

**DEPARTMENT OF COMMERCE****International Trade Administration****[A-570-848]****Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative and New-Shipper Reviews****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.**SUMMARY:** On June 16, 2010, the Department of Commerce published the preliminary results of the administrative and new-shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The reviews cover five exporters. The period of review is September 1, 2008, through August 31, 2009.

Based on our analysis of the comments received, we have made changes in the margin calculations for all companies. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of the Reviews."

**DATES:** Effective Date: December 20, 2010.**FOR FURTHER INFORMATION CONTACT:**

Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0665 or (202) 482-1690, respectively.

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

On June 16, 2010, the Department of Commerce (the Department) published *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative and New-Shipper Reviews*, 75 FR 34100 (June 16, 2010) (*Preliminary Results*), in the **Federal Register**. The administrative review covers Xiping Opeck Food Co., Ltd. (Xiping Opeck), Shanghai Ocean Flavor International Trading Co., Ltd. (Shanghai Ocean Flavor), China Kingdom (Beijing) Import & Export Co., Ltd. (China Kingdom), and Xuzhou Jinjiang Foodstuffs Co., Ltd. (Jinjiang). The new-shipper review covers Nanjing Genssen International Co., Ltd. (Nanjing Genssen). We invited interested parties to comment on the *Preliminary Results*.

On June 22, 2010, the Department placed export and wage-rate data on the record for comment following the recent decision in *Dorbest Limited et. al. v. United States*, 604 F.3d 1363 (CAFC 2010) (*Dorbest IV*), issued by the United States Court of Appeals for the Federal Circuit (CAFC) on May 14, 2010, regarding the Department's wage-rate methodology. On July 2, 2010, and July 15, 2010, Jinjiang submitted certain factual information with respect to the valuation of surrogate values (SVs). On July 3, 2010, Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, and Nanjing Genssen submitted additional factual information.

We received case briefs from Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, Nanjing Genssen, Jinjiang, and the petitioner, the Crawfish Processors Alliance. We received a rebuttal brief from the petitioner. Interested parties submitted comments regarding the June 22, 2010, wage-rate data in their case and rebuttal briefs. No interested party requested a hearing.

On July 16 and August 4, 2010, we placed additional information on the record concerning the valuation of wage rates and invited parties to comment. On August 11, 2010, the petitioner provided comments. On October 5, 2010, we placed on the record industry-specific labor-wage data and the wage-rate calculations and invited interested parties to comment. We did not receive any timely comments on the additional information.

On October 13, 2010, we extended the time limit for completion of the final results of these reviews from October 14, 2010, to December 13, 2010. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Extension of the Final Results of Antidumping Duty Administrative and New-Shipper Reviews*, 75 FR 64249 (October 19, 2010).

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

**Scope of the Order**

The product covered by the antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or un-purged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof.

Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by U.S. Customs and Border Protection (CBP) in 2000, and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

**Surrogate Country**

In the *Preliminary Results*, we treated the PRC as a non-market-economy (NME) country and, therefore, we calculated normal value in accordance with section 773(c) of the Act. Also, we stated that we selected India<sup>1</sup> as the appropriate surrogate country to use in these reviews because it is a significant producer of merchandise comparable to subject merchandise and it is at a level of economic development comparable to the PRC, pursuant to section 773(c)(4) of the Act. See *Preliminary Results*, 75 FR at 34102. No interested party commented on our designation of the PRC as an NME country or the selection of India as the primary surrogate country. Therefore, for the final results of reviews, we have continued to treat the PRC as an NME country and have used the same primary surrogate country, India.

**Separate Rates**

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Results*, we found that Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, Jinjiang, and Nanjing Genssen demonstrated their eligibility for separate-rate status. See *Preliminary Results*, 75 FR at 34102–

<sup>1</sup> We have selected India as the primary surrogate country in which to value all inputs with the exception of live crawfish, the primary input, and the by-product, crawfish scrap shell. See *Preliminary Results*, 75 FR at 34102, for a discussion regarding the valuation of live crawfish and the selection of Indonesia as the secondary surrogate country.

34103. We received no comments from interested parties regarding the separate-rate status of these companies. Therefore, in these final results of reviews, we continue to find that the evidence placed on the record of these reviews by Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, Jinjiang, and Nanjing Gemesen demonstrates an absence of government control, both in law and in fact, with respect to these companies' exports of the subject merchandise. Thus, we have determined that Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, Jinjiang, and Nanjing Gemesen are eligible to receive a separate rate.

#### Analysis of Comments Received

The issues raised in the case briefs in these reviews are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with and hereby adopted by this notice. A list of the issues which the parties have raised and to which we have responded is in the Decision Memo and attached to this notice as an Appendix. The Decision Memo, which is a public document, is on file in the CRU of the main Department of Commerce building, Room 7046, and is accessible 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.

#### Changes Since the Preliminary Results

We have revised the wage-rate methodology and the surrogate value for cold storage applicable to finished merchandise. For further details see the Decision Memo at Comments 1 and 2, respectively; *see also* Memorandum to the File entitled "Fresh Crawfish Tail Meat from the People's Republic of China: Surrogate-Factor Valuations for the Final Results," dated concurrently with this notice (Final SV Memo). Because of the changes identified above, the antidumping duty margin calculations for all reviewed companies have changed since publication of the *Preliminary Results*.

#### Wage-Rate Methodology

On May 14, 2010, the CAFC found in *Dorbest IV*, 604 F.3d at 1366, that the "regression-based" method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (i.e., 19 U.S.C. 1677b(c))}\* \* \*.\*

The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. For these final results, however, we have calculated an hourly wage rate to use in valuing the respondents' reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the final results of these reviews, we are valuing labor using a simple-average industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization (ILO). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC and significant producers of comparable merchandise. A full description of the industry-specific wage-rate calculation methodology is provided in the memorandum to the file entitled "Freshwater Crawfish Tail Meat from the People's Republic of China: Industry-Specific Wage-Rate Selection," dated October 5, 2010 (Wage-Calculation Memo). See Final SV Memo as well. The Department calculated a simple-average industry-specific wage rate of \$1.38 for these final results. Specifically, for these reviews, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 15 of the ISIC-Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. We find the two-digit description under ISIC-Revision 3 ("Manufacture of food products and beverages") to be the best available wage-rate SV on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage-rate data or earnings data available from the following countries found to be economically comparable to the PRC and which are significant producers of comparable merchandise: Ecuador, Egypt, Indonesia, Jordan, Peru, Philippines, Thailand, and Ukraine. For further information on the calculation of the wage rate, see Wage-Calculation Memo. For the full discussion pertaining to this issue, see the Decision Memo at Comment 1.

#### Final Results of the Reviews

As a result of the administrative review, we determine that the following

percentage weighted-average dumping margins exist for the period September 1, 2008, through August 31, 2009:

Company	Margin (percent)
Xiping Opeck Food Co., Ltd. ....	9.39
Shanghai Ocean Flavor International Trading Co., Ltd. ....	41.92
China Kingdom (Beijing) Import & Export Co., Ltd. ....	18.87
Xuzhou Jinjiang Foodstuffs Co., Ltd. ....	5.39

As a result of the new-shipper review, we determine that a weighted-average dumping margin of 12.37 percent exists for merchandise produced by Henan Baoshu Aquatic Products Co., Ltd. (Henan Baoshu), and exported by Nanjing Gemesen International Co., Ltd., for the period September 1, 2008, through August 31, 2009.<sup>2</sup>

#### Assessment

In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific (or customer-specific) assessment rates for merchandise subject to these reviews.

For these final results, we divided the total dumping margins (calculated as the difference between normal value and export price) for each of the respondents' importers or customers by the total number of kilograms the exporter sold to that importer or customer. We will direct CBP to assess the resulting per-kilogram dollar amount against each kilogram of merchandise in each of that importer's/customer's entries during the review period.

We intend to issue assessment instructions to CBP 15 days after the date of publication of these final results of reviews.

#### Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of these final results of these reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, and Jinjiang and for subject merchandise produced by Henan Baoshu and exported by Nanjing Gemesen, the cash-deposit rate will be

<sup>2</sup> As we stated in the *Preliminary Results*, 75 FR at 34101, we determined that the sales of subject merchandise produced by Henan Baoshu and exported to the United States by Nanjing Gemesen during the period of review constitute *bona-fide* transactions subject to the new-shipper review.

the rate established in these final results of reviews, as listed above; <sup>3</sup> (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash-deposit rate will be PRC-wide rate of 223.01 percent; (4) for all non-PRC exporters of subject merchandise the cash-deposit rate will be the rate applicable to the PRC entity that supplied that exporter. These deposit requirements shall remain in effect until further notice.

## Notifications

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping 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 duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the 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.

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

Dated: December 13, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

## Appendix

1. Valuation of Labor.
2. Valuation of Cold Storage.
3. Valuation of Live Crawfish.
4. Filing of New Factual Information.

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<sup>3</sup> For subject merchandise exported by Nanjing Gemsen but not produced by Henan Baoshu, the cash-deposit rate will be the PRC-wide rate.

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Notice of Scope Rulings

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

**DATES: Effective Date:** December 20, 2010.

**SUMMARY:** The Department of Commerce ("Department") hereby publishes a list of scope rulings completed between April 1, 2010, and June 30, 2010. In conjunction with this list, the Department is also publishing a list of requests for scope rulings and anticircumvention determinations pending as of June 30, 2010. We intend to publish future lists after the close of the next calendar quarter.

**FOR FURTHER INFORMATION CONTACT:** Julia Hancock, AD/CVD Operations, China/NME Group, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202-482-1394.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis. *See* 19 CFR 351.225(o). Our most recent notification of scope rulings was published on August 25, 2010. *See Notice of Scope Rulings*, 75 FR 52311 (August 25, 2010). This current notice covers all scope rulings and anticircumvention determinations completed by Import Administration between April 1, 2010, and June 30, 2010, inclusive, and it also lists any scope or anticircumvention inquiries pending as of June 30, 2010. As described below, subsequent lists will follow after the close of each calendar quarter.

*Scope Rulings Completed Between April 1, 2010, and June 30, 2010:*

##### People's Republic of China

#### A-570-502: Iron Construction Castings From the People's Republic of China

Requestor: National Diversified Sales; its grates and frames are outside the scope of the antidumping duty order; April 16, 2010.

#### A-570-891: Hand Trucks From the People's Republic of China

Requestor: PelRay International LLC; its Janitor Cart, Large Dinner Trolleys (model nos. D-012 and D-012A) and Small Dinner Trolleys (model nos. D-013 and D-013A) are outside the scope

of the antidumping duty order; April 12, 2010.

#### A-570-891: Hand Trucks From the People's Republic of China

Requestor: Northern Tool & Equipment Co.; its high-axle torch cart (item #164771) is outside the scope of the antidumping duty order; June 1, 2010.

#### A-570-899: Artist Canvas From the People's Republic of China

Requestor: Wuxi Phoenix Artist Materials Co., Ltd.; its framed artist canvas is not within the scope of the antidumping duty order; May 13, 2010.

#### A-570-909: Steel Nails From the People's Republic of China

Requestor: Itochu Building Products; its plastic cap steel nails are within the scope of the antidumping duty order; May 12, 2010.

#### A-570-941/C-570-942: Kitchen Appliance Shelving and Racks From the People's Republic of China

Requestor: Custom BioGenic Systems, Inc.; its inventory control racks are outside the scope of the antidumping duty and countervailing orders; April 1, 2010.

#### A-570-918: Steel Wire Garment Hangers From the People's Republic of China

Requestor: Target Corporation; its chrome-plated accessory hangers are outside the scope of the antidumping duty order; May 12, 2010.

## Germany

#### A-428-801: Ball Bearings and Parts Thereof From Germany

Requestor: Schaeffler Group; its ball roller bearings are within the scope of the antidumping duty order; May 11, 2010.

*Anticircumvention Determinations Completed Between April 1, 2010, and June 30, 2010:* None.

*Scope Inquiries Terminated Between April 1, 2010, and June 30, 2010:* None.

*Anticircumvention Inquiries Terminated Between April 1, 2010, and June 30, 2010:* None.

*Scope Inquiries Pending as of June 30, 2010:*

## Germany

#### A-428-801: Ball Bearings and Parts From Germany

Requestor: Myonic GmbH; whether its turbocharger spindle units are within the scope of the antidumping duty order; requested January 11, 2010; initiated April 16, 2010.