA posits that once production ramps up, prices inevitably decline. And although CPA claims the same species of crawfish are produced in the United States and Spain, CPA concedes that we have no way of knowing what the supply trends are for Spain because that information is not on the record. Hence, even if prices "inevitably" follow production as CPA asserts, without knowing the supply trend for Spanish whole crawfish, it is impossible to determine what normal price trends would be in Spain.

Moreover, if we compare the contemporaneous monthly U.S. data provided by CPA for wild harvest whole crawfish with the contemporaneous Spanish imports from Portugal, we find no significant differences between the data with respect to the pricing trends cited by CPA.[20] For example, according to the monthly U.S. prices provided by CPA, the data indicates that there was a sharp spike in price from February 2011 to March 2011($0.63 per kilogram to $3.29 per kilogram) at the start of the harvest month (March), and a relatively small decline in price from March 2011 to April 2011 ($3.29 per kilogram to $3.23 per kilogram). We do see an eventual downward price trend from April 2011 to June 2011 ($3.23 per kilogram to $2.65 per kilogram to $2.08 per kilogram), with price increases in July and August 2011 ($2.21 per kilogram to $2.85 per kilogram). *See* CPA's submission dated September 13, 2012.

With regard to the contemporaneous Spanish import data, we find that a similar price pattern exists. For example, from February 2011 to March 2011, unit values sharply increased (0.49 Euros per kilogram to 2.00 Euros per kilogram) at the start of harvest month (March) followed by a relatively insignificant increase in price from March 2011 to April 2011 (2.00 Euros per kilogram to 2.08 Euros per kilogram). Beginning in May 2011 contemporaneous Spanish import prices do have a downward price trend for the harvest months May 2011 through July 2011(3.00 Euros per kilogram to 2.50 Euros per kilogram to 1.88 Euros per kilogram). *See* Hi-King Agriculture's submission dated October 31, 2012, at Attachment I.

Based on the data on the record, we see that in both markets a sharp increase in price occurred in March, which is the beginning of the harvest season. In the case of the U.S. domestic prices, the eventual price decline begins in March 2011 through June 2011($3.29 per kilogram to $3.23 per kilogram to $2.65 per kilogram to $2.08 per kilogram), with prices increasing in July 2011 and August 2011 ($2.21 per kilogram to $2.85 per kilogram). With regard to the Spanish import data, we see that the eventual price decline begins in May 2011 through July 2011 (3.00 Euros per kilogram to 2.50 Euros per kilogram to 1.88 Euros per kilogram) with an increase in price in August 2011 (2.00 Euros per kilogram). While it is true that the Spanish price for whole crawfish increases from April 2011 to May 2011(2.08 Euros per kilogram to 3.00 Euros per kilogram), we see that prices decline after May 2011.

Thus, based on the data on the record, we disagree with CPA's claim that the Spanish import values are demonstrably flawed. While there are some slight differences in the pricing trends between Spain and the United States, we find those differences to be relatively small and insufficient to render the contemporaneous Spanish import data unusable.

Comment 3: Use of Updated Financial Information to Value Factory Overhead, Selling, General & Administrative (SG&A) Expenses, and Profit

In the *Preliminary Results*, we stated that we found it appropriate to consider financial statements used in other PRC cases involving products comparable to freshwater crawfish tail meat because we did not have any financial statements on the record for any seafood processor in Indonesia. Specifically, in the *Preliminary Results* we found the surrogate value ratio utilized in a recent review of *Shrimp from the PRC*[21] to be reasonable for valuing factory overhead, SG&A,

[20] CPA did not provide POR monthly U.S. prices for farmed raised whole crawfish.

[21] *See Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in*

and profit in this proceeding. *See Preliminary Results*, 77 FR at 61384. In that case, the Department relied on several financial statements, but did not use the financial statement of a Thai seafood processor, Siam Ocean Foods Company Ltd. (Siam Ocean), because it found the financial statement to be incomplete. *See Shrimp from the PRC*, and accompanying Issues and Decision Memorandum at Comment 12.

Hi-King Agriculture contends that on October 31, 2012, it provided on the record updated financial information to value factory overhead, SG&A expenses, and profit. Specifically, Hi-King Agriculture asserts that it has provided a complete version of the financial statement for Siam Ocean that was considered in the *Shrimp from the PRC*, but was rejected because it had missing certain auditor's notes. Hi-King Agriculture claims that the Department did not reject Siam Ocean's financial statement because of different integration levels of production or countervailable subsidies. According to Hi-King Agriculture, the only flaw in the Siam Ocean financial statement was that it was incomplete. Hi-King Agriculture asserts that it has provided a complete version of the 2010 financial statement for Siam Ocean and, therefore, it has remedied the one flaw the Department previously found in the Siam Ocean financial statement considered in *Shrimp from the PRC.* Hi-King Agriculture argues that as such the Department should use Siam Ocean's financial statement, along with the financial statements of the other three companies it used in the *Preliminary Results,* to value factory overhead, SG&A expenses and profit for the final results.

CPA did not comment on this issue.

Department's Position: We have evaluated the 2010 Siam Ocean financial statement that Hi-King Agriculture placed on the record and find that it is complete and includes complete auditor's notes. Because the Siam Ocean financial statement is also contemporaneous and free of countervailable subsidies,[22] we have accepted the updated financial data provided by Hi-King Agriculture and have revised the surrogate ratio to value factory overhead, SG&A, and profit for the final results.

Part, 77 FR 53856 (September 4, 2012) (*Shrimp from the PRC*), and accompanying Issues and Decision Memorandum at Comment 12.

[22] *See Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment 1.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review in the *Federal Register*.

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Agree Disagree

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Paul Piquado
Assistant Secretary
for Import Administration

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Date