

MEDIAN DEPRECIATION RATES OF RUS BORROWERS BY EQUIPMENT CATEGORY FOR PERIOD ENDING DECEMBER 31, 2003

Telecommunications plant category	Depreciation rate (percent)
1. Land and Support Assets:	
a. Motor Vehicles	15.00
b. Aircraft	11.25
c. Special purpose vehicles	12.07
d. Garage and other work equipment	10.00
e. Buildings	3.16
f. Furniture and Office equipment	10.00
g. General purpose computers	19.325
2. Central Office Switching:	
a. Digital	8.33
b. Analog & Electro-mechanical	10.00
c. Operator Systems	9.00
3. Central Office Transmission:	
a. Radio Systems	9.46
b. Circuit equipment	10.00
4. Information origination/termination:	
a. Station apparatus	12.00
b. Customer premises wiring	10.00
c. Large private branch exchanges	12.50
d. Public telephone terminal equipment	11.10
e. Other terminal equipment	10.00
5. Cable and wire facilities:	
a. Aerial cable—Poles	6.36
b. Aerial cable—Metal	6.00
c. Aerial cable—Fiber	5.10
d. Underground cable—Metal	5.00
e. Underground cable—Fiber	5.00
f. Buried cable—Metal	5.00
g. Buried cable—Fiber	5.00
h. Conduit systems	3.03
i. Other	10.07

Dated: December 17, 2004.

Curtis Anderson,

Acting Administrator, Rural Utilities Service.

[FR Doc. 04-28081 Filed 12-22-04; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Open Meeting

The Materials Technical Advisory Committee (MTAC) will meet on January 27, 2005, 10:30 a.m., in the Herbert C. Hoover Building, Room 3884,

14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to advanced materials and related technology.

Agenda:

1. Opening remarks.
2. Presentation of papers and comments by the public.
3. Review of Chemical Weapons Convention Schedules.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials to Lee Ann Carpenter at Lcarpent@bis.doc.gov.

For more information contact Lee Ann Carpenter on (202) 482-2583.

Dated: December 20, 2004.

Lee Ann Carpenter,
Committee Liaison Officer.

[FR Doc. 04-28103 Filed 12-22-04; 8:45 am]

BILLING CODE 3510-JT-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-838]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 2004.

SUMMARY: On August 4, 2004, the Department of Commerce (the Department) published its preliminary determination of sales at less than fair value (LTFV) of certain frozen and canned warmwater shrimp from Brazil. The period of investigation is October 1, 2002, through September 30, 2003.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the

investigated companies are listed below in the section entitled "Final Determination Margins."

FOR FURTHER INFORMATION CONTACT:

Rebecca Trainor or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4007 or (202) 482-4929, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that certain frozen and canned warmwater shrimp from Brazil is being, or is likely to be, sold in the United States at LTFV, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

The preliminary determination in this investigation was published on August 4, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 47081 (*Preliminary Determination*). We amended the preliminary determination to correct certain ministerial errors made in the margin calculation for Empresa de Armazenagem Frigorifica Ltda. (EMPAF), which we determined to be significant under 19 CFR 351.224(g). See *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 52860 (August 30, 2004).

Since the amended preliminary determination, the following events have occurred. During the period July through October 2004, various interested parties, including the petitioners,¹ submitted comments on the scope of this and the concurrent investigations of certain frozen and canned warmwater shrimp.

On September 1, 2004, Norte Pesca, S.A. withdrew from this investigation. During the period September 6-17, 2004, and September 29-October 1, 2004, we conducted the sales and cost verifications of the questionnaire responses of EMPAF and Central de

¹ The petitioners in this investigation are the Ad Hoc Shrimp Trade Action Committee (an ad hoc coalition representative of U.S. producers of frozen and canned warmwater shrimp and harvesters of wild-caught warmwater shrimp), Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company.

Industrializacao e Distribuicao de Alimentos Ltda. (CIDA).

On September 3, 2004, CIDA and the Association of Brazilian Shrimp Farmers (ABCC) requested a hearing. EMPAF requested a hearing on September 28, 2004. On October 20 and 26, 2004, Xian-Ning Seafood Co., Ltd., an interested party in the companion investigation of frozen and canned warmwater shrimp from Thailand, submitted case and rebuttal briefs, respectively.² We received case briefs on November 3, 2004, from the petitioners, CIDA, EMPAF, ABCC, and two other interested parties in this investigation, Eastern Fish Company, Inc. and Long John Silver's, Inc.³ On November 12, 2004, we received rebuttal briefs from the petitioners, CIDA, EMPAF, Eastern Fish Company, Inc. and Long John Silver's, Inc.⁴ On November 17, 2004, CIDA, EMPAF and ABCC withdrew their requests for a hearing.

On November 12, 2004, and November 15, 2004, pursuant to the Department's request, we received revised sales and cost databases from CIDA and EMPAF, respectively, which incorporated certain changes discovered in preparation for and during verification.

On November 23, 2004, the Department convened a public hearing on scope issues. On November 29, 2004, the Department made final scope determinations with respect to shrimp scampi and dusted and battered shrimp. See the November 29, 2004, Memoranda from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration entitled, "Scope Clarification on Shrimp Scampi"; and "Scope Clarification on Dusted Shrimp and Battered Shrimp," respectively. See also the "Scope of Investigation" section of this notice, below, for further discussion.⁵

² These briefs related only to scope issues.

³ The briefs submitted by Eastern Fish Company, Inc. and Long John Silver's, Inc. related only to scope issues.

⁴ *Id.*

⁵ In addition to these scope determinations, the Department previously made five other scope determinations: (1) On May 21, 2004, the Department declined to expand the scope of this investigation to include fresh (never frozen) shrimp; (2) on July 2, 2004, pursuant to a request from Ocean Duke Corporation, an interested party in the companion investigation of frozen and canned warmwater shrimp from Thailand, the Department found that its "Seafood Mix" is excluded from the scope of this investigation; (3) on July 2, 2004, the Department found that salad shrimp, sold in counts of 250 pieces or higher, are included within the scope of this investigation; (4) on July 2, 2004, the Department found that *Macrobrachium rosenbergii* and organic shrimp are included within the scope of this investigation; and (5) on July 2,

Also on November 29, 2004, the Department clarified that a shrimp sauce produced by a company in the companion investigation of frozen and canned warmwater shrimp from the People's Republic of China, Lee Kum Kee (USA) Inc., is not covered by the scope of that investigation. See the November 29, 2004, Memorandum from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration entitled, "Scope Clarification on Lee Kum Kee's Shrimp Sauce."

Period of Investigation

The period of investigation is October 1, 2002, through September 30, 2003.

Analysis of Comments Received

The various scope issues are discussed in the "Case History" section of this notice and the separate scope memoranda. All other issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated December 17, 2004, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099 of the main Commerce Building (CRU). In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

The scope of this investigation includes certain warmwater shrimp and prawns, whether frozen or canned, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,⁶ deveined or not deveined, cooked or raw, or otherwise processed in frozen or canned form.

The frozen or canned warmwater shrimp and prawn products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater

shrimp and prawns through either freezing or canning 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, 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 of the investigation. 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 of the investigation.

Excluded from the scope are: (1) Breaded shrimp and prawns (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 (0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (1605.20.05.10); (5) dried shrimp and prawns; (6) dusted shrimp; and (7) battered shrimp. Dusted 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 IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

2004, the Department found that peeled shrimp are included within the scope of this investigation.

⁶ "Tails" in this context means the tail fan, which includes the telson and the uropods.

The products covered by this scope are currently classifiable under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, 1605.20.10.30, and 1605.20.10.40. These HTSUS subheadings are provided for convenience and customs purposes only and are not dispositive, but rather the written description of the scope of this investigation is dispositive.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum.

Use of Facts Available for Norte Pesca

On September 1, 2004, two weeks prior to the Department's planned verification of Norte Pesca's submitted cost and sales information, Norte Pesca notified the Department that it no longer intended to participate in this investigation. See *Letter from Norte Pesca to the U.S. Secretary of Commerce* on file in the CRU. As a result, we were unable to verify the information submitted by Norte Pesca. By ceasing to participate, Norte Pesca significantly impeded the investigation. Pursuant to sections 776(a)(2)(C) and (D) of the Act, if an interested party significantly impedes the investigation or provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Once we determine that the use of facts available is warranted, section 776(b) of the Act further permits us to apply an adverse inference if we make the additional finding that "a respondent has failed to cooperate by not acting to the best of its ability to comply with a request for information." By ceasing to participate in the investigation and precluding the verification of its submitted cost and sales information, Norte Pesca did not act to the best of its ability as required by section 776(b) of the Act. Consequently, we have determined to make an adverse inference in determining the dumping margin for Norte Pesca. See *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From the*

Republic of Korea, 68 FR 47540 (August 11, 2003).

Section 776(b) of the Act authorizes the Department to use as adverse facts available (AFA) information derived from the petition, a final investigation determination, a previous administrative review, or any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances*, 67 FR 55792 (August 30, 2002); *Static Random Access Memory Semiconductors from Taiwan, Final Determination of Sales at Less than Fair Value*, 63 FR 8909, (February 23, 1998). The Department applies AFA "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, vol. 1, at 870 (1994)(SAA)*.

As total AFA we have assigned to exports of the subject merchandise produced by Norte Pesca the rate of 67.80, which is the rate assigned to Norte Pesca in the preliminary determination. We find that this rate is sufficiently adverse to serve the purposes of facts available, explained above. See Memorandum to Louis Apple, Director, AD/CVD Operations, Office 2, Import Administration, Final Determination of Certain Frozen and Canned Warmwater Shrimp from Brazil: Use of Facts Available for Norte Pesca, dated December 17, 2004, on file in the CRU (AFA Memorandum).

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted "corroborate" to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. See *Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 5554 (February 4, 2000); See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and*

Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996).

As detailed in the AFA Memorandum, in selecting the AFA rate for Norte Pesca, we did not use either of the two highest of the three petition rates because we were unable to corroborate them with independent information reasonably at our disposal and we have an alternative that we find to be sufficiently adverse to effectuate the purpose of the AFA provision of the statute. We did not use the remaining petition rate because it was lower than Norte Pesca's preliminary margin, and as such would not accomplish the objectives of AFA, stated above. Thus, we assigned the rate of 67.80 percent, which was based on information submitted by Norte Pesca in its questionnaire responses and database submissions, and remains on the record of this investigation. Because this information was provided to us by the respondent, it is not considered to be secondary information, and therefore, needs not be corroborated. We conclude that this data, although unverified, continues to be the best information reasonably available to us to effectuate the purpose of AFA.

Collapsing CIDA With Its Affiliated Processor

CIDA and its processing company, Cia Exportadora de Produtos do Mar ("Produmar"), are two separate companies owned and operated by members of the same family. In the preliminary determination, consistent with 19 CFR 351.401(h) of the Department's regulations, we determined that Produmar was an affiliated toller rather than a manufacturer or producer, because it neither acquired ownership nor controlled the sale of the subject merchandise. See *Preliminary Determination at 47087*. Therefore, rather than collapsing these two entities and using Produmar's costs in our COP and CV calculations, we applied the "major input" rule, and used the transfer price for Produmar's processing services. We stated that given the nature of the affiliation between the entities at issue, we recognized that a related issue could arise as to whether there is a potential for manipulation of price or production and, if so, whether the two entities should receive the same dumping rate. Based on this recognition, we solicited comments from the parties as to whether to collapse CIDA and Produmar in the final determination.

Since the preliminary determination, and as detailed in the December 17, 2004, Issues and Decision Memorandum, the extent to which the two companies operate as a single entity has become apparent, such that we believe there to be significant potential for manipulation of price and production between CIDA and Produmar. Therefore, we have collapsed the two entities for the final determination. Accordingly, we have used the actual costs incurred by Produmar in valuing the processing services it provided to CIDA, and we have assigned the two companies a single dumping margin.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents (except for Norte Pesca as discussed above) for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of certain frozen and canned warmwater shrimp from Brazil that are entered, or withdrawn from warehouse, for consumption on or after August 4, 2004, the publication date of the preliminary determination in the **Federal Register** or, in the case of EMPAF, August 30, 2004, the publication date of the amended preliminary determination. CBP shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Empresa de Armazenagem Frigorifica Ltda. (EMPAF) ...	10.70
Central de Industrializacao e Distribuicao de Alimentos Ltda. (CIDA)/Cia Exportadora de Produtos do Mar (Produmar)	9.69
Norte Pesca S.A.	67.80
All Others	10.40

In accordance with section 735(c)(5)(A) of the Act, we have based the “all others” rate on the weighted average of the dumping margins calculated for the exporters/manufacturers investigated in this proceeding. The “all others” rate is derived exclusive of all *de minimis* margins and margins based entirely on AFA.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to 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 return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: December 17, 2004.

James J. Jochum,
Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

Comments

General Issues

- Comment 1: Offsets for Non-Dumped Comparisons
- Comment 2: Calculation of the “All Others” Rate

Company-Specific Issues

CIDA

- Comment 3: Billing Adjustments

- Comment 4: Insurance Payments as an Offset to General and Administrative Expenses
- Comment 5: Collapsing CIDA with its Affiliated Processor
- Comment 6: Cost Allocation Methodology
- Comment 7: Ration and Larva Costs
- Comment 8: Loss on Sale of Fixed Assets
- Comment 9: ICMS Taxes
- Comment 10: Change in Raw Shrimp Inventory
- Comment 11: Prompt Payment Discounts

EMPAF

- Comment 12: Presumed Credit and IPI Export Credit Premium Revenue
- Comment 13: Brazilian Indirect Selling Expenses
- Comment 14: U.S. Indirect Selling Expenses
- Comment 15: Container Weight
- Comment 16: SPECIES Product Characteristic
- Comment 17: Accounting Errors Prior to the Cost Reporting Period
- Comment 18: Double Counting Indirect Selling Expenses
- Comment 19: Amortization of Pre-Operational Costs
- Comment 20: Allocation of Depreciation to Work-in-Process Inventory
- Comment 21: Other Adjustments to Shrimp Costs

Norte Pesca

- Comment 22: Adverse Facts Available Rate for Norte Pesca

[FR Doc. 04–28110 Filed 12–21–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–331–802]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Ecuador

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 2004.

SUMMARY: On August 4, 2004, the Department of Commerce (the Department) published its preliminary determination of sales at less-than-fair-value (LTFV) of certain frozen and canned warmwater shrimp from Ecuador. The period of investigation is October 1, 2002, through September 30, 2003.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled “Final Determination Margins.”

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Terre Keaton,