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BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:

CERTAIN FROZEN WARMWATER SHRIMP FROM CHINA, ECUADOR, INDIA, INDONESIA, MALAYSIA, THAILAND, AND VIETNAM

VOLUME VIII:
VIETNAM CVD

PETITIONS FOR THE IMPOSITION OF COUNTERVAILING DUTIES ON BEHALF OF THE COALITION OF GULF SHRIMP INDUSTRIES

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PETITIONS FOR THE IMPOSITION OF COUNTERVAILING DUTIES ON IMPORTS OF CERTAIN FROZEN WARMWATER SHRIMP FROM CHINA, ECUADOR, INDIA, INDONESIA, MALAYSIA, THAILAND, AND VIETNAM

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VOLUME VIII – VIETNAM COUNTERVAILING DUTY PETITION

I. INTRODUCTION

This volume contains allegations regarding the countervailable subsidies provided in the Socialist Republic of Vietnam ("Vietnam") with respect to the manufacture, production, or export of certain frozen warmwater shrimp. For each subsidy allegation, the petition alleges the elements necessary for the imposition of a countervailing duty and provides the information reasonably available to the petitioner supporting those allegations. The petition therefore complies with the requirements of 19 U.S.C. § 1671a(b)(1) and 19 C.F.R. § 351.202(b)(7)(ii)(B). Additional information required by the statute and regulations regarding general issues and material injury or threat thereof is provided in Volume I of these petitions. Based on the information reasonably available to the petitioner and contained herein, the Department should initiate an investigation into countervailable subsidies provided to the Vietnamese shrimp industry and impose duties through a countervailing duty order in an amount that would offset the benefit conferred by these subsidies.

II. PERIOD OF INVESTIGATION AND AVERAGE USEFUL LIFE

The most recently completed calendar year as of the filing of these petitions is 2011, and 2011 is thus the appropriate period of investigation ("POI") for this proceeding.[1] In addition to investigating any recurring subsidies granted during the POI and any subsidized loans outstanding during the POI, the Department is also required to

[1] 19 C.F.R. § 351.204(b)(2).

investigate any non-recurring subsidies conferring a benefit that is allocable to the POI.[2] The average useful life ("AUL") of renewable physical assets for the frozen shrimp industry that the Department should use to define the allocation period for non-recurring subsidies to the industry is twelve years.[3] The Department should therefore investigate any non-recurring subsidies received from 2000 through 2011, as well as recurring subsidies and outstanding loans during 2011.

III. SCOPE OF SUBSIDIES INCLUDED IN THE PETITION

This petition includes subsidies to processors of frozen shrimp as well as subsidies to producers of fresh shrimp (*e.g.*, shrimp farms). The Department should include these subsidies in its initiation, as it is likely that one or more shrimp processors selected for investigation will also farm shrimp or be cross-owned with shrimp farming operations. Based on information reasonably available to the petitioner, it appears that a number of producers of frozen shrimp in Vietnam have their own integrated aquaculture operations.[4] To the extent that Vietnamese producers of frozen shrimp also produce fresh shrimp, subsidies tied to the production of those inputs will be attributed to both the input and the downstream product.[5] In addition, subsidies to the production of fresh shrimp by cross-owned input suppliers will be attributed to the combined sales of the input and downstream products if the Department finds that fresh shrimp is primarily dedicated to

[2] 19 C.F.R. §§ 351.524(a) and (b), 351.525.

[3] 19 C.F.R. § 351.524(d). *See also* IRS Pub. 946, "How to Depreciate Property," Appendix B, Table of Class Lives and Recovery Periods, p. 104, attached at **Exhibit VIII-1**. Fish processing equipment falls under the Asset Class 20.4 as food production and manufacturing equipment, with a useful life of twelve years. *See also* "Depreciation and Amortization for the Fishing Industry," attached at **Exhibit VIII-2**, for a more detailed description of fish processing equipment.

[4] *See* company website excerpts, attached at **Exhibit VIII-3**.

[5] 19 C.F.R. § 351.525(b)(5)(ii).

the production of frozen shrimp.[6] According to the International Trade Commission, fresh shrimp is "overwhelmingly" used as an input in the production of frozen shrimp and is "overwhelmingly" sold in processed form.[7] The Department should therefore find that fresh shrimp is primarily dedicated to the production of frozen shrimp and attribute any subsidies to the production of fresh shrimp from which cross-owned input suppliers benefit to the combined sales of the input producers and producers of the downstream product. To the extent that companies selected for investigation produce their own fresh shrimp or source the input from cross-owned suppliers, no upstream subsidy allegation is necessary for the Department to initiate an investigation into programs benefitting the production of fresh shrimp.[8]

Alternatively, in the event that none of the processors selected for investigation is integrated or cross-owned with shrimp farming operations, the Department should initiate an investigation into subsidies to raw shrimp and deem such subsidies to be provided with respect to the manufacture, production, or exportation of processed frozen shrimp under section 771B of the Act. The Act states as follows:

> In the case of an agricultural product processed from a raw agricultural product in which—
> (1) the demand for the prior stage product is substantially dependent on the demand for the latter stage product, and
> (2) the processing operation adds only limited value to the raw commodity,
> countervailable subsidies found to be provided to either producers or processors of the product shall be deemed to

[6] 19 C.F.R. § 351.525(b)(6)(iv).

[7] U.S. International Trade Commission, *Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam*, Inv. Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Pub. 4221 (March 2011) (hereinafter "*Shrimp AD Sunset*") at 6.

[8] 19 C.F.R. § 351.525(b)(5)(ii) and (6)(iv).

> be provided with respect to the manufacture, production, or exportation of the processed product.[9]

The statute defines "raw agricultural product" as "any farm or fishery product."[10] The Department has noted that this definition applies to the raw and processed agricultural product subsidy provisions in section 771B of the Act.[11] Moreover, section 771B codified existing Department practice when it was enacted in 1988.[12] At that time, the Department's practice was to deem raw fish subsidies to be provided with respect to processed fish exports in the same manner in which subsidies to other raw agricultural products were deemed to be provided with respect to processed agricultural exports.[13] Thus, fresh shrimp and processed shrimp qualify as raw and processed agricultural products, respectively, under section 771B of the Act.[14]

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[9] 19 U.S.C. § 1677-2.

[10] 19 U.S.C. § 1677(4)(E)(iv).

[11] *Certain Softwood Lumber Products from Canada*, 57 Fed. Reg. 22,570, 22,573 (Dep't Commerce May 28, 1992) (final affirmative countervailing duty determination).

[12] H.R. Rep. No. 100-576, at 588 (1988) (Conf. Rep.), *reprinted in* 1988 U.S.C.C.A.N. 1547, 1621.

[13] *See, e.g., Certain Fresh Atlantic Groundfish From Canada*, 51 Fed. Reg. 10,041 (Dep't Commerce March 24, 1986) (final affirmative countervailing duty determination) (countervailing subsidies to fishermen and processors); *Certain Fish from Canada*, 43 Fed. Reg. 25,996 (Dep't Commerce June 16, 1978) (final countervailing duty determination) (same). Although not explicitly addressed in *Certain Fresh Atlantic Groundfish From Canada* or *Certain Fish from Canada*, the Department has recognized both of these cases as situations in which benefits to producers of a raw agricultural product were considered benefits to producers of the processed agricultural product. *Fresh, Chilled, and Frozen Pork from Canada*, 54 Fed. Reg. 30,774, 30,775 (Dep't Commerce July 24, 1989) (final affirmative countervailing duty determination).

[14] The petitioner is not requesting either the Department or the Commission to exercise its discretion to include producers of fresh shrimp in the domestic industry pursuant to the raw/processed industry definition provisions in 19 U.S.C. § 1677(4)(E). First, the raw/processed subsidy provision in 19 U.S.C. § 1677-2 is mandatory, while the raw/processed industry definition provision in 19 U.S.C. § 1677(4)(E) is discretionary. *Compare* 19 U.S.C. § 1677(4)(E) ("may be considered part of the industry"), *with* 19 U.S.C. § 1677-2 ("shall be deemed to be provided"). Second, the criteria for invoking the two provisions are distinct: to include producers of raw product in the domestic industry there must be a single continuous line of production and a substantial coincidence of economic interest; to include subsidies to producers of the raw product, demand must depend on demand for the processed product and processing must add limited value. 19 U.S.C. §§ 1677(4)(E), 1677-2. Third, the two statutory provisions serve different purposes. The industry definition provision in 19 U.S.C. § 1677(4)(E) permits producers of the raw product to bring a petition in the absence of sufficient support from processors. *See* S. Rep. No. 100-71 at 109 (1987). This issue is not relevant to this case as the petitioner here consists of domestic processors. The subsidy

Furthermore, both of the requirements of section 771B are met in this case.

First, demand for fresh shrimp is substantially dependent on demand for frozen shrimp, as required under section 771B(1).[15] In previous cases, the Department has found this criterion to be met when most of the raw product is produced for further processing.[16] As noted above, the International Trade Commission has found that fresh shrimp is "overwhelmingly" used as an input in the production of frozen shrimp and is "overwhelmingly" sold in processed form.[17] There is only a minimal market for fresh shrimp given its high degree of perishability, and over 90 percent of fresh warmwater shrimp are processed into frozen shrimp.[18] Because nearly all fresh shrimp is processed into frozen shrimp, demand for fresh shrimp is substantially dependent on demand for frozen shrimp and the first statutory criterion is met in this case.

Second, the processing of frozen shrimp adds only limited value to fresh shrimp, as required under section 771B(2).[19] In previous cases, the Department has found this criterion to be satisfied where processing operations did not change the essential character of the raw product and where such operations added limited value to the

provision in 19 U.S.C. § 1677-2, by contrast, ensures that all subsidies from which foreign producers benefit are included in a countervailing duty investigation, regardless of the identity of the petitioner. The Department is therefore required to include subsidies to producers of fresh shrimp in its investigation under 19 U.S.C. § 1677-2 regardless of whether producers of fresh shrimp are included in the domestic industry by either the Department or the Commission under 19 U.S.C. § 1677(4)(E).

[15] 19 U.S.C. § 1677-2(1).

[16] *Fresh, Chilled, and Frozen Pork from Canada*, 54 Fed. Reg. 30,774, 30,775 (Dep't Commerce July 24, 1989) (final affirmative countervailing duty determination).

[17] *Shrimp AD Sunset* at 6.

[18] U.S. International Trade Commission, *Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam*, Inv. Nos. 731-TA-1063-1068 (Preliminary), USITC Pub. 3672 (February 2004) (hereinafter "*Shrimp AD Investigation Prelim*") at 13.

[19] 19 U.S.C. § 1677-2(2).

product, such as 20 to 30% of the final product value.[20] As the Commission has noted, frozen shrimp at its least processed stage (cleaned, frozen, and deheaded) "is not substantially different in any physical sense from the fresh product . . . ."[21] The Commission has further explained that "the initial stages of processing did not significantly change the physical characteristics and uses of the product and appeared to add at most moderate value to the product."[22] Indeed, in its most recent sunset review on shrimp, the Commission collected data from domestic processors indicating that processing added 19 to 24% of the value of the final product (including the costs of processing, selling, general, and administrative expenses, and profit), while the cost of raw shrimp accounted for 76 to 81% of the sales value of the final product.[23] Because processing operations do not change the essential character of raw shrimp and add 19 to 24% in value to the final product, processing of frozen shrimp adds only limited value to fresh shrimp and the second statutory criterion is met in this case.

For all of these reasons, the Department should deem any subsidies to producers of raw shrimp (*e.g.*, shrimp farms) to be provided with respect to the production and export of frozen shrimp under section 771B of the Act. These subsidies benefit the production of frozen shrimp even where shrimp processors are not integrated or cross-owned with shrimp farming operations. Furthermore, no upstream subsidy allegation is required under section 771A of the Act in order for the Department to include these

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[20] *See Rice from Thailand*, 56 Fed. Reg. 68, 69 (Dep't Commerce Jan. 2, 1991) (final results of countervailing duty administrative review). *See also Fresh, Chilled, and Frozen Pork from Canada*, 54 Fed. Reg. 30,774, 30,775 (Dep't Commerce July 24, 1989) (final affirmative countervailing duty determination).

[21] *Shrimp AD Investigation Prelim* at 14.

[22] *Shrimp AD Sunset* at 6.

[23] *Id.* at Table III-11 (percentages calculated by comparing net sales values of processed shrimp to the cost of imported and domestic shrimp inputs).

subsidies in its investigation and deem them to be provided with respect to frozen shrimp.[24]

In conclusion, the Department should include subsidies to producers of raw shrimp (*e.g.*, shrimp farms) in its investigation due to the vertical integration and/or cross-ownership of shrimp farming and processing operations within Vietnam's frozen shrimp industry. Alternatively, the Department should deem any subsidies to producers of raw shrimp (*e.g.*, shrimp farms) to be provided to the production and export of frozen shrimp under section 771B of the Act.

IV. ESTIMATION OF SUBSIDY BENEFITS

Based on the information reasonably available to the petitioner, the Government of Vietnam ("GOV") does not systematically publish data regarding the value of the benefits conferred under the subsidy programs alleged below on either an industry- or company-specific basis. In addition, the information reasonably available to the petitioner indicates that individual shrimp producers in Vietnam do not release comprehensive public data on the value of any such subsidies they receive in their annual reports or other public financial documents. To the extent that the petitioner has been able to obtain information that pertains to the value of the benefit conferred by any individual subsidy program, that information is contained in the relevant subsidy allegation below.

Based on this information, we estimate program-specific subsidy margins ranging from 1.54 to 4.66% for four of the subsidy programs alleged below. If all of these estimated benefits accrue to the same producer, the producer's subsidy margin could be

[24] *Fresh, Chilled, and Frozen Pork from Canada*, 54 Fed. Reg. 30,774, 30,775 (Dep't Commerce July 24, 1989) (final affirmative countervailing duty determination) (explaining why no upstream subsidy allegation is required when subsidies are deemed provided to processed products under 19 U.S.C. § 1677-2). *See also Rice from Thailand*, 51 Fed. Reg. 12,356, 12,357-58, 12,362 (Dep't Commerce April 10, 1986) (final affirmative countervailing duty determination and countervailing duty order).

as high as 12%. For the other fourteen subsidy programs alleged in this petition, the information reasonably available to the petitioner does not allow an estimation of the extent of the benefit conferred, though information indicating that a benefit does in fact exist is provided for each program alleged below.

V. COUNTERVAILABLE SUBSIDY PROGRAMS TO THE SHRIMP INDUSTRY IN VIETNAM

A. Subsidies under the Aquaculture Development Scheme

On March 3, 2011, the Government of Vietnam approved its Aquaculture Development Scheme through 2020.[25] The plan aims to rapidly develop Vietnam's aquaculture sector through industrialization and modernization to "develop it into a major production sector to supply raw materials for export processing and domestic consumption ...."[26] The plan includes specific targets for the production of brackish water shrimp and blue-legged prawn output, aiming to increase their production by 5.76% and 11.6% per year, respectively.[27]

Among the tasks identified in the plan are the supply of disease-free breeding stock and larvae, including those for tiger prawns and white-legged shrimp, the expansion of the areas dedicated to intensive, high-yield, and environmentally friendly aquaculture, and the domestic production of feed and other supplies.[28] To support these efforts, the GOV will further implement investment and credit policies, mobilize central and local funds to invest in new aquaculture projects, provide risk support, support farmers in

[25] Decision No. 332/QD-TTg of March 3, 2011, approving the "Scheme on Development of Aquaculture through 2020," attached at **Exhibit VIII-4A**.

[26] *Id.* at Section I:1.

[27] *Id.* at Section I:2, p. 48.

[28] *Id.* at Section II, p.48.

procuring breeds, equipment, and process certifications, and conduct trade promotion.[29] The plan calls for VND 40 trillion ($1.9 billion)[30] to be invested in aquaculture through 2020, with VND 25 trillion ($1.2 billion) of that amount being invested between 2011 and 2015, including through direct budget allocations and subsidized loans from state-owned banks.[31]

The plan also indicated that central budget funds would be provided for the implementation of "ongoing projects under the program on aquaculture development during 1999-2010."[32] The 1999-2010 Aquaculture Development Program specified objectives that included significant increases in tiger and blue-legged prawns, identified state budget capital and short, medium, and long-term credit as capital sources, stated that the state budget capital would, among other things, be invested in the planning and building of infrastructure in service of concentrated aquaculture areas, in building and perfecting national breeding centers, in conducting scientific research and importing new species and technology, and in fishery promotion activities.[33] The reference in the 2011-2020 plan to support for "ongoing" projects under the 1999-2010 plan indicates that funding under the former will be supporting efforts originating under the latter and so be the source of subsidization.

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[29] *Id.* at Section III:5(c) and 6(a) and (b), at 51-52

[30] The exchange rate used in the petition to convert Vietnamese dong to U.S. dollars is 20856 dong/dollar.

[31] Decision No. 332/QD-TTg of March 3, 2011, approving the "Scheme on Development of Aquaculture through 2020," at Section III: 7, at 52-53, attached at **Exhibit VIII-4A.**

[32] *Id.* at Section III: 6(a), at 51.

[33] *See* Decision No. 224/1999/QD-TTg of December 8, 1999 approving the Aquaculture Development Program for the 1999-2010 Period at 1-3, 7; copy attached at **Exhibit VIII-4B** (page numbers added to original web document for ease of reference).

The provision of funds, credit, goods, land, and other benefits under the Aquaculture Development Scheme constitutes countervailable subsidies under U.S. law.

1) Financial contribution

Government grants and government loans from state-owned banks under the aquaculture plans provide a financial contribution in the form of the direct transfer of funds under 19 U.S.C. § 1677(5)(D)(i). To the extent any of the breeding stock, larvae, land, and equipment described under the plans are provided by the government, an additional financial contribution is provided in the form of the provision of goods for less than adequate remuneration under 19 U.S.C. § 1677(5)(D)(iii).

2) Specificity

The program is specific under 19 U.S.C. § 1677(5A)(D)(i) because it is explicitly limited to an industry, namely the aquaculture industry. The Department has found that the fisheries and aquaculture sector are of sufficiently limited scope that programs targeted to these industries constitute countervailable subsidies under the law.[34]

3) Benefit

Under 19 C.F.R. § 351.504, grants under the program confer a benefit equal to the amount of the funding shrimp producers receive. Any grants received under the program from 2000 through 2011 should be countervailed as non-recurring subsidies, with the benefit allocated over the average useful life for the industry.[35]

Under 19 U.S.C. § 1677(5)(E)(i), loans confer a benefit equal to the difference between the amount the recipient would have paid on a commercial loan it could actually

[34] *See Final Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway*, 56 Fed. Reg. 7678, 7685 (Dep't Commerce Feb. 25, 1991).

[35] *See* 19 C.F.R. § 351.524(b), (c)(1). As discussed in Section II, above, the average useful life for the fish processing industry is 12 years.

obtain on the market compared to the amount actually paid. The Department has determined that an external benchmark is required to measure the benefit conferred by subsidized loans provided in Vietnam due to the fact that loans provided by Vietnamese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.[36] The Department should similarly rely on an external benchmark in this case to ensure the benchmark interest rate reflects a commercial rate rather than one distorted by pervasive government intervention.

Finally, under 19 U.S.C. § 1677(5)(E)(iv), the provision of goods provides a benefit equal to the difference between the amount paid for the good and a commercial price under prevailing market conditions. In the recent case on retail carrier bags from Vietnam, the Department measured the benefit of the government provision of land in Vietnam based on commercial rental rates from outside of country due to distortions in domestic land prices because of the Vietnamese government's predominant role as an owner of land in the country.[37] The Department should similarly rely on an external benchmark to value the benefit conferred by the provision of land in this case.

Information reasonably available to the petitioner does not indicate the interest rates at which loans are provided under these programs or the prices charged, if any, for any goods provided under these programs. We note, however, that the GOV has stated its intention to allocate $1.2 billion under the plan for the 2011 to 2015 period. It is unknown how much of this amount will be provided in the form of grants, loans, or other

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[36] *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 74 Fed. Reg. 45,811, 45,814-15 (Dep't Commerce Sept. 4, 2009) (hereinafter "*PRCBs Prelim*").

[37] *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 75 Fed. Reg. 16,428 (Dep't Commerce April 1, 2010) and accompanying Issues and Decision Memorandum (hereinafter "*PRCBs IDM*") at 8.

forms. To the extent that the GOV provides land to expand aquaculture production under the plan and the value of the land is not reflected in the plan's budget, the figure may under-represent the benefit producers receive under the plan.

In 2010, the latest year for which data are available, all aquaculture production in Vietnam totaled $5.15 billion.[38] Assuming similar production amounts for 2011 through 2015, the amounts allocated under the plans for the period would equal about 4.66% of the sector's annual revenue.

B. Subsidies under the Seafood Processing Development Plan

The GOV also approved a National Seafood Processing Development Plan through 2020, which aims to increase exports of processed seafood by 3.44% per year by volume and 5.92% by value, with shrimp as the largest export product.[39] The Plan states that seafood processing firms will be consolidated into larger and more competitive groups and the number of state-of-the-art facilities will be increased.[40] Under the Plan, these activities will be supported by investment from the government.[41] The plan calls for VND 24 trillion ($1.17 bn) to be invested in the seafood processing industry through 2020, with VND 12 trillion ($576 mn) allocated for the 2011 – 2015 period.[42] Amounts invested will include direct allocations from the government as well as "soft loans" and investment support in industrial zones.[43]

[38] United Nations Food and Agriculture Organization, Fisheries Information System, attached at **Exhibit VIII-6**.

[39] Nguyen Khai, "Planning for seafood processing," *Vietfish*, Vol. 8, Issue 2 (Mar/Apr 2011) at 54-56, attached at **Exhibit VIII-5**.

[40] *Id.* at 56.

[41] *Id.*

[42] *Id.*

[43] *Id.*

The provision of goods, credit, land, and other benefits under this program constitute countervailable subsidies under U.S. law.

1) Financial contribution

Government grants and government loans from state-owned banks under the seafood processing plan provide a financial contribution in the form of the direct transfer of funds under 19 U.S.C. § 1677(5)(D)(i). To the extent that the plan results in the provision of any equipment, land, or other goods by the government, an additional financial contribution is provided in the form of the provision of goods for less than adequate remuneration under 19 U.S.C. § 1677(5)(D)(iii).

2) Specificity

The program is specific under 19 U.S.C. § 1677(5A)(D)(i) because it is explicitly limited to an industry, namely the seafood processing industry. The Department has found that the fisheries and aquaculture sector are of sufficiently limited scope that programs targeted to these industries constitute countervailable subsidies under the law.[44]

3) Benefit

Under 19 C.F.R. § 351.504, grants under the program confer a benefit equal to the amount of the funding shrimp producers receive. Any grants received under the program from 2000 through 2011 should be countervailed as non-recurring subsidies, with the benefit allocated over the average useful life for the industry.[45]

Under 19 U.S.C. § 1677(5)(E)(i), loans confer a benefit equal to the difference between the amount the recipient would have paid on a commercial loan it could actually

[44] *See Final Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway*, 56 Fed. Reg. 7678, 7685 (Dep't Commerce Feb. 25, 1991).

[45] *See* 19 C.F.R. § 351.524(b), (c)(1). As discussed in section II, above, the average useful life for the fish processing industry is 12 years.

obtain on the market compared to the amount actually paid. The Department has determined that an external benchmark is required to measure the benefit conferred by subsidized loans provided in Vietnam due to the fact that loans provided by Vietnamese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.[46] The Department should similarly rely on an external benchmark in this case to ensure the benchmark interest rate reflects a commercial rate rather than one distorted by pervasive government intervention.

Finally, under 19 U.S.C. § 1677(5)(E)(iv), the provision of goods provides a benefit equal to the difference between the amount paid for the good and a commercial price under prevailing market conditions. In the recent case on retail carrier bags from Vietnam, the Department measured the benefit of the government provision of land in Vietnam based on commercial rental rates from outside of country due to distortions in domestic land prices because of the Vietnamese government's predominant role as an owner of land in the country.[47] The Department should similarly rely on an external benchmark to value the benefit conferred by the provision of land in this case.

Information reasonably available to the petitioner does not indicate the interest rates at which loans are provided under these programs or the prices charged, if any, for any goods provided under these programs. However, as noted above, the GOV has stated its intention to allocate $576 million under the plan for the 2011 to 2015 period. It is unknown how much of this amount will be provided in the form of grants, loans, or other forms. To the extent that the GOV provides land to expand seafood processing under the

[46] *PRCBs Prelim* at 45,814-15.

[47] *PRCBs IDM* at 8.

plan and the value of the land is not reflected in the plan's budget, the figure may under-represent the benefit producers receive under the plan.

In 2010, the latest year for which data are available, all aquaculture production in Vietnam totaled $5.15 billion.[48] Using aquaculture production as a proxy for seafood processing, and assuming similar production amounts for 2011 through 2015, the amounts allocated under the plan for the period would equal about 2.24% of the annual revenue for the sector.

C. Subsidized Loans for Aquaculture Upgrades

In late 2010, the GOV announced that it will provide loans for aquaculture businesses to modernize their equipment.[49] The loans are interest-free for the first two years, and 50% of the interest is covered by the government in the third year.[50] The loans are provided by the state-owned Vietnam Bank for Agriculture and Rural Development, and they are available only to aquaculture and to producers of rice, coffee, corn, sugar cane, and tea.[51] To qualify for the loan, firms must purchase 60% or more of the technology used to modernize their facilities from local suppliers.[52]

It appears that a Vietnamese shrimp producers did engage in expansion and upgrade projects in 2011. In late 2010, for example, Ninh Thuan Seafood Co., Ltd. received authorization to construct a new shrimp processing facility with modern

[48] United Nations Food and Agriculture Organization, Fisheries Information System, attached at **Exhibit VIII-6**.

[49] "Govt loans given to aquaculture firms for upgrades," FIS.com (Nov. 2, 2010), attached at **Exhibit VIII-7**.

[50] *Id.*

[51] *Id.*

[52] *Id.*

technology.[53] It reportedly invested $7 million in the facility, and the plant was expected to produce and export shrimp valued at $50 million per year.[54]

1) Financial contribution

The loans provide a financial contribution in the form of the direct transfer of funds from government-owned banks under 19 U.S.C. § 1677(5)(D)(i).

2) Specificity

The loans are specific because they are limited by law to a group of industries under 19 U.S.C. § 1677(5A)(D)(i). As noted above, the loans are limited to aquaculture and producers of rice, coffee, corn, sugar cane, and tea. In addition, the loans are specific under 19 U.S.C. § 1677(5A)(C) because they are contingent on the use of domestic over imported equipment.

3) Benefit

Under 19 U.S.C. § 1677(5)(E)(ii), the loans confer a benefit equal to the difference between the amount the recipient paid on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could obtain on the market. The Department has determined that an external benchmark is required to measure the benefit conferred by subsidized loans provided in Vietnam due to the fact that loans provided by Vietnamese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.[55] The Department should similarly rely on an external benchmark in this case to ensure the

[53] "Ninh Thuan: 135 billion VND investments for building shrimp processing factory for export," Vasep.com (Oct. 13, 2010), attached at **Exhibit VIII-8**.

[54] *Id.*

[55] *PRCBs Prelim* at 45,814-15.

benchmark interest rate reflects a commercial rate rather than one distorted by pervasive government intervention.

Financial statements from Vietnamese producers detailing the extent to which they may have benefitted from this loan program do not appear to be publicly available. However, if the Ninh Thong company benefitted from the program, it could have received an interest-free loan for as much as $7 million to build a modern facility. Using a domestic interest rate of 11% as a conservative benchmark,[56] and allocating the benefit of an interest-free loan of $7 million to $50 million of exports, the annual benefit of such a loan would translate into a subsidy margin of about 1.54%. The actual benefit amount is likely to be higher, since the Department should rely on an external benchmark consistent with prior practice.

D. Subsidized Loans for Exporters

In 2009, in response to the financial crisis, the GOV instituted a program to provide a 4-percent interest subsidy on loans to companies that export.[57] The government expected to lend companies about $970 million under the program.[58] To the extent loans continued to be made in 2011, or if any of the loans made in 2009 were long-term or still had amounts outstanding during the period of investigation, they would constitute countervailable subsidies under U.S. law.

[56] The rate charged by the Vietnam Bank for Agriculture and Rural Development at the time this program was announced was 11%. "Govt loans given to aquaculture firms for upgrades," FIS.com (Nov. 2, 2010), attached at **Exhibit VIII-7**.

[57] "Exporters say loan subsidy program of little use to them," Vietnam News (March 31, 2009), attached at **Exhibit VIII-9**.

[58] *Id.*

1) Financial contribution

The loans provide a financial contribution in the form of the direct transfer of funds from government-owned banks under 19 U.S.C. § 1677(5)(D)(i).

2) Specificity

The loans are specific because they are contingent on export performance under 19 U.S.C. § 1677(5A)(B).

3) Benefit

Under 19 U.S.C. § 1677(5)(E)(ii), the loans confer a benefit equal to the difference between the amount the recipient paid on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could obtain on the market. The Department has determined that an external benchmark is required to measure the benefit conferred by subsidized loans provided in Vietnam due to the fact that loans provided by Vietnamese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.[59] The Department should similarly rely on an external benchmark in this case to ensure the benchmark interest rate reflects a commercial rate rather than one distorted by pervasive government intervention.

The benefit for any particular exporter would depend on the amount of the loan received compared to his total exports. Based on a conservative internal Vietnamese loan interest benchmark, the benefit of a loan covering a firm's full export volume would equal 4%. A loan equivalent to only half of the firm's export volume would confer a benefit of 2%. As noted above, the Department should, consistent with prior practice, use

[59] *PRCBs Prelim* at 45,814-15.

an external benchmark to measure the benefit conferred by subsidized loans in Vietnam – thus, the actual benefit of the program is likely higher than the amounts estimated on the basis of distorted domestic interest rates.

E. Domestic Investment Promotion

Under its Domestic Investment Promotion Decree, the GOV provides a series of benefits to preferred industries.[60] Shrimp producers appear to qualify as preferred industries under a number of different criteria. We review first the qualifying criteria, then the different subsidies provided under the promotion decree.

1. Preferred Industry Qualification

The Decree includes in an Appendix three lists of preferred investment projects that are entitled to preference: List A, List B, and List C.

List A identifies preferred projects by enterprise type under seven different sections.[61] Projects in which shrimp farmers and processors are likely to engage are listed under each of the seven sections. Section I includes the following investment projects: "raising aquatic animals in natural water areas which have not been transformed and used yet" (sec. I.4) and "land reclamation, making full use of unused land for agricultural, forestry and fishery production" (sec. I.5).[62] Section II.1 lists investment projects in the construction of technical infrastructure, including building water plants and water supply and discharge systems as well as projects for

[60] Decree No. 51/1999/ND-CP of July 8, 1999 Detailing the Implementation of Law No. 03/1998/QH10 on Domestic Investment Promotion (Amended), attached at **Exhibit VIII-10** (page numbers have been added to the web document for ease of reference) (hereinafter "*Decree 51 - DIP*").

[61] *Id.* at pages 18-21.

[62] *Id.* at 19.

environmental protection and waste treatment.[63] Section III includes investment projects in producing and trading in export goods and/or services with a value exceeding 30% of that of the goods and services produced and/or traded in by the enterprise in a fiscal year.[64] Phuong Nam, for example, indicates that 85% to 95% of its annual turnover is exported.[65] Section IV includes the following investment projects: the processing of agricultural, forest, and aquatic products (sec. IV.2); technical services for the fishery sector, including stores for the preservation of aquatic products (sec. IV.5); and other plant and animal protection services, including the hybridization and multiplication of new strains and breeds and the storage and preservation of agricultural, forest, and marine products (sec. IV.6).[66] Section V includes the following investment projects: applying biological technologies on industrial scale to the production of animal breeds, animals and plants, food, and certain other products that meet advanced economic-technical criteria (sec. V.3).[67] Section VI includes investment in the establishment of new workshops, installation of new production chains, addition of more machinery to existing production chains, installation of new machinery and equipment in replacement of all machinery and equipment of existing production lines, and the application of new technologies to production (sec. VI.2).[68] Section VII includes investment projects in manufacturing, assembling and repairing machinery and equipment for the production

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[63] *Id.*

[64] *Id.*

[65] *See* **Exhibit VIII-3B.**

[66] *See Decree 51 - DIP* at 19-20.

[67] *Id.* at 20.

[68] *Id.* at 20-21.

and processing of agricultural, forest, and aquatic products (sec. VII.3) and investment projects in the production of plant seeds and animal breeds (sec. VII.4).[69]

List B identifies "regions meeting with socio-economic difficulties" whose industries are preferred; it includes two groups of regions: districts of high-mountain provinces (Section I regions) and districts of mountain provinces and delta areas (Section II regions).[70] At least one Vietnamese shrimp company, Phuong Nam is located in Soc Trang City, the capital of Soc Trang Province.[71] The capital of Soc Trang Province is included on List B as a Section II region.[72]

List C identifies "regions meeting with special socio-economic difficulties" whose industries are preferred; it also identifies two groups of regions: districts of high-land and island provinces (Section I) and districts of mountain provinces and delta ethnic minority regions (Section II).[73] The province of Ca Mau is identified as a significant center for Vietnamese shrimp aquaculture.[74] The U Minh district in Ca Mau province is identified on List C as one of its Section II regions.[75]

The Decree specifies that investors in branches and trades identified in List A and that employ at least 100 workers in urban areas, at least 20 in List B or List C areas, or at least 50 elsewhere are entitled to preferences.[76] These conditions are referred to

[69] *Id.* at 21.

[70] *Id.* at 21-25.

[71] *See* **Exhibit VIII-3B**, Phuong Nam materials.

[72] *Decree 51 – DIP* at 25 (no. 33(3)) (**Exhibit VIII-10**).

[73] *Id.* at 25-29.

[74] *See* **Exhibit VIII-3A**, page on Ca Mau; also, **Exhibit III-9** which indicates that Minh Phu is based in southern Ca Mau province.

[75] *Decree 51 – DIP*, at 28 (no. 22(1)) (**Exhibit VIII-10**).

[76] *Id.* at Article 15 at 6.

elsewhere in the Decree as "Article 15" conditions. The companies identifies in Exhibit VIII-3 appear to be of sufficient size that they employ more than one hundred people. For example, Phuong Nam states that it has 3,200 employees.[77]

The Decree specifies a series of different subsidies that are available to preferred entities, including exemptions and reductions in land use levies, rent, and taxes, as well as various other tax preferences. Each of these benefits constitutes a countervailable subsidy under U.S. law; they are reviewed in more detail below.

2. *Land Use Levy Exemption/Reduction (Article 17)*[78]

Under this Article, certain investors assigned land by the State and paying the land-use levy for their production and business activities shall enjoy the following land-use levy preferences.[79] Those that qualify include: (1) investment projects that fall into branches, trades and domains defined in List A; (2) those that are executed in the regions defined in List B; and (3) investment projects in the regions defined in List C of the Appendix.[80] The benefits include: (1) 50% reduction of the land-use levy, if the investment projects fall into branches, trades and domains defined in List A; (2) 75% reduction of the land-use levy if the investment projects are executed in the regions defined in List B; (3) exemption of land-use levy if the investment projects fall into branches, trades and domains defined in List A and are executed in the regions defined in List B, or if the investment projects are executed in the regions defined in List C.[81]

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[77] *See* **Exhibit VIII-3B**.

[78] Note: the Articles referred to in this caption and the next seven are Articles in *Decree 51 - DIP*, attached at **Exhibit VIII-10.**

[79] *Id.* at 6.

[80] *Id.*

[81] *Id.*

As there are shrimp producers that qualify under each of the lists, shrimp producers may have used this preference.

a) Financial contribution

The GOV owns all land in Vietnam, and as is noted above, this program applies to investors that have been assigned land use rights by the government. The Department has countervailed the GOV's provision of land exempt from rental payments as the government provision of a good for less than adequate remuneration under 19 U.S.C. § 1677(5)(D)(iii).[82] It should similarly treat exemptions and reductions in the land use levy as the provision of a good under 19 U.S.C. § 1677(5)(D)(iii).

b) Specificity

The exemptions and reductions are specific, because they are expressly limited by law to a group of enterprises or industries under 19 U.S.C. § 1677(5A)(D)(i). The 30 "branches and trades" identified in List A appear to be sufficiently limited to qualify as specific under the Department's practice, and the Department has in fact found that tax benefits granted under the Decree met the requirements of the statute.[83] Benefits based on a firm's geographic location are also specific under 19 U.S.C. § 1677(5A)(D)(iv) so that benefits granted to projects qualifying as List B or List C projects are also specific. Land-use levy reductions and exemptions that are contingent upon export performance are specific under 19 U.S.C. § 1677(5A)(B).

c) Benefit

Under 19 U.S.C. § 1677(5)(E)(iv), the provision of goods provides a benefit equal to the difference between the amount paid for the good and a commercial price under

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[82] *PRCBs IDM* at 7-8.

[83] *Id.* at 6-7.

prevailing market conditions. In the recent case on retail carrier bags from Vietnam, the Department measured the benefit of the government provision of land in Vietnam based on commercial rental rates from outside of country due to distortions in domestic land prices because of the Vietnamese government's predominant role as an owner of land in the country.[84] The Department should similarly rely on an external benchmark to value the benefit conferred by the provision of land in this case.

3. Land Rent Exemption/Reduction (Article 18)

Under this Article, certain investors renting land are exempt from rent from the time of signing the land rent contract as follows.[85] Investors are entitled to a three year exemption if they meet one of the Article 15 conditions, and a six-year exemption if they meet two of them. Investors with projects in the regions defined in List B, Section II, qualify for a seven-year exemption. Investors with projects in the regions defined in List B, Section I, qualify for a ten-year exemption. Investors with projects in the regions defined in List B and that meet one of the Article 15 conditions qualify for an eleven-year exemption for List A projects. Investors with projects in the regions defined in List B and that meet both of the Article 15 conditions qualify for a thirteen-year exemption. Investors with projects in the regions defined in Section II, List C qualify for an eleven-year exemption. Investors with projects in the regions defined in Section I, List C qualify for a fifteen-year exemption. Investors with List A projects in the regions defined in List C qualify for land-rent exemption throughout the duration of their implementation.

[84] *Id.* at 8.

[85] *Decree 51 - DIP* at 6-7 (**Exhibit VIII-10**).

As there are shrimp producers that qualify under each of the lists as well as the Article 15 conditions, shrimp producers likely benefitted from this preference.

a) Financial contribution

The GOV owns all land in Vietnam, and as is noted above, this program applies to investors that rent land from the government. The Department has countervailed the GOV's provision of land exempt from rental payments as the government provision of a good for less than adequate remuneration under 19 U.S.C. § 1677(5)(D)(iii).[86] It should do the same in this case.

b) Specificity

The land rent exemptions and reductions are specific, because they are expressly limited by law to a group of enterprises or industries under 19 U.S.C. § 1677(5A)(D)(i). The 30 "branches and trades" identified in List A appear to be sufficiently limited to qualify as specific under the Department's practice, and the Department has in fact found that tax benefits granted under the Decree met the requirements of the statute.[87] Benefits based on a firm's geographic location are also specific under 19 U.S.C. § 1677(5A)(D)(iv) so that benefits granted to projects qualifying as List B or List C projects are also specific. Rent reductions and exemptions that are contingent upon export performance are specific under 19 U.S.C. § 1677(5A)(B).

c) Benefit

Under 19 U.S.C. § 1677(5)(E)(iv), the provision of goods provides a benefit equal to the difference between the amount paid for the good and a commercial price under prevailing market conditions. In the recent case on retail carrier bags from Vietnam, the

[86] *PRCBs IDM* at 7-8.

[87] *Id.*

Department measured the benefit of the government provision of land in Vietnam based on commercial rental rates from outside of country due to distortions in domestic land prices because of the Vietnamese government's predominant role as an owner of land in the country.[88] The Department should similarly rely on an external benchmark to value the benefit conferred by the provision of land in this case.

4. Land-Use Tax Exemption/Reduction (Article 19)

Under this Article, certain investors assigned land are exempt from taxes from the time of being assigned land as follows. Investors are entitled to a 50% reduction of the land-use tax for 7 years for investment projects specified in Section II of List A and exemption of the land-use tax throughout the duration of the implementation of projects for projects prescribed in Section I of List A.[89] Investors with investment projects described in List B shall enjoy a 7-year exemption for projects in the areas defined in Section II, List B and a 10-year exemption for projects in the regions defined in Section I, List B.[90] Investors with list B projects who at the same time satisfy the conditions prescribed in Article 15 shall enjoy an 11-year exemption for List A investment projects and a 15-year exemption for projects that fully meet two conditions prescribed in Clauses 1 and 2, Article 15 of this Decree.[91] Investors having List C projects shall enjoy an 11-year exemption for projects in the regions defined in Section II, List C and a 15-year exemption for projects in the regions defined in Section I, List C.[92] Investors in List A

[88] *Id.* at 8.

[89] *Decree 51 - DIP* at 7 **(Exhibit VIII-10)**.

[90] *Id.*

[91] *Id.*

[92] *Id.*

projects that are implemented in the regions defined in List C shall enjoy the land-use tax exemption throughout the whole duration of their implementation.[93]

As there are shrimp producers that qualify under each of the lists as well as the Article 15 conditions, shrimp producers likely benefitted from this preference.

a) Financial contribution

Under 19 U.S.C. § 1677(5)(D)(ii), the foregoing of tax revenue otherwise due constitutes a financial contribution.

b) Specificity

The tax exemptions and reductions are specific, because they are expressly limited by law to a group of enterprises or industries under 19 U.S.C. § 1677(5A)(D)(i). The 30 "branches and trades" identified in List A appear to be sufficiently limited to qualify as specific under the Department's practice, and the Department has in fact found that tax benefits granted under the Decree met the requirements of the statute.[94] Benefits based on a firm's geographic location are also specific under 19 U.S.C. § 1677(5A)(D)(iv) so that benefits granted to projects qualifying as List B or List C projects are also specific. Tax incentives that are contingent upon export performance are specific under 19 U.S.C. § 1677(5A)(B).

c) Benefit

The tax incentives confer a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509.

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[93] *Id.*

[94] *PRCBs IDM* at 6-7.

5. *Enterprise Income Tax Preferences (Articles 20 and 21)*

Under these Articles, certain investors are entitled to income tax rate preferences[95] as shown in the table below.[96]

List	Region	Preferential tax rate
A	All	25%
B	All	25%
A	Regions defined in List B	20%
C	All	20%
A	Regions defined in List C	15%

The terms of these preferential rates are shown below.[97]

Requirements	Preferential rate term	Additional preferences
Projects meeting 1 Article 15 condition	2 year exemption	50% reduction of the payable tax amount for 2 subsequent years
Projects meeting 2 Article 15 conditions	2 year exemption	50% reduction of the payable tax amount for 4 subsequent years
List A projects implemented in List B regions	3 year exemption	50% reduction of the payable tax amount for 5 subsequent years
Projects meeting 2 Article 15 conditions implemented in List B regions	3 year exemption	50% reduction of the payable tax amount for 7 subsequent years
List A projects implemented in List C regions	4 year exemption	50% reduction of the payable tax amount for 7 subsequent years
Projects meeting 2 Article 15 conditions implemented in List C regions	4 year exemption	50% reduction of the payable tax amount for 9 subsequent years

[95] The various tax preferences identified here and in the next three sections of this petition have been superseded by similar or identical provisions identified in Decree No. 164/2003/ND-CP Law on Enterprise Income Tax and Implementing Details, attached at **Exhibit VIII-11** (hereinafter "*Decree 164 - Tax*") (page numbers have been added to the web document for ease of reference). In fact, it appears to "annul" the enterprise tax rates, exemption, and reduction prescribed in *Decree 51 - DIP*. *Decree 164 - Tax* at Article 50, p. 20. However, the Department has found that a company was allowed to keep its preference under the old regime governed by Decree No. 51/1999/ND-CP of July 8, 1999 Detailing the Implementation of Law No. 03/1998/QH10 on Domestic Investment Promotion (Amended). *PRCBs IDM* at 6; *see also Decree 51 – DIP* at 7-8 (**Exhibit VIII-10**). We have included in this petition the tax programs from the latter as well as the former. *See infra.*

[96] *Decree 51 – DIP* at 7-8 (**Exhibit VIII-10**).

[97] *Id.*

As there are shrimp producers that qualify under each of the lists as well as the Article 15 conditions, shrimp producers likely benefitted from this preference.

a) Financial contribution

Under 19 U.S.C. § 1677(5)(D)(ii), the foregoing of tax revenue otherwise due constitutes a financial contribution.

b) Specificity

The tax exemptions and reductions are specific, because they are expressly limited by law to a group of enterprises or industries under 19 U.S.C. § 1677(5A)(D)(i). The 30 "branches and trades" identified in List A appear to be sufficiently limited to qualify as specific under the Department's practice, and the Department has in fact found that tax benefits granted under the Decree met the requirements of the statute.[98] Benefits based on a firm's geographic location are also specific under 19 U.S.C. § 1677(5A)(D)(iv) so that benefits granted to projects qualifying as List B or List C projects are also specific. Tax incentives that are contingent upon export performance are specific under 19 U.S.C. § 1677(5A)(B).

c) Benefit

The tax incentives confer a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509.

6. Enterprise Income Tax Preferences for Business Expansion and Intensive Investment Projects (Article 23)

Under this Article, certain investors are entitled to income tax rate preferences as shown in the table below.[99]

[98] *PRCBs IDM* at 6-7.

[99] *Decree 51* – DIP at 8 **(Exhibit VIII-10)**.

Requirements	Preferential rate term	Additional preferences
List A business expansion and intensive investment projects	1 year exemption	50% reduction of the payable tax amount for 4 subsequent years
List A business expansion and intensive investment projects in List B regions	3 year exemption	50% reduction of the payable tax amount for 5 subsequent years
List A business expansion and intensive investment projects in List C regions	4 year exemption	50% reduction of the payable tax amount for 7 subsequent years

As there are shrimp producers that qualify under each of the lists, shrimp producers likely benefitted from this preference.

a) Financial contribution

Under 19 U.S.C. § 1677(5)(D)(ii), the foregoing of tax revenue otherwise due constitutes a financial contribution.

b) Specificity

The tax exemptions are specific, because they are expressly limited by law to a group of enterprises or industries under 19 U.S.C. § 1677(5A)(D)(i). The 30 "branches and trades" identified in List A appear to be sufficiently limited to qualify as specific under the Department's practice, and the Department has in fact found that tax benefits granted under the Decree met the requirements of the statute.[100] Benefits based on a firm's geographic location are also specific under 19 U.S.C. § 1677(5A)(D)(iv) so that benefits granted to projects qualifying as List B or List C projects are also specific. Tax incentives that are contingent upon export performance are specific under 19 U.S.C. § 1677(5A)(B).

[100] *PRCBs IDM* at 6-7.

c) Benefit

The tax incentive confers a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509.

7. *Exemption of Import Tax on Equipment and Machinery Imported to Create Fixed Assets (Article 26)*

Under this Article of the Decree, investors with List A projects or projects implemented in List B or List C regions are exempt from import tax on specialized equipment, machinery, and transport means that cannot be produced in Vietnam or that can be produced but do not meet quality standards.[101]

As there are shrimp producers that qualify under each of the lists, shrimp producers likely benefitted from this preference.

a) Financial contribution

Under 19 U.S.C. § 1677(5)(D)(ii), the foregoing of tax revenue otherwise due constitutes a financial contribution.

b) Specificity

The tax exemptions are specific, because they are expressly limited by law to a group of enterprises or industries under 19 U.S.C. § 1677(5A)(D)(i). The 30 "branches and trades" identified in List A appear to be sufficiently limited to qualify as specific under the Department's practice, and the Department has in fact found that tax benefits granted under the Decree met the requirements of the statute.[102] Benefits based on a firm's geographic location are also specific under 19 U.S.C. § 1677(5A)(D)(iv) so that benefits granted to projects qualifying as List B or List C projects are also specific. Tax

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[101] *Decree 51 – DIP* at 9 **(Exhibit VIII-10)**.

[102] *PRCBs IDM* at 6-7.

incentives that are contingent upon export performance are specific under 19 U.S.C. § 1677(5A)(B).

c) Benefit

The tax incentive confers a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509.

8. Additional Tax Preferences for Investors Producing and/or Dealing in Export Goods (Article 27)

Under this Article of the Decree, investors that produce and/or deal in exports are entitled to tax reductions as follows.[103]

Rate reduction	Rate reduction applied to	Qualification requirements
50%	Income generated by	(a) export in the first year conducted by direct export; or (b) export of new commodities with economic-technical as well as utility properties other than those of the commodities already exported; or (c) exports to new overseas markets or new territories other than former markets.
50%	Additional income arising from export in a fiscal year where	Export turnover in the current year is greater than that in the previous year.
20%	Income from exports where	(a) Export turnover accounts for more than 50% of the total turnover; and (b) Export markets are stable in term of the volume or value of export goods for the three previous consecutive years.
An additional 25%	Income from exports where	Investors identified in any of the first three categories above implement their projects in List B regions.
Full tax exemption	Income from exports where	Investors identified in any of the first three categories above implement their projects in List C regions.

[103] *Decree 51 – DIP* at 9-10 **(Exhibit VIII-10)**.

a) Financial contribution

Under 19 U.S.C. § 1677(5)(D)(ii), the foregoing of tax revenue otherwise due constitutes a financial contribution.

b) Specificity

The tax exemptions are specific, because they are contingent upon export performance as a matter of law under 19 U.S.C. § 1677(5A)(B). Benefits based on a firm's geographic location are also specific under 19 U.S.C. § 1677(5A)(D)(iv) so that benefits granted to projects qualifying as List B or List C projects are also specific.

c) Benefit

The tax incentive confers a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509.

9. Investment Support (Article 30)

Under this Article of the Decree, investors with projects eligible for preferences in the Decree are also to be considered by government agencies for "investment support."[104] In addition, such firms that are engaged in export activities will be considered by the National Export Support Fund for export credit loans with preferential interest covering up to 70% of the total credits to be used for the performance of their respective signed export contracts.[105] Alternatively, such firms will be considered by the National Export Support Fund for guarantees of up to 80% of the total credits needed for the performance of such contracts.[106]

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[104] *Id.* at 10.

[105] *Id.*

[106] *Id.*

a) Financial contribution

Export credits provide a financial contribution in the form of the direct transfer of funds from government-owned banks under 19 U.S.C. § 1677(5)(D)(i). Export credit guarantees provide a financial contribution in the form of a potential direct transfer of funds under 19 U.S.C. § 1677(5)(D)(i).

b) Specificity

Export credits and guarantees are specific, because they are contingent upon export performance as a matter of law under 19 U.S.C. § 1677(5A)(B).

c) Benefit

Under 19 U.S.C. § 1677(5)(E)(ii), export credits confer a benefit equal to the difference between the amount the recipient paid on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could obtain on the market. The Department has determined that an external benchmark is required to measure the benefit conferred by subsidized loans provided in Vietnam due to the fact that loans provided by Vietnamese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.[107] The Department should similarly rely on an external benchmark in this case to ensure the benchmark interest rate reflects a commercial rate rather than one distorted by pervasive government intervention.

Under 19 U.S.C. §1677(5)(E)(iii), and export credit guarantee provides a benefit to the extent there is a difference between the amount the recipient of the guarantee pays on the guaranteed loan and the amount the recipient would pay for a comparable

[107] *PRCBs Prelim* at 45,814-15.

commercial loan without the guarantee. As noted above, the Department should rely on an external interest rate benchmark to determine the benefit of this program.

F. Tax Preferences for Encouraged Industries

The GOV's Decree implementing its Law on Enterprise Income Tax is similar in structure to *Decree 51 – DIP*, though the benefits it confers are limited to tax benefits. Under the former Decree, the GOV provides tax exemptions and reductions for "encouraged" industries.[108] It addresses "Enterprise income tax exemption and reduction" in Chapter V of the Decree.[109] Under the first article of Chapter V (Article 33) of the Decree, investment projects are identified as entitled to enterprise income tax preferences if they: (1) involve projects identified in List A; or (2) employ at least 100 laborers in urban centers, 20 workers in List B or List C geographic areas, or 50 laborers in other regions.[110] The companies identified in Exhibit VIII-3 appear to be of sufficient size that they employ more than one hundred people. For example, Phuong Nam states that it has 3,200 employees.[111] The lists are included as an Appendix to the Decree. In addition, one shrimp producer has identified eight subsidiaries (all of whom appear to be involved in the shrimp industry) that have received and are receiving different levels of enterprise income tax reductions and exemptions.[112]

Investment projects in the following branches, lines, and domains are identified in List A as eligible for preferences: raising and culturing aquatic resources in unexploited water areas (sec. I.5); investing in the construction of water plants and water-supply

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[108] *Decree 164 - Tax* at 14, attached at **Exhibit VIII-11.**

[109] *Id.* at 14-19.

[110] *Id.* at 14.

[111] *See* **Exhibit VIII-3B**, Phuong Nam materials.

[112] *See* Minh Phu 2011 annual report at 77-78, copy included in **Exhibit VIII-3C**.

systems in service of daily life and industrial activities, and investing in the construction of water-drainage systems (sec. II.2); projects for production of, and trading in, export goods with an export value exceeding 50% of the total value of goods produced and/or traded in a fiscal year (sec. III); processing and preserving aquatic products from domestic raw materials (sec. IV.4); and aquacultural services, the hybridization and multiplication of new strains and breeds, services preserving agricultural, forestry, and aquatic products, and the building of warehouses for preservation of agricultural, forestry and aquatic products (sec. IV.5).[113] Each of these types of projects could be undertaken by shrimp producers and processors and so they are likely to have obtained benefits for them.

List B identifies geographical areas "meeting with socio-economic difficulties, which are entitled to investment preferences."[114] As was noted above, at least one Vietnamese shrimp company, Phuong Nam, is located in Soc Trang City, the capital of Soc Trang Province.[115] The capital of Soc Trang Province is included on List B as a preferred region.[116]

List C identifies geographical areas "meeting with special socio-economic difficulties, which are entitled to investment preferences."[117] The province of Ca Mau is

[113] *Decree 164 - Tax* at 21-22 (**Exhibit VIII-11**).

[114] *Id.* at 23.

[115] *See* **Exhibit VIII-3B**, Phuong Nam materials.

[116] *Decree 164 - Tax* at 27-28 (No. 39) (**Exhibit VIII-11**).

[117] *Id.* at 29-33.

identified as a significant center for Vietnamese shrimp aquaculture.[118] The U Minh district in Ca Mau province is identified on List C as one of its preferred regions.[119]

In sum, shrimp producers qualify as engaged in List A projects, and shrimp producers appear to be located in List B and List C geographic areas; moreover, they employ significantly more people than those required for preferences. Thus, they are qualified to receive the different kinds of tax preferences identified in *Decree 164 - Tax*.

The Decree sets out preferential enterprise income tax rates of 20%, 15%, and 10%, and some complete exemptions from income tax, depending on whether the entity is engaged in an activity included in List A, whether the entity is located in a region in list B or C, whether the entity is engaged in a new business, is expanding or improving its current business, is located in a certain zone, and other criteria.[120]

These income tax preferences provide countervailable subsidies under U.S. law, and they have been countervailed by the Department in a previous case.[121]

1) <u>Financial contribution</u>

The tax incentives provide a financial contribution in the form of government revenue foregone under 19 U.S.C. § 1677(5)(D)(ii).

2) <u>Specificity</u>

The tax incentives are specific, because they are expressly limited by law to a group of enterprises or industries under 19 U.S.C. § 1677(5A)(D)(i). The 41 projects and activities listed as "encouraged" under the law appear to be sufficiently limited to qualify

[118] *See* **Exhibit VIII-3A**, page on Ca Mau; also, **Exhibit VIII-9** which indicates that Minh Phu is based in southern Ca Mau province.

[119] *Decree 164 - Tax* at 32-33 (No. 36) (**Exhibit VIII-11**).

[120] *Id.* at 14 – 19 (Articles 35 – 46).

[121] *PRCBs IDM* at 6-7.

as specific under the Department's practice, and the Department found an older version of these tax incentives sufficiently specific to be countervailable in a previous case.[122] In addition, additional benefits based on a firm's geographic location are also specific under 19 U.S.C. § 1677(5A)(D)(iv). Finally, tax benefits based on a firm's export performance are specific under 19 U.S.C. § 1677(5A)(B).

3) Benefit

The tax incentives confer a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509. Normally, enterprises in Vietnam are subject to a 25% enterprise income tax.[123] Enterprises eligible for the full exemption would enjoy a benefit equal to 25% of their taxable income. Enterprises that are subject to reduced rates would receive a benefit equal to the difference between the rate paid and the rate otherwise due.

G. Tax Preferences for Exporters

In addition to the tax reductions and exemptions identified above, the GOV also provides exemptions and reductions for exporters that meet certain requirements. Article 39 of Decree 164 grants business establishments meeting certain export criteria additional enterprise income tax preferences as delineated in the table below.[124] As we have noted, at least one shrimp processor, Phuong Nam, indicates that 85% to 95% of its annual turnover is exported. [125]

[122] *Id.*

[123] World Bank Doing Business in Vietnam, attached at **Exhibit VIII-12.**

[124] *Decree 164 - Tax* at 17-18 **(Exhibit VIII-11).**

[125] *See* **Exhibit VIII-3B.**

Rate reduction	Rate reduction applied to	Qualification requirements
50%	Income generated by	(a) export in the first year conducted by direct export; or (b) export of new commodities with economic-technical as well as utility properties different from those of the commodities already exported; or (c) exports to new overseas markets or new territories other than former markets.
50%	Additional income arising from export in a fiscal year where	Export turnover in the current year is greater than that in the previous year.
20%	Income from exports where	(a) Export turnover accounts for more than 50% of the total turnover (the tax reduction is to be considered annually); b) Export markets are stable in term of the volume or value of export goods for the three previous consecutive years.
An additional 25%	Income from exports where	Investors identified in any of the first three categories above implement their projects in List B regions.
Full tax exemption	Income from exports where	Investors identified in any of the first three categories above implement their projects in List C regions.

The tax incentives are countervailable subsidies under U.S. law.

1) Financial contribution

The tax incentives provide a financial contribution in the form of government revenue foregone under 19 U.S.C. § 1677(5)(D)(ii).

2) Specificity

The tax incentives are specific, because they are contingent upon export performance as a matter of law under 19 U.S.C. § 1677(5A)(B). Additional benefits based on a company's geographical location are also specific under 19 U.S.C. § 1677(5A)(D)(iv).

3) Benefit

The tax incentives confer a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509. Normally, enterprises in Vietnam are subject to a 25% enterprise income tax.[126] Firms eligible for a 20%, 45%, 50%, or 75% reduction, or the full exemption of the payable enterprise income tax on the income from export, would enjoy a benefit equal to 5%, 11.25%, 12.5%, 18.75%, or 25% of their taxable export income, respectively.

H. Tax Preferences for FIEs

At least one Vietnamese shrimp producer has foreign investment.[127] The GOV imposes a 25% enterprise income tax on foreign-invested enterprises ("FIEs").[128] FIEs may qualify for a lower tax rate of 15% if they are on the list of encouraged industries and projects, in geographical areas with difficult socio-economic conditions, or in an industrial park if they export more than 50% of their products, among other alternative qualifying criteria.[129] They may also qualify for an income tax rate of 10% if they satisfy two of the 15% criteria mentioned above, are on the list of particularly encouraged investments, are in geographical areas with particularly difficult socio-economic conditions, or are export-processing enterprises, among other alternative qualifying

[126] World Bank Doing Business in Vietnam, attached at **Exhibit VIII-12.**

[127] *See* Public Separate Rate Application of C.P. Vietnam Corporation (5/29/21012) at 4, filed in the antidumping administrative review for the period 2/1/11 – 1/31/12 of shrimp from Vietnam (A-522-802) which identifies the company as entirely owned by a foreign entity or entities; excerpts included in **Exhibit VIII-3B.**

[128] Decree No. 24/2000/ND-CP (Jul. 31, 2000) Detailing the Implementation of the Law on Foreign Investment in Vietnam, Article 45 at 14, attached at **Exhibit VIII-13** (numbering added to web document for ease of reference) (hereinafter "*Decree 24 - FIE*").

[129] *Id.*, Article 46.2 at 15.

criteria.[130] If investment in a project is encouraged, does not qualify for the 10% or 15% rates, and does not involve oil, gas, or other are and precious natural resources, it may qualify for a 20% rate.[131] These preferential rates may last 10 years, 12 years, 15 years, or throughout a firms' existence, depending on their particular reasons for qualification.[132]

During their initial years of generating profits, FIEs enjoy further income tax exemptions and reductions.[133] Specifically, FIEs that qualify for the 20% rate enjoy enterprise income tax exemption for 1 year and a 50% reduction for the 2 subsequent years, effectively lowering their income tax rate to 0% for 1 year and then 10% for the next 2 years.[134] FIEs that qualify for the 15% rate enjoy enterprise income tax exemption for 2 years and a 50% reduction for the 3 subsequent years, effectively lowering their income tax rate to 0% for 2 years and then 7.5% for the next 3 years.[135] Finally, FIEs that qualify for the 10% rate enjoy an enterprise income tax exemption for 4 years and a 50% reduction for the 4 subsequent years, effectively lowering their enterprise income tax rate to 0% for 4 years and then 5% for the next 4 years.[136]

The projects with investment encouragement are identified in Appendix I to *Decree 24 - FIE.*[137] The projects listed in Group I ("List of Projects with Special Investment Encouragement") include: (1) production or processing with 80% or more of

[130] *Id.*, Article 46.3 at 15.

[131] *Id.*, Article 46.1(b) at 14-15.

[132] *Id.*, Article 46.4 at 15.

[133] *Id.*, Article 48 at 16.

[134] *Id.*

[135] *Id.*

[136] *Id.*

[137] *Id.* at 41.

the products for export; (2) processing of agricultural products, forest products (excluding timber) or aquatic products from domestic raw materials, with 50% of the products for export; (3) production of new breeds with high quality and economic efficiency; and (4) agricultural farming, forestation, and aquaculture. Vietnamese shrimp producers are engaged in aquaculture, and, as we have reviewed above, they are also major exporters. For example, Phuong Nam indicates that 85% to 95% of its annual turnover is exported.[138] Thus, projects undertaken by the shrimp producers with foreign investment would qualify as Special Investment Encouragement projects and so entitle the producer to a preferential tax rate or rates.

The second group of projects ("List of Projects with Investment Encouragement") includes: (1) production or processing with 50% or more of products for export; (2) production or processing with 30% or more of the products for export and with the use of large percentages of domestic raw materials and materials (valued at 30% or more of the production cost); (3) projects with intensive employment of Vietnamese laborers and efficient use of natural resources available in Vietnam; and (4) processing of farm produce, forest products (excluding timber), and aquatic products.[139] Similarly, projects undertaken by the shrimp producers with foreign investment would qualify as Investment Encouragement projects and so entitle the producer to a preferential tax rate or rates.

A third basis for preferential treatment under *Decree 24 - FIE* is geographic locations. The Decree identifies as "Geographical Areas where Investment Is Encouraged" provinces that face "particularly difficult socio-economic conditions,"

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[138] *See* **Exhibit VIII-3B.**

[139] *Decree 24 FIE*, Appendix I, Group II at 41 (**Exhibit VIII-13**).

including Soc Trang and Ca Mau.[140] As reviewed above, there are shrimp producers in both of these provinces.[141] Thus, projects undertaken in these areas by the shrimp producers with foreign investment would qualify as Investment Encouragement projects and so entitle the producer to a preferential tax rate or rates.[142]

These tax incentives are countervailable subsidies under U.S. law and they have been previously countervailed by the Department.[143]

1) Financial contribution

The tax incentives provide a financial contribution in the form of government revenue foregone under 19 U.S.C. § 1677(5)(D)(ii).

2) Specificity

The tax incentives are specific because they are expressly limited by law to a group of enterprises, *i.e.*, FIEs, under 19 U.S.C. § 1677(5A)(D)(i). The Department has found FIEs to be a sufficiently narrow group to support a finding of specificity in previous cases.[144]

Additional criteria that allow FIEs to enjoy further reductions or exemptions under certain conditions also make these tax preferences specific under other statutory sub-provisions. For example, the list of encouraged industries appear to be sufficiently limited to qualify as specific under the Department's practice, as discussed above.[145]

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[140] *Id.*, Appendix I, Group III (items 58 and 6) at 48.

[141] *See supra* at VIII-17.

[142] One company has indicated that eight of its subsidiaries have benefitted or are benefitting from enterprise income tax elimination or reduction. More may be benefitting from this program. *See* Minh Phu 2011 annual report at 77-78, copy included in **Exhibit VIII-3C**.

[143] *PRCBs IDM* at 7.

[144] *Id.*

[145] *Id.* at 6.

Benefits contingent on a firm's geographical location are specific under 19 U.S.C. § 1677(5A)(D)(iv). The requirement that the FIEs export more than 50% of their products or are export-processing enterprises to qualify for certain benefits also makes those benefits specific under 19 U.S.C. § 1677(5A)(B), because they are contingent in law upon export performance.

3) Benefit

The tax incentives confer a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509. Normally, FIEs in Vietnam are subject to a 25% enterprise income tax.[146] FIEs which qualify for the full exemption, or a 5%, 7.5%, 10%, 15%, or 20% income tax rate would enjoy benefits equal to 25%, 20%, 17.5%, 15%, 10% or 5% of their taxable income, respectively.

I. Exemption from Land and Water Rents for Encouraged Industries

The GOV exempts firms from land rent and surface water rent for investment projects in the domains where investment is specially encouraged and are executed in geographical areas facing exceptional socio-economic difficulties.[147] As noted above, the aquaculture and seafood processing industries are encouraged under the GOV's development plan, and shrimp producers are located in geographical areas with exceptional socio-economic difficulties.[148] They are also recognized as encouraged industries in Vietnam's enterprise income tax law.[149] In addition, in one recent case on

[146] *Decree 24 - FIE*, Article 45 at 14 (**Exhibit VIII-13**).

[147] Decree No. 142/2005/ND-CP (Nov. 14, 2005), Article 14(1) at 10, attached at **Exhibit VIII-15** (page numbers have been added to original document for ease of reference).

[148] *Decree 51 - DIP* (**Exhibit VIII-10**)*: see* discussion of qualification *supra* at VIII-15 - 17.

[149] *Decree 164 - Tax* (**Exhibit VIII-11**); *see* discussion of qualification *supra* at VIII-30.

Vietnam, the Department uncovered instances in which land rents are reduced or eliminated based on a company's export performance.[150]

Exemptions from land and surface water rental payments are countervailable subsidies under U.S. law.

1) Financial contribution

The GOV owns all land and water resources in Vietnam. The Department has countervailed the GOV's provision of land exempt from rental payments as the government provision of a good for less than adequate remuneration under 19 U.S.C. § 1677(5)(D)(iii), and it should continue to treat such exemptions as the provision of a good in this case.[151]

2) Specificity

The exemption from land and water rents for encouraged industries is specific because it is limited to a group of industries under 19 U.S.C. § 1677(5A)(D)(i). Benefits contingent on a firm's geographical location are also specific under 19 U.S.C. § 1677(5A)(D)(iv). In addition, to the extent any reductions or exemptions from rent are based on a firm's export performance, they are specific under 19 U.S.C. § 1677(5A)(B).

3) Benefit

Finally, under 19 U.S.C. § 1677(5)(E)(iv), the provision of goods provides a benefit equal to the difference between the amount paid for the good and a commercial price under prevailing market conditions. In the recent case on retail carrier bags from Vietnam, the Department treated the exemption from land rent as the provision of a good for less than adequate remuneration, based on commercial rental rates from outside of

[150] *PRCBs IDM* at 7-8.

[151] *Id.*

Vietnam due to distortions in the country's land prices because of the Vietnamese government's predominant role as an owner of land in the country.[152] The Department should similarly rely on an external benchmark to value the benefit conferred by the provision of land and water in this case. The benefit to any particular company will depend on the total land area exempted from rent compared to that company's sales revenue.

J. Import Duty Exemptions for Imported Raw Materials for Exported Goods

Vietnam provides an import duty exemption for raw materials imported by producers of exported goods.[153] The Department has determined that Vietnam does not have in place a system to confirm which inputs are consumed in the production of the exported products and in what amounts.[154] The import duty exemptions thus constitute a countervailable subsidy under U.S. law, and they have been previously countervailed by the Department.[155]

1) Financial contribution

Import duty exemptions provide a financial contribution in the form of government revenue foregone under 19 U.S.C. § 1677(5)(D)(ii).

2) Specificity

Import duty exemptions for exporters are specific because they are contingent on export performance under 19 U.S.C. § 1677(5A)(B).

[152] *Id.* at 8.

[153] Law on Import Tax and Export Tax, Law No. 45/2005/QH–11 (June 14, 2005), Article 16 at 8-9, attached at **Exhibit VIII-16** (page numbers added to web document for ease of reference).

[154] *PRCBs IDM* at 8-9.

[155] *Id.*

3) Benefit

As noted above, the GOV does not have a system in place to confirm which inputs are consumed in the production of goods for export and in what amounts. Thus, the full amount of import duty exemptions granted is countervailable under 19 C.F.R. § 351.519. The actual benefit to any particular company will depend on the value of raw materials imported, the import duties that would otherwise apply to those inputs.

K. Labor-Intensive Industry Tax Reduction

In 2011, the GOV provided a 30% tax reduction to labor-intensive enterprises engaged in production, sub-contract production and processing of agricultural, forest and aquatic products, textiles and garments, leather footwear, and electronic parts.[156] Minh Phu benefitted from this program.[157]

1) Financial contribution

Under 19 U.S.C. § 1677(5)(D)(ii), the tax incentives provide a financial contribution in the form of government revenue foregone.

2) Specificity

The tax reduction is specific because it is limited by law to a group of industries under 19 U.S.C. § 1677(5A)(D)(i). As noted above, the tax reduction is limited to labor-intensive enterprises in selected industries.

[156] *See* Circular No. 154/2011/TT-BTC of November 11, 2011, guiding the Government's Decree No. 101/2011/ND-CP of November 4, 2011, detailing the National Assembly's Resolution No. 08/2011/QH13, additionally providing a number of tax-related solutions for enterprises and individuals to overcome their difficulties at 3, Copy attached as **Exhibit VIII-17** (page numbers added to web document for ease of reference).

[157] *See* Minh Phu 2011 Annual Report at 76, copy attached as **Exhibit VIII-3C**.

3) Benefit

The tax incentives confer a benefit equal to the amount of revenue foregone by the government under 19 C.F.R. § 351.509. A 30% reduction in income tax reduces the revenue provided to the government.

VI. CONCLUSION

The GOV provides a broad range of subsidies to its shrimp industry, including direct government funding, tax exemptions and reductions, preferential loans, and the provision of land and goods for less than adequate remuneration. Based on the information reasonably available to the petitioner and contained above, the Department should initiate an investigation into countervailable subsidies provided to the shrimp industry in Vietnam and impose duties through a countervailing duty order to offset the benefit conferred by these subsidies.

VOLUME VIII – VIETNAM COUNTERVAILING DUTY PETITION **TABLE OF EXHIBITS**	
Exhibit	**Description**
VIII-1	IRS Pub. 946: *How to Depreciate Property*, Appendix B, Table of Class Lives and Recovery Periods
VIII-2	*Depreciation and Amortization for the Fishing Industry*
VIII-3A	"Ca Mau," Wikipedia
VIII-3B	Shrimp processor website excerpts and information: - Phuong Nam Seafood - Bim Seafood JSC - Camranh Seafoods - Nha Trang Seafoods - C.P. Vietnam Corporation Separate Rate Application
VIII-3C	Minh Phu Seafood Corp. website excerpts Minh Phu Seafood Corp. 2011 Annual Report
VIII-4A	Decision No. 332/QD-TTg of March 3, 2011, approving the "Scheme on Development of Aquaculture through 2020"
VIII-4B	Decision No. 224/199/QD-TTg of December 8, 1999 approving the Aquaculture Development Program for the 1999-2010 Period
VIII-5	Nguyen Khai, "Planning for seafood processing," *Vietfish*, Vol. 8, Issue 2 (Mar/Apr 2011)
VIII-6	United Nations Food and Agriculture Organization, Fisheries Information System
VIII-7	"Govt loans given to aquaculture firms for upgrades," FIS.com (Nov. 2, 2010)
VIII-8	"Ninh Thuan: 135 billion VND investments for building shrimp processing factory for export," Vasep.com (Oct. 13, 2010)
VIII-9	"Exporters say loan subsidy program of little use to them," Vietnam News (March 31, 2009)
VIII-10	Decree No. 51/1999/ND-CP
VIII-11	Decree No. 164/2003/ND-CP (Dec. 22, 2003) Detailing the Implementation of the Law on Enterprise Income Tax
VIII-12	World Bank Doing Business in Vietnam
VIII-13	Decree No. 24/2000/ND-CP (Jul. 31, 2000) detailing the Implementation of the Law on Foreign Investment in Vietnam at Art. 48.2
VIII-14	Law on Foreign Investment in Vietnam (Nov. 12, 1996)
VIII-15	Decree No. 142/2005/ND-CP (Nov. 14, 2005)
VIII-16	Law on Import Tax and Export Tax, Law No. 45/2005/QH–11 (June 14, 2005)

VOLUME VIII – VIETNAM COUNTERVAILING DUTY PETITION TABLE OF EXHIBITS	
Exhibit	**Description**
VIII-17	Circular No. 154/2011/TT-BTC of November 11, 2011, guiding the Government's Decree No. 101/2011/ND-CP of November 4, 2011, detailing the National Assembly's Resolution No. 08/2011/QH13, additionally providing a number of tax-related solutions for enterprises and individuals to overcome their difficulties