



DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-822]

Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2019-2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that sales of certain frozen warmwater shrimp (shrimp) from Thailand have been made below normal value during the period of review (POR), February 1, 2019, through January 31, 2020. We invite interested parties to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Benjamin A. Lubberda, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2185.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on shrimp from Thailand.¹ On February 3, 2020, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order*.² The notice of initiation of this administrative review was published on April 8, 2020.³ On July 7, 2020, Commerce

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand*, 70 FR 5145 (February 1, 2005) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 5938 (February 3, 2020).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 19730 (April 8, 2020).

selected two mandatory respondents for individual examination: (1) Kongphop Frozen Food Co., Ltd.; and (2) Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Takzin Samut Co., Ltd. (collectively, Thai Union).⁴ On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.⁵ On July 21, 2020, Commerce tolled deadlines in administrative reviews by an additional 60 days.⁶ On January 21, 2021, Commerce extended the deadline for the preliminary results of this administrative review until June 18, 2021.⁷ Also on January 21, 2021, Commerce rescinded the administrative review with respect to all companies for which a review had been requested, except Thai Union.⁸ For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁹

⁴ *See* Memorandum, “Selection of Respondents for Individual Review,” dated July 7, 2020. In the 2012-2013 administrative review, as noted in that memorandum, Commerce previously found that the following companies comprised a single entity: Thai Union Frozen Products Public Co. Ltd.; Thai Union Seafood Co., Ltd. (TUS); Pakfood Public Company Limited; Asia Pacific (Thailand) Co., Ltd.; Chaophraya Cold Storage Co., Ltd.; Okeanos Co., Ltd.; Okeanos Food Co., Ltd. (OKF); and Takzin Samut Co., Ltd. (collectively, Thai Union). *See Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306, 51306 (August 28, 2014). Further, on January 5, 2016, Commerce found that Thai Union Group Public Co., Ltd., (TUG) is the successor-in-interest to Thai Union Frozen Products Public Co., Ltd. *See Notice of Final Results of Antidumping Changes Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand*, 81 FR 222 (January 5, 2016). Therefore, we are treating these companies as a single entity for the purposes of this administrative review.

⁵ *See* Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19,” dated April 24, 2020.

⁶ *See* Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

⁷ *See* Memorandum, “Extension of Time Limit for Preliminary Results of 2019-2020 Antidumping Duty Administrative Review,” dated January 21, 2021. However, on June 17, 2021, the President signed into law the Juneteenth National Independence Day Act, making June 19 a Federal holiday. *See Juneteenth National Independence Day Act*, S. 475, Pub. L. No. 117-17 (2021). Because the Federal holiday fell on a Saturday, it was observed on Friday, June 18, 2021. Where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005). Accordingly, the deadline for these preliminary results is on June 21, 2021.

⁸ *See Certain Frozen Warmwater Shrimp from Thailand: Partial Rescission of Antidumping Duty Administrative Review; 2019-2020*, 86 FR 7061 (January 26, 2021).

⁹ *See* Memorandum, “Decision Memorandum for the Preliminary Results of the 2019-2020 Administrative Review of the Antidumping Duty Order on Circular Frozen Warmwater Shrimp from Thailand,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Order

The merchandise subject to the *Order* is 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, 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 (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size. The products subject to the *Order* are currently classifiable in HTSUS statistical reporting 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.¹⁰

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice.

¹⁰ For a complete description of the scope of the *Order*, *see* Preliminary Decision Memorandum at 4-5.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for the period February 1, 2019, through January 31, 2020:

Exporter / Producer	Weighted-Average Dumping Margin (Percent)
Thai Union	6.47

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice.¹¹ Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.¹² Commerce has modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹³ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁴ Case and rebuttal briefs should be filed using ACCESS.¹⁵

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Acting Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.¹⁶ Hearing requests should contain: (1) the party's name, address, and telephone

¹¹ See 19 CFR 351.224(b).

¹² See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

¹³ See *Temporary Rule Modifying AD/CVD Service Requirements Due to Covid-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ See 19 CFR 351.303.

¹⁶ See 19 CFR 351.310(c).

number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.¹⁷

Commerce intends to issue the final results of this administrative review, including the results of its analysis raised in any written briefs, not later than 120 days after the publication date of this notice, pursuant to section 751(a)(3)(A) of the Act, unless otherwise extended.¹⁸

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.¹⁹

Pursuant to 19 CFR 351.212(b)(1), because Thai Union reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.²⁰

¹⁷ See 19 CFR 351.310(d).

¹⁸ See section 751(a)(3)(A) of the Act.

¹⁹ See 19 CFR 351.212(b).

²⁰ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of shrimp from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the exporter listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair value (LTFV) investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 5.34 percent, the all-others rate made effective by the *Section 129 Determination*.²¹ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

²¹ See *Implementation of the Findings of the WTO Panel in United States Antidumping Measure on Shrimp from Thailand: Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand*, 74 FR 5638 (January 30, 2009) (*Section 129 Determination*).

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) 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 Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: June 21, 2021.

James Maeder,

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

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