

Also, as noted above, Xugong is no longer excluded from the antidumping duty order issued in this case. Therefore, the Department will instruct the CBP to collect a cash deposit of 10.01 percent for entries of subject merchandise produced and exported by Xugong, effective May 24, 2010, in accordance with the *Timken* Notice.

This notice is issued and published in accordance with sections 735(d), 736(a), and 777(i)(1) of the Act.

Dated: August 6, 2010.

**Ronald K. Lorentzen,**

Deputy Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-893]

#### Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** On March 12, 2010, the Department of Commerce ("Department") published in the *Federal Register* the *Preliminary Results* of the fourth administrative review of the antidumping duty order on certain frozen warmwater shrimp from the People's Republic of China ("PRC").<sup>1</sup> We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the margin calculations for the final results. We find that certain exporters have not sold subject merchandise at less than normal value ("NV") during the period of review ("POR"), February 1, 2008, through January 31, 2009.

**DATES:** *Effective Date:* August 13, 2010.

**FOR FURTHER INFORMATION CONTACT:** Bob Palmer and Irene Gorelik, 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) 482-9068 and (202) 482-6905, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 26, 2009, the Department initiated an administrative review of 477 producers/exporters of subject merchandise from the PRC.<sup>2</sup> In the *Preliminary Results*, the Department preliminarily rescinded the review with respect to several companies which submitted no shipment certifications and for which we have not found any information to contradict these claims. These companies are Yangjiang City Yelin Hoiat Quick Frozen Seafood Co., Ltd., Fuqing Yihua Aquatic Food Co., Ltd., Fuqing Minhua Trade Co., Ltd., the Allied Pacific Group (comprised of Allied Pacific Food (Dalian) Co., Ltd.; Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd.; Zhanjiang Allied Pacific Aquaculture Co., Ltd.; Allied Pacific (H.K.) Co., Ltd.; and King Royal Investments Ltd.); Gallant Ocean (Lianjiang), Ltd.; Gallant Ocean (Nanhai), Ltd.; Shantou Yelin Frozen Seafood Co., Ltd. (doing business as Shantou Yelin Quick-Freeze Marine Products Co., Ltd.).

As noted above, on March 12, 2010, the Department published the *Preliminary Results* of this administrative review.<sup>3</sup> On April 1, 2010, the Petitioner,<sup>4</sup> Domestic Processors,<sup>5</sup> Zhanjiang Regal Integrated Marine Resources Co., Ltd. ("Regal"), and Hilltop International ("Hilltop") submitted additional surrogate value information. On April 6, 2010, Petitioner, Domestic Processors, and Hilltop submitted rebuttal surrogate value information.

On March 30, 2010, we extended the deadline for parties to submit the case briefs and rebuttal briefs to April 12, 2010 and April 17, 2010, respectively.<sup>6</sup> On April 12, 2010, the Petitioner, Domestic Processors, Hilltop, and Regal filed case briefs. On April 19, 2010, the Petitioner, Domestic Processors, and Hilltop filed rebuttal briefs. On May 20, 2010, the Department extended the

<sup>2</sup> See *Notice of Initiation of Administrative Reviews and Requests for Revocation in Part of the Antidumping Duty Orders on Frozen Warmwater Shrimp from the Socialist Republic of Vietnam and the People's Republic of China*, 74 FR 13178 (March 26, 2009) for a listing of these companies.

<sup>3</sup> See *Preliminary Results*.

<sup>4</sup> Petitioner is the Ad Hoc Shrimp Trade Action Committee (hereinafter referred to as "Petitioner").

<sup>5</sup> These domestic parties are the American Shrimp Processors Association and Louisiana Shrimp Association (hereinafter referred to as "Domestic Processors").

<sup>6</sup> See Letter from the Department to Interested Parties, dated March 30, 2010.

deadline for the completion of the final results of this review until August 9, 2010.<sup>7</sup> On June 15, June 23, and July 14, 2010, the Department placed wage rate data on the record for comment following the recent decision in *Dorbest Limited et. al. v. United States*, 2009-1257, -1266, issued by the United States Court of Appeals for the Federal Circuit ("CAFC") on May 14, 2010, regarding the Department's wage rate methodology.<sup>8</sup> Interested parties submitted comments regarding the new wage rate data on June 22, and July 21, 2010. See "Wage Rate Methodology" section below for a detailed explanation of the Department's revised wage rate for these final results.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the "Fourth Administrative Review of Frozen Warmwater Shrimp from the People's Republic of China: Issues and Decision Memorandum for the Final Results," which is dated concurrently with this notice ("*I&D Memo*"). A list of the issues which parties raised and to which we respond in the *I&D Memo* is attached to this notice as an Appendix. The *I&D Memo* is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room 1117, and is accessible on the Department's Web site at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

#### Changes Since the Preliminary Results

Based on a review of the record as well as comments received from parties regarding our *Preliminary Results*, we have made revisions to Hilltop and Regal's margin calculations for the final results. First, we have revised classifications for certain expenses in the surrogate financial ratios used in the *Preliminary Results*. The Department's practice is to exclude certain expenses in the surrogate financial ratio calculations for constructed export price ("CEP") sales where those expenses have been accounted for elsewhere in the margin program.<sup>9</sup> Hilltop reported only CEP sales, so the Department will

<sup>7</sup> See *Certain Frozen Warmwater Shrimp from the People's Republic of China: Extension of Final Results of Antidumping Administrative Review*, 75 FR 28235 (May 20, 2010).

<sup>8</sup> See Memoranda to the File re; Wage Rate Data, dated June 15, June 23, and July 14, 2010.

<sup>9</sup> See *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 18C.

<sup>1</sup> See *Fourth Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results, Preliminary Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke*, In Part, 75 FR 11855 (March 12, 2010) ("*Preliminary Results*").

exclude expenses that have been accounted for elsewhere. Specifically, we have determined that, absent any information to the contrary, the FDA expense identified in Schedule 15 of the surrogate financial statement as a U.S. sales expense has been accounted for elsewhere in the margin calculation program for Hilltop. Therefore, the Department excluded the FDA expense from Hilltop's surrogate financial ratio calculation because it was properly deducted from the gross unit price in the margin calculation program. See *I&D Memo* at Comment 10. However, unlike Hilltop, all of Regal's sales were export price ("EP") sales, where, in non-market economy cases, the "Department does not make circumstance-of-sale adjustments as the offsetting adjustments to the normal value are not normally possible."<sup>10</sup> Consequently, for the reasons stated above, we will not exclude FDA related charges in the calculation of the surrogate financial ratios for Regal. See *Id.*

Further, in the *Preliminary Results*, the Department classified the FDA Expense as overhead, while the surrogate company categorized this expense as a selling, general, and administrative ("SG&A") expense. Because there is no information in surrogate company's financial statement to indicate that the FDA expense is not related to the general operations of the company, in accordance with the Department's practice,<sup>11</sup> the FDA expense should be reflected in the SG&A expense ratio for this company. Consequently, for the final results, we will reclassify the FDA expense from an overhead item and treat it as an SG&A expense, as reported by the surrogate company. For further details, see *I&D Memo* at Comment 10.

Additionally, we have revised the wage rate methodology and the surrogate values for shrimp larvae, diesel fuel, shrimp waste, and by-products. For further details see *I&D Memo* at Comments 8, 3, 6, and 7; see also "Memorandum to the File through Catherine Bertrand, Program Manager,

Office IX from Bob Palmer, Case Analyst, Office IX; Fourth Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Surrogate Factor Valuations for the Final Results," (*Final SV Memo*) dated concurrently with this notice. Because of the changes noted above, the antidumping duty margin calculations for both of the mandatory respondents have changed since the *Preliminary Results*. For further details on these company-specific changes, see the company-specific analysis memoranda.

#### Wage Rate Methodology

Pursuant to a recent decision by the CAFC, we have calculated a revised hourly wage rate to use in valuing Hilltop's and Regal's reported labor. The revised wage rate is calculated by averaging earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise. See *I&D Memo* at Comment 8; see also *Final SV Memo* for the details of the calculation and supporting data.

#### Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether 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>12</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, white-leg 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 1605.20.1020); (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 0306.23.0020 and 0306.23.0040); (4) shrimp and prawns in prepared meals (HTS subheading 1605.20.0510); (5) dried shrimp and prawns; (6) Lee Kum Kee's shrimp sauce; (7) canned warmwater shrimp and prawns (HTS subheading 1605.20.1040); (8) certain dusted shrimp; and (9) 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 classified under the following HTS subheadings: 0306.13.0003, 0306.13.0006, 0306.13.0009, 0306.13.0012, 0306.13.0015, 0306.13.0018, 0306.13.0021, 0306.13.0024, 0306.13.0027, 0306.13.0040, 1605.20.1010 and 1605.20.1030. 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.

<sup>10</sup> See, e.g., *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part*, 69 FR 55581 (September 15, 2004) and accompanying Issues and Decision Memorandum at Comment 15.

<sup>11</sup> See, e.g., *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1250-1251 (CIT 2002); see also *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 15.

<sup>12</sup> "Tails" in this context means the tail fan, which includes the telson and the uropods.

### Final Partial Rescission

In the *Preliminary Results*, the Department preliminarily rescinded this review with respect to the following companies: Allied Pacific Group;<sup>13</sup> Gallant Ocean (Lianjiang), Ltd.; Gallant Ocean (Nanhai), Ltd.; Shantou Yelin Frozen Seafood Co., Ltd.; Shantou Yelin Quick-Freeze Marine Products Co., Ltd.; Yangjiang City Yelin Hoitat Quick Frozen Seafood Co., Ltd.; Fuqing Yihua Aquatic Food Co., Ltd., and Fuqing Minhua Trading Co., Ltd. The Department determined that they had no shipments of subject merchandise to the United States during the POR.

Subsequent to the *Preliminary Results*, no information was submitted on the record indicating that the above companies made sales to the United States of subject merchandise during the POR and no parties provided written arguments regarding this issue. Thus, in accordance with 19 CFR 351.213(d)(3), and consistent with our practice, we are rescinding this review with respect to the above-named companies.

### Request for Revocation, in Part

In the *Preliminary Results*, we preliminarily determined that Regal has not met the regulatory criteria for revocation set forth in 19 CFR 351.222(b). See *Preliminary Results* at 11857. In Regal's request for revocation, Regal argued that it has maintained three consecutive years of sales at not less than normal value. However, in the third administrative review of this order, the Department determined that Regal sold the subject merchandise at less than normal value and assigned Regal a weight-averaged dumping margin.<sup>14</sup> We have not received any further information following the issuance of the *Preliminary Results* that would warrant revocation of the order with regard to Regal. Therefore, we will not revoke the order with respect to Regal because it has not met the regulatory criteria for revocation set forth in 19 CFR 351.222(b).

### Duty Absorption

In the *Preliminary Results*, we conducted a duty absorption inquiry with regard to Hilltop, pursuant to section 751(a)(4) of the Tariff Act of

1930, as amended ("Act"), and preliminarily found that Hilltop has not absorbed antidumping duties on U.S. sales made through its affiliated importer. See *Preliminary Results* at 11857. We have not received any further information which would provide a basis for the reconsideration of our determination. Therefore, the Department continues to find that Hilltop has not absorbed antidumping duties on U.S. sales made through its affiliated importer, pursuant to section 751(a)(4) of the Act.

### Separate Rates

In our *Preliminary Results*, we preliminarily determined that Hilltop, Regal, and Shantou Yuexing Enterprises Co. ("Shantou Yuexing") met the criteria for the application of a separate rate. We have not received any information since the issuance of the *Preliminary Results* that provides a basis for the reconsideration of these determinations. Therefore, the Department continues to find that Hilltop, Regal, and Shantou Yuexing meet the criteria for a separate rate.

### Rate for Non-Selected Companies

In the *Preliminary Results*, we stated that the Department employed a limited examination methodology, as it did not have the resources to examine all companies for which a review request was made, and selected two exporters, Hilltop and Regal, as mandatory respondents in this review. See *Preliminary Results* at 11855. Additionally, Shantou Yuexing submitted timely information as requested by the Department and remained subject to review as a cooperative separate rate respondent. In the *Preliminary Results*, the Department assigned a preliminary rate to Shantou Yuexing. See *Preliminary Results* at 11861.

In the *Preliminary Results*, we noted that the statute and the Department's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. See *Preliminary Results* at 11859. We further explained that the Department's practice in this regard, in cases involving limited selection based on exporters accounting for the largest volumes of trade, has been to weight-average the rates for the selected companies excluding zero and *de minimis* rates and rates based entirely on facts available. See *Preliminary Results* at 11859. However, due to changes in certain surrogate

values for Hilltop and Regal from the *Preliminary Results*, the Department has, for the final results, calculated all zero or *de minimis* dumping margins for the mandatory respondents.

Because the Act does not address the rate to be applied to companies not selected for individual examination, we have looked to section 735(c)(5) of the Act for guidance. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero rates, *de minimis* rates, or rates based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents.

In exercising this discretion to determine a non-examined rate, the Department considers relevant the fact that section 735(c)(5) of the Act: (a) Is explicitly applicable to the determination of an all others rate in an investigation; and (b) articulates a preference that the Department avoid zero, *de minimis* rates or rates based entirely on facts available when it determines the all others rate. With respect to the second point, the Department consistently seeks to avoid the use of total facts available, zero and *de minimis* margins in determining non-selected rates in administrative reviews, in order to implement this statutory preference. With respect to the first point, the statute's statement that averaging of zero/*de minimis* margins and margins based entirely on facts available may be a reasonable method, and the Statement of Administrative Action's ("SAA") indication that such averaging may be the expected method, should be read in the context of an investigation. See SAA accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 at 872 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4200. First, if there are only zero or *de minimis* margins determined in the investigation (and there is no other entity to which a facts available margin has been applied), the investigation would terminate and no order would be issued. Thus, the provision necessarily only applies to circumstances in which there are either both zero/*de minimis* and total facts available margins, or only total facts available margins. Second, when such rates are the only rates determined in an investigation, there is little information on which to rely to determine an appropriate all-others rate. In this context, therefore, the SAA's stated expected method is reasonable: the zero/*de minimis* and facts available

<sup>13</sup> Allied Pacific Group is comprised of: Allied Pacific Food (Dalian) Co., Ltd.; Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd.; Zhanjiang Allied Pacific Aquaculture Co., Ltd.; Allied Pacific (H.K.) Co., Ltd.; and King Royal Investments Ltd.

<sup>14</sup> See *Third Administrative Review of Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 46565 (September 10, 2009) ("China Shrimp AR3 Final").

margins may be the only or best data the Department has available to apply to non-selected companies.

We note that the Department has sought other reasonable means to assign separate-rate margins to non-reviewed companies because we calculated zero rates, *de minimis* rates, or rates based entirely on facts available for the mandatory respondents. See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 52273 (September 9, 2008) (“*Vietnam Shrimp AR2 Final*”) and accompanying Issues and Decision Memorandum at Comment 6; see also *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47191 (September 15, 2009) (“*Vietnam Shrimp*

*AR3 Final*”) at 47194. Because the Department is faced with similar circumstances in these final results as in *Vietnam Shrimp AR2 Final* and *Vietnam Shrimp AR3 Final*, we must look to other reasonable means to assign separate rate margins to non-reviewed companies eligible for a separate rate in this review.

The history of the PRC shrimp order shows that positive margins, including calculated margins for individually investigated companies, have existed in all segments subsequent to the underlying investigation. Thus, we find that a reasonable method is to assign to non-reviewed companies in this review the most recent rate calculated for the non-selected companies in question, unless we calculated in a more recent segment a rate for any company that was not zero, *de minimis*, or based entirely on facts available. Pursuant to this method, we are assigning a rate of 9.08

percent, the most recent positive rate (from the *China Shrimp AR3 Final*) calculated for cooperative separate rate respondents, to Shantou Yuexing, which had no calculated margin that is concurrent with or more recent than this rate. In assigning a margin to the non-examined companies, the Department did not impute the actions of any companies subject to an AFA rate, or the zero/*de minimis* rates, to the behavior of the non-individually examined companies, but because these were the only rates determined in the proceeding, consistent with the statute, the Department avoids the use of these rates and selected another reasonable method to assign rates to these companies.

#### Final Results of Review

The weighted-average dumping margins for the POR are as follows:

#### CERTAIN FROZEN WARMWATER SHRIMP FROM THE PRC

Manufacturer/Exporter	Weighted-Average margin (percent)
Hilltop International .....	0.00
Zhanjiang Regal Integrated Marine Resources Co., Ltd. ....	0.00
Shantou Yuexing Enterprises Co. ....	9.08
PRC-Wide Entity <sup>15</sup> .....	112.81

#### Assessment

Upon issuance of the final results, the Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate, without regard to antidumping duties, all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis*.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon

<sup>15</sup> The PRC-wide entity includes the 463 companies currently under review that have not established their entitlement to a separate rate, including Shantou Longfeng Aquatic Product Foodstuff Co., Ltd.

publication of these final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 112.81 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the

final results of the next administrative review.

#### Reimbursement of Duties

This notice also serves as a final 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 POR. Failure to comply with this requirement could result in the Department’s presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

#### Administrative Protective Orders

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, 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 terms of an APO is a violation which is subject to sanction.

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

Dated: August 9, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

#### **Appendix I—Issues & Decision Memorandum**

Comment 1: Respondent Selection Methodology

Comment 2: North Korean Import Data

Comment 3: Shrimp Larvae

Comment 4: Shrimp Feed

Comment 5: Electricity

Comment 6: Diesel Fuel

Comment 7: Byproducts

Comment 8: Wage Rate Methodology

Comment 9: Use of Uniroyal's and Waterbase's Financial Statements

Comment 10: Classification of Expenses from Falcon's Financial Statements

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

A-469-814, A-570-898

#### **Chlorinated Isocyanurates from Spain and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders**

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

**SUMMARY:** On May 3, 2010, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty orders on chlorinated isocyanurates ("chlorinated isos") from Spain and the People's Republic of China ("PRC") pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). Based on the notices of intent to participate and adequate responses filed by the domestic interested parties, and the lack of response from any respondent interested party, the Department conducted expedited (120-day) sunset reviews of the antidumping duty orders on chlorinated isos from Spain and the PRC, pursuant to section 751(c)(3)(B) of the Act and 19 CFR

351.218(e)(1)(ii)(C)(2). As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the "Final Results of Sunset Review" section of this notice, *infra*.

**EFFECTIVE DATE:** August 13, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Brandon Petelin or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8173 or (202) 482-0650, respectively.

**SUPPLEMENTARY INFORMATION:** On June 24, 2005, the Department published the antidumping duty orders on chlorinated isos from Spain and the PRC.<sup>1</sup> On May 3, 2010, the Department published the notice of initiation of the first sunset reviews of the antidumping duty orders on chlorinated isos from Spain and the PRC, pursuant to section 751(c) of the Act.<sup>2</sup> On May 18, 2010, pursuant to 19 CFR 351.218(d)(1), the Department received timely and complete notices of intent to participate in the sunset reviews from Clearon Corporation and Occidental Chemical Corporation, domestic producers of chlorinated isos (collectively "Petitioners"). On June 2, 2010, pursuant to 19 CFR 351.218(d)(3), Petitioners filed timely and adequate substantive responses within 30 days after the date of publication of the *Sunset Initiation*. The Department did not receive substantive responses from any respondent interested party with respect to the orders on chlorinated isos from Spain or the PRC. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) sunset reviews of the antidumping duty orders on chlorinated isos from Spain and the PRC.

**SCOPE OF THE ORDERS:**

The products covered by the orders are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid (Cl<sub>3</sub>(NCO)<sub>3</sub>), (2) sodium dichloroisocyanurate (dihydrate) (NaCl<sub>2</sub>(NCO)<sub>3</sub>(2H<sub>2</sub>O)), and (3) sodium dichloroisocyanurate

(anhydrous) (NaCl<sub>2</sub>(NCO)<sub>3</sub>). Chlorinated isos are available in powder, granular, and tableted forms. The orders cover all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").<sup>3</sup> The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### **ANALYSIS OF COMMENTS RECEIVED:**

A complete discussion of all issues raised in these sunset reviews is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. See "Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Chlorinated Isocyanurates from Spain and the People's Republic of China," from Edward C. Yang, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice ("I&D Memo"). The issues discussed in the I&D Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were revoked. Parties can obtain a public copy of the I&D Memo from the Central Records Unit, room 1117, of the main Commerce building. In addition, a complete public version of the I&D Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the I&D Memo are identical in content.

#### **FINAL RESULTS OF REVIEW:**

The Department determines that revocation of the antidumping duty orders on chlorinated isos from Spain and the PRC would be likely to lead to continuation or recurrence of dumping

<sup>1</sup> See *Notice of Antidumping Duty Order: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 36561 (June 24, 2005) ("PRC Order"); see also *Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order*, 70 FR 36562 (June 24, 2005) ("Spain Order").

<sup>2</sup> See *Initiation of Five-Year ("Sunset") Review*, 75 FR 23240 (May 3, 2010) ("Sunset Initiation").

<sup>3</sup> The Spain Order currently covers HTSUS subheadings 2933.69.6015, 2933.69.6021, and 2933.69.6050, while the PRC Order currently covers

HTSUS subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00.