

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-838, A-533-840, A-570-893, A-549-822]

Certain Frozen Warmwater Shrimp from Brazil, India, the People's Republic of China and Thailand: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: On January 4, 2010, the Department of Commerce (the Department) initiated sunset reviews of the antidumping duty orders on certain frozen warmwater shrimp from Brazil, India, the People's Republic of China (PRC), and Thailand, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). The Department has conducted expedited (120-day) sunset reviews for these orders pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping.

FOR FURTHER INFORMATION CONTACT: FOR FURTHER INFORMATION: 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) 482-4929.

SUPPLEMENTARY INFORMATION:**Background**

On February 1, 2005, the Department published the antidumping duty orders on certain frozen warmwater shrimp from Brazil, India, the PRC, and Thailand. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Brazil*, 70 FR 5143 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the People's Republic of China*, 70 FR 5149 (February 1, 2005); and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater*

Shrimp from Thailand, 70 FR 5145 (February 1, 2005).

On January 4, 2010, the Department published the notice of initiation of the sunset reviews of the antidumping duty orders on certain frozen warmwater shrimp from Brazil, India, the PRC, and Thailand, pursuant to section 751(c) of the Act. See *Initiation of Five-year ("Sunset") Review*, 75 FR 103 (January 4, 2010) (Notice of Initiation).¹

The Department received a notice of intent to participate from the Ad Hoc Shrimp Trade Action Committee (petitioner) and the American Shrimp Processors Association (ASPA) within the deadline specified in 19 CFR 351.218(d)(1)(i). The petitioner claimed interested party status under section 771(9)(C) of the Act stating that its individual members are each producers in the United States of a domestic like product. ASPA claimed interested party status under section 771(9)(E) of the Act stating that it is a trade association, the majority of whose members are producers and/or processors of a domestic like product in the United States.

The Department received complete substantive responses to the *Notice of Initiation* from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from respondent interested parties with respect to the orders on certain frozen warmwater shrimp from Brazil, the PRC, or Thailand, nor was a hearing requested. We received a substantive response from the Seafood Exporters Association of India (SEAI), which is a trade association whose membership consists of Indian producers and exporters of the subject merchandise, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). On February 12, 2010, ASPA submitted rebuttal comments to SEAI's substantive response. We determined that SEAI's substantive response was not adequate because it failed to provide the volume and value of its members' exports of subject merchandise to the United States for several specific time periods enumerated by 19 CFR 351.218(d)(3)(iii)(B-E). See the March 2, 2010, memorandum entitled "Adequacy Determination in Antidumping Duty Sunset Review of Certain Frozen Warmwater Shrimp from India." On March 4, 2010, SEAI requested that the

¹ The Notice of Initiation also announced the initiation of the sunset review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam. However, the results of that sunset review will be discussed within a separate **Federal Register** notice in the context of a full sunset review in that case.

Department reconsider its adequacy finding. On March 30, 2010, we notified SEAI that we continued to find that its substantive response was inadequate. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) sunset reviews of the antidumping duty orders on certain frozen warmwater shrimp from Brazil, India, the PRC, and Thailand.

Scope of the Orders

The products covered by the orders include certain frozen warmwater shrimp and prawns whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,² deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

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

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, 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 orders. 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 orders.

Excluded from the orders are: 1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the

² "Tails" in this context means the tail fan, which includes the telson and the uropods.

Pandalidae family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain 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.

The products covered by the orders are currently classified 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, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of the orders is dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the “Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp from Brazil, India, the People’s Republic of China, and Thailand” from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration (Decision Memo), which is hereby adopted by, and issued concurrently with, this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were revoked. Parties can find a

complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 1117 of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on certain frozen warmwater shrimp from Brazil, India, the PRC, and Thailand would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent) <i>Brazil</i>
Netuno Alimentos S.A./ Maricultura Netuno S.A./ Netuno USA, Inc. (collectively, Netuno)*	7.94
Central de Industrializacao de Distribuicao de Alimentos Ltda./Cia. Exportadora de Produtos do Mar (Prodomar)	4.97
Norte Pesca	67.80
All-Others Rate	7.05
*Netuno is the successor-in-interest to Empresa de Armazenagem Frigorifica Ltda./ Maricultura Netuno S.A. <i>India</i> .	
Devi Sea Foods Ltd.	4.94
Hindustan Lever Ltd.	15.36
Nekkanti Seafoods Ltd.	9.71
All-Others Rate	10.17 <i>PRC</i> ³
Allied Pacific Group	80.19
Hilltop International**	82.27
Shantou Red Garden Foodstuff Co., Ltd.	27.89
PRC-Wide Rate	112.81
Separate Rate	53.68
**Hilltop International is the successor-in-interest to Yelin Enterprise Hong Kong. <i>Thailand</i> ⁴ .	
The Union Frozen Products Co., Ltd.	5.34
All-Others Rate	5.34

³ Zhanjiang Guolian Aquatic Products Co., Ltd. was excluded from the antidumping duty order because it was found to have a *de minimis* margin in the less-than-fair-value (LTFV) investigation.

⁴ The LTFV margins for Thailand were amended as a result of *Implementation of the Findings of the WTO Panel in United States—Antidumping Measure on Shrimp From Thailand: Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp From Thailand*, 74 FR 5638, 5639 (January 30, 2009). The Rubicon Group, comprised of Andaman Seafood Co., Ltd., Wales & Co. Universe Limited, Chanthaburi Frozen Food Co., Ltd., Chanthaburi Seafoods Co., Ltd., Intersia Foods Co., Ltd. (formerly Y2K Frozen Foods Co., Ltd.), Phatthana Seafood Co., Ltd., Phatthana Frozen Food Co., Ltd., Thailand Fishery Cold Storage Public Co., Ltd., Thai International Seafood Co., Ltd., S.C.C. Frozen Seafood Co., Ltd., Sea Wealth Frozen Food Co., Ltd., and Thai I-Mei Frozen Foods Co., Ltd. were revoked from the antidumping duty order effective January 16, 2009, also as a result of this determination. See also *Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Changed Circumstances Review and Notice of Revocation in Part*, 74 FR 52452 (October 13, 2009).

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

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: May 10, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XU87

Marine Mammals; File No. 15126

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that NMFS National Marine Mammal Laboratory, (Responsible Party: Dr. John Bengtson, Director), Seattle, WA, has been issued a permit to conduct research on marine mammals.