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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-893]

Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014

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

SUMMARY: On September 12, 2014, the Department of Commerce (the "Department") published the Preliminary Results of the 2013-2014 administrative review on certain frozen warmwater shrimp ("shrimp") from the People's Republic of China ("PRC"), covering the period of review ("POR") from February 1, 2013, through January 31, 2014.<sup>1</sup> We gave interested parties an opportunity to submit comments on the Preliminary Results, but none were received. Therefore, these final results are unchanged from the Preliminary Results, and we continue to find that Shantou Yuexing Enterprise Company ("SYEC"), and Zhanjiang Regal Integrated Marine Resources Co., Ltd. ("Regal") did not have reviewable entries during this POR. Additionally, we continue to find that Rizhao Smart Foods Co., Ltd. ("Smart Foods") is not eligible for a separate rate, and we will continue to treat it as part of the PRC-wide entity.

EFFECTIVE DATE: (Insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

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<sup>1</sup> See Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014, 79 FR 54678 (September 12, 2014) ("Preliminary Results").

## SUPPLEMENTARY INFORMATION:

### Background

On September 14, 2014, the Department published the Preliminary Results of this administrative review. SYEC, Smart Foods, and Regal<sup>2</sup> submitted “no shipment certifications” to the Department.<sup>3</sup> In response to the Department’s query, U.S. Customs and Border Protection (“CBP”) did not provide any evidence that contradicted SYEC or Regal’s claims of no shipments. The Department received no comments from interested parties concerning the results of the CBP queries. Therefore, based on SYEC and Regal’s certifications and our analysis of CBP information, we preliminarily determined that SYEC and Regal did not have any reviewable entries during the POR.<sup>4</sup> With regard to Smart Foods, we noted that because it was previously found to be part of the PRC-wide entity, and continues to be part of the PRC-wide entity for this review, we were not making a determination regarding its no shipments certification.<sup>5</sup> In the Preliminary Results we determined that 58 companies in total should be treated as part of the PRC-wide entity.<sup>6</sup> We invited interested parties to comment on the Preliminary Results. We received no comments from interested parties.

### 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,

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<sup>2</sup> In the Initiation Notice, we stated that because the order was revoked with respect to subject merchandise produced and exported by Regal, this administrative review covers all subject merchandise exported by Regal and manufactured by any company other than Regal. See Initiation Notice 79 FR at 18275 at footnote 5.

<sup>3</sup> See Letter to the Secretary of Commerce from Shantou Yuexing “Shantou Yuexing Enterprise Company’s Request for rescinding an Administrative Review” (April 2, 2014); Letter to the Secretary of Commerce from Rizhao Smart Foods Co., Ltd. “Certificate of No Sales” (April 9, 2014); Letter to the Secretary of Commerce from Zhanjiang Regal Integrated Marine Resources Co., Ltd. “No Shipments Statement of Zhanjiang Regal Integrated Marine Resources Co., Ltd.” (June 2, 2014).

<sup>4</sup> See Preliminary Results, 79 FR at 54679.

<sup>5</sup> Id.

<sup>6</sup> Id.

shell-on or peeled, tail-on or tail-off,<sup>7</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 the order, regardless of definitions in the Harmonized Tariff Schedule (“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 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 1605.20.1020); (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

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<sup>7</sup> “Tails” in this context means the tail fan, which includes the telson and the uropods.

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;<sup>8</sup> (7) canned warmwater shrimp and prawns (HTS subheading 1605.20.1040); and (8) 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 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. 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 these orders are currently classified under the following HTS subheadings: 0306.17.0003, 0306.17.0006, 0306.17.0009, 0306.17.0012, 0306.17.0015, 0306.17.0018, 0306.17.0021, 0306.17.0024, 0306.17.0027, 0306.17.0040, 1605.21.1030, and 1605.29.1010. These HTS subheadings are provided for convenience and for customs purposes only; the written description of the scope of these orders is dispositive.<sup>9</sup>

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<sup>8</sup> The specific exclusion for Lee Kum Kee's shrimp sauce applies only to the scope in the PRC case.

<sup>9</sup> On April 26, 2011, the Department amended the antidumping duty order to include dusted shrimp, pursuant to the 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 determination, which found the domestic like product to include dusted shrimp. See Certain Frozen Warmwater Shrimp from Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011) ("Order"); see also Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam (Investigation Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Publication 4221, March 2011.

## Final Determination of No Shipments

In the Preliminary Results, the Department determined that Regal and SYEC had no sales of subject merchandise to the United States during the POR.<sup>10</sup> We stated, consistent with the recently announced refinement to its assessment practice in non-market economy (“NME”) cases, that the Department would not rescind the review in these circumstances but, rather, would complete the review with respect to Regal and SYEC and issue appropriate instructions to CBP based on the final results of the review. As stated above, we did not receive any comments on our Preliminary Results nor did we receive information from CBP indicating that there were reviewable transactions for Regal or SYEC during the POR. Therefore, we continue to determine that Regal and SYEC had no reviewable transactions of subject merchandise during the POR. Consistent with our “automatic assessment” clarification, the Department will issue appropriate instructions to CBP based on our final results.<sup>11</sup>

## PRC-Wide Entity

Because Smart Foods was found to be part of the PRC-wide entity in recent administrative reviews of the Order,<sup>12</sup> had no reviewable sales or entries in this review, and, consequently, did not demonstrate eligibility for a separate rate, Smart Foods continues to be part of the PRC-wide entity. Therefore, we continue to find that 58 companies, including Smart Foods, should be treated as part of the PRC-wide entity. The Department’s change in policy

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<sup>10</sup> See Preliminary Results, 79 FR at 54679.

<sup>11</sup> See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011) (“Assessment Practice Refinement”). See also the “Assessment” section of this notice, below.

<sup>12</sup> See Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in Part, 77 FR 53856 (September 4, 2012) at Appendix II; see also Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Results of Administrative Review; 2011-2012, 78 FR 56209 (September 12, 2013).

regarding conditional review of the PRC-wide entity applies to this administrative review.<sup>13</sup>

Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate is not subject to change. The Department finds that 58 companies<sup>14</sup> under review have not established eligibility for a separate rate and, thus, they should continue to be part of the PRC-wide entity for these final results.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and 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. The Department recently announced a refinement to its assessment practice in NME cases. Pursuant

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<sup>13</sup> Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963 (November 4, 2013).

<sup>14</sup> Those companies for which a review was requested and which we determine are part of the PRC-wide entity include: Asian Seafoods (Zhanjiang) Co., Ltd., Beihai Angbang Seafood Co., Ltd., Beihai Boston Frozen Food Co., Ltd., Dalian Shanhai Seafood Co., Ltd., Dalian Taiyang Aquatic Products Co., Ltd., Eimskip Logistics (Qingdao) Co., Ltd., EZ Logistics Inc., EZ Logistics LLC (Qingdao Branch), Fujian Chaohui International Trading, Fujian Rongjiang Import and Export Co., Ltd., Fujian Tea Import & Export Co., Ltd., Fujian Zhaoan Haili Aquatic Co., Ltd., Fuqing Dongwei Aquatic Products Ind., Fuqing Minhua Trade Co., Ltd., Fuqing Yihua Aquatic Food Co., Ltd., Guangdong Foodstuffs Import & Export (Group) Corporation, Guangdong Gourmet Aquatic Products Co., Ltd., Guangdong Jinhang Food Co., Ltd., Guangdong Jinhang Foods Co., Ltd., Guangdong Wanshida Holding Corp., Guangdong Wanya Foods Fty. Co., Ltd., Guangzhou Shi Runjin Trading Development Co., Ltd., Haida Seafood Co., Ltd., HaiLi Aquatic Product Co., Ltd., Hainan Brich Aquatic Products Co., Ltd., Hua Yang (Dalian), International Transportation Service Co., Huazhou XinHai Aquatic Products Co. Ltd., Jiazhou Foods Industry Co., Ltd., Longhai Gelin Foods Co., Ltd., Longhai Gelin Seafoods Co., Ltd., Maoming Xinzhou Seafood Co., Ltd., North Seafood Group Co., Panwin International Logistics Co., Ltd., Pingye Foreign Transportation Corp. Ltd of Shantou, SE.Z., Rizhao Smart Foods Company Limited, Savvy Seafood Inc., Shanghai Lingpu Aquatic Products Co., Ltd., Shanghai Smiling Food Co., Ltd., Shantou Freezing Aquatic Product Foodstuffs Co., Shantou Jiazhou Food Industrial Co., Ltd., Shantou Jin Cheng Food Co., Ltd., Shantou Jintai Aquatic Product Industrial Co., Ltd., Shantou Li An Plastic Products Co. Ltd., Shantou Longsheng Aquatic Product Foodstuff Co., Ltd., Shantou Wanya Foods Fty. Co., Ltd., Thai Royal Frozen Food Zhanjiang Co., Ltd., Yangjiang Anyang Food Co., Ltd., Yangjiang City Haida Seafood Company Ltd., Yangjiang City Hongwai Seafood Company, Ltd., Zhangzhou Xinwanya Aquatic Product Co., Ltd., Zhangzhou Yanfeng Aquatic Product, Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd., Zhanjiang Fuchang Aquatic Products Co., Ltd., Zhanjiang Jinguo Marine Foods Co., Ltd., Zhanjiang Longwei Aquatic Products Industry Co., Ltd., Zhanjiang Universal Seafood Corp., Zhanjiang Newpro Foods Co., Ltd., Zhaoan Yangli Aquatic Co., Ltd.

to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department 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.<sup>15</sup>

#### 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 the PRC 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 previously investigated or reviewed PRC and non-PRC exporters that received a separate rate in a prior segment of this proceeding that are not listed in footnote 14, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate (including the firms listed in footnote 14), the cash deposit rate will be the existing rate for the PRC-wide entity; and (3) 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 exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notifications

This notice 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

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<sup>15</sup> See Assessment Practice Refinement, 76 FR at 65694.

could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to the administrative protective order (“APO”) of their responsibility concerning the disposition 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 the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: December 12, 2014.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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