

1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTS 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 individually quick frozen (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 this order are currently classified under the following HTS 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 HTS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all entries of certain frozen warmwater shrimp from Brazil. CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as indicated in the chart above. CBP shall discontinue the suspension of liquidation on canned shrimp products and refund any cash deposits made or bonds posted with respect to this merchandise. These instructions suspending liquidation will remain in effect until further notice. This amended determination and order is issued and published pursuant to sections 735(d), 736(a) of the Act, and 19 CFR 351.211.

Dated: January 26, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-549-822)

#### Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand<sup>1</sup>

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

**EFFECTIVE DATE:** February 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin or Alice Gibbons, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0656 or (202) 482-0498, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Amendment to Final Determination

In accordance with sections 735(a) and 777(i)(1) of the Tariff Act of 1930, as amended, (the Act), on December 23, 2004, the Department published its notice of final determination of sales at less than fair value (LTFV) in the investigation of certain frozen and canned warmwater shrimp from Thailand. *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (Dec. 23, 2004) (*Final Determination*). On December 23, 2004, we received an allegation, timely filed pursuant to 19 CFR 351.224(c)(2), from the petitioners (*i.e.*, the Ad Hoc Shrimp Trade Action Committee, Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company) that the Department made a ministerial error with respect to its exclusion of "dusted" shrimp from the scope of this investigation. On December 28, 2004, Eastern Fish Company, Inc., and Long John Silver's, Inc., interested parties in this investigation, submitted a response to the petitioners' December 23, 2004, ministerial error allegation. In addition,

<sup>1</sup> On January 21, 2005, the International Trade Commission (ITC) notified the Department of Commerce (the Department) of its final determination that two domestic like products exist for the merchandise covered by the Department's investigation: 1) certain non-canned warmwater shrimp and prawns; and 2) canned warmwater shrimp and prawns. The ITC determined that there is no injury or threat thereof to the U.S. domestic industry regarding imports of canned warmwater shrimp and prawns from Thailand; therefore, canned warmwater shrimp and prawns will not be covered by the antidumping duty order.

on December 30, 2004, we received allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from the petitioners and the respondents (*i.e.*, Andaman Seafood Co., Ltd., Chanthaburi Seafoods Co., Ltd., and Thailand Fishery Cold Storage Public Co., Ltd. (collectively, the Rubicon Group); Thai I-Mei Frozen Foods Co., Ltd. (Thai I-Mei); and the Union Frozen Products Co., Ltd. (UFP)) that the Department also made ministerial errors in the final margin calculations. On January 6, 2004, we received submissions containing rebuttal comments from the petitioners, the Rubicon Group, and UFP.

After analyzing the Rubicon Group's, Thai I-Mei's, UFP's, and the petitioners' submissions, we have determined, in accordance with 19 CFR 351.224(e), that we made the following ministerial errors in our calculations performed for the final determination:

- We unintentionally calculated more than one cost for the same control number (CONNUM) for the Rubicon Group in several instances;
- We inadvertently compared Thai baht-denominated commission expenses to those denominated in U.S. dollars for Thai I-Mei;
- We incorrectly applied weighted-average costs to merchandise for which the CONNUM was revised in the final determination, rather than using the actual verified costs for certain sales for Thai I-Mei. In correcting this error, we discovered that Thai I-Mei failed to report costs for certain of these re-coded products. Therefore, we based the costs for these products on facts available. As facts available, we used the average total cost of manufacturing of all CONNUMs;
- We recalculated the weighted-average selling expenses and constructed value profit rate for Thai I-Mei using the revised figures for the Rubicon Group and UFP; and
- We revised the calculation of general and administrative and interest expenses for UFP to exclude packaging costs (*i.e.*, reported in the field PACK).

Correcting these errors results in revised margins for the Rubicon Group and Thai I-Mei. In addition, we have revised the calculation of the "all others" rate accordingly.

For a detailed discussion of the ministerial errors alleged by the petitioners and respondents, as well as the Department's analysis, see the January 24, 2005, memorandum to Louis Apple from the Team entitled "Ministerial Error Allegations in the Final Determination of the Antidumping Duty Investigation on Certain Frozen Warmwater Shrimp from Thailand."

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final

determination of sales at LTFV in the antidumping duty investigation of certain frozen warmwater shrimp from Thailand. The revised weighted-average dumping margins are in the "Antidumping Duty Order" section, below.

**Antidumping Duty Order**

In accordance with section 735(a) of the Act, the Department made its final determination that certain frozen and canned warmwater shrimp from Thailand is being, or is likely to be, sold in the United States at LTFV. See *Final Determination*. On January 21, 2005, the ITC notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of LTFV imports of subject merchandise from Thailand. In its final determination, however, the ITC determined that two domestic like products exist for the merchandise covered by the Department's investigation: 1) certain non-canned warmwater shrimp and prawns; and 2) canned warmwater shrimp and prawns. The ITC determined pursuant to section 735(b)(1) of the Act that a domestic industry in the United States is not materially injured or threatened with material injury by reason of imports of canned warmwater shrimp and prawns from Thailand. Therefore, the ITC's

affirmative determination of material injury covered all non-canned warmwater shrimp and prawns other than those specifically excluded in the "Scope of Order" section, below. Accordingly, the scope of the antidumping duty investigation has been amended as described above to reflect the ITC's distinction between certain non-canned warmwater shrimp and prawns and canned warmwater shrimp and prawns. Specifically, canned warmwater shrimp and prawns are excluded from the scope of the order.

In cases where the ITC specifically excludes a product in its final injury determination, the Department may exclude that product from its final margin calculation. See *Antidumping Duty Orders; Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 64 FR 27756 (May 21, 1999). However, because the respondents did not export or sell canned warmwater shrimp and prawns to the United States during the period of investigation (POI), no recalculation of the dumping margins is warranted, and therefore we are not amending the final determination calculations to exclude any sales of canned warmwater shrimp and prawn products.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border

Protection (CBP) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of certain frozen warmwater shrimp from Thailand. These antidumping duties will be assessed on all unliquidated entries of certain frozen warmwater shrimp from Thailand entered, or withdrawn from the warehouse, for consumption on or after August 4, 2004, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Critical Circumstances Determination: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 47100 (Aug. 4, 2004).

On or after the date of publication of this antidumping duty order in the **Federal Register**, CBP will require, at the same time that importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as listed below. The "all others" rate applies to all exporters of subject merchandise not listed specifically. We determine that the following weighted-average margin percentages exist for the POI:

Manufacturer/exporter	Original Final Margin	Amended Final Margin
Andaman Seafood Co., Ltd. ....	5.79	5.91
Chanthaburi Seafoods Co., Ltd. ....	5.79	5.91
Chanthaburi Frozen Food Co., Ltd. ....	5.79	5.91
Phattana Seafood Co., Ltd. ....	5.79	5.91
S.C.C. Frozen Seafood Co., Ltd. ....	5.79	5.91
Thai I-Mei Frozen Foods Co., Ltd. ....	6.20	5.29
Thailand Fishery Cold Storage Public Co., Ltd. ....	5.79	5.91
Thai International Seafood Co., Ltd. ....	5.79	5.91
The Union Frozen Products Co., Ltd. ....	6.82	6.82
Wales & Company Universe, Ltd. ....	5.79	5.91
Y2K Frozen Food Co., Ltd. ....	5.79	5.91
All Others .....	6.03	5.95

**Scope of Order**

The scope of this order includes certain warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>2</sup> 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

this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), 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*).

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

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this 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 this order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTS 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 (HTS subheading 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTS 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 individually quick frozen ("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 this order are currently classifiable under the following HTS 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 HTS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all entries of certain frozen warmwater shrimp from Thailand. CBP shall require a cash deposit equal to the estimated amount by which the normal

value exceeds the U.S. price as indicated in the chart above. CBP shall discontinue the suspension of liquidation on canned shrimp products and refund any cash deposits made or bonds posted with respect to this merchandise. These instructions suspending liquidation will remain in effect until further notice. This amended determination and order is issued and published pursuant to section 735(d), 736(a) of the Act, and 19 CFR 351.211.

Dated: January 26, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration (A-533-840)

#### Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India<sup>1</sup>

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

**EFFECTIVE DATE:** February 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood or Jill Pollack, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3874 or (202) 482-4593, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Amendment to Final Determination

In accordance with sections 735(a) and 777(i)(1) of the Tariff Act of 1930, as amended, (the Act), on December 23, 2004, the Department published its notice of final determination of sales at less than fair value (LTFV) in the investigation of certain frozen and canned warmwater shrimp from India. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical*

<sup>1</sup> On January 21, 2005, the International Trade Commission (ITC) notified the Department of Commerce (the Department) of its final determination that two domestic like products exist for the merchandise covered by the Department's investigation: 1) certain non-canned warmwater shrimp and prawns; and 2) canned warmwater shrimp and prawns. The ITC determined that imports of canned warmwater shrimp and prawns from India were negligible; therefore, canned warmwater shrimp and prawns will not be covered by the antidumping duty order.

*Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 76916 (Dec. 23, 2004) (*Final Determination*). On December 23, 2004, we received an allegation, timely filed pursuant to 19 CFR 351.224(c)(2), from the petitioners (*i.e.*, the Ad Hoc Shrimp Trade Action Committee, Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company) that the Department made a ministerial error with respect to its exclusion of "dusted" shrimp from the scope of this investigation. On December 28, 2004, Eastern Fish Company, Inc., and Long John Silver's, Inc., interested parties in this investigation, submitted a response to the petitioners' December 23, 2004, ministerial error allegation. In addition, on December 30, 2004, we received allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from the petitioners and the respondents (*i.e.*, Devi Sea Foods Limited (Devi), and Hindustan Lever Limited (HLL)) that the Department also made ministerial errors in the final margin calculations. On January 6, 2004, we received submissions containing rebuttal comments from the petitioners and HLL.

After analyzing Devi's, HLL's, and the petitioners' submissions, we have determined, in accordance with 19 CFR 351.224(e), that we made the following ministerial errors in our calculations performed for the final determination:

- We inadvertently calculated packing expenses on a per-kilogram basis rather than a per-pound basis for Devi;
- We inadvertently failed to use the revised packaging costs submitted at verification in the calculation of Devi's total cost of production;
- We inadvertently subtracted HLL's marine insurance revenue from U.S. price, instead of treating it as an offset to movement expenses; and
- We inadvertently excluded direct labor costs from our calculation of HLL's variable manufacturing costs.

Correcting these errors results in revised margins for Devi and HLL. In addition, we have revised the calculation of the "all others" rate accordingly.

For a detailed discussion of all of the ministerial errors alleged by the petitioners and the respondents, as well as the Department's analysis, see the January 24, 2005, memorandum to Louis Apple from the team entitled, "Ministerial Error Allegations in the Final Determination of the Antidumping Duty Investigation on Certain Frozen Warmwater Shrimp from India."

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of sales at LTFV in the antidumping duty investigation of