antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: November 15, 2019.

Jeffrey I. Kessler,
Assistant Secretary, for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issue: Certification of No Shipments
V. Recommendation

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DEPARTMENT OF COMMERCE
International Trade Administration
[A–552–802]


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

SUMMARY: The Department of Commerce (Commerce) determines that no companies under review qualify for a separate rate, and that these companies are therefore considered part of the Vietnam-wide entity. The period of review (POR) is February 1, 2018 through January 31, 2019.

DATES: Applicable November 22, 2019.


SUPPLEMENTARY INFORMATION:

Background

On September 12, 2019, Commerce published in the Federal Register the Preliminary Results 1 of the administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam (Vietnam). This review covers 73 companies preliminarily determined to be part of the Vietnam-wide entity and three companies preliminarily determined to have no reviewable transactions during the POR. We invited parties to comment on the Preliminary Results.2 No interested party submitted case briefs in the instant review. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 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. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description remains dispositive.3

Final Determination of No Shipments

In the Preliminary Results, Commerce found that (1) BIM Foods Joint Stock Company, (2) Camranh Seafoods Co., Ltd, and (3) Vinh Hoan Corp. did not have any reviewable transactions during the POR. As we have not received any information to contradict this preliminary finding, Commerce determines that these three companies did not have any reviewable entries of subject merchandise during the POR, and will issue appropriate instructions that are consistent with our “automatic assessment” clarification, for these final results.

Final Results of the Review

As no parties submitted comments regarding the Preliminary Results, Commerce made no changes to its determinations for the final results of this review. For these final results, Commerce continues to find that the four selected mandatory respondents 4 did not respond to the questionnaire; thus, they have not established eligibility for a separate rate. Further, Commerce continues to find that 73 companies under review, including the four mandatory respondents, are part of the Vietnam-wide entity, and are thus subject to the Vietnam-wide entity rate of 25.76 percent (see Appendix II).

Disclosure and Public Comment

Normally, Commerce will disclose the calculations used in its analysis to parties in this review within five days of the date of publication of the notice of final results in the Federal Register, in accordance with 19 CFR 351.224(b). However, here Commerce only applied the Vietnam-wide rate, established in the underlying investigation, to the 73 companies identified in Appendix II.6 Thus, there are no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.221(b), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.


5 See Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam, 69 FR 71005, 71008 (December 8, 2004), and accompanying Issues and Decision Memorandum at Comments 6 and 10C (“we have applied a rate of 25.76 percent, a rate calculated in the initiation stage of the investigation from information provided in the petition . . . .”).
With regard to the companies identified in Appendix II as part of the Vietnam-wide entity, we will instruct CBP to apply an ad valorem assessment rate of 25.76 percent to all entries of subject merchandise during the POR which were exported by those companies. Additionally, consistent with Commerce’s assessment practice in non-market economy (NME) cases, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter’s case number (i.e., at that exporter’s rate) will be liquidated at the NME-wide rate.7

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the Vietnam-wide entity of 25.76 percent; (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters, not listed in this notice, that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; and (3) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

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 POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written 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 violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 751(a)(1) and 777(f)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: November 18, 2019.
Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order

The scope of the order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, peel-on, tail-on or tail-off, 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 the 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, white-leg shrimp (Penaeus vannamei), banana prawn (Penaeus merguiensis), fleshy prawn (Penaeus chinensis), giant river prawn (Macrobrachium rosenbergii), giant tiger prawn (Penaeus monodon), red spotted shrimp (Penaeus japonicus), southern brown shrimp (Penaeus subtilis), southern pink shrimp (Penaeus noitalis), southern rough shrimp (Trachypenaeus curvispilosus), 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 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 the 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 subheadings 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); and (7) 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 dust layer; (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 individual, quick frozen (“IQF”) freezing immediately after application of the dusting layer. When dusted in accordance with 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.

The products covered by this order are currently classified under the following HTS 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 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.8

Appendix II

Companies Subject to Review Determined To Be Part of the Vietnam-Wide Entity

1. A & CDN Foods Co., Ltd.
2. Amanda Seafood Co., Ltd.
3. An Huy B.T Co. Ltd.
4. Anh Koa Seafood
5. Anh Minh Quan Joint Stock Company
6. Asia Food Stuffs Import Export Co., Ltd.
7. B.O.P. Company Limited
8. B.O.P. Limited Co.

7 For a full discussion of this practice, see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

8 On April 26, 2011, Commerce amended the order to include dusted shrimp, pursuant to the U.S. Court of International Trade (CIT) decision in Ad Hoc Shrimp Trade Action Committee v. United States, 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission (ITC) determination, which found the domestic-like product to include dusted shrimp. See Certain Frozen Warmwater Shrimp from Brazil, India, People's Republic of China, Thailand, and the Socialist Republic of Vietnam: A (4) with the Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011); see also Ad Hoc Shrimp Trade Action Committee v. United States, 703 F. Supp. 2d 1330 (CIT 2010) and Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam (Investigation Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Publication 4221, March 2011.)
DEPARTMENT OF COMMERCE
International Trade Administration

Certain Carbon and Alloy Steel Cut-To-Length Plate From the Republic of Korea: Notice of Court Decision Not in Harmony With Final Countervailing Duty Determination, and Notice of Amended Final Countervailing Duty Determination

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

SUMMARY: On November 8, 2019, the United States Court of International Trade (Court) sustained the final remand results pertaining to the countervailing duty (CVD) investigation on certain carbon and alloy steel cut-to-length (CTL) plate from the Republic of Korea (Korea) covering the period January 1, 2015 through December 31, 2015. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the final determination of the CVD investigation and that Commerce is amending the final determination with respect to the net countervailable subsidy rates assigned to POSCO and all other producers/exporters not individually investigated.

DATES: Applicable November 18, 2019.


SUPPLEMENTARY INFORMATION:

Background

On April 4, 2017, Commerce published its Final Determination. In the Final Determination, Commerce calculated a net countervailable subsidy rate of 4.31 percent for POSCO. On December 6, 2018, the Court remanded various aspects of the Final Determination to Commerce. In its Remand Order, the Court upheld Commerce’s application of adverse facts available (AFA) to POSCO’s cross-owned company POSCO M-Tech’s unreported additional government subsidies, but remanded to the agency for reconsideration its determination that the assistance received by POSCO M-Tech was countervailable. Specifically, the Court held that Commerce did not sufficiently justify its application of AFA in making its benefit and specificity findings regarding this program. Separately, the Court held that Commerce did not “evaluate the application of the highest available AFA rates” as required by section 776(d)(2) of the Tariff Act of 1930, as amended (the Act). Accordingly, it remanded the Final Determination to Commerce for reconsideration of “why the highest available rate should apply to

Commerce is amending the final determination of the CVD investigation and that Commerce is amending the final determination with respect to the net countervailable subsidy rates assigned to POSCO and all other producers/exporters not individually investigated.

1 See Certain Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination, 82 FR 16341 (April 4, 2017) (Final Determination), and accompanying issues and Decision Memorandum.


4 Id. at 1374, 1376.

5 Id. at 1374.

6 Id. at 1374 and 1382–83.