

Dated: May 20, 2011.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-848]

#### **Freshwater Crawfish Tail Meat From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review in Accordance With Final Court Decision**

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

**DATES:** *Effective Date:* May 26, 2011.

**SUMMARY:** On February 14, 2011, the United States Court of Appeals for the Federal Circuit ("CAFC") affirmed the United States Court of International Trade ("CIT") decision sustaining the Department of Commerce ("Department") redetermination on remand of the 2005-2006 administrative review of freshwater crawfish tail meat ("crawfish tail meat") from the People's Republic of China ("PRC").<sup>1</sup> In this redetermination the Department applied total adverse facts available ("AFA") and assigned the respondent, Xuzhou Jinjiang Foodstuffs Co., Ltd. ("Xuzhou"), an AFA rate of 188.52 percent. As there is now a final and conclusive court decision, the Department is amending its final results.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Pandolph or Jeffrey Pedersen, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3627 and (202) 482-2769, respectively.

**SUPPLEMENTARY INFORMATION:** On April 15, 2008, the Department published its final results of the antidumping duty administrative review of crawfish tail meat from the PRC covering the period September 1, 2005, through August 31, 2006.<sup>2</sup> In the 2005-2006 *Final Results*,

<sup>1</sup> See *Washington International Insurance Company v. United States*, Court No. 08-CV-0156, United States Court of Appeals for the Federal Circuit (Fed. Cir. February 14, 2011) (Rule 36 affirmance); see also *Washington International Insurance Company v. United States*, Court No. 08-00156, Slip Op. 10-16 (CIT February 9, 2010) ("*Washington Int'l Insurance Co.*, Slip Op. 10-16").

<sup>2</sup> See *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results and*

the Department found that Xuzhou failed to report all of its U.S. sales of subject merchandise and assigned Xuzhou the highest rate in the proceeding as total AFA, *i.e.*, the PRC-wide rate of 223.01 percent. The surety to an importer of subject merchandise from Xuzhou during the 2005-2006 period of review, Washington International Insurance Company ("Washington International") challenged the 2005-2006 *Final Results* and moved for judgment upon the agency record.

On July 29, 2009, the CIT remanded the case for the Department to reconsider whether circumstances warranted partial or total AFA and for redetermination of an AFA rate that more closely reflected Xuzhou's then-current market practices during the period of review.<sup>3</sup>

In its remand redetermination, dated October 26, 2009, the Department continued to find that total AFA was warranted because there were such extensive omissions in the submitted data that Xuzhou's information on the record could not serve as a reasonably accurate, reliable basis for reaching a determination. However, the Department revised the AFA rate for Xuzhou to 188.52 percent.

On February 9, 2010, the CIT sustained the Department's remand redetermination, affirming both the application of total AFA and the revised AFA rate for Xuzhou.<sup>4</sup>

Consistent with the CAFC decision in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), the Department published in the **Federal Register** a notice of a court decision that is not "in harmony" with the Department's final determination.<sup>5</sup> In this notice, the Department stated that it would amend the 2005-2006 *Final Results* upon a final and conclusive court decision in this action.

On April 7, 2010, Washington International filed an appeal of the CIT's decision affirming the Department's remand results. On February 14, 2011, the CAFC affirmed the CIT's decision under CAFC Rule 36, which allows the Court to enter judgment of affirmance without written opinion. The period for appeal expired on May 16, 2011.

*Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Rescission of 2005-2006 New Shipper Reviews*, 73 FR 20249 (April 15, 2008) ("*2005-2006 Final Results*").

<sup>3</sup> See *Washington International Insurance Company v. United States*, Court No. 08-00156, Slip Op. 09-78 (CIT July 29, 2009).

<sup>4</sup> See *Washington Int'l Insurance Co.*, Slip Op. 10-16.

<sup>5</sup> See *Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony*, 75 FR 16427 (April 1, 2010).

Accordingly, the Department is amending its 2005-2006 *Final Results*.

#### **Amended Final Results of Review**

Because there is now a final and conclusive decision in the Court proceeding, the Department is amending the final results of the 2005-2006 antidumping duty administrative review of crawfish tail meat from the PRC to reflect the revised AFA margin of 188.52 percent for Xuzhou for the period September 1, 2005, through August 31, 2006.

#### **Assessment**

The cash deposit rate for Xuzhou will continue to be the company-specific rate established for the company in the subsequent and most recent period during which it was reviewed. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative and New-Shipper Reviews*, 75 FR 79337 (December 20, 2010). The Department intends to issue liquidation instructions to U.S. Customs and Border Protection 15 days after publication of these amended final results in the **Federal Register**.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: May 20, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-802]

#### **Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Changed Circumstances Review**

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

**SUMMARY:** The Department of Commerce ("Department") has determined that Viet I-Mei Frozen Foods Co., Ltd. ("Viet I-Mei") is the successor-in-interest to Grobest & I-Mei Industrial (Vietnam) Co., Ltd. ("Grobest & I-Mei"), and should be accorded the same antidumping duty treatment as the original company, Grobest & I-Mei for purposes of the antidumping duty order on frozen warmwater shrimp ("shrimp") from the Socialist Republic of Vietnam ("Vietnam").