

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-331-802]

**Notice of Final Results of New Shipper Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp From Ecuador**

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

**SUMMARY:** On April 26, 2006, the Department of Commerce (the Department) published the preliminary results of its new shipper review of the antidumping duty order on certain frozen warmwater shrimp from Ecuador. The review covers the entries of Studmark, S.A. (Studmark) for the period of review (POR) August 4, 2004, through July 31, 2005. Based on the Department's analysis of the issues, these final results have changed from the preliminary results. The final results are listed in the section below entitled "Final Results of Review."

**DATES:** *Effective Date:* September 20, 2006.

**FOR FURTHER INFORMATION CONTACT:**

David J. Goldberger or Gemal Brangman, 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) 482-4136 or (202) 482-3773, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On June 16, 2006, the Department published in the **Federal Register** the preliminary results of this new shipper review and invited interested parties to comment on those results.<sup>1</sup> The Department received a request for a hearing and a case brief from Studmark on July 12 and July 31, 2006, respectively. A public hearing was held on August 16, 2006.

**Scope of the 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*).

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.

**Analysis of Comments Received**

All issues raised in the case brief by Studmark are addressed in the "Issues and Decision Memorandum for the Final Results of the New Shipper Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from Ecuador" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration (Decision Memorandum), dated concurrently with and is hereby adopted by this notice.

A list of the issues which Studmark raised and to which we have responded, all of which are addressed in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in the Decision Memorandum, which is on file in the Central Records Unit, room B-099 of the main Department of Commerce building.

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

**Fair Value Comparisons**

We calculated export price (EP) and normal value based on the same methodology used in the preliminary results, except as follows:

We made no adjustment to EP for foreign inland freight expense instead of making such an adjustment based on the facts otherwise available as we did in the preliminary results.

<sup>1</sup> See *Notice of Preliminary Results of New Shipper Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from Ecuador*, 71 FR 34888 (June 16, 2006) (*Preliminary Results*).

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

## Final Results of Review

As a result of our review, we determine that the following weighted-average percentage margin exists for the period August 4, 2004, through July 31, 2005:

Manufacturer/exporter	Margin (percent)
Studmark, S.A. ....	9.20

## Assessment

The Department shall determine, and the U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with section 351.212(b)(1) of the Department's regulations, we have calculated importer-specific assessment rates by dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise. Where the importer-specific assessment rate is above *de minimis* we will instruct CBP to assess antidumping duties on that importer's entries of subject merchandise. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

## Cash Deposit Requirements

The following cash deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results for this new shipper review, as provided for by section 751(a)(1) and 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for Studmark (*i.e.*, for subject merchandise both manufactured and exported by Studmark) will be 9.20 percent; (2) the cash deposit rate for exporters who received a rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for entries of subject merchandise exported by Studmark but not manufactured by Studmark will continue to be the "All Others" rate (*i.e.*, 3.58 percent) or the rate applicable to the manufacturer, if so established; and (4) if neither the exporter nor the producer is a firm covered in this review or a prior segment of the proceeding, the cash deposit rate will be 3.58 percent, the "All Others" rate established in the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. There are no changes to the

rates applicable to any other companies under this antidumping duty order.

This notice also serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping and countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and countervailing duties occurred, and in the subsequent assessment of antidumping duties increased by the amount of antidumping and/or countervailing duties reimbursed.

This notice also is 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 section 351.305(a)(3) of the Department's regulations. Failure to comply is a violation of the APO.

This determination is issued and published in accordance with sections 751(a) and 777(i)(1) of the Act.

Dated: September 13, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

## Appendix—List of Comments in the Issues and Decision Memorandum

- Comment 1: Whether a Particular Market Situation Exists In the Home Market  
 Comment 2: Application of Facts Otherwise Available for Inland Freight Expenses  
 Comment 3: Period for Calculating G&A Expenses

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## DEPARTMENT OF COMMERCE.

### International Trade Administration

**A-570-893**

### **Certain Frozen Warmwater Shrimp from the People's Republic of China: Extension of Time Limit for Final Results of the 2004/2005 Antidumping Duty New Shipper Review**

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

**EFFECTIVE DATE:** September 20, 2006.

**FOR FURTHER INFORMATION CONTACT:** Javier Barrientos, 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) 482-2243.

## Background

On June 27, 2006, the Department of Commerce ("the Department") issued the preliminary results of this new shipper review. *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results of the Antidumping Duty New Shipper Review*, 71 FR 38368 (July 6, 2006) ("Preliminary Results").

## Extension of Time Limits for Final Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(i)(1) require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated and final results of a review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the deadline for completion of the final results of a new shipper review to 150 days if it determines that the case is extraordinarily complicated. See section 751(a)(2)(B)(iv) of the Act, and 19 CFR 351.214(i)(2).

In order to allow parties additional time to submit comments regarding the Department's *Preliminary Results*, the Department extended the deadline for the submission of case and rebuttal briefs by 48 days. As a result of the extensions and the extraordinarily complicated issues raised in this review segment, including surrogate valuation and bona fides issues, it is not practicable to complete this new shipper review within the current time limit. Accordingly, the Department is extending the time limit for the completion of the final results by 60 days until November 24, 2006, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 13, 2006.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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