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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-893, A-533-840, A-549-822, A-552-802

Certain Frozen Warmwater Shrimp from the People's Republic of China, India, Thailand, and the Socialist Republic of Vietnam: Final Results of Expedited Third Sunset Review of Antidumping Duty Orders.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: As a result of these sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders would be likely to lead to continuation or recurrence of dumping at the dumping margins identified in the "Final Results of Reviews" section of this notice.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Andrew Hart, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1058.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2022, Commerce published the notice of initiation of the third sunset review of the AD orders on certain frozen warmwater shrimp from the People's Republic of China

(China), India, Thailand, and the Socialist Republic of Vietnam (Vietnam)¹ pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).²

In May 2022, the Ad Hoc Shrimp Trade Action Committee (AHSTAC) and the American Shrimp Processors Association (ASPA) (collectively, the domestic interested parties) notified Commerce of their intent to participate within the 15-day period specified in 19 CFR 351.218(d)(1). The domestic interested parties claimed interested party status under sections 771(9)(C) and (E) of the Act as producers of domestic like product and a trade association, the majority of whose members are producers and/or processors of a domestic like product, in the United States, respectively.

On May 27 and June 2, 2022, Commerce received complete substantive responses to the *Notice of Initiation* with respect to the *Orders* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i).³ Commerce received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(8) of the Act and

¹ See *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); *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 Thailand*, 70 FR 5145 (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 the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) (collectively, *Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 87 FR 25617 (May 2, 2022) (*Notice of Initiation*).

³ See AHSTAC's Letters, "Third Sunset Review of the Antidumping Duty Order on Frozen Warmwater Shrimp from the People's Republic of China: Substantive Response to Notice of Initiation"; "Third Sunset Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from India: Substantive Response to Notice of Initiation"; "Third Sunset Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from Thailand: Substantive Response to Notice of Initiation"; and "Third Sunset Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Substantive Response to Notice of Initiation," each dated May 27, 2022; see also ASPA's Letters, "Third Five-Year ('Sunset') Review of Antidumping Order on Frozen Warmwater Shrimp from China: ASPA's Substantive Response to Notice of Initiation"; "Third Five-Year ('Sunset') Review of Antidumping Duty Order on Frozen Warmwater Shrimp from India: ASPA's Substantive Response to Notice of Initiation"; "Third Five-Year ('Sunset') Review of Antidumping Order on Frozen Warmwater Shrimp from Thailand: ASPA's Substantive Response to Notice of Initiation"; and "Third Five-Year Review of the Antidumping Duty Order on Frozen Warmwater Shrimp from Vietnam: ASPA's Substantive Response to Notice of Initiation," each dated June 2, 2022

19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *Orders*.

Scope of the *Orders*

The scope of the *Orders* is certain frozen warmwater shrimp from China, India, Thailand, and Vietnam. For a complete description of the scope of the *Orders*, see the appendix to this notice.

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews is provided in the accompanying Issues and Decision Memorandum.⁴ The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the *Orders* were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would likely lead to a continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average margins

⁴ See Memorandum, "Issues and Decision Memorandum for the Final Results of Expedited Third Sunset Reviews of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from the People's Republic of China, India, Thailand, and the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice.

up to 112.81 percent for China, up to 110.90 percent for India, up to 5.34 percent for Thailand, and up to 25.76 percent for Vietnam.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order 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 order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing the results in accordance with sections 751(c), 752(c), and 771(i)(1) of the Act and 19 CFR 351.218.

Dated: August 30, 2022

/S/ Ryan Majerus

Ryan Majerus
Deputy Assistant Secretary
for Policy and Negotiations

Appendix

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,⁵ 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 *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) Lee Kum Kee’s shrimp sauce;⁶ (7) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); and (8) certain battered shrimp. Battered 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 ten 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. When dusted in accordance with

⁵ “Tails” in this context means the tail fan, which includes the telson and the uropods.

⁶ The specific exclusion for Lee Kum Kee’s shrimp sauce applies only to the scope of the *China Order*.

the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

On February 1, 2005, Commerce excluded canned warmwater shrimp and prawns from the scope of the *Orders* pertaining to India, China, Thailand, and Vietnam to reflect the International Trade Commission's (ITC's) determination that a domestic industry in the United States was not materially injured or threatened with material injury by reason of imports of canned warmwater shrimp and prawns from India, China, Thailand, or Vietnam.⁷

On January 23, 2007, Commerce issued amended *Orders* clarifying that only frozen warmwater shrimp and prawns are subject to the *Orders*.⁸ On July 1, 2009, Commerce filed the Final Results of Redetermination Pursuant to Court Remand with the Court of International Trade in which Commerce determined that "dusted" shrimp is included within the scope of the investigations.⁹

The products covered by these *Orders* are currently classified under the following HTSUS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. 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 these *Orders* is dispositive.

⁷ See *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); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand*, 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 the Socialist Republic of Vietnam*, 70 FR 5149 (February 1, 2005).

⁸ See *Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam; Amended Orders*, 72 FR 2857 (January 23, 2007).

⁹ See *Ad Hoc Shrimp Trade Action Committee, et. al v. United States Court No. 05-00192 Slip Op. 09-60* (CIT July 1, 2009).