

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Five-year "Sunset" Review of the Antidumping Duty Order

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

SUMMARY: On January 4, 2010, the Department of Commerce ("the Department") published the notice of initiation of the first sunset review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam ("Vietnam"). On the basis of the notices of intent to participate by domestic interested parties and adequate substantive responses filed on behalf of the domestic and respondent interested parties, the Department conducted a full sunset review of the antidumping duty order pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.218(e)(2)(i). As a result of this sunset review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Final Results of Review."

DATES: *Effective Date:* December 7, 2010.

FOR FURTHER INFORMATION CONTACT: Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* 202-482-4047.

SUPPLEMENTARY INFORMATION:**Background**

On January 4, 2010, the Department published in the *Federal Register* the notice of initiation of its sunset reviews of the antidumping duty orders on certain frozen warmwater shrimp from Brazil, the People's Republic of China, India, Thailand, and Vietnam, in accordance with section 751(c) of the Act. *See Initiation of Five-Year*

("Sunset") Review, 75 FR 103 (January 4, 2010) ("*Notice of Initiation*").

The Department received notices of intent to participate from domestic interested parties, the Ad Hoc Shrimp Trade Action Committee ("AHSTAC"), and the American Shrimp Processors Association ("ASPA"), within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic-like product in the United States.

The Department received substantive responses to the *Notice of Initiation* from respondent interested parties (collectively "Vietnamese Respondents") and domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). On February 12, 2010, Vietnamese Respondents and ASPA filed rebuttal comments to parties' substantive responses.

19 CFR 351.218(e)(1)(ii)(A) provides that the Secretary normally will conclude that respondent interested parties have provided adequate response to a notice of initiation where the Department receives complete substantive responses from respondent interested parties accounting on average for more than 50 percent, by volume, or value, if appropriate, of the total exports of the subject merchandise to the United States over the five calendar years preceding the year of publication of the notice of initiation. On March 2, 2010, the Department determined that Vietnamese Respondents accounted for more than 50 percent of exports by volume of the subject merchandise and, therefore, submitted an adequate substantive response to the Department's *Notice of Initiation*. *See Memorandum to James C. Doyle: Adequacy Determination in Antidumping Duty Sunset Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, dated March 2, 2010. The Department also determined that domestic interested parties submitted an adequate response as at least one domestic interested party submitted a complete substantive response. *See* 19 CFR 351.218(e)(1)(i). In accordance with 19 CFR 351.218(e)(2)(i), the Department determined to conduct a full sunset review of this antidumping duty order.

On May 6, 2010, in accordance with section 751(c)(5)(B) of the Act, the Department extended the deadlines for the preliminary and final results of this sunset review by 90 days from the scheduled dates. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Extension of Time Limits for Preliminary and Final Results*

of Full Five-year ("Sunset") Review of Antidumping Duty Order, 75 FR 24883 (May 6, 2010).

The Department published the preliminary results of this sunset review on August 6, 2010. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the First Five-year "Sunset" Review of the Antidumping Duty Order*, 75 FR 47546 (August 6, 2010) ("*Preliminary Results*"). In the *Preliminary Results*, the Department found that revocation of the order would likely result in continuation or recurrence of dumping at margins found in the original investigation.

On September 7, 2010, within the deadline specified in 19 CFR 351.309(c)(1)(i), the Department received a case brief on behalf of Vietnamese Respondents. On September 13, 2010, the Department received rebuttal briefs on behalf of AHSTAC and ASPA.

Scope of the Order

The scope of the order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,¹ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of the order, 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*),

¹ "Tails" in this context means the tail fan, which includes the telson and the uropods.

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 order. 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 order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (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 order 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 order is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the “Issues and Decision Memorandum for the Final Results of the First Sunset Review of the Antidumping Duty Order on Certain

Frozen Warmwater Shrimp from the Socialist Republic of Vietnam” to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated November 30, 2010 (“Decision Memo”), which is hereby adopted by 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 antidumping duty order were revoked. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 7046 of the main Commerce 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/index.html>. The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

The Department determines that revocation of the antidumping duty order on certain frozen warmwater shrimp from Vietnam is likely to lead to continuation or recurrence of dumping at the following weighted-average margins:

CERTAIN FROZEN WARMWATER SHRIMP FROM VIETNAM

Manufacturer/Exporter	Weighted-average margin (percent)
Bac Lieu Fisheries Joint Stock Company	4.57
Bim Seafood Joint Stock Company	4.57
C.P. Vietnam Livestock Corporation	4.57
Ca Mau Seafood Joint Stock Company (“Seaprimexco Vietnam”)	4.57
Cadovimex Seafood Import-Export and Processing Joint Stock Company (“Cadovimex-Vietnam”)	4.57
Cafatex Fishery Joint Stock Corporation (“Cafatex Corporation”) aka Camranh Seafoods	4.57
Camau Frozen Seafood Processing Import Export Corporation (“CAMIMEX”)	5.24
Cam Ranh Seafoods Processing Enterprise PTE (“Cam Ranh Seafoods”)	4.57
Coastal Fishery Development Corporation (“COFIDEC”)	4.57
Cuulong Seaproducts Company (“Cuulong Seapro”)	4.57
Danang Seaproducts Import Export Corporation (“Seaprodex Danang”) (and its affiliate Tho Quang Seafood Processing & Export Company)	4.57
Grobest & I-Mei Industry (Vietnam) Co., Ltd	4.57
Investment Commerce Fisheries Corporation (“Incomfish”)	4.57
Minh Hai Export Frozen Seafood Processing Joint Stock Company (“Minh Hai Jostoco”)	4.57
Minh Hai Joint-Stock Seafoods Processing Company (“Seaprodex Minh Hai”)	4.30
Minh Phu Seafood Corp. (and its affiliates Minh Qui Seafood Co., Ltd. and Minh Phat Seafood Co., Ltd.) (collectively “Minh Phu Group”)	4.38
Ngoc Sinh Private Enterprise	4.57
Nha Trang Fisheries Joint Stock Company (“Nha Trang Fisco”)	4.57
Nha Trang Seaproduct Company (“Nha Trang Seafoods”)	4.57
Phu Cuong Seafood Processing & Import-Export Co., Ltd	4.57
Phuong Nam Co., Ltd	4.57
Sao Ta Foods Joint Stock Company (“FIMEX VN”)	4.57
Soc Trang Seafood Joint Stock Company (“STAPIMEX”)	4.57
Thuan Phuoc Seafoods and Trading Corporation (and its affiliates Frozen Seafoods Factory No. 32, Seafoods and Foodstuff Factory, and My Son Seafoods Factory)	4.57
UTXI Aquatic Products Processing Corporation	4.57
Viet Foods Co., Ltd	4.57
Viet Hai Seafood Co., Ltd. aka Viet Nam Fish-One Co., Ltd	4.57

CERTAIN FROZEN WARMWATER SHRIMP FROM VIETNAM—Continued

Manufacturer/Exporter	Weighted-average margin (percent)
Vinh Loi Import Export Company (“VIMEX”)	4.57
Vietnam-Wide Entity	25.76

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

This five-year (“sunset”) review and notice are in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: November 29, 2010.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

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